

NORTH HERTFORDSHIRE DISTRICT COUNCIL



6 November 2020

Our Ref Planning Control – 19.11.2020
Contact. Committee Services
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To: Members of the Committee: Councillors: 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, 19TH NOVEMBER, 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.	WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY Members are requested to ensure that they are familiar with the attached summary of the Remote/Partly Remote Meetings Protocol. The full Remote/Partly Remote Meetings Protocol has been published and is available here: https://www.north-herts.gov.uk/home/council-and-democracy/council-and-committee-meetings .	(Pages 5 - 6)
2.	APOLOGIES FOR ABSENCE	
3.	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.	
4.	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.	
5.	PUBLIC PARTICIPATION To receive petitions, comments and questions from the public.	

6. **18/02722/FP LAND SOUTH OF HEATH LANE, CODICOTE, HERTFORDSHIRE, SG4 8YL** (Pages 7 - 144)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Residential development of 167 dwellings (Use Class C3) and associated works including formal open space, internal road network, landscape enhancement and creation of accesses from Heath Lane and St Albans Road; and the demolition of 66 St Albans Road (as amended by drawings received 1st and 6th November 2018, 17th and 18th December 2018 and 3rd April 2019).
7. **20/00126/FP LAND NORTH OF ASHWELL STREET AND SOUTH OF LUCAS LANE BETWEEN HUNTSRIDGE AND EAST LODGE, 22 LUCAS LANE, ASHWELL, HERTFORDSHIRE** (Pages 145 - 204)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Erection of 24 dwellings including creation of vehicular access off Ashwell Street, footpath link to Lucas Lane, associated public open space and landscaping (as amended by plans received 17.08.20).
8. **PLANNING APPEALS** (Pages 205 - 226)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

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REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY

A protocol regarding remote meetings has been devised as a result of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392 ('the Regulations') to provide guidance for the conduct of any remote meeting of the Council, and its various Committees and Sub-Committees, held under the provisions of the Regulations and subsequent changes to the Constitution.

The full Remote / Partly Remote Meetings Protocol has been published and is available to view on the Council's website via the following link: <https://www.north-herts.gov.uk/home/council-and-democracy/council-and-committee-meetings>

The Council's adopted Constitution will continue to apply to meetings of the Council and its various Committees and Sub-Committees. Where there is a conflict between the protocol and Constitution the Constitution takes precedence.

The protocol applies to this meeting. It outlines processes for conducting remote meetings. Some key points are highlighted here for guidance:

- Prior to the start of a meeting the Committee, Member and Scrutiny Officer/Manager ('The Officer') will confirm the meeting is being streamed live. They will confirm that they can see and hear all participating Members, Officers and/or members of the public at the start or upon reconvening a meeting.
- Any person attending the meeting remotely should join no later than 15 minutes prior to allow for technical checks. They should ensure that their name on screen appears in the agreed format, as indicated in the Protocol. They should mute their microphone when not speaking. Their background should be nondescript or virtual/blurred if possible. Headsets are recommended to reduce audio feedback.
- Remember to stay in view of the camera. While on camera everything you do is visible; please observe as far as possible the etiquette you would as if attending a meeting in person.
- Be careful to prevent exempt or confidential papers being seen within the video-feed. When a meeting is in private session there should be only those entitled to be present in the room. The live stream will continue with a holding card displayed.
- If a Member wishes to speak, they should use the raise hand function. Please wait to be invited by the Chair to address the meeting. The normal procedure rules with respect to debate and speaking times will apply as per the Constitution.
- If a Member has declared a Disclosable Pecuniary Interest and is required to leave the meeting during the consideration of an item, they will be placed in the waiting room. It is the responsibility of the Member in question to remind the Chair at the start of such item. The Officer will remind the Chair to return the Member as appropriate.
- Members will need to use the tools in the "Participants" function to vote: using a green tick to indicate 'for', a red cross to indicate 'against', or the "raise hand" tool to indicate an abstention. Where a Member has had to dial into the meeting by telephone, the Chair will ask for verbal confirmation as to how they wish to vote. Leave the vote in situ until told otherwise by either the Chair or Officer.
- The Officer will clearly state the result of the vote and the Chair will then move on.
- Details of how Members voted will not be kept or minuted unless a Recorded Vote is requested or an individual requests that their vote be recorded, although voting may be seen and/or heard on the video recording.
- If there are Part 2 (confidential) items Members will be invited to join a breakout room for these items. You must accept this invitation.
- Once Part 2 (confidential) discussions have concluded Members will need to leave the breakout room. Please do not leave the meeting.

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ITEM NO:

Location: **Land South of Heath Lane,
Codicote, Hertfordshire**

Applicant: **Ashill Land Ltd**

Proposal: **Residential development of 167 dwellings (Use Class C3) and associated works including formal open space, internal road network, landscape enhancement and creation of accesses from Heath Lane and St Albans Road; and the demolition of 66 St Albans Road (as amended by drawings received 1st and 6th November 2018, 17th and 18th December 2018 and 3rd April 2019).**

Ref. No: **18/02722/FP**

Officer: **Tom Allington**

Date of expiry of statutory period: 11th January 2019

Extension of statutory period: 23rd November 2020

Reason for Delay

Ongoing delays with the examination of the emerging Local Plan and ongoing negotiations and finalising of s106 legal agreement.

Reason for Referral to Committee

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

Members need to be aware that should they be minded to approve the application, this would be a 'resolution to grant' subject to the need to refer the application to the Secretary of State, as the site is within the Green Belt. The Planning Practice guidance informs the following:

'The Town and Country Planning (Consultation) (England) Direction 2009 sets out the applicable criteria and arrangements that must be followed for consulting the Secretary of State once the local planning authority has resolved to grant planning permission for certain types of development that are set out in paragraphs 3-8 of the Direction.

The purpose of the Direction is to give the Secretary of State an opportunity to consider using the power to call in an application under section 77 of the Town and Country Planning Act 1990. The use of the call-in power requires that the decision be taken by the Secretary of State rather than the local planning authority.'

Paragraph 3 of the 2009 Direction states the following:

*This Direction shall apply in relation to any application for planning permission which –
(a) is for Green Belt development, development outside town centres, World Heritage Site development, playing field development or flood risk area development; and
(b) is received by a planning authority on or after 20 April 2009.*

Paragraph 4 of the 2009 Direction states the following:

*For the purposes of this Direction, "Green Belt development" means development which consists of or includes inappropriate development on land allocated as Green Belt in an adopted local plan, unitary development plan or development plan document and which consists of or includes-
(a) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
(b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.*

1.0 **Site History**

- 1.1 16/00040/PRE: Pre-application submission/ advice on 'Residential development of approximately 200 dwellings and potential school expansion'
- 1.2 17/01255/1PRE: Pre-application submission/ advice on 'Residential development of approximately 200 dwellings and potential school expansion'.
- 1.3 18/01722/SO: Screening Opinion: Residential development of up to 175 residential units dwellings together with associated parking provision, open green space provision, retention and enhancement of existing PROWs and provision of an area for the future use as replacement school playing fields to enable expansion of Codicote C of E Primary school. Decision: Environmental Impact Assessment not required.

2.0 **Policies**

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

Policy 2: Green Belt

Policy 5: Excluded villages

Policy 14: Nature Conservation

Policy 16: Areas of archaeological significance and other archaeological areas

Policy 26: Housing proposals

Policy 29: Rural Housing needs

Policy 51: Development effects and planning gain

Policy 55: Car Parking Standards

Policy 57: Residential Guidelines and Standards

Supplementary Planning Documents

Codicote Conservation Area Character Statement

Design SPD

Planning Obligations SPD

Vehicle Parking Provision at New Development SPD (2011)

North Hertfordshire and Stevenage Landscape Character Assessment (Codicote Plateau Area 205)

2.2 National Planning Policy Framework (February 2019)

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 6: Building a strong competitive economy

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 11: Making effective use of land

Section 12: Achieving well-designed places

Section 13: Protecting Green Belt land

Section 14: Meeting the challenge of climate change, flooding and coastal change

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

2.3 Emerging North Hertfordshire District Local Plan 2011 – 2031 Proposed Submission

The Emerging Local Plan (ELP) was scheduled to have a number of additional hearings in Spring 2020 but these were postponed due to COVID19. Following an Extraordinary Full Council Meeting on 8th October 2020 (whereby a motion to consider a reduction of allocated sites in the ELP was not carried), the ELP hearings have now been rescheduled to commence on 23rd November. Some weight can still be attributed to the emerging North Hertfordshire Local Plan 2011 - 2031 Proposed Submission (September 2016) Incorporating The Proposed Main Modifications (November 2018) and the policies contained within it (see below). The weight which can be attributed to the ELP is discussed in greater detail later in this report.

Policy SP1: Sustainable Development in North Hertfordshire

Policy SP2: Settlement Hierarchy

Policy SP5: Countryside and Green Belt

Policy SP6: Sustainable transport

Policy SP7: Infrastructure requirements and developer contributions

Policy SP8: Housing

Policy SP9: Design and sustainability

Policy SP10: Healthy communities

Policy SP11: Natural resources and sustainability

Policy SP12: Green infrastructure, biodiversity and landscape

Policy SP13: Historic Environment

Policy T1: Assessment of transport matters

Policy T2: Parking

Policy HS1: Local Housing Allocations
 Policy HS2: Affordable Housing
 Policy HS3: Housing Mix
 Policy HS4: Supported, sheltered and older persons housing
 Policy HS5: Accessible and adaptable housing
 Policy D1: Sustainable design
 Policy D3: Protecting living conditions
 Policy D4: Air quality
 Policy HC1: Community facilities
 Policy NEx: Strategic green infrastructure
 Policy NE1: Landscape
 Policy NEx: Biodiversity and geological sites
 Policy NEx: New and improved open space
 Policy NE7: Reducing flood risk
 Policy NE8: Sustainable drainage systems
 Policy NE9: Water quality and environment
 Policy NE10: Water conservation and wastewater infrastructure
 Policy HE1: Designated heritage assets
 Policy HE4: Archaeology

The application site is identified in the NHDC Submission Local Plan 2011 – 2031 as an allocated housing site under Policy CD5 'Land South of Heath Lane'

2.4 **Hertfordshire County Council**

Local Transport Plan (LTP4 – adopted May 2018)
 Hertfordshire Waste Core Strategy and Development Management Policies
 Development Plan Document 2012

2.5 **National Planning Practice Guidance**

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

3.0 **Representations**

Statutory Consultees

3.1 **Codicote Parish Council – Objection:**

- Whilst the site is included in the Local Plan, it is still currently within the Green Belt and there are no exceptional circumstances.
- The Local Plan has not yet been adopted, the application should not be considered until the Inspector has held the additional new hearings he has proposed to open.
- The site is allocated for 130 houses, 167 represents a significant increase.
- Access on to the site is very restricted, and access on to the B656 extremely difficult – there is little scope for improvement.
- Concerns regarding construction traffic during an expected 2 year construction period – hours of operation, access to site, debris on surrounding roads, pollution.
- Most vehicular movements during and post construction will be southwards crossing both carriageways of the B656 adding to the existing problems of congestion

- Transport Assessment Addendum commissioned by Ashill is not representative of the true facts. Data only collected at two short periods in a day.
 - The application should not be viewed in isolation – all 4 sites proposed in the Local Plan are inter-dependent as they hinge on the school expansion.
 - Infrastructure issues must be addressed – the village already experiences huge problems with drainage/sewerage, traffic and parking problems, regular power cuts (see 'Note' under 3.20.3).
 - There is a lack of facilities in Codicote - no doctor's surgery, dentist or library.
 - Treatment of the Hertfordshire Way through the site needs to be more sympathetic. The 'buffer' planting needs to be wider than a metre, there is too much 'permeability'- it needs to be treated as a safe, green corridor.
 - Overall the site does not integrate well with the existing built area
- 3.2 **NHDC Waste and Recycling** – No objection, subject to conditions requiring suitable waste storage and collection facilities.
- 3.3 **NHDC Environmental Health (Contaminated Land and Air Quality)** – No objection regarding contamination, subject to conditions requiring a further Phase II environmental risk assessment be carried out and assessed.
- No objection regarding air quality matters, subject to conditions and informatives requiring Electric Vehicle charging points.
- 3.4 **NHDC Environmental Health (Noise)** – No objection subject to conditions requiring some dwellings be constructed and completed in accordance with the submitted acoustic assessment, recommending acoustic ventilation for certain plots in close proximity to Heath Lane and the Primary School.
- 3.5 **NHDC Housing Development Officer** – No object, subject to the provision of 40% affordable housing (67 units), to comprise of 65% affordable rent (44 units) and 35% shared ownership units (23 units) (see table below at 4.3.161 for full details)
- 3.6 **NHDC Landscape and Urban Design Officer** – No objections – Cross section through Mimram Valley to consider the plateau edge and surrounding valley landscape? Landscape Masterplan to show details of planting, boundary treatment and hard-surfacing.
- 3.7 **HCC Highways** – No objection – subject to ten conditions and s106 obligations regarding the submission and monitoring of a travel Plan, contributions towards the improvement of local bus stops and contributions towards the expansion of the 315 bus service and the provision of x1 car club bay on site (see table below at 4.3.161 for full details).

- 3.8 **HCC Growth and Infrastructure** – No objection subject to the suitable transfer of land to allow for the expansion of Codicote C of E Primary School from 1 Form of Entry (FE) to 2FE and subject to financial contributions via a s106 legal agreement towards Primary education, Secondary education, Library Services and Youth Services (see table below at 4.3.161 for full details). An explanatory note has also been provided from HCC Growth and Infrastructure in relation to the current shortfall at Codicote C of E Primary School, which is attached to this report at Appendix A.
- 3.9 **HCC Lead Local Flood Authority (LLFA)** – No objection subject to conditions requiring the development be carried out in accordance with the submitted Flood Risk Assessment, that the final design of the drainage scheme be submitted and approved prior to commencement and that on completion of the drainage works a management and maintenance plan for the SuDS features and drainage network must be submitted and approved.
- 3.10 **HCC Historic Environment (Archaeology)** – 19/11/2018 – No objections, subject to conditions requiring further trial trenching and likely open area excavation over the proposed development area, as the proposal is likely to have impacts on heritage assets of archaeological interest.
- 3.11 **HCC Minerals & Waste** – No objection, subject to a condition requiring the submission and agreement of a Site Waste Management Plan
- 3.12 **HCC Fire and Rescue Services** – No objection, subject to a s106 obligation for the provision of fire hydrants on site
- 3.13 **HCC Countryside and Rights of Way Officer** – 21/11/2018 – concerns regarding footpaths 014 and 015 – it was agreed these be 2m wide with 1m unsurfaced either side – to keep planting back and not to obstruct the pathways. Vehicle cross-overs are undesirable but impact minimised and acceptable if raised traffic tables are used and pedestrian priority etc.
- 3.14 **Hertfordshire Ecology** – No objection, subject to suitable financial contributions towards off-site biodiversity improvements/ project, to secure overall biodiversity net gain (see table below at 4.3.161 for further details) and subject to conditions requiring a Landscape and Ecology Management Plan and an external lighting scheme.
- 3.15 **Herts and Middlesex Wildlife Trust** – Objection – lack of buffering to hedgerow habitats. In order to show measurable net gain, the biodiversity impact calculator must be resubmitted removing all hedges that do not have a protective buffer from the equation and compensating accordingly.
- 3.16 **NHS Clinical Commissioning Group** – No objection, subject to s106 obligations towards the expansion of Bridge Cottage GP Surgery in Welwyn (see table below at 4.3.161 for full details)

- 3.17 **Herts Constabulary (Crime Prevention Design Advisor)** – No objection, subject to an informative requiring that the developers seek ‘Secured by Design Accreditation.
- 3.18 **Thames Water** – No objection regarding waste water, surface water drainage or foul water sewerage network infrastructure capacity, subject to informatives.
- 3.19 **CPRE Hertfordshire (Campaign to Protect Rural England)** – Objection – contrary to Green Belt policies in the NPPF and Emerging Local Plan. There are no very special circumstances and although this site is allocated in the ELP, it is not yet adopted. In addition, 51% of the site is high quality agricultural land, which would be lost.

3.20 **Neighbour and Local Resident Representations**

The application has been advertised via neighbour notification letters, the display of site notices and a press notice. At the time finalising this report, a total of 273 comments have been received including 257 objections, 13 submissions in support and 3 neutral comments.

- 3.20.1 Of the objections, these include submissions by the ‘Save Rural Codicote’ group, including an objection letter from Hutchinsons Planning & Development Consultants and a report by Railton TPC Ltd entitled ‘*Objection on Transport Grounds on behalf of Save Rural Codicote (SRC)*’. An objection letter on behalf of Save Our Green Belt (SOGB) group has also been submitted by Mr Chris Watts of Maze Planning Ltd Planning Consultants.

Maze Planning have also provided further letters of objection on behalf of individual residents, one of which is also accompanied by a further ‘Highway Review’ by Cannon Consulting Engineers. These letters and reports, along with all representations made, are available to view in full on the Council’s website

The objections and the issues raised are summarised as follows:

3.20.2 Green Belt:

- The site remains Green Belt, this is inappropriate development and there is no ‘exception case’ for building on this land.
- Greenfield sites should be last not first resort for development.
- The Green belt is permanent and protects the rural nature of our village.
- Currently 40 houses already for sale in Codicote and ONS states 30% overstatement on housing need in Local Plan – this development is not therefore needed.
- The separation between Codicote and Codicote Bottom will be considerably reduced.
- The application is premature and must not be heard before the outcome of the Local Plan examination.

3.20.3 Infrastructure and services

- The development (along with others planned for Codicote) would put extra, unacceptable pressure on the school, which is already over capacity.
- The electricity supply is already inadequate and is prone to power cuts.
- Drainage infrastructure needs improving, including sewerage provision.
- There is no dental surgery or GP surgery in Codicote – the nearest is in Welwyn which is already full and oversubscribed.
- The application should not be assessed in isolation – the cumulative impacts of all four sites planned for Codicote need to be considered.
- There is no secondary school, with existing pupils having a long commute to school.
- Flooding already occurs on St Albans Road, which is downhill from the development.
- The land being offered to expand the school is insufficient and separated by a public footpath – there is a lack of information as to how access will be provided and how children will be safeguarded.
- The expansion by 1FE would be insufficient to accommodate all four sites proposed in Codicote, plus windfall sites and the existing shortfall.
- Internet/ broadband is already struggling in the village.
- There is a lack of employment in the village and so everyone will commute.

NOTE: Committee Members should be made aware that matters relating to utility supplies, such as water, electricity and broadband etc are not material planning considerations. It is for the statutory undertakers and statutory providers to ensure that the existing population and any future residents are provided with adequate services.

3.20.4 Highways, access and parking

- The levels of traffic as a result of the development, both during construction and after, would be far too excessive for the local highway network.
- Many roads around the site operate as single traffic lanes, due to the amount of on-street parking or are country lanes also making it difficult for pedestrians to navigate the High Street.
- Junction from St Albans Road onto the High Street is already dangerous and use of this would be increased.
- The B656 High Street through Codicote is used as an alternative to A1M during rush hour.
- Prospect of sites in Knebworth routing through Codicote, a concrete batching plant at Rush Green and the quarry reopening all bring more HGV traffic through the village
- Codicote is by far, the least sustainable location for new development and does not minimise the need to travel or maximise the use of sustainable transport modes - the proposed development at Codicote is not, therefore, compliant with paragraph 34 of the NPPF.
- Lack of parking - of the 456 proposed, 91 are garages – this equates to 2.1 spaces per house, including visitor spaces.
- Residents in Codicote must travel to surrounding urban areas to access almost all higher order facilities including work, higher education, bulk food and comparison shopping etc.
- Cycling does not offer a realistic mode to access surrounding urban areas.
- Bus services have reduced over the past year and are insufficient.
- Train stations are only realistically accessible by car and have a lack of parking.
- The Travel Plan suggests mode shift targets that are unachievable.

- Overall, the proposed development has very poor transport sustainability credentials and is not a suitable location for major residential development.
- The speed limit at the proposed access point is the national speed limit (60mph) and no change in the speed limit at this point is proposed.
- It has not been demonstrated that visibility to the west of the proposed Heath Lane access can be achieved either horizontally or vertically, given the steep hill to the west of the proposed site access.
- The existing bus stop provision proposed on Heath Lane is clearly unsafe and inappropriate to serve the proposed development. Vehicles approaching up the hill from the west will have very limited visibility of a bus stopped on the carriageway.

3.20.5 Impacts on amenity

- The development would result in noise, disturbance, odours and pollution to existing residents, both during and after construction.
- The development would overshadow many existing, neighbours' homes and gardens.
- Existing properties would be adversely affected by light pollution from the new development.
- The proposals would result in overlooking of properties in St Albans Road.
- The St Albans Road access will result in noise and vibration to nearby properties and light pollution from headlights.
- Noise from children's play areas.
- The proposed improvements and widening of Heath Lane will reduce vegetation and therefore privacy at Codicote House.

3.20.6 Design and impact on character and appearance of the area and surrounding landscape

- The development would detract from the charm of the village by reducing green space, which also provides space for residents for walking and enjoying local wildlife and beautiful scenery.
- The proposed dwellings are not designed specifically to reflect the local character of Codicote.
- This application alone would increase the population of the centre of the village by 30% and by 50% if other sites went ahead.
- The approaches to the village from the west would be scarred by a skyline of rooftops rather than existing natural scenery.
- Codicote would be changed from a rural village to a town.
- The proposal represents overdevelopment of the site.
- CD5 is an area offering a magnificent vista across the Mimram Valley towards Ayot St Lawrence which would be destroyed if CD5 were developed for housing.
- Lack of sustainable design features.
- The proposed housing will be visually intrusive both to long distance views and also within the village.
- The widening of Heath Lane and provision of footpaths will require clearing of existing hedges and trees, detrimentally altering the rural setting of this part of the village.

3.20.7 Impact on nature and wildlife

- The development would have an adverse impact on wildlife.
- The site is close to designated wildlife site and it could impact on wildlife corridors.
- The site borders the Mimram River, which would be at risk of pollution.
- Loss of valuable agricultural land.
- The whole of the existing embankment, hedgerow and trees along Heath Lane would be lost to facilitate the access and vision splays.
- The pumping station in the far north-west corner would also result in the loss of significant hedgerow.

3.20.8 Other

- Concerns that the affordable dwellings will not actually be affordable.
- The 1m buffer along the Hertfordshire Way is insufficient and it is too permeable – it needs to be treated as a safe green corridor.
- Housing need figures both nationally and locally are inflated and this housing is therefore not needed.
- The increase of housing and loss of green recreational space will increase crime in the village.
- Wrong housing mix. We need small properties not 4/5 bedroom houses.

Some have residents have raised neutral comments, summarised as follows:

3.20.9

- The housing must be affordable for local people.
- We want to welcome new people but the village must remain a community.

The comments received in support of the proposal are summarised as follows:

3.20.10

- New houses are needed, particularly for young people, although an increase of facilities are needed to facilitate them.
- Housing is needed for local people.
- This is the best option of the developments proposed for Codicote.
- Support for the expansion plans for the school, which is desperately needed.
- It is felt the development would not impact negatively on the village a great deal.
- We are in support but the roads need to be improved -perhaps a car park on the High Street would work.
- The school has a great reputation and accommodating for the expansion is more than most are offering.

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site is located to the south-west of the village of Codicote. The site comprises a group of arable fields which are defined by various hedgerows, trees and vegetation and which total an area of 10.78 hectares. The site is situated between Heath Lane to the north and St Albans Road to the south. The site is bounded by existing residential properties on Heath Lane, Hill Road and Meadow Way to the north, as well as the existing Codicote C of E Primary School and properties on St Albans Road and Dark lane to the east and south. The west and south-west boundaries are defined by a scarp slope which drops down to the west to the River Mimram and the Mimram Valley. The site has a sloping gradient from the higher points at the northern/ central parts of the site sloping down towards the south-west part of the site and scarp slope beyond.
- 4.1.2 Several footpaths and rights of way run through the site, including Footpath 15, which makes up part of the wider Hertfordshire Way route and which runs east-west along the northern boundary of the site and through the middle of the western part of the site. Footpath 14 runs along the eastern boundary of the site and separates the application red edged site from the blue-edged land which is proposed to be transferred to Hertfordshire County Council to enable the expansion of Codicote Church of England Primary School ('the Primary School'), which is located adjacent to the north-east corner of the application site (only separated by the aforementioned Footway 14). Lastly, Footpath 16 runs along part of the western boundary of the site. The existing fields are accessed via gated access points on Heath Lane to the north of the site and a short track from St Albans Road to the south, which is also shared with Footpath 14.
- 4.1.3 The application site also includes No.66 St Albans Road, a recently extended and renovated one-and-half storey 5-6 bedroom detached dwelling, located on the northern side of the road and which is located immediately to the east of Footpath 14, where the footpath and access track meet St Albans Road.
- 4.1.4 Other than No.66 St Albans Road and the adjacent footpath (which make up the proposed southern access from St Albans Road), the majority of the site is located within the Green Belt and is outside of the village boundary of Codicote. The northern part of the site is approximately 50 metres from the Codicote Conservation area, at its nearest point on Heath Lane and the eastern part of the site is approximately 80m from the Conservation Area at its nearest point (where part of the existing school is within the Conservation Area boundary). The Conservation Area includes a number of Listed Buildings, primarily along the High Street and St Albans Road to the north-east of the application site and the Grade II Listed Codicote Lodge and its associated grounds approximately 90m to the north of the site. There are further listed buildings to the west of the application site, including Rose Cottage, Bentleys and Codicote Bottom Farm House and two associated Barns on Kimpton Road.

4.2 Proposal

Residential development of 167 dwellings (Use Class C3) and associated works including formal open space, internal road network, landscape enhancement and creation of accesses from Heath Lane and St Albans Road; and the demolition of 66 St Albans Road (as amended by drawings received 1st and 6th November 2018 and 17th and 18th December 2018).

- 4.2.1 The proposals (as amended) seeks full planning permission for the erection of 167 dwellings with associated vehicular access from both Heath Lane to the north of the site and St Albans Road to the south of the site, which would include the demolition of the existing dwelling at No.66 St Albans Road. The proposals also include associated works including formal open space, landscaping, tree planting, enhancements to the Hertfordshire Way (Footpath 15), a sustainable urban drainage system, including water retention basins and swales. The proposals include the laying out of an internal road network which would link the two access points, off-street and on-street parking, including the provision of one space for a Car Club scheme and the provision of a Local Area of Equipped Play (LEAP) and Local Area of Play (LAP) and a pumping station.
- 4.2.2 The development proposes the provision of 100 market homes comprising 2, 3, 4 & 5 bedroom houses and 67 affordable homes (of a mixture of shared ownership and affordable rented tenure) comprising 1 bed flats and 2, 3 & 4 bedroom houses. The affordable housing amounts to 40.12% of the total number of units proposed for the site.
- 4.2.3 The proposed development would largely consist of two storey dwellings, with a limited number of 2.5 storey dwellings (6no.) and 1no. single storey dwelling. A total of 456 parking spaces is proposed, including 362 allocated spaces (of which 97 are garages) and 94 visitor spaces.
- 4.2.4 The proposals outline four parcels of the site of differing densities, ranging from 34.5 dwellings per hectare (DPH) at the north-eastern corner of the site (closest to existing built development) to 18dph at the western part of the site (closest to the scarp slope and views to the south-west). The average net density across the site would be 25dph and the overall gross density would be 15.5dph, owing to the large areas of open space and additional green spaces (such as green corridors etc).
- 4.2.5 The application is supported by the following documents:
- Planning Statement (amended December 2018) and Design and Access statement
 - Schedule of accommodation
 - Transport Assessment (and Updated Addendum to consider cumulative impact of other sites in Codicote)
 - Travel Plan (amended December 2018)
 - Phase 1 Habitats Survey

- Biodiversity Impact Calculator (BIC) (Amended March 2019), BIC Note and BIC Plan
- Built Heritage Statement
- Archaeological Desk Based Assessment
- Written Scheme of Investigation for Phase 2 Archaeological Evaluation (Update January 2019)
- Arboricultural Impact Assessment & Method Statement
- Agricultural Land Assessment
- Air Quality Assessment
- Foul Drainage Utilities Statement
- Flood Risk Assessment & Surface Water Drainage Strategy
- Landscape and Visual Impact Assessment
- Noise Assessment
- Statement of Community Involvement
- Preliminary Risk Assessment and Geo-environmental Site Investigation
- Sustainability and Energy Statement

- 4.2.6 The application is not accompanied by an Environmental Statement. As noted at 1.3 of this report, above, a Screening Opinion was submitted to the Council under reference 18/01722/SO. Having considered the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, it was determined that the proposed development, of 'up to 175 dwellings' was not an EIA development under Schedule 2 or Schedule 3 of the EIA regulations and therefore it did not require an Environmental Statement. This decision was reached on the basis of the merits and impacts of this site.
- 4.2.7 Planning Practice Guidance (PPG) recognises that, in compiling information for a Screening Opinion, account must be taken of any relevant environmental assessments required under other European Union legislation. PPG further states that, in most cases, the environmental assessment that is most likely to be relevant is the strategic environmental assessment ('SA') undertaken during the preparation of the local plan for the area.
- 4.2.8 A total of four housing sites have been allocated under the Emerging Local Plan ('ELP' – sites CD1, CD2, CD3 and this site CD5), which would total 315 dwellings under the indicative figures allocated for each site in the ELP (although with a potential uplift the total could come closer to a total of 370 dwellings). The cumulative environmental impacts of all four sites have been considered as part of the formation and evidence base of the ELP, under the 'Draft Sustainability Appraisal of the Proposed Submission Local Plan (September 2016)' and the associated appendices (Examination Document LP4). The potential environmental impacts of each site have been individually assessed with recommended mitigation measures incorporated as necessary within the policies and detailed site criteria of the ELP. Section 7.2 of the SA also specifically considers localised cumulative effects where 'clusters' of development are proposed. Codicote is considered as one such cluster. The cumulative impacts have been found to be reasonable/acceptable, in so much as the four sites have all been retained for proposed allocation within the ELP with mitigation. The ELP was approved to be submitted for examination by Full Council in April 2017.

4.2.9 The SA is specifically considered by the ELP Inspector when examining the legal compliance of the Plan. To date, he has not raised any specific concerns over the SA insofar as it relates to either the individual or collective consideration of the four ELP sites in Codicote. In this context, the Council has determined this scheme would not amount to a need for further strategic EIA or Environmental Statement at application stage.

4.3 Key Issues

4.3.1 The key issues for consideration of this full planning application are as follows:

- Policy background and the principle of development in the Green Belt.
- Whether or not the development would be an inappropriate form of development in the Green Belt.
- The impact of the proposals on the openness of the Green Belt and on the purposes of including land within the Green Belt.
- Any other harm.
- Prematurity
- Impact of the development on the setting of the village of Codicote and heritage assets, including the Codicote Conservation Area and including an assessment of the proposed design, character and appearance.
- The impact of the development on the wider landscape setting.
- Impacts of the proposed development on the local highway network, access and parking matters.
- Environmental considerations.
- Whether the development would represent a sustainable form of development.
- Whether any harm by reason of inappropriateness, and any other harm would be clearly outweighed by other considerations and whether these would amount to the very special circumstances (including in this case but not exclusively, the provision of enlarged educational facilities and the provision of market and affordable housing).
- Planning Obligations.
- Planning balance and conclusion.

Policy background and the principle of development in the Green Belt

4.3.2 Other than the proposed access from St Albans Road (including No.66) the site lies outside of the village boundary and is located within the Green Belt and therefore Saved Policy 2 of the Saved District Plan applies, which states the following:

In the Green Belt, as shown on the Proposals Map, the Council will aim to keep the uses of land open in character. Except for proposals within settlements which accord with Policy 3, or in very special circumstances, planning permission will only be granted for new buildings, extensions, and changes of use of buildings and of land which are appropriate in the Green Belt, and which would not result in significant visual impact

This policy is consistent with the approach to Green Belt development in National Policy contained in Section 13 of the NPPF. Paragraph 133 of the NPPF states *'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open'*.

- 4.3.3 The proposal for 167 dwellings and associated infrastructure does not fall within any of the exceptions of appropriate development as outlined and listed in paragraphs 145 and 146 of the NPPF. The proposals are therefore inappropriate development which by definition is harmful to the Green Belt, by virtue of paragraph 143 of the NPPF. Inappropriate development should only be approved if very special circumstances can be demonstrated. The advice in the NPPF and case law sets out a clear approach to the assessment of the proposal. First, the degree of harm to the Green Belt should be established. Following this, the other material considerations of the proposal should be discussed to outline whether or not the proposed development would result in any other harm. Then, it is necessary to consider any further matters and/ or public benefits which may support the proposals and whether they clearly outweigh the identified harm so as to amount to very special circumstances to justify a permission.
- 4.3.4 The application site has been identified in the NHDC Emerging Submission Local Plan 2011-2031 as a housing site (CD5 – Land South of Heath Lane). The CD5 allocation has a dwelling estimate of 140 homes. The significance and weight which can be attributed to this allocation, in consideration of the overall planning balance, is discussed later in this report (at paragraphs 4.3.131 to 4.3.137).

Harm by way of inappropriateness

- 4.3.5 As noted above, the proposals represent inappropriate development, which by definition is harmful to the Green Belt. Paragraph 144 of the NPPF advises that *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt'*. Therefore as well as the inappropriate nature of the development, which is by definition harmful to the green belt and which attracts substantial weight, it is also necessary to consider the scale of any specific harm to the purposes and function of the Green Belt arising from the proposals.

Impact on the openness of the Green Belt and the five purposes of the Green Belt

- 4.3.6 As noted in paragraph 133 of the NPPF, the fundamental aim of the Green Belt and Green belt policy is openness and keeping the Green Belt permanently open. The existing site comprises a collection of arable fields which feature various hedgerows, trees and other vegetation. The land is almost entirely devoid of any form of built structure, other than some low level fencing along some of the footpaths and some entrance gates.
- 4.3.7 Whilst the proposals would include some large areas of open landscape, the proposed residential development of 167 dwellings would constitute a significant body of new development within the Green Belt. Therefore in a physical sense, the proposals would inevitably result in a very significant reduction in openness therefore conflicting with the primary expectations of paragraph 133 of the NPPF. This harm attracts substantial weight when considering whether there are very special circumstances to justify a permission.

- 4.3.8 Recent case law from the Supreme Court has clarified that assessment of visual openness is not required as a matter of law but may be considered appropriate as a matter of planning judgement. It is officers' view that different parts of the site contribute to the visual openness of the Green Belt to varying degrees. For example, the far eastern part of the site is partially surrounded by existing built form, with residential properties to the east and south on St Albans Road and properties to the north on Hill Road and Meadow Way. This part of the existing site has a visual character and appearance which is more semi-rural and edge-of village and is less open. Furthermore, the northern section of the site which sits immediately south of Heath Lane is also relatively well enclosed from the wider landscape and from wider views, due to significant woodland to the western boundary of this part of the site and due to the Hertfordshire Way running along the south of this part of the site and for these reasons this aspect of the site is less open. The development causes moderate harm to this part of the site.
- 4.3.9 However, the south-western and central section of the site is much more visually exposed as it lies at the edge of a scarp slope which forms the north-eastern side of the Mimram Valley which then slopes downwards, relatively steeply, to the River Mimram to the west/south west of the site. The Landscape and Visual Impact Assessment submitted with this application includes a number of photomontages of the site from three different locations within the valley to the west of the site. These show that initially at least, the development would be visually intrusive and quite a prominent feature in these views. However, as this section of the site is known to be sensitive with regard to wider views, the built form has been significantly set back from the western and south-western boundaries of the site, with large areas of open space and a significant amount of buffer/ structural planting, including native trees, that helps to soften and assimilate the development into the wider landscape. The photomontages which show the view of the site at year 1 and at year 10, once the structural planting has grown and matured, show the site would be largely screened from the wider landscape and surrounding Green Belt, much like the western side of Codicote is now.
- 4.3.10 As mentioned above, the site also includes a number of public footpaths running alongside it and through it, including a section of the Hertfordshire Way. It is understood that these footpaths are well used and offer walks and views of the open countryside. The proposed development would significantly alter both the character of the landscape and the views afforded by these footpaths and would result in these sections of the paths becoming largely enclosed by built form and becoming part of a suburban built landscape, rather than an open rural landscape. This would further lead to a reduction of the site's visual openness, when considering the harm to the Green Belt.
- 4.3.11 In light of the above observations, the impact of the proposals on the visual openness of the green belt, across the site ranges between moderate -to- significant. This harm attracts substantial weight.

4.3.12 Paragraph 134 of the NPPF outlines the five purposes of the Green Belt as follows:

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

4.3.13 The site is proposed for allocation in the Council's emerging Local Plan which is currently at examination (see Other Considerations below). The evidence base for the Plan includes the Green Belt Review Update (GBRU) (ref ED161) which considers the prospective impact of the proposed allocations on the purposes and openness of the Green Belt. In the case of site allocation CD5, which is for the land at Heath Lane, the GBRU finds that overall the land makes a 'moderate' contribution to the Green Belt.

4.3.14 In this document, the site is assessed in two parts within the GBRU; the broadly square area lying between Heath Lane and Footpath Codicote 015 is assessed as Site 31 and the remaining land is assessed as site 313 (this land also includes the school land). In terms of site 31, the GBRU considers that the land only makes a limited contribution to Green Belt purposes (a) and (b), as the site does not adjoin a large built-up area and the land plays little or no role in the prevention of towns merging. Furthermore, it is found that the land only makes a limited contribution to purpose (d) as although the Codicote Conservation Area and Codicote Lodge are to the north-east of this land, there would be little or no impact on the setting of these heritage assets. The GBRU document finds that this parcel of land, which makes up the northern part of the application site makes a moderate contribution to purpose (c) of the Green Belt, in that the currently open land does prevent the outward spread of Codicote along Heath Lane, however the western boundary treatment (woodland) limits the relationship of this land with the wider/ surrounding countryside.

4.3.15 Site 313 as identified in the GBRU, which makes up the majority of the proposed site, is also found to only make 'limited' contribution to Green Belt purposes a), b) and d) – again a) as the site does not adjoin a large built-up area, b) the site does not play any role in preventing towns merging and d) although the Codicote Conservation Area and listed buildings are located to the east of the site, there is little or no impact on the setting of these heritage assets. Again, as with the smaller Site 31, site 313 is also found to make a 'moderate contribution to purpose c) 'to assist in the safeguarding the countryside from encroachment'. This finding is based on the relatively large size of the site in the context of Codicote and because *'the development of this site would result in the introduction of additional built form to the west of Codicote, some of which would be potentially visible in views across the Mimram Valley'*. However, parts of site equally contained between existing development along St Albans Road and Mill Road / Meadow Way.

- 4.3.16 With regard to the fifth purposes of the Green Belt, under e) ‘*to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*’, it is noted that there is little in the way of brownfield land in Codicote and in the district as a whole to be able to meet identified housing needs. As such, it is considered that this site and the proposal currently under consideration would only have limited/ no harm on this purpose of the Green Belt.
- 4.3.17 Overall, the application site is assessed as making a limited-to-moderate contribution to the five purposes of the Green Belt as outlined in paragraph 134 of the NPPF and, so by extension, the loss of the existing open land to built-development would result in limited-to-moderate harm to the five purposes of the Green Belt but this harm attracts substantial weight.

Any other harm

- 4.3.18 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 resulting from the proposal, is clearly outweighed by other considerations* (emphasis added in this instance). Having assessed the harm to the Green Belt, outlined above, this report will now go through each of the key material considerations applicable to this proposal to identify and attribute weight to *any other harm* which may arise as a result of the proposed development.

Prematurity

- 4.3.19 The allocation of this site in the ELP is discussed later in this report. With regard to the issue of ‘prematurity’, paragraph 49 of the NPPF states the following:

However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

- 4.3.20 It is your officers’ view that recent information submitted to the examination into the ELP outlines an Objectively Assessed Need (OAN) of approximately 11,600 dwellings for North Hertfordshire (leaving aside any unmet need to be accommodated for Luton) which are to be delivered through the sites identified and allocated within the plan (Policy SP8: Housing).

Whilst it is acknowledged that the current proposal would be considered large relative to the size of Codicote, in the context of the district as a whole and the overall housing requirement figure in the ELP, this is a relatively small proposal of 167 dwellings which if granted permission is not so substantial so as to undermine the ELP and the plan making process.

- 4.3.21 It is also worth drawing members attention to the Council's 'Housing Delivery Test Action Plan' which was agreed by Cabinet in June 2020. Paragraph 79 of the action plan states as follows:

79. As set out in the previous Action Plan, proposed housing sites currently within the Green Belt generally remain subject to the very special circumstances tests set out in National Policy and potential ministerial call-in. It may now be appropriate, subject to an open and balanced consideration of all relevant factors, to determine some planning applications on these sites in advance of the Plan examination being concluded. This position has been reached having regard to the various factors outlined in this Action Plan, the potential for early delivery of key infrastructure and the acute shortfall of housing provision against Government measures.

In bringing this application before committee at this stage, prior to the adoption of the ELP, this is in accordance with the agreed action plan.

- 4.3.22 In light of the above considerations, it is officers' view that it would not be reasonable to refuse this application on prematurity grounds, as a refusal could not be sustained nor be substantiated should it need to be defended at appeal. There is no further harm as a result of prematurity as the tests under paragraph 49 of the NPPF are not satisfied. In addition, as outlined later in this report, one of the key public benefits of the proposal would be to enable the expansion of Codicote C of E Primary School from a one form of entry school to a 2FE. If this current application were to wait until adoption of the ELP, then the expansion of the school (which already has planning permission via a decision on of HCC Development Control Committee on 24th September) would be delayed by at least a further year.

Impact of the development on the setting of the village of Codicote, heritage assets, including the Codicote Conservation Area, taking account of the proposed design, character and appearance of the proposals.

- 4.3.23 Saved Policy 57('Residential guidelines and standards') states under 'Site and Surroundings' that *'Each housing site is unique. Thus, the layout, design and so character of each new development must relate to that site's physical shape and existing features, and the character of the surroundings, whether urban or rural'*. Policy D1: Sustainable Design of the ELP states that *Planning permission will be granted provided that development proposals (a) respond positively to the site's local context'*.

- 4.3.24 Codicote is a medium sized rural village with a historic core along the central High Street. The village has expanded outwards over the past century, particularly to the east and north-east of the High Street. As described above, the application site is located at the south-west edge of the village, partially set between existing linear residential development along St Albans Road and existing development on Hill Road and Meadow Way. The existing site comprises 4 arable fields which contribute to the rural setting of this part of the village and form part of an urban-to-rural transition between Codicote and the Mimram Valley further to the west and south-west of the village. The site is located at the edge of a plateau, with the south-west edge of the site starting to slope down into the valley. the impacts of the proposed development on the wider, surrounding landscape are considered in the next section of this report.
- 4.3.25 The application is accompanied by a detailed Design and Access Statement (DAS) which sets out an assessment of the character of the existing village, in terms of its existing character areas, densities, forms, layouts and materials. Through lengthy pre-application discussions officers have sought improvements to the proposed development to an extent that it is considered that the current proposal's design is of a high quality.
- 4.3.26 The site would be well laid out with a number of traditional perimeter blocks set out around a hierarchy of roads, with the primary roads leading from the two access points at the north (Heath Lane access) and the south (St Albans Road access point) of the site, and smaller secondary and tertiary roads leading from these. Generally, the proposed housing would be set away from the boundaries of the site with landscaping and planting together with access roads and footpaths providing separation.
- 4.3.27 Policy CD5 requires '*Sensitive incorporation of existing rights of way, including footpaths Codicote 014, 015 & 016 as green corridors through the site connecting the existing village to the wider countryside;*' The proposed housing would be set away from the Hertfordshire Way, providing a new, wide landscaped corridor along the line of the public footpath through the site. This would be just one of a number of green corridors through and around the site with the existing hedgerows, which currently delineate and separate the existing fields, being retained and enhanced and which informs the overall layout for the site and the setting of perimeter blocks of housing.
- 4.3.28 A large area of green open space is proposed to the central-south-western part of the site which would include a play park (LEAP) and which would be connected to the Hertfordshire Way, to another smaller 'central green' and to a large landscape buffer to the south, forming a proposed network of green corridors. It is considered that the network of green spaces and corridors would help to soften, screen and to assimilate the development into its rural setting and help the development relate to the village of Codicote.
- 4.3.29 As mentioned, the existing site includes a number of public rights of way (PROW), which would be retained and enhanced as part of the proposals. These, together with the proposed access points from Heath Land and St Albans Road, mean that the site would be well connected to the existing village, with a number of options provided to both walk or cycle to the village centre.

The site would also be within good, accessible walking distance of the main access to the primary school. Highway engineering is more informal with shared surfaces and permeable block paving.

- 4.3.30 The submitted DAS provides a density appraisal, providing the densities across the existing village. The areas nearest to the site have relatively low densities, with the linear development along St Albans Road being just 13 dwellings per hectare (DPH) and the housing at Hill Road and Meadow Way, immediately to the north of the site, being 21dph. However, there is a range of densities across Codicote, with densities as high as 40-41dph in the centre of the village and on the eastern edge of the village (at The Close). Generally, densities are lower as the village has expanded away from the centre with 'intermediate areas' generally 20-30dph and 'edge of village' 10-20dph (other than the exception at The Close).
- 4.3.31 It is considered that the proposals are in keeping with the overall densities of the village. The overall net density is approximately 25dph and the gross density (taking into account the entire site including areas of open green space etc) is 15.5pdh. The area of highest density is at the north-eastern corner of the site, at an average of 34.5pdh, where it would be closest to the village centre and existing built development. The most sensitive part of the site, at the western side and south of the Hertfordshire Way, would provide the new edge of the village with the rural landscape beyond to the west and south west, would have a much lower density, with an average of 18dph.
- 4.3.32 Taking account of the proposed landscaping and greenspaces running throughout the site, together with the layout and detailed design of the proposals, it is considered that the proposed development would achieve a sense of place and character, in keeping with Codicote, through the proposed mix of housing types and styles and the use of a range of materials. Reflecting the character of the existing village, much of the proposals would be of red brick with clay tile roofs but would be broken-up with properties also using timber cladding and some properties with a render finish, which would provide greater variety. Various property types would also include features such as bay windows and chimney stacks, in order to provide further visual interest. The DAS provides a number of street-scene images and illustrations and the application includes a significant number of cross-section drawings to show how the street-scenes and public spaces would likely appear.

Impact on heritage assets

- 4.3.33 Policy SP13: Historic Environment of the ELP states that *'The Council will balance the need for growth with the proper protection and enhancement of the historic environment'*. Under Policy CD5 of the ELP, which is the site designation policy, a requirement states that *Sensitive design, particularly at north east of site, to prevent adverse impact upon setting of Listed Buildings on High Street.*

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that *special regard must be given by the decision maker to the desirability of preserving or enhancing listed buildings and their setting*. Paragraph 189 of the NPPF requires that *'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance'*. This is supported by Paragraph 190 which requires that *'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset)'*.

- 4.3.34 This application is accompanied by a Built Heritage Statement (by CgMs Heritage, dated September 2018) which outlines that the site itself does not include any designated heritage assets, however there are a number of assets within a 1km study radius of the site, including a number of listed buildings, the Codicote Conservation Area and a registered park and garden. Accordingly, the proposed development would not have any direct impact on the significance of any designated heritage assets. However, it may have an impact on the setting of designated heritage assets, which in turn may impact on the significance of the designated heritage asset, depending on the contribution the setting makes to the significance of that asset.
- 4.3.35 Codicote Lodge is located to the north of the application site, on the northern side of Heath Lane. It is noted that there is no inter-visibility between the site and this listed building, as it is set within its own extensive grounds and there are no visual or historic associations between the two. As such, the proposed development would not impact on the setting of this heritage asset. Likewise, it is considered that the site does not contribute to the setting of the listed buildings at Rose Cottage and the Bentley, which are located to the west of the site further along Heath Lane where it becomes 'Heath Hill'. These properties are at the bottom of the Mimram Valley and are separated and screened from the site by a substantial amount of trees and woodland. Furthermore, it is noted that there would appear to be no evidence that there is any historical association between the site and these listed buildings. As such, again, the proposal would not have any impact on the setting of these heritage assets.
- 4.3.36 Codicote Bottom Farm includes three listings (comprising four buildings), including the Farmhouse, a Barn and Shed 20m to the north of the farmhouse and a further barn 50m north-west of the farmhouse. All four buildings are Grade II listed and are set to the west of the application site, at the bottom of the Mimram valley.

Whilst there is very limited inter-visibility between these listed buildings and the site, part of the setting of this collection of heritage assets is that they can be appreciated from longer distance views to the west, with the western part of the application site set within the 'back-drop' of these views and to that extent the site, as it comprises a small part of the setting of these buildings and is rural in nature, makes a small contribution to the rural nature of these buildings which is part of their significance . At least in the short to medium term, the proposed development would introduce modern built development into this wider rural setting. This would also be true of views from the Registered Park and Gardens at Ayot House (RPAG), which is located further still to the west, on the opposite side of the Mimram Valley but which benefits from views eastwards towards the site. Both an agricultural farm and a rural park/ gardens, owing to their nature, are considered to benefit from a wider, longer reaching setting, as they are both associated with the rural landscape surrounding them and in both instances this setting contributes to the significance of these heritage assets. Again, the proposals would introduce urban built form into the existing rural landscape and would cause a small level of harm to the setting of the RPAG and to the collection of Listed buildings at Codicote Bottom Farm.

- 4.3.37 Owing to the distance of the site from these heritage assets, it is considered that this would fall within the 'less than substantial' definition of harm under the NPPF, very much at the lower end of that spectrum. In addition, it is noted that the proposed development would be set well back from the western and south-western boundaries of the site, with large amounts of structural planting proposed which, as demonstrated via the submitted photomontages, would provide significant screening in the medium-to-longer term, resulting in a reduction to the small level of harm to the setting of these heritage assets
- 4.3.38 With regard to the impact on the setting of the Codicote Conservation Area (CA), it is noted that the site is largely separated from the CA by more modern residential development (late twentieth century) and there is little in the way of inter-visibility between the two. Due to the amount of modern development surrounding the CA, including along Heath Lane, the relationship between the CA and the wider rural landscape is largely lost. As such, in its current form the site makes a very limited contribution to the rural setting of the CA. The 'Codicote Conservation Area Character Statement' does not make reference to any parts of the application site in terms of identifying important characteristics of the CA. The character statement does identify a 'Key View' out of the CA, looking west along Heath Lane. The proposals would replace the current gate with new planting and the northern hedge boundary would be replaced and reinforced, following necessary highways works. The proposed development would also be set back from this boundary from Heath Lane and although there may be some limited views of the new access point, it is considered that the verdant character of the northern site boundary and the contribution that it makes to the setting and significance of the conservation area would be preserved. As such, there would not be any harm to the CA or its setting.

4.3.39 As outlined above, a small level of harm has been identified to the significance of heritage assets, namely the collection of Listed Buildings at Codicote Bottom Farm and to the Ayot House RPAG, by-way of harm to the setting of these heritage assets. This harm is considered to be 'less than substantial' and at the lower end of that spectrum. However the NPPF requires that great weight is given to this harm. Paragraph 196 of the NPPF states *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'*. It is the officers' view that this proposed development would result in very substantial public benefits, which are explored and outlined in greater detail later in this report. In summary, these include educational benefits in providing land for the expansion of Codicote C of E primary school to address an existing and future shortfall of places for children already living in the village. In addition, the proposed development would provide much needed housing, with the provision of 167 homes, 67 of which would be affordable units, in the context of the Council's significant shortfall and historic undersupply of housing. The development of this site would also include further public benefits in the provision of large areas of open space for recreation and improvements and enhancements to the existing PROW. Economic benefits would also result, both during the construction of the site in terms of employment and also longer term benefits in providing a greater 'customer base' for the local shops and services in Codicote. The development, through the associated s106 legal agreement would also include substantial contributions towards new and improved community facilities, such as a new scout hut, a refurbished sports pavilion and the expansion and improvement of bus services through the village (see table below at 4.3.160 for full details). Whilst mitigating the impact of the proposed development, these projects and contributions would also be to the wider public benefit of the existing community. The harm as identified to heritage assets is considered to be at the lower end of the scale of 'less than substantial harm' and whilst this harm attracts great weight, it is considered that this harm is clearly outweighed by the substantial public benefits of this proposal.

4.3.40 Notwithstanding the above, in the wider planning balance the harm identified to heritage assets which attracts great weight, is considered in the context of whether very special circumstances exist to justify a permission later in this report.

Summary on design and impact on Codicote and other heritage assets

4.3.41 This section of the report has assessed the design merits of the proposals and the impact of the proposed development on the setting of the village of Codicote and on designated heritage assets, including the conservation area, listed buildings and a Registered Park and Garden.

In summary, it is considered that the proposal is of a high quality of design, with a good layout which responds to its location and setting, with suitable densities, suitable use of materials and with a significant amount of green space, including large open areas, green corridors and tree lined roads, which all help to soften and assimilate the development into its surroundings, helps the proposal to relate to the village of Codicote and provide its own sense of character. Having said this, whilst the development is well designed and laid out, it would inevitably result in the loss of some of the rural setting of the existing village, through the loss of the existing open fields. As such, to some extent there would be a small adverse impact to the character and setting of the existing village.

- 4.3.42 Limited harm has been identified to the setting and through that the significance of a collection of listed buildings at Codicote Bottom Farm and also to the setting and through that the significance of the Ayot House RPAG, both of which are heritage assets located to the west of the application site. However, the limited harm is 'less than substantial' at the lower end of the spectrum and whilst great weight attaches to that harm, this harm would be clearly outweighed by the substantial public benefits of the proposed development, which are discussed in greater detail later in this report. However, as harm has been identified, this should be attributed significant weight in the overall planning balance in considering whether very special circumstances exist to justify a release of land from the green belt and this is addressed later in this report.

Impact on the wider landscape setting

- 4.3.43 With regard to landscape and wider visual impacts of the development, whilst it is noted that the site is bounded on two sides by existing residential development, with Hill Road and Meadow Way (and the existing school) to the north of the site and St Albans Road to the south/ east of the site, the south-west boundary of the site is defined by a scarp slope which drops down to the west/ south-west to the River Mimram. The site is therefore situated on a plateau with views out across the Mimram and corresponding views into the site from higher ground to the south and west. In recognizing the potential sensitivities of the site, from a wider landscape perspective, the policy allocating this site for residential development in the ELP, Policy CD5, requires that '*Proposals to be informed by a site-specific landscape assessment, particularly ensuring development at the south-west of the site does not encroach beyond acceptable limits into longer views across the Mimram Valley;*'. .
- 4.3.44 As well as wider views, a number of public footpaths run through the site and so it is also subject to public views from these footpaths, which need to be taken into account when considering the impact of the proposed development.
- 4.3.45 The application site is located in the south-western portion of the Codicote Plateau Landscape Character Area, under the North Herts Landscape Study (Area 20). The key characteristics of the Codicote Plateau LCA are listed as:
- Gently rolling upland plateau landscape
 - Large arable parcels with grazing land adjacent to Codicote
 - Varying sized blocks of woodland

- 4.3.46 The application is accompanied by a 'Landscape and Visual Impact Assessment' (LVIA), as required by Policy CD5 and which includes a number of photomontages showing how the proposed development would appear from three viewpoints to the south, south-west and west of the site, in the Mimram Valley. These show the development as built, after year 1 and after year 10, to show the impact of proposed landscaping and planting over the short and longer term. The LVIA has been an ongoing and iterative process through designing the current proposals and informing the layout and landscaping of the site to seek to address and minimise the overall landscape impacts. For example, the two pre-application submissions in 2016 and 2017 sought up to 200 dwellings and this included development up the south-west boundary of the site. When the Screening Opinion was given in 2018 it had reduced to 175 dwellings and this application is now for 167 dwellings. In addition, proposed development is now set well back from the south-west boundary, with a large area now proposed for native woodland planting to provide a large landscape buffer. The LVIA is also accompanied by a wide cross-section plan, showing the relationship of the site with the Mimram Valley.
- 4.3.47 The 'overall conclusion' within the submitted LVIA finds that *'No significant adverse landscape or visual effects would arise as a result of the Proposal. The proposal would be beneficial in the long-term for local landscape character'*. The landscape of the site and the surrounding area is not of any statutory designation and the site has urban-fringe influences. The undulating topography of the Mimram valley sides is a strength of the landscape, however aspects such as the prominence of Codicote quarry detract from the landscape value. In general, the landscape value is considered 'medium'.
- 4.3.48 The photomontages accompanying the LVIA demonstrate that for the most part, the village of Codicote is not visible when viewed from the Mimram Valley, other than some properties on St Albans Road/ Dark Lane. However, the proposed development would be relatively prominent from all three of the viewpoints, introducing built form into this part of the landscape. Negative impacts on the landscape include the loss of existing pasture land, the removal of 40m of vegetation along Heath Lane to make way for the access and vision splays (and a further length of 15m to make way for the proposed pumping station), the removal of 5 small trees (category C) and the removal of 31m of central hedgerow.
- 4.3.49 The proposals include a significant number of benefits and mitigating factors to balance these negative impacts, to reduce and minimise landscape and visual impacts. Hedgerow and trees would be replanted along Heath Lane, for example, approximately 180m of hedgerow would be replanted and reinforced within the site, approximately 0.6 ha of woodland would be planted along the south-west and southern boundaries of the site and in the region of 500 additional trees would be planted throughout the proposed housing and road layout.
- 4.3.50 Consideration has been given to using a range of densities across the site, creating a softer development edge along the western boundary using open space and buffer planting and allowing green space to filter into the development through a series of linked open spaces and avenues.

The lower densities at the south-western aspect of the site, allow for greater spacing between properties, allowing for greater visual permeability and reducing the perception of built mass. As mentioned, built form will be set well back from the south-west boundary of the site, with the nearest properties approximately 90m back from the boundary with significant tree planting in between. The layout shows a hierarchy of linked open spaces across the site that respond to the landform and the existing vegetation to create a series of landscaped features such as street tree planting to create avenues and mask views of the houses; green footpath corridors, formal and informal green spaces, and play spaces.

- 4.3.51 Whilst the 'built form' images in the photomontages show the development to be prominent within the landscape, owing to the significant set-back and large areas of open space and structural buffer planting, it is considered that the proposed development would be partially screened and softened by year one. By year ten, when the large areas of tree planting and landscaping along the southern and western boundaries would have matured, the photomontages suggest that the development would be well screened, with only the roof-tops of some houses visible from view-points along the Mimram Valley. In light of these considerations, the proposals would accord with the requirement of Policy CD5 that any development should not encroach beyond acceptable limits into longer views across the Mimram Valley.
- 4.3.52 The site is subject to two public rights of way passing through it, including the Hertfordshire Way. Although the location of these can be described as urban-fringe, as existing residential development is prominent when using these footpaths (and the Hertfordshire Way runs directly along the rear of a row of properties), these footpaths do allow for interspersed views of the open countryside to the south-west and over the River Mimram. The proposed development would clearly introduce a significant amount of built form around these footpaths and would interrupt much of the existing views, for users of these footpaths. However, this would be partially mitigated as the Hertfordshire Way in particular would be enhanced, in that it would form a wide landscape corridor through the site, with proposed properties set back either side of it by 12-15m (so the corridor would be 24-30m wide). The footpath would be reinforced with additional hedge and tree planting and of particular note, the proposals would feature two further landscape corridors leading south/south-west from the footpath, leading to the large open green space and park at the central/south-western part of the site (one corridor measuring approximately 20m wide and the other approximately 30m wide). These corridors would allow for and retain some of the views from the Hertfordshire Way out towards the Mimram Valley to the south-west.

Summary of impact on wider landscape and visual setting

- 4.3.53 The LVIA submitted in support of the application concludes that '*No significant adverse landscape or visual effects would arise as a result of the Proposal*'. It is the officers' view that the provision of 167 dwellings on currently open land would, inevitably, result in a significant change in the character of the site, impacting on the wider landscape. However, as discussed above, the proposals include significant mitigation measures to seek to minimise any harm to the local landscape and visual harm, large areas of open space; a significant amount of tree planting and the proposals have been sensitively designed and laid-out to take account of the site's location within the wider landscape.

- 4.3.54 The application site is closely associated with Codicote and much of the site would be set against the back-drop of the existing village, particularly those aspects towards the central and eastern part of the site. It is only the lower density aspects of the site to the western and southern parts of the site which would be visible from the surrounding landscape.
- 4.3.55 The officers' view is that there would be at least moderate harm in the short term, during construction phases and during the first few years following completion, while there would be a lack of screening and landscaping. However once the structural planting and landscaping has matured, the development would be largely screened from the wider landscape, from longer views and it would fit comfortably within its setting. Over time, any harm would be reduced to limited. In the overall planning balance, it is considered that the harm identified in this instance can be described at limited-to-moderate and that this should attract moderate weight.

Impact on the local highway network, access and parking

Impact on local highway network

- 4.3.56 The issue of highway capacity is of great concern to Codicote Parish Council and to many local residents and this issue has been raised in many (if not most) of the objections received on this proposal. It is acknowledged that there are issues of congestion through Codicote and particularly along the B656 High Street and its junctions with both Heath Lane and St Albans Road. Typically, congestion is understood to be particularly bad during peak rush hours times in the morning and the evening, when people are travelling to work and during school drop-off and pick-up. This can be worsened if there is an accident or traffic issues on the A1(M), as many road users chose to divert off of the motorway and use the B656 as an alternative.
- 4.3.57 Paragraph 108 of the NPPF states that *'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'* The NPPF also sets a high bar in terms of grounds to refuse an application on highway matters – paragraph 109 states that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.
- 4.3.58 Policy T1: Assessment of Transport matters of the ELP states that *'Planning permissions will be granted provided that a. development would not lead to highway safety problems or cause unacceptable impacts upon the highway network'*. During the course of this application, noting that it was originally submitted to the Council in October 2018, various modifications have been put forward as part of the Emerging Local Plan. One such modification falls under the policy which allocates this site for housing (Policy CD5). A requirement of Policy CD5, which is under consideration by the ELP examination inspector, states as follows: *'Transport Assessment to consider the cumulative impacts of sites CD1, CD2, CD3 and CD5 on the village centre and minor roads leading to/from Codicote and secure necessary mitigation or improvement measures'*.

4.3.59 This planning application has been submitted with a Transport Assessment which was later amended/ updated to also include an assessment of the cumulative impact of this site (CD5) and the other three sites which are also allocated for housing in Codicote under the ELP. The other three sites include;

- CD1: Land South of Cowards Lane for 73 homes (subject of outline application reference 17/01464/1 for up to 83 dwellings);
- CD2: Former Codicote garden Centre, High Street for 54 homes (currently subject of application reference 19/01448/FP for 73 dwellings)
- CD3: Land north of The Close for 48 dwellings (no applications received as yet)

4.3.60 The proposed site would feature two vehicular access points, with a new access/ egress onto Heath Lane at the north of the site and a new access/ egress at the south of the site onto St Albans Road, which would require the demolition of No.66.

4.3.61 In terms of impact on highway capacity, the vehicular trip rates were sourced from the industry standard TRICS database. The associated peak hour trip rates are indicated in Table 5.1 of the Transport Assessment (TA). This anticipates that the site would generate a total number of trips in the AM peak travelling period (07:15 – 08:15) to be 92 and would generate approximately 99 trips during the PM peak travelling period (17:15 – 18:15). This equates to approximately 1 additional vehicle movement on St Albans Road every 51 seconds and 1 additional vehicle movement on Heath Lane every 2 minutes (during the peak hours). The HCC Highway officers conclude on highway capacity, that 'The impact from the development has been considered not to constitute a 'severe' impact on the network'. In addition, the Highway Officer has stated that 'The Transport Assessment Addendum sets out the cumulative traffic flows from the local development sites of CD1, CD2, CD3 and CD5, combined with the forecast baseline traffic flows on the local highway network for the 2023 assessment year. The results of these assessments show that the cumulative impact of these sites will not cause key local junctions to exceed their operational capacity'. The residual cumulative impact is also acceptable and not severe.

Access

4.3.62 As noted above, this proposal for 167 dwellings would feature two access points; one onto Heath Lane to the north and another at St Albans Road to the south of the site. These would both be priority 'T-junctions' and both access points have been designed in conjunction with HCC Highway and would be subject of Section 278 agreement/ works requiring independent Road Safety Audits. The Transport Assessment submitted with this application includes a number of detailed plans showing the specification for the two access points and these demonstrate that both would be suitable in terms of highway safety as each access point would benefit from sufficient vision splays.

4.3.63 It is acknowledged that concerns have been raised by objectors as to the safety of the proposed access onto Heath Lane, as this part of the road is subject to National Speed limits (up to a maximum of 60mph) and the road slopes downwards to the west of the access point. The data within the TA outlines that the recorded Design Speeds along this section of Heath Lane are 36.2mph eastbound and 36.4mph westbound.

The TA and the associated plans demonstrate that the Heath Lane access point would benefit from the required 57m vision splays in both directions (to the east and west of the access point) when set back 2.7m in from the junction, in both the horizontal and the vertical planes (in light of the downward slope of Heath Lane to the west of the access point). As such, it is considered that the proposed access point would not result in any highway safety issues and no objections are raised by the HCC Highway Officer. Likewise, the St Albans Road access point, which would join the road where the speed limit is 30mh, would also benefit from suitable/ sufficient vision splays and so would be acceptable in this regard.

- 4.3.64 With regard to pedestrian and cycle access, the site would be well served by the existing footpaths 15 and 14, both of which would be enhanced and widened as part of the proposals and which would provide access to the local shops and services on the High Street. The site would also be within very close proximity to the primary school, with direct pedestrian/ cycle access possible to the school entrance gates via the Hertfordshire Way (footpath 15) and a short link path through to Meadow Way. The proposals also include for improved pedestrian access onto Heath Lane, with an extended footpath on the south side of the road to link the proposed access point to the existing footpath(s) network. Furthermore, the footpath on Heath Lane would also be extended to the west, with a new crossing point to the north side of the road where an additional short section of footpath would be provided to access a new/ proposed eastbound bus stop. The site would also be within walking distance of a number of existing bus stops, as well as the new proposed bus stop on Heath Lane which would allow for sustainable modes of transport beyond Codicote, to wider range of services at nearby towns.
- 4.3.65 The vehicular access points from Heath Lane and St Albans Road would be linked, forming a spine road through the site and so would therefore cross footpath 15. However, proposed plans show that the road would be narrowed at the footpath crossing, with pedestrian priority, so as to retain the footpath and protect users. A condition is to be included with any grant of permission requiring that details of the crossing point be submitted to and approved by the Council, prior to the commencement of the development. In order to achieve 'pedestrian priority' at this point, it is expected that details would include a 'raised table', for example. On this basis, the HCC Public Rights of Way officers have not raised any objections.
- 4.3.66 It is acknowledged that a number of concerns have been raised with regard to the suitability of the 'school land' and the safeguarding of pupils, as the land is separated from the existing school by Footpath 15. Whilst this is not strictly not a matter or consideration under this application (this would have been for the application for the school expansion, approved by HCC Planning Committee on 24th September), it is understood that HCC Children's Services, as the Local Education Authority is satisfied with this arrangement and pupils will be escorted straight across the footpath (via opposite gates on either sides) by teachers and assistants (it is also understood that this is not a unique arrangement, as several schools across the County already have public footpaths running through them and this is managed appropriately).

4.3.67 Codicote is considered a sustainable location for additional housing, as outlined under Policies SP1: Sustainable development, SP2: Settlement hierarchy and SP8: Housing. However, it is acknowledged that residents will need to travel to nearby towns of Welwyn, Stevenage and Hitchin for a wider range of services. The existing bus services through Codicote to these towns is quite poor and infrequent. In order to seek to address and mitigate this matter, through s106 contributions this site would provide suitable financial contributions towards improvements to the local bus services, to provide a viable and genuine alternative to the reliance and use of the private car. This is outlined in further detail later in this section of this report, below.

Parking provision

4.3.68 The NHDC Vehicle Parking at New Developments Supplementary Planning Document ('Parking SPD') sets out the minimum parking requirements for this proposal. This outlines that x1 space is required per 1 bedroom dwelling and that x2 spaces are required for any dwellings of 2 bedrooms or more. In addition, between 0.25 and 0.75 visitors parking spaces are required per dwelling, with *'the higher standard applied where every dwelling in the scheme is to be provided with a garage'*.

4.3.69 On the basis of the proposed housing mix, the proposal would require a minimum of 319 private spaces for dwellings (15no. 1 bedroom flats and 152no. 2+ bedroom properties proposed) and between 42 and 125 visitors spaces. This results in a total of between 361 and 444 spaces required.

4.3.70 The proposal includes a total of 456 spaces, including 362 allocated/ private spaces and 94 visitor spaces. Of the 362 allocated spaces, 97 of these would be within garages, all of which are to be sized to meet the NHDC internal space requirement of 7m in length by 3m in width, so as to be of a sufficient size to park a modern day car and to also still provide storage space. Not all properties would include garages and so it would not be reasonable to apply the higher standard of visitors parking (0.75 spaces per dwelling) but at the same time , as 97 garages are proposed, visitors spaces also need to exceed the lower standard (0.25 spaces per dwelling). The proposal would include 94 visitors spaces around the development. This would represent approximately 0.55 spaces per dwelling, which is considered sufficient and reasonable in this instance.

4.3.71 In terms of cycle parking/ storage, the Parking SPD requires *'1 secure covered space per dwelling. None if garage or secure area provided within curtilage of dwelling'*. As 97 garages are to be provided on site, this results in a requirement for 70 additional cycle parking spaces. Although details of cycle storage are not provided as part of the proposed plans, the planning statement accompanying the application states that *'Cycle parking will also be provided on site in accordance with the requirements of the SPD. This will be provided either in the form of private sheds or cycle stores or within communal circulation areas'*. To ensure this is complied with and sufficient provision is provided on site, it is reasonable that a condition be imposed on any grant of planning permission which requires a schedule/ details of cycle parking/ storage across the site.

- 4.3.72 In light of the above observations, it is considered that the proposal would include sufficient parking provision, which is in accordance with and exceeds the requirements of the Parking SPD.

Mitigation measures

- 4.3.73 Paragraph 108 of the NPPF states that -

108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

Policy T1 of the ELP also states that *Planning permission will be granted provided that: b. mechanisms to secure any necessary sustainable transport measures and / or improvements to the existing highway network are secured in accordance with Policy SP7; and d. for major developments, applicants demonstrate (as far as is practicable) how: i. the proposed scheme would be served by public transport;*

- 4.3.74 As noted above, it is acknowledged that the existing bus services through Codicote are quite poor and are infrequent. These are summarised as follows:

- Service 44/45 - Stevenage-Luton, Mon-Sat 2-3 hourly, none Sun
- Service 314/315 Hitchin/Kimpton – Welwyn Garden City, Mon-Sat 2-3 hourly, none Sun

- 4.3.75 The nearest train stations for commuters are in Knebworth, some 3.2 miles from the site and Welwyn North, which is 3.6 mile away. Both of these are within reasonable cycling distance, although due to the suitability and safety of the routes involved, cycling may not be desirable. Welwyn Garden City is the only train station accessible by bus and as mentioned, this is infrequent. As such, in line with the requirements of both national and local planning policy stated above, improvements are sought as part of the proposals towards the expansion and improvement of the 315 bus service through Codicote.

- 4.3.76 Through discussions with the HCC Highway Officer, HCC Passenger Transport Unit and the bus service provider, an indicative timetable has been outlined which would include the provision of three extra buses in the morning and two additional buses in the evening, in each direction along the 315 bus route. This would include an early morning bus stopping in Codicote at approximately 06:20 and getting commuters to Welwyn GC bus station by 06:43 (additional buses would also stop in Codicote at 07:21 and 08:27, in addition to the existing 06:50 and 07:58). Later buses would also be provided in the evening for the return journey.

- 4.3.77 Daily costings for this expansion have been provided by the bus service provider, £349.94 per day, Monday to Friday (based on 5 additional journeys from Kimpton – WGC and 5 additional journeys from WGC – Kimpton). This amounts to approximately £100,000 per year and it is proposed that s106 contributions are to cover a five year period, with a total costs of £500,000 (after this five year period it is intended that the expanded bus service should become self-funding and viable). This cost is to be split across the four sites allocated in Codicote, on a pro-rata basis (depending on the number of dwellings proposed) and so £225,700 is sought from this application.
- 4.3.78 In order to further improve accessibility to the local bus service, a further £56,000 is to be secured via s106 legal agreement in order to upgrade existing bus stops along the High Street. This is to provide easy-access kerbs, benches and shelters at the Peace Memorial, The Bell Inn and the Hill Road bus stops.
- 4.3.79 It is considered that the expansion and improved accessibility of the bus service through Codicote would provide commuters and local residents with a genuine and viable alternative to use of the private car for trips to nearby towns.
- 4.3.80 A Travel Plan has also been submitted with the application which includes a number of short, medium and long-term actions to increase the use by residents of sustainable modes of travel and to reduce the use of the private car. This is to be included via a s106 requirement and is to be monitored by HCC highways, through a further s106 financial contribution of £6,000. The primary target is to reduce the number of single occupancy vehicles by 10% below 2011 Census Journey to Work Data for the area
- 4.3.81 A further aspect of the proposals and included within the Travel Plan is the provision of an on-site Car Club Scheme. Discussions have been held with Enterprise with respect to providing an Enterprise car club vehicle on the site. One of the visitor parking bays on site would be converted to a car club bay by way of appropriate markings and signage. It is widely accepted that the provision of a car club vehicle can reduce the level of car ownership of a site and can reduce overall car usage, whilst still providing a vehicle for occasions when such use is necessary. The details of this, such as the location of the bay and the type of vehicle to be secured through the Travel Plan and s106 agreement. It is anticipated that an electric vehicle would be provided and the bay would be equipped with a suitable charging station. Initially this would be just one vehicle, although this could be expanded through written agreement with the Council (clause to be included within the s106). In addition, each dwelling with on-curtilage parking or a garage will be provided with electric vehicle (EV) recharging points and 10% of communal parking spaces will also be provide with EV recharging infrastructure. This would accommodate and encourage the use and ownership of more sustainable electric vehicles.
- 4.3.82 Some objections have stated that it is not possible to deliver the new proposed bus stop on Heath Lane as this would encroach onto private land (at Codicote Lodge) and in addition, that the bus stop would be in a dangerous location, with buses stopped in the road at the stop of a hill, where road users travelling east towards the bus stop would be unsighted.

However, the applicants have clarified that the proposed plans show that the bus stop can be accommodated on highway land, without encroachment onto private land. In addition, plans show that vehicles approaching the bus stop from the east would have sufficient visibility of the bus stop, any parked buses and pedestrians to be able to stop in plenty of time. Furthermore, the Highway Officer has not raised any objections in this regard.

Summary on highways, access and parking

- 4.3.83 Many of the objections received from local residents refer to the impacts this proposal would have on matters of highway capacity and access (two objections include their own reports by Highway consultant). It is acknowledged that there are issues of congestion in Codicote, particularly along the B656 High Street. This is particularly the case during peak rush-hours. However, the Hertfordshire County Council Highway Officer has not objected to these proposals, subject to conditions and subject to a package of mitigation measures to be secured via a s106 legal agreement, as outlined above. Furthermore, the cumulative impact of this site together with the other three allocated sites in Codicote has been taken into consideration. It is found by the HCC Highway officer that although there would be some increase in traffic arising from the proposed development, this would not have an unacceptable impact on highway safety or result in a residual cumulative impact that would be severe so as to warrant an objection or reason for refusal.
- 4.3.84 The submitted Transport Assessment includes a commitment to a residential Travel Plan and monitoring costs. The Highway Authority have advised that Data analysis within the TA together with traffic impact assessments demonstrates that the development proposals will not result in a severe impact on the local highway network, subject to the agreed mitigation works. As such, the highway authority do not raise any objections to the proposed development on highway safety grounds.
- 4.3.85 It is also acknowledged that a number of representations have been received raising concerns over pedestrian and highway safety. The submitted TA and the response from the Highway Authority reveal no evidence that this would be the case.
- 4.3.86 Notwithstanding the above, it is acknowledged that due to limited employment opportunities in Codicote and the likely need to travel to nearby towns for large weekly shopping trips etc, it is likely that some of the residents of the new development would need to travel by car, adding to the existing congestion. Whilst this additional traffic is not considered to create a residual cumulative impact on the road network that is severe so as to justify a reason for refusal of planning permission, it would lead to some additional traffic which would create some minor harm, to which I attached limited weight.

Environmental considerations

Drainage and Flooding

- 4.3.87 Under Policy CD5 of the ELP, it is required that the following be provided: *'Detailed drainage strategy identifying water infrastructure required and mechanism(s) for delivery'*. Policy NE7 of the ELP, 'Reducing Flood Risk' also states that *'Planning permission for development proposals will be granted provided that: b. a FRA has been prepared in accordance national guidance that considers the lifetime of the development, climate change impacts and safe access and egress'*. The application is accompanied by a Flood Risk Assessment (FRA) & Surface Water Drainage Strategy (by consultants 'RSK') together with associated plans and a Foul Drainage & Utilities Statement (also by RSK consultants).
- 4.3.88 It is acknowledged that a number of objections and concerns have been raised by local residents with regard to existing surface water flooding on St Albans Road, which is downhill of the site. However, having assessed the submitted reports and information, the Lead Local Flood Authority (LLFA) have stated that they have 'no objection in principle on flood risk grounds and advise the LPA that the proposed development site can be adequately drained and will mitigate any potential existing surface water flood risk if carried out in accordance with the overall drainage strategy'. As such, there is no objection from the LLFA, subject to conditions requiring that the drainage strategy be carried out in full and that a management/ maintenance plan be provided. Furthermore, Thames Water have also confirmed that they do not raise any objections with regard to waste water, surface water drainage and foul water sewerage infrastructure capacity.
- 4.3.89 The drainage strategy would employ a combination of shallow infiltration and deep soakaways, both of which have been tested on site and have been found to be suitable and acceptable. The drainage strategy has been designed to accommodate surface water flows for up to a 1 in 100 year event, plus 40% (to take account of climate change. The proposals also includes SUDs features, such as deep bore soakaways, permeable paving, detention basins, filter drains and geo-cellular storage.

Ecology

- 4.3.90 The biodiversity impacts arising from the development of the site will also need to be considered. The associated features of the land, such as hedgerows are likely to contain at least some features of biodiversity interest and value. A Phase 1 Habitats Survey and a Biodiversity Impact Calculator (BIC) (and BIC Note and BIC Plan) have been submitted with this application which demonstrates that the site would result in a small/ marginal net gain in biodiversity, compared to the current situation.
- 4.3.91 Whilst the proposals would result in the loss of these arable fields, these score relatively low, in terms of biodiversity and habitats. The proposals would also result in the loss of existing hedgerows, most notably along the south side of Heath Lane (to make way for the new access and required visions splays etc).

However, as noted previously in this report, the proposed development would also include significant biodiversity gains, such as the replanting of a significant amount of hedgerow and the planting of hundreds of native trees, along roads and as part of the large areas of landscaping and screen planting along the southern and western boundaries of the site. The proposed site would also include areas of wildflower meadows.

- 4.3.92 Herts Ecology advise that the Biodiversity Calculator does demonstrate a net gain, however this is only marginal and is below the 10% gain as required under DEFRA guidance. As such a contribution has been agreed via the s106 legal agreement to ensure off-site mitigation. As such, given that there would not be a loss in terms of biodiversity on site (and indeed a gain off-site), I consider that there would not be any harm to biodiversity and ecology. In addition, in order to seek to ensure the delivery and longer term viability of the on-site mitigation (landscaping, wildflower meadows etc), a suitable planning condition would also require the management and maintenance of these features.
- 4.3.93 It is acknowledged that Herts and Middlesex Wildlife Trust (HMWT) have objected to the proposals, largely on the basis that 12m buffers are not maintained/ proposed for all hedges and habitats. It is considered that on the whole, taking into consideration the marginal net gain across the proposal (and the additional net gains off-site), that the overall impact of this proposal in the long term is a small net benefit to ecology.

Archaeology

- 4.3.94 The application site is not located within an Area of Archaeological Significance (AAS), although it is located approximately 200m to the south-west of an AAS which covers the central part of Codicote. Policy HE4 'Archaeology' of the ELP states that Permission for development proposals affecting heritage assets with archaeological interest will be granted provided that: a. developers submit an appropriate desk-based assessment and, where justified, an archaeological field evaluation. Policy HE4 as modified also states that *'Areas of as yet, unknown archaeology may be identified during research, or through the planning or plan making process. These sites or areas should be treated in the same way as archaeology areas and areas of archaeological significance'*.
- 4.3.95 The site has been subject of a desk-based assessment, a geo-physical survey and some trial trenching investigations. During trial trenching numerous historic pits and ditches were found in the north-western part of the site, containing Middle Bronze Age and/ or Late Iron Age / Roman-British Pottery. Parts of a Late Iron Age/Early Romano-British settlement and field system have been found across much of the remainder of the site. HCC Historic Environment have confirmed that they do not object to the proposals as the findings are unlikely to be so significant so as to warrant 'scheduling' and would not restrict the proposed development.

However, further investigations would be required via additional trial trenching and potential open area excavation to identify, more accurately, the location of findings and their importance. Depending on the outcome of this, mitigation measures may need to be put in place (although, this would not restrict the proposed development). As such, no objection is raised in this regard, subject to standard conditions requiring a Written Scheme of Investigation, that the necessary investigations be carried out and that suitable records be kept. The effect on archaeology is considered to be neutral.

Land contamination

- 4.3.96 The application is accompanied by a 'Preliminary risk assessment and geo-environmental Site Investigation report' (by RSK consultants). Having considered the submitted report, the NHDC Environmental Health Officer has advised as follows:

An appropriate combined Phase I and Phase II environmental risk assessment report has been submitted with the planning application. The RSK Report 28959-R02 (00) concludes that the site itself is not contaminated, but it does recognise the presence of a former landfill site immediately to the west of the application site. The site investigation included landfill gas monitoring installations and the report stated that two rounds of landfill gas monitoring were undertaken and the results did not identify the presence of elevated gas concentrations or flow rates.

However, two rounds of ground gas monitoring on a proposed housing development site next to a former landfill site is insufficient to rule out the presence of a risk to the proposed development from the landfill site. This is acknowledged to a degree by the RSK report, but it does not go far enough, in that it recommends only one additional round of ground gas monitoring.

For the above reasons the following land contamination planning condition and accompanying informative will be required in the event that planning permission is granted.

- 4.3.97 In light of the above, subject to conditions requiring further investigations, no objections are raised with regard to land contamination issues. The effect on land contamination is regarded as neutral.

Air quality

- 4.3.98 Paragraph 103 of the NPPF states that 'The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health'.

Paragraph 181 of the NPPF (under section 'Ground conditions and pollution') states that *'Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement'*.

4.3.99 The application has been submitted together with an Air Quality Assessment, as well a Transport Assessment and a Travel Plan. The Councils approach and guidance to matters on air quality is outlined in the 'North Herts Air Quality Planning Guidance (October 2018)' document. The Council's Environmental Health Officer advises that in accordance with NHDC guidance, the proposals of this scale and location define it as a 'medium' scale development. It is also advised that the findings of the submitted air quality assessment are sound and that the 'predicted impact on the local air quality at relevant receptors will be 'negligible adverse' and that no air quality objectives would be breached as a result of the proposed development'.

4.3.100 In light of the above, mitigation associated with 'medium' scale developments will be expected and required, which as a minimum would include a Travel Plan and the provision of EV charging points. However, the submitted Travel Plan does not include any reference to the provision of EV charging points, although it is acknowledged that there is a strong emphasis on encouraging a shift away from the use of private car journeys. The deficiencies of the submitted Travel Plan do not amount to a reason for refusal of the planning application, as this can be addressed via a suitable condition, requiring that all dwellings with allocated parking either on or adjacent to the plot will include EV charging points, to encourage the uptake and use of low emission electric vehicles. Furthermore, an additional condition is recommended, that an updated Travel Plan be submitted. The effect on air quality is regarded as neutral.

Noise

4.3.101 The application is accompanied by a Noise Assessment (by Grant Acoustics Consultants). Having assessed the submitted information, the Council's Environmental Health Officer has not raised any objections and has advised that the main sources of noise, namely road traffic noise from Heath Lane and noise from the nearby school, have been correctly and adequately assessed using appropriate standards and guidance. It is advised (and will be required via a suitable condition) that some of the proposed properties along Heath Lane and some properties closest to school playing areas will require mitigation measures, such as mechanical ventilation (so that windows can remain shut) and 1.8m high close boarded fencing.

4.3.102 With regard to noise during the construction phases, whilst this is addressed in the Noise Assessment, it has been advised that no further conditions are required, although an informative is to be included which will require the developers and contractors to adhere to the noise limits suggested (that British Standards noise limits be adhered to and that during the construction phases, no activities take place outside of Mon-Fri 0800 – 18:00 and 08:00 – 13:00 Saturdays and no work on Sundays and Bank holidays).

4.3.103 It is noted that the southern access to and from St Albans Road will be in place of No.66 and the existing access track (which includes Footpath 14). This would pass between the remaining No.64 and No.68 St Albans Road. The whole of the land forming the entrance would be approximately 27m wide, with the proposed entrance road measuring approximately 6.9m wide. A submitted landscaping drawing, 'Entrance Vignette' shows that the entrance road would feature footpaths and tree-lined and hedge-lined landscaping along both sides, creating a buffer to both neighbouring properties. At the nearest point, the entrance road would be approximately 11m from the neighbouring dwellings and given the separation and intervening features (footpaths and landscaping), it is considered that the noise impacts from the new road would not be any greater than the existing noise along St Albans Road. The effect on noise is regarded as neutral.

Impact on the residential amenity of existing local and neighbouring residents

4.3.104 Concern has been raised from residents living nearby to the proposed development with regard to loss of privacy, overshadowing and loss of light. The nearest proposed dwellings to the rear boundaries of properties on St Albans Road would be approximately 18m and the distance to the dwellings on St Albans Road would be approximately 35-40m. Proposed dwellings would be screened and separated from existing properties on the south side of Hill Road and Meadow Way by the enhanced Hertfordshire Way and the increased landscaping and tree planting. In any case, the distance between proposed dwellings and existing dwellings would be between 20m and 35m. Given these distances, the proposals are not considered to result in any material adverse impacts in terms of any overlooking, any loss of light and there would not be any direct overlooking of existing properties.

4.3.105 Three rows of affordable units would side onto the rear boundaries of existing properties along the western side of Hill Road. The two most northerly rows would have Plots 158 and 163 nearest to the existing properties and these would be set in from the boundary by approximately 5.5m in the case of Plot 158 and 6.5m in the case of Plot 163. These would be partially screened by existing trees and vegetation and owing to the large rear gardens of the properties on Hill Road, the distance between dwellings would be approximately proposed properties would be set in from the rear boundaries of the Hill Road properties by approximately 35m (side of proposed dwelling to the rear elevation of the properties on Hill Road). At these distances, it is considered that this aspect of the proposal would not have an overbearing impact on the nearest existing neighbouring properties and would not result in loss of light. In addition, these proposed dwellings would not include any windows to their side elevations and so would not result in any overlooking.

4.3.106 The third row would include Plot 167, which would be set in from the rear boundaries of No.20 and No.22 Hill Road and would be set some 40m from the nearest existing dwelling (No.20). As such, this aspect of the proposal would not result in any loss of light and would not result in an overbearing impact. However, Plot 167 would include two windows at first floor level to the east elevation – one serving a first-floor landing and the other serving a bedroom.

Although these would face down the rear/ side garden of no.22, these would be set in from the boundary by 9m, there would be an intervening hedge and it is noted that the far end of the garden of No.22 includes at least two outbuildings, which would further block/ obscure any views. Lastly, it is noted that these windows would be set some 50m from the side of No.22. In light of these observations, officers are satisfied that this aspect of the proposal would not amount to any significant overlooking and so conditions (requiring obscure glazing) are not necessary and would not be reasonable in this instance.

- 4.3.107 In light of the above, I conclude that the living conditions of existing residents would not be significantly affected. However, in the short term, there would likely be at least some impacts to existing neighbouring properties during the construction phase. Whilst various conditions would be imposed on the grant of planning permission, which seek to minimise this impact (for example, construction method statements and construction hours etc), there is likely to be at least some impact and disturbance, even if it is kept at a minimal level. I therefore consider that the construction phase of this proposal will have a small adverse impact.

Loss of agricultural land

- 4.3.108 Paragraph 170 of the NPPF states decisions should recognise the economic and other benefits of the best and most versatile agricultural land (defined as land in Grades 1, 2 and 3a). The harm arising from the loss of agricultural land is a further factor to be considered.

- 4.3.109 The Natural England classification Maps show the land around Codicote to fall within the good-moderate category. The Agricultural Land Classification Report submitted with this application concludes that the site is categorised as 3a (good quality) and 3b (moderate). The site does contain some of the best and most versatile grade of agricultural land, which would be lost and this is a minor adverse impact of the proposal that attracts limited weight.

Summary on environmental considerations

- 4.3.110 As outlined above, the proposed development has been found to either have a small net benefit (ecology) or a neutral effect (drainage; archaeology; land contamination; air quality); or a small adverse impact (residential amenity in the short term; loss of agricultural land). Therefore, it is acknowledged that there would be some disturbance to neighbouring properties during the construction phase and there would be a short-term loss and disturbance to ecology and wildlife, at least until mitigation and replacement planting was established. In addition, whilst the land is not the highest quality, it would at least result in the loss of some agricultural land. As such, in the overall planning balance, the proposals cause a small level of environmental harm to which I attribute limited weight.

Whether the development would represent a sustainable form of development

- 4.3.111 To achieve sustainable development the economic, social and environmental objectives set out in Section 2 of the NPPF must be met.

- 4.3.112 In terms of the economic objective the development would provide homes that would support economic growth and productivity. The construction of the development and on-going maintenance of it would result in construction jobs and employment in the service sector. The development would result in increased expenditure for local goods and services, boosting the local economy and helping to sustain the vitality and viability of local shops and services. Increased Council tax revenue would help to maintain public services.
- 4.3.113 In terms of the social objective, a number of community benefits would accrue from this development. Firstly, it would provide valuable housing, including a high percentage of affordable housing that meets local housing need, in a district that is suffering from a lack of housing supply. A range of house types and tenures would assist in meeting this need. The proposal would boost the supply of housing in the district in accordance with Section 5 of the Framework ('Delivering a sufficient supply of homes'). Secondly, the site would deliver housing in a high-quality residential environment featuring a large amount of public open space and ready access to a network of public footpaths. The development would be well connected to the existing community of Codicote and by public transport to larger towns. As such the development would provide access to the social, recreational and cultural facilities and services that the community needs. The proposal would achieve a well-designed sense of place and make effective use of land. The development would be in accordance with sections 8, 11 and 12 of the Framework.
- 4.3.114 In terms of the environmental objective it has been concluded above that the proposed development would likely result in some harm to the character and appearance of the landscape in the short term, however this would be significantly reduced over time in the longer term, as significant structural planting matures, largely screening the development from the wider landscape. With regard to ecology, whilst there would be limited harm in the short term during the construction process, in the longer term the proposed development would result in a small net gain in biodiversity on site and increased gains off-site, through a s106 contribution towards a local ecology project. The agricultural land is necessary to achieve the District's housing need which cannot be met within existing urban areas. The site is not isolated in terms of transport with the site accessible by public transport and local services can be reached on foot and by cycling in accordance with Local Transport Plan objectives and Section 9 of the Framework.

Summary on sustainability

- 4.3.115 Overall, it is considered that the proposals represent a sustainable form of development that complies with national and local planning policy and guidance.

Whether any harm by reason of inappropriateness, and any other harm would be clearly outweighed by other considerations and whether these would amount to very special circumstances.

- 4.3.116 Paragraph 144 of the Framework states '*When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*'

The applicants contend that there are considerations that would outweigh harm arising from inappropriate development and any other harm to amount to very special circumstances.

- 4.3.117 The above sections of this report outline that the proposed development is an inappropriate form of development within the Green Belt, which is harmful by definition and harm has also been identified to the openness of the Green Belt and to some of the purposes of the Green Belt. This harm attracts substantial weight. This report has also outlined and discussed other material planning considerations and has considered if the proposed development would result in 'any other harm' above and if so, the harm has been identified and considered and then weight attributed to that harm. This section of the report will now outline matters which are considered to weigh in favour of the application. The overall planning balance will then be set out, taking into account the harm outlined above against the benefits outlined below in order to determine whether very special circumstances exist to justify a permission.

Land for the expansion of Codicote C of E Primary School

- 4.3.118 The emerging Local Plan allocates four sites for development in Codicote which is one of five villages where higher levels of growth are supported. The emerging policy recognises that land for the expansion of the existing primary school is required to deliver this level of development and that CD5, the application site, should come forward first as it is the site that unlocks the land required for that expansion. The other sites are required to make contributions to deliver that expansion. This particular matter is addressed separately below. The delivery of high quality educational facilities is clearly a national and local priority. Codicote Church of England Primary School ('the primary school') is a 1 form entry school and since 2009 has achieved an Outstanding OFSTED rating (latest inspection in 2013 also Outstanding rating) and so the quality of education provided at the school is not in dispute. The school serves the village of Codicote and the surrounding area and is in high demand with high levels of applications for entry each year. For example, information provided on the HCC website for the primary school states that in 2018 there was a total of 82 applications made, in 2019 there was a total of 87 applications made and in 2020 a total of 73 applications were made, compared to the 30 places available each year (this is the total applications made for a place at the school in 2018 and 2019, for pupils living in both Codicote and also outside of the village).
- 4.3.119 As explained above, under emerging policy CD5, associated with this application is the transfer of the land to the east of Footpath 14 for the expansion of the primary school from a 1FE school to a 2 FE school. The transfer of the land would be required as part of Land Transfer Agreement between the applicant, land owners and HCC and which will be appended to the s106 legal agreement. The land in question would provide a new outdoor playing field space to replace the existing, where new classrooms would be constructed to provide the extra classroom-space to enable the expansion of the school. The construction of the new single-storey classroom block, with associated car parking and landscaping and the creation of a new playing field to the south of the school, on the land in question, was granted planning permission at HCC Development Control Committee on 24th September 2020, under HCC reference PL/0111/19.

- 4.3.120 An advice note has been provided by the HCC Growth and Infrastructure Unit (HCC G&I) regarding the current situation with the primary school and is appended to this report at Appendix 1. It is noted that the existing primary school is 'landlocked' on three sides (existing residential development immediately to the north, east and west of the school) and following discussions with HCC it is recognised that it is not viable to relocate the school (to the edge of the village for example). As such, the expansion of the school to the south, using the land in question, is the only viable option. The education authority (HCC) have made a clear commitment to this expansion via the recent approval of the associated planning application at HCC Development Control Committee. This current planning application provides that land and thus would allow the school to expand. This brings benefits for both existing and future residents.
- 4.3.121 The note provided by HCC makes it clear that the expansion of the school is mainly required by the need which would arise from this site and the other three sites allocated in the Emerging Local Plan (ELP). Provision for infrastructure required to meet the needs of the development itself should not weigh in favour of the scheme. However, weight may be attracted where additional benefits are provided above and beyond the scheme requirements. This is the case here.
- 4.3.122 Across the four sites in the ELP, a total of 315 dwellings are allocated in Codicote. Based on the HCC strategic planning ratio of 500 dwellings to 1FE, the proposals would result in an estimated demand for 0.63FE. However, each of the sites are coming forward with increased housing numbers, including this application for 167 dwellings rather than the 140 as allocated under CD5 (CD1 and CD2 are subject of live applications and CD3 has been subject of a pre-application enquiry and the application is pending), and so it is likely that closer to approximately 360-370 dwellings could be coming forward (if the current applications are found to be acceptable). This would represent the equivalent of an estimated peak yield of 0.8FE of school places from the four sites.
- 4.3.123 The appended note from HCC outlines the demand for places at the school from the village of Codicote. As can be seen, the demand from existing parents in the village is well in excess of the 30 places available each year in a one form entry school. For example 45 applications were made in 2016, 41 in 2017 and 44 in 2018 (to be clear, these were the applications received for children living in Codicote only, rather than the total applications made each year, which are referred to above in paragraph 4.3.118). Over recent years HCC has worked with the school to agree temporary expansions on an annual basis to accommodate the excess demand. However, in 2019 it was agreed that it is no longer possible to provide additional capacity in this way as there are no further options to provide temporary expansion and thus it is understood that of the 41 applications made in 2019, 11 children from the village were allocated school places elsewhere. The next nearest school is 2 miles away. HCC G&I also acknowledge that this is likely to be an ongoing issue in years to come, as the local pre-school aged population in Codicote exceeds the number of places available. For example, although the 30 places available in September 2020 was sufficient (i.e. all 30 places were filled but no children from the village were denied a place), an analysis of the population data shows that there are 50 pre-school aged children living in the village who will be of Reception age in September 2021 and 41 children in 2022, both well above the 30 places available and so more children may need to be sent to alternative schools outside of the village.

Clearly in order to ensure the creation of inclusive and coherent communities all children from a village should be able to attend the same local school where this is achievable.

4.3.124 In light of the above, there is already an unmet demand from the existing community and this is likely to continue if land is not made available through this application for the school to be expanded. The proposed development will enable existing and future unmet need to be addressed, would allow for the planning permission already granted by HCC for the expansion of the school to be implemented and therefore would enable improved facilities to be made available for all children in the village, providing much needed clarity and certainty for the future of the school.

4.3.125 The approval for the expansion of the school by HCC Development Control Committee already provides a degree of clarity and certainty on the delivery of the school's expansion and the weight which can be attributed to this matter in the overall planning balance. The Land Transfer Agreement associated and appended with the draft s106 associated with this current application outlines that the land would be transferred to HCC either within 4 months of the grant of permission for the expansion of the school (i.e. 4 months from 24th September) or on the transfer of the residential land (land subject of this current application) to a developer, whichever is the later (although the 'transfer of the residential land' has a 'back-stop' of no later than 4 months from the grant of permission). As such, further certainty is provided as the land likely be transferred to HCC between February 2021 and May 2021, to allow them to implement the expansion of the school. Having discussed this with officers at HCC, whilst the transfer of the land would be too late to enable implementation and availability by September 2021, the expansion of the school to 2FE could be provided by September 2022. This application is being recommended to planning Committee at this stage, prior to the adoption of the ELP, so as to seek to secure the school expansion as soon as possible. If the application is delayed until the ELP is adopted (likely April/ May 2021 at the earliest and if there are no further delays), then the school expansion could be delayed by at least a further year until 2023.

4.3.126 As well as enabling the expansion of the school, to not only meet the need of this development (neutral weight) it unlocks the ability of other sites proposed in Codicote to meet their needs and also provides for the existing unmet need which cannot otherwise be addressed locally, whilst the proposed expansion of the school would also improve the quality of accommodation such as the replacement of temporary class rooms with permanent ones.

4.3.127 Paragraph 94 of the NPPF states that:

'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and'

- 4.3.128 Given the importance of education to the future of the country, national planning policy deliberately promotes a very positive policy framework to consideration of planning applications for the creation, expansion or alteration of schools. In light of the above, it is considered that by enabling the expansion of the primary school, which otherwise is not possible, to meet the existing and future unmet needs of the village, the proposed development would result in a significant benefit to the village and to the wider community, to which I attach very substantial weight.
- 4.3.129 Whilst each application turns on its own merits and whether or not very special circumstances exist is a matter of planning judgment on the merits of a particular case the applicants have referred to a number of previous planning decisions by SoS which support this approach. One such proposal related to a large scale residential development at Howard of Effingham School, located within the Green Belt and which included the reconstruction and expansion of the school. The application was refused by the Council (Guildford Borough Council) and the appeal was recovered by the SoS. The Inspectors report found that whilst the development would be inappropriate in the Green Belt, very special circumstances existed to justify approval. The inspectors reports states that *'The provision of a new and expanded school on the basis of the significant shortcomings of its current infrastructure, its condition and current financial circumstances for its maintenance and repair, the demonstrated need for its expansion, and very strong Government policy support for such a proposal for which there are no credible or sustainable alternatives, all together merit, in the particular circumstances of this case, very substantial weight being given to them'*.
- 4.3.130 The applicants also refer to a decision regarding Oaklands College in St Albans. Again the LPA refused permission for large scale residential development and the SoS recovered the subsequent appeal. Again it was found that the proposal represented inappropriate, harmful development within the Green Belt. However, in allowing the appeal, the Inspector states *the delivery of significant improvements to the College weighs very heavily in favour of the proposal. There is no significant evidence to demonstrate that the much-needed improvements to the College could be delivered by any other means... in the agreed lack of a five year housing land supply, the proposed market and affordable housing is a significant benefit.*
- 4.3.131 These appeal decisions support the approach that is being taken in this report, in that the provision and expansion of education facilities which, as is the case here, cannot be delivered other than in the green belt can attract very substantial weight and can represent or at least contribute towards the existence of very special circumstances to justify a permission.

The delivery of market and affordable housing

- 4.3.132 The next consideration which weighs very strongly in favour of the application is that the proposals would make an important contribution of 167 residential units towards the Council's significant five year housing land supply (5YHLS) deficit.

Planning Policy Guidance outlines that on its own *‘unmet housing needis unlikely to outweigh the harm to the Green Belt and other harm to constitute the “very special circumstances” justifying inappropriate development on a site within the Green Belt’*. However firstly, this is guidance, not policy, and secondly the guidance does not say that unmet need on its own can never outweigh the harm to the Green Belt. In the circumstances of this application as the Council is unable to demonstrate a 5YHLS in that it only has 2 years supply of housing, this matter attracts very substantial weight.

4.3.133 As explained above the Council is unable to demonstrate a 5YHLS and at the time of writing this report, the latest figure stands at 2.2 years as of April 2020 (as outlined in the Councils most recent response to the Inspector ‘Examination Document ED191B Appendix 1 NHDC 5 year Housing Land Supply at 1 April 2020’) which is a significant and serious deficit. This significant and acute shortfall of housing land supply reflects a historic chronic under supply of housing compared to targets over the past 9 years or so (and which is elaborated upon below) and reflects the severe mismatch between the Government’s ‘standard method’ (which forms the basis of the five-year requirement in the absence of an up-to-date plan) and anticipated supply from ‘deliverable’ housing sites in the coming years. Given that the site is in the Green Belt and is inappropriate development, paragraph 11 of the NPPF requires consideration of whether there are very special circumstances to justify a permission. If not then the application should be refused. Therefore consideration of whether or not VSC exist to justify this proposed development is determinative of this application. The delivery of housing is a consideration that needs to be taken into account to see if that together with any other considerations outweigh the harm to the green belt to create the VSC to justify a permission.

4.3.134 With regard to the Council’s current housing land supply, it is noted that since 2011 (the start date for the planning period in the Emerging Local Plan), housing completions have been on average 313 dwellings per year, with the highest completions in 2016/17 with 539 units and the lowest in 2014/15 with just 180 completions. Until the ELP is adopted, the Council’s 5YHLS for decision-making purposes and Housing Delivery Test results are based on the premise that between 700-1,000 dwellings should be provided per year. Past delivery has been significantly below these levels and this clearly demonstrates a significant shortfall of delivery over a period of 9 years.

4.3.135 The proposed development would provide a total of 167 residential units, which represents an ‘up-lift’ to the emerging allocation figure of approximately 19% and is therefore broadly in accordance with the indicative figure of 140 homes as outlined under Policies HS1 and CD5 of the Emerging Local Plan (ELP). The Plan states there will be a design-led approach to development. No prescriptive density targets are set. If this scheme is considered acceptable in all other respects, it is not considered appropriate to object on this point. Any additional homes over and above the Plan estimate will help boost overall housing supply. Overall, the dwelling mix would include 39% smaller units (1 and 2 bed units – 65 units in total) and 61% larger units (3 bed and above – 102 units) which complies with the requirements of Policy HS3 (‘Housing Mix’) of the ELP, which suggests a split of 40% smaller units and 60% larger units on edge-of-settlement sites.

4.3.136 The market housing would include 24no 2-bed units, 43no 3-bed units, 30no 4-bed units and 3no 5-bed units which is considered to be a good range of housing type and sizes. In addition, the detailed mix of market units accords with the most up-to-date evidence as outlined in the Strategic Housing Market Assessment (SHMA) and thus closely reflects the housing needs for the district. The proposal would deliver a significant quantum and range of market housing, which would make a significant contribution towards the need in the District. In the light of the absence of a five year supply the provision of the proposed new market housing should be afforded very substantial weight.

4.3.137 The proposed development would also be in accordance with Policy HS2: 'Affordable housing' of the ELP as 40% of the proposed development would comprise affordable units, which equates to a total of 67 units (40.1%). These would be split into 65% rented units and 35% shared ownership, also in accordance with requirements of Policy HS2 and the detailed breakdown of unit type has been agreed which accords with the precise requirements outlined by the Council's Housing Officers (also in accordance with the housing needs of the district, as outlined in the SHMA) – this is to be secured as part of the s106 legal agreement and the provision of affordable units are shown on the proposed plans. It should also be noted that the provision of 40% affordable units well exceeds Saved Policy 29A of the Saved Local Plan. Lastly, the last 'rural housing Needs Survey' in Codicote was undertaken in 2007 and is therefore considered out of date, however there has been no provision of affordable units within the village since the survey and therefore no provision for over 13 years. Again, in the light of the low level of provision in the district and the undersupply over a number of years, this aspect of the proposal should be given very substantial weight in favour of the proposals.

4.3.138 Policy HS4 requires the provision of an element of housing appropriate for older persons on sites of 100 units or more and Policy HS5 also sets out the required accessibility standards. As outlined in the submitted Planning Statement, 37% of the market units will meet M4(2) standards, meaning that they are readily adaptable for a wide range of occupants, including older people. In addition, 10% of the affordable units will meet M4(3) standards which means that they are suitable for wheelchair occupiers.

4.3.139 As mentioned at paragraphs 4.3.129 – 4.3.130 above, the applicants have made reference to a number of appeal decisions. Again, officers would stress that each application turns on its own merits and whether or not very special circumstances exist is a matter of planning judgment on the merits of a particular case. However, it is considered that the below mentioned appeal decisions support the approach that is being taken in this report, with regard to the supply of housing in the context of a significant undersupply and a lack of a 5YHLS and that this can attract very substantial weight and can represent or at least contribute towards the existence of very special circumstances to justify a permission. The appeal decisions are summarised as follows:

- Howard of Effingham School, Surrey (Appeal ref. APP/Y3615/W/16/3151098 dated 21 March 2018 - appeal allowed having been recovered by SoS and following recommendation by the PINs Inspector that it be approved) – significant weight afforded to the delivery of 295 homes in the Green Belt (20% affordable – below the 35% required by policy) in light of 2.1 years of housing land supply.

- Oaklands College, St Albans (Appeal ref. APP/B1930/W/15/3051164 SoS decision dated 1 November 2017 - appeal allowed by SoS following recommendation of approval by PINs Inspector) – significant weight afforded to the supply of housing in the Green Belt, and significant weight also afforded to the 35% provision of affordable housing, in light of a 3.49 years of housing land supply.
- Ruddington, Nottinghamshire (Appeal ref. APP/P3040/W/17/3185493 dated 23 May 2018 – Appeal allowed by PINs inspector) – significant weight afforded to the supply of 175 dwellings in the Green Belt in light of 3.1 years of housing supply

4.3.140 Under the section titled 'Prematurity' of this report, at paragraph 4.3.21 above, the 'Housing Delivery Test Action Plan' is referred to. The Council is in a position whereby it must produce the Action Plan, due to the historic and significant undersupply of housing in the district, as outlined above. Again, paragraph 79 of the action plan, which was agreed by Cabinet in June 2020, states that '*... proposed housing sites currently within the Green Belt generally remain subject to the very special circumstances tests set out in National Policy and potential ministerial call-in. It may now be appropriate, subject to an open and balanced consideration of all relevant factors, to determine some planning applications on these sites in advance of the Plan examination being concluded*'. As such, it has been acknowledged and agreed at a strategic planning level that owing to the significance of the undersupply of housing, the Council should consider bringing forward sites located within the Green Belt prior to the adoption of the ELP.

4.3.141 In summary, and in light of the above, the council cannot demonstrate the minimum 5YHLS. The latest published figures identify a 2.2-year land supply, whilst the Government's recently published Housing Delivery Test results reinforce this view with the District having one of the lowest figures nationally. The current land supply position reflects the previous years of undersupply of both market and affordable residential units across the district. Paragraph 59 to the NPPF sets out the Government's objective to significantly boost the supply of homes. The clear expectation of the Framework is a step change in the delivery of housing. The continued delay in the completion of the Local Plan process reinforces the urgent need for planning decisions to be taken now to release more housing in the district and prevent any further deterioration of the Council's housing land supply. The proposal would provide a very significant benefit in contributing 167 residential dwellings in total, 67 of which would be much needed affordable units towards addressing the shortfall in the supply of new housing which would be in accordance with this objective and the Council's housing policies. In this context, very substantial weight is attributed to this matter in favour of the proposal.

Allocation within the Emerging Local Plan

- 4.3.142 The Council's Emerging Local Plan (ELP) was submitted for Examination in 2017. This remains ongoing, with additional hearings now scheduled for November/ December 2020. This site benefits from a proposed allocation under Policy CD5 and the ELP proposes the entirety of this site would be released from the Green Belt for development and incorporated within a revised settlement boundary for the village. This policy also contains detailed policy criteria to be considered in the determination of any relevant application(s).
- 4.3.143 Paragraph 48 of the National Planning Policy Framework (NPPF) provides advice on weight which might be given to emerging policy having regard to:
- a. The stage of preparation the plan has reached;
 - b. The extent of unresolved objections; and
 - c. The extent to which the proposed new policies are consistent with the NPPF.
- 4.3.144 With regards criteria (a), the plan is well advanced. It is at Examination, albeit that completion of this process is reliant on the holding of further hearings following the issuing of detailed letters by the Inspector in the summer of 2019. These hearings were originally due to be held in March 2020 but have been re-scheduled to November/ December 2020. To date the Inspector has issued no (interim) findings on the matter of Green Belt or the *exceptional circumstances* required to release land for future development. The Council's Green Belt evidence remains subject to further examination sessions – albeit that the overall assessments of the contribution of this land to Green Belt purposes have not altered over the course of the examination and this site is not subject to any specific outstanding questions at this stage.
- 4.3.145 With regards criterion (b), the general concept of Green Belt release remains highly contentious and subject to significant objection. During the course of the consultation on the Submission Local Plan, this site received 52 objections, mainly from local residents but also some from groups such as 'Save Rural Codicote' and CPRE. Representations of support were from the site promoters but also from HCC. During the course of the consultation on the main modifications, 5 representations of objection were received and there were three in support, from site promoters and again from HCC. There were no substantive objections from statutory consultees at either consultation stage.
- 4.3.146 In terms of criterion (c), a number of the proposed main modifications arising from the examination are to ensure this consistency is present throughout the plan. Weight should be attributed to the relevant policies of the emerging Plan in this context.
- 4.3.147 Should the new Plan proceed to adoption then the Council would be able to demonstrate a five-year land supply (by virtue of this being a key consideration of the Examination). However, this site is relied upon for that. In this regard it is important not to excessively overstate or 'double count' the benefits arising from combined consideration of the emerging allocation and absence of five-year supply in a *very special circumstances* case.

4.3.148 As noted above, the examination of the ELP is at a stage whereby the Inspector has not provided any clarity on whether or not the exceptional circumstances test has been met in order to release Green Belt Land for development. In addition, however, at no part of the examination process has the Inspector raised any issues with regard to this particular site allocation and so as-and-when the ELP is adopted, it is the officers view that in all likelihood this site will remain within the ELP. In light of this, the emerging policy context weighs in favour of the scheme and the allocation of the site within the ELP attracts moderate weight in this instance.

Unlocking development potential on other allocated sites in Codicote

4.3.149 Under the main modifications of the ELP, the Policies for the remaining sites allocated in Codicote (CD1, CD2 and CD3) now include the requirement that 'Land for school expansion site on CD5 to be secured prior to occupation of dwellings on this site'. Whilst it is acknowledged that this additional requirement has been challenged by the land owners and promoters of the other three sites, it is noted that HCC Growth and Infrastructure and Children's Services Departments have raised concerns regarding the deliverability of the other three sites in Codicote, given that there is currently no further capacity at the primary school and if these were to come forward first, before CD5, then any children from these developments would be required to attend alternative primary schools outside of the village/ parish, leading to potentially unsustainable development.

4.3.150 Through the transfer of the school land to the east of this application site, via a s106 legal agreement and land transfer agreement, this site would enable the school to expand as detailed previously in this report and thus would also allow for the delivery of these other three sites, in due course. As outlined above in this report, the Council can currently only demonstrate a 2.2 year supply of housing land, well short of the required minimum of 5 years and there has been a chronic historic undersupply and shortfall of housing in this district. As such, the potential to increase the supply of housing via other sites, is of particular importance. Whilst these other sites are/ would be subject to the acceptability of their own planning applications, the principle of their release from the Green Belt and their allocation has been found by the Council to be suitable for promotion through the Emerging Local Plan process. The enabling and release of the other three sites allocated in Codicote would be beneficial as it would allow these sites to come forward, delivering additional housing, potentially up to approximately 200 additional homes, to contribute towards the district's housing supply. Furthermore, it is noted that these three developments would also contribute financially, towards the expansion of the school. This wider aspect of the current proposal is considered to merit substantial weight in favour of the development, in the overall planning balance.

Additional community benefits

4.3.151 In terms of other social and environmental benefits, the meeting of needs arising from the site itself would be a neutral factor in the planning balance and would not contribute to any case of *very special circumstances*. However, any 'net' increases in capacity over and above this (i.e. additional or spare capacity once the needs of the site have been considered) would potentially be a consideration in the balance.

4.3.152 The proposed Main Modifications remove the 200 unit threshold originally proposed in Policy NE5 for the provision of formal open space. Modified Policy NEX: 'New and improved open Space of the ELP states that:

Planning permission will be granted for development proposals that make provision for new and/or improved open space which:

- a. meets the needs arising from the development having regard to the Council's open space standards and other relevant guidance;*
- b. contributes towards improving the provision, quality and accessibility of open space; and*
- c. incorporate any necessary open space buffer(s) for landscape, visual, ecological or air quality reasons.*

4.3.153 The submitted planning statement makes reference to the provision of 4.4 hectares of public open space and a LEAP/ play area. This compares favourably with the need generated by the site under the Council's Open Space Standards, which would require 1.5 ha of open space and a need for 0.2 play areas. The submitted landscape plans include details of the LEAP and this would include 7 pieces of play equipment, including timber framed swings, see-saw and climbing frame with a slide. The proposed development would benefit both the future occupiers and to the existing wider community of Codicote. The future management and maintenance of the open space, including the parks, would be secured via the s106 legal agreement and conditions.

4.3.154 Further to this, paragraph 141 of the NPPF states that '*Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land*'. The existing PROW which run through the site and which are largely enclosed (the Hertfordshire Way, for example, is relatively narrow and lined by low fencing) would be retained and would be enhanced, with additional landscaping (tree and hedge lined) and the PROW would be opened up, to provide additional routes into site, linking the PROW to large areas of open space and the play park, referred to above, in line with paragraph 141 of the NPPF.

4.3.155 Paragraph 80 of the NPPF states that significant weight should be placed upon the need to support economic growth and productivity. This is particularly relevant in the current economic circumstances precipitated by the COVID-19 pandemic. There will be considerable economic benefits derived from the construction of the site. The Council's housing trajectories – which are broadly supported by the applicant – suggest delivery of homes over a four-year period during which there would be a sustained demand for construction workers and other employees. Workers would also make use of local services, shops and facilities and beyond the completion of the site, there would be ongoing economic benefits and / or employment opportunities arising from the expanded school and the increased population would provide a larger customer base for the shops and facilities in Codicote, enhancing their viability,

4.3.156 The additional benefits to the community, as outlined above, would weigh in favour of the proposed development. In this instance, these matters cumulatively attract moderate weight in the overall planning balance.

Summary on very special circumstances

4.3.157 This section of the report has outlined the planning considerations which are in favour of the proposed development. Two key aspects in particular have been identified, both of which are attributed very substantial weight and which include the transfer of the land to the east of the site to enable the expansion of the primary school, which would not only address the need of this site and the other sites allocation in Codicote in the ELP, but also the existing and future shortfall/ unmet need from the existing community and would go a long way to further promote an inclusive and coherent village community . In addition, the proposal would provide 167 dwellings, of which 67 would be affordable units, to help address the Council's current 5YHLS shortfall and historic undersupply of housing in the district.

4.3.158 In addition to these two key aspects, moderate weight is afforded to the allocation of this site in the ELP, given the advanced nature of the ELP examination and substantial weight is also identified in favour of the proposed development regarding the wider positive impact this proposal would have in terms of unlocking further allocated sites in Codicote and their ability to further address the Council's housing shortfall. Further moderate weight has been attributed in terms of providing enhancements to the existing PROW and the provision of additional public open space and parks for recreational use by the wider community.

4.3.159 The benefits of this proposal and the weight attributed to these will be set against the harm outlined earlier in this report, as part of the 'conclusion and planning balance' section set out below in order to assess whether very special circumstances exist to justify a permission in the green belt.

Planning Obligations

4.3.160 In considering Planning obligations in relation to this development paragraph 56 of the NPPF advises that:

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

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

4.3.161 The LPA has held detailed negotiations with the applicant and agreement has been reached on a range of matters which are included in the draft s106. These include the phased provision of 67 affordable dwellings, the transfer of the 'school land' to HCC for the school expansion and index-linked financial contributions towards the expansion of the primary school and towards secondary education. Also included are index-linked financial contributions towards a new Codicote Scout Hut, refurbishment of the sports pavilion at Bury Lane Sport field and contributions towards the expansion of the 315 bus service

through Codicote and towards the improvement of bus stops. All of the s106 obligations are listed in the following table:

Element	Detail and Justification
Affordable Housing (NHDC)	<p>On site provision of 67 affordable dwellings based on 65% rented tenure (units of mixed size) and 35% intermediate tenure (units of mixed size)</p> <p>NHDC Planning Obligations Supplementary Planning Document</p> <p>Submission Local Plan Policy HS2 'Affordable Housing'</p>
Primary Education educations (HCC)	<p>Contribution of £1,573,560 (before indexation) towards the expansion of Codicote C of E Primary School by 1 form of entry (from 1FE to 2FE).</p> <p>The transfer of the land to the east of the site (shown edged blue on the Site location plan) to HCC via Land Transfer Agreement:</p> <p><i>The transfer of the playing fields shall take place on either:</i></p> <ul style="list-style-type: none"> (i) <i>4 months after the statutory challenge period in respect of the playing fields permission plus 21 days; or</i> (ii) <i>the Transfer of the Residential Development Land (but no later than 4months after the statutory challenge period in respect of the grant of planning permission for the residential development)</i> <p><i>whichever is the later</i></p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>Planning Obligations SPD and HCC Toolkit</p>
Secondary Education contributions (HCC)	<p>Contribution of £389,445 (before indexing) towards the expansion of Monks Walk School, Welwyn, from 8FE to 9FE)</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>Planning Obligations SPD and HCC Toolkit</p>
Library Services (HCC)	<p>Contribution of £28,874 (before indexing) to go towards improvements at Welwyn Garden City Library)</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>

	Policy 51 of the North Hertfordshire District Local Plan No. 2 with Alterations. Planning Obligations SPD and HCC Toolkit
Youth Services (HCC)	<p>Contribution of £7,419 (before indexing) towards the development of outreach work based out of Bancroft Youth Centre in Hitchin.</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>
Sustainable Transport contributions (HCC)	<p>Contributions to upgrade and improve sustainable transport as follows:</p> <ol style="list-style-type: none"> 1. £76,000 (before indexing) towards the upgrading of nearby bus stops at the Peace Memorial and The Bell PH. 2. £225,750 (before indexing) towards the 5 year expansion of the 315 bus route though Codicote 3. £6,000 towards the assessment and monitoring of the Travel Plan <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>
Ecological off-site compensation scheme (HCC)	Contribution of £26,760 towards an off-site local ecology/ biodiversity project (two stepped – in the first instance seek a 'local project' within 5 years. If this is not possible, the contribution will be submitted to 'The Environment Bank')
Health Services (NHDC)	<p>Contribution of £118,203.13 towards the reconfiguration of Bridge Cottage GP surgery, Welwyn (to digitalise patient records, move their administrative team into that space and releasing consulting room space arising from the space the administrative team currently occupy)</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>
Community Centre/ Halls Contribution (NHDC)	<p>Contribution of £251,753.39 towards the construction of a new/ replacement Codicote Scout Hut</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>Planning Obligations SPD</p>

Pitch Sports Contribution (NHDC)	<p>Contribution of £56,562.50 towards the refurbishment of a disused pavilion at Bury Lane Sports Field</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>Planning Obligations SPD</p>
Waste Collection & Recycling (NHDC)	<p>Contribution based on NHDC Planning Obligations SPD (figures are before indexing):</p> <p>District Contributions:</p> <ul style="list-style-type: none"> - £71 per house - £54 per flat with its own self-contained garden - £26 per flat with shared or no amenity space <p>Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>Planning Obligations SPD</p>
Car Club Scheme (NHDC)	<p>One of the visitors parking spaces (unless an alternative number is otherwise agreed between the Council and the Owners in writing) to be provided on the Land as part of the Development and to be made available for use in accordance with Travel Plan at no cost to the Council.</p>
Open space/landscape management and maintenance arrangements	<p>Private management company to secure the provision and long-term maintenance of the open space/landscape buffer and any SuDs infrastructure</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>
Fire Hydrants (HCC)	<p>Provision within the site in accordance with standard wording</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>

4.3.162 All the elements of these Obligations are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. In the light of the detailed evidence, all the elements of the Obligation meet the policy in paragraph 256 of the NPPF and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

4.3.163 Some of the provisions of the Obligation are designed to mitigate the impact of the proposal and these elements, most notably the infrastructure contributions, therefore do

not provide significant benefits weighing in favour of the proposal. However other matters, most notably the transfer of the 'school land' and the provision of affordable housing, heavily weigh in favour of the proposed development. Further agreed contributions towards sustainable transport (improvement of existing bus stops and expansion/ improvement of the 315 bus service), community centres/ halls (new Scout hut) and pitch sports (refurbishment of Bury Lane sports pavilion) whilst mitigating the impact of the development, would also be a wider public benefit as residents beyond those living at the proposed development site will benefit and make use of the new and improved facilities. These matters therefore weigh in favour of the proposed development.

Planning balance and conclusion

- 4.3.164 Turning to the overall balance, the starting point is that the proposal is inappropriate development in the Green Belt which is, by definition, harmful by to the Green Belt and which as required by the NPPF is given substantial weight. The proposals would introduce 167 dwellings and associated infrastructure onto what is currently undeveloped land and so there would be a significant degree of impact on the openness of the Green Belt, which also merits substantial weight in the overall planning balance. Further moderate harm has also been identified by virtue of encroachment into the countryside.
- 4.3.165 There would also be limited harm to the rural setting of this part of Codicote and harm to the wider landscape surrounding the site, which is considered to be moderate in the short term, reducing to limited in the longer-term, once mitigation and screen planting has matured.
- 4.3.166 As identified in this report, the proposed development would result in less than substantial harm, at the lower end of the spectrum, to the setting and, through that, the significance of a collection of listed buildings at Codicote Bottom Farm and to the setting and significance of Ayot House Registered Park and Gardens. Whilst great weight is to be given to that limited harm, the public benefits of the proposal would clearly outweigh the less than substantial harm, and thus this matter would not represent a reason for refusal in its own right, in accordance with the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990. However, in considering whether there are very special circumstances to justify the release of this land from the green belt, this limited harm should be attributed great weight in the overall planning balance.
- 4.3.167 As outlined in this report, it is considered that there would not be any severe impacts on the local highway network and there would not be any unacceptable impacts to highway safety. In addition, the proposals would include significant mitigation measures through conditions and by way of s106 contributions, which would ease many of the impacts. For these reasons, the HCC Highway Officer has not raised any objections. However, it is acknowledged that the proposed development would inevitably result in some increased traffic which would add to the existing congestion issues experienced in Codicote, particularly along the B656 High Street during peak times. As such, it is recognised that the development would result in further minor harm which attracts limited weight.

4.3.168 Lastly, in terms of ‘other harm’, there would also be some limited harm in the short-term, with regard to disturbance to neighbouring properties which adjoin the site during the construction works. There would also be limited harm in the short-term to ecology and biodiversity on site, until replacement and mitigation has been established, which would actually result in a benefit in the longer term, as net gain is being sought both on-site and off-site.

4.3.169 Therefore this additional limited environmental harm, to which limited weight has been given as outlined above, needs to be weighed in the balance against the matters which are considered to be in favour of the proposals and the aspects of the proposals which would result in wider benefits. To reiterate, paragraph 144 of the NPPF states the following:

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. (emphasis added).

4.3.170 As outlined at paragraphs 4.3.111 – 4.3.114 of the report, the development is considered to represent a sustainable form of development. This is neutral in the planning balance. However, as outlined in this report, there are two main aspects which weigh heavily in favour of this proposed development, with a third key consideration providing further moderate weight.

4.3.171 Firstly, the proposal enables land associated with this site to be transferred to Hertfordshire County Council (HCC) via a s106 and a Land Transfer Agreement which would enable Codicote Church of England Primary School to permanently expand from a 1 form of entry school to 2FE. The aspect/ proportion of the expansion and the financial contribution required to accommodate the pupil yield from this proposed development is considered neutral in the planning balance, as this is required in any case. However, the enabling of the expansion of the school would address an existing and ongoing shortfall at the school, whereby at present there is an unmet need and the school is no longer able to accommodate all of the children in Codicote, with 11 children from the village being sent to schools outside of the village in 2019 and it is predicted that a significant number of children would need to be sent to other schools in September 2021 and 2022, as applications from Codicote will likely far exceed to the 30 available places. The quality of accommodation would also be improved, with proper, permanent new classrooms replacing the temporary measures currently in place at the school. It has been demonstrated that the school cannot be expanded by any other means. In addressing an existing shortfall and the unmet need of primary education in the village, this matter merits very substantial weight in the determination of this application.

- 4.3.172 Further weight can also be attributed in enabling the school to be expanded, as this would allow further sites allocated in Codicote to come forward, whereas otherwise they may be considered unsustainable development if they were to put increased pressure on the existing primary school, which could not otherwise be expanded (i.e. without the expansion of the school, the children from these other sites would also have to travel to other primary schools outside of the village). The delivery of the other three sites in Codicote is considered a benefit as these would also help to increase housing supply in the district.
- 4.3.173 This leads to the second main aspect considered to weigh very heavily in favour of the proposed development. The proposal would bring forward 167 housing units, of which 40% would be affordable (67 units). This report outlines that the Council is only able to demonstrate 2.2 years of housing land supply (as of April 2020), compared with the minimum requirement of 5 years and that unfortunately, there has been a historic, chronic undersupply of housing over at least the past 9 years (average of 312 dwellings provided per year compared to the identified need of between 700 and 1,00 per annum). In the context of the Council's housing land supply situation and the historic undersupply, the provision of 167 dwellings in this case merits very substantial weight in favour of the proposed development
- 4.3.174 The third key consideration in favour of the proposal is the allocation of the site in the Emerging Local Plan (ELP), under Policy CD5. In terms of the weight to be attributed to this consideration, it is noted that the ELP is at an advanced stage and further hearings are scheduled, the Inspector has at no point raised any specific concerns regarding this allocation. However, any weight afforded in this instance is somewhat tempered in acknowledging that the Inspector has not yet published any interim findings and has not yet stated whether or not the ELP meets the 'exceptional circumstances' test in order to release Green Belt land for housing need across the district as a whole. As such, this aspect merits moderate weight in favour of the proposal.
- 4.3.175 There are other benefits arising from the proposed development which have been identified in this report and which add further weight in favour of the proposed development. Most notably, the proposals include a significant amount of public open space and a large, well-equipped play park (LEAP). Together with improvements to the existing rights of way through the site, these aspects of the proposals would enhance the access and use of this part of the Green Belt to the wider benefit of the community and in accordance with paragraph 141 of the NPPF. It is also considered that in accordance with the aims of the NPPF, the proposed development would also result in various economic benefits, in terms of employment during the construction process and in terms of longer-term benefits once the development would be in place. Lastly, whilst some of the obligations outlined in the agreed draft s106 are designed to mitigate the impact of the proposals, in line with the CIL regulations (neural weight), other matters weigh in favour of the development, most notably significant contributions towards sustainable transport in the form of improved bus stops and the expansion of bus services through the village, towards a new scout hut and towards the refurbishment of a disused sports pavilion. These contributions, towards off-site projects and community facilities, would provide wider public benefits to the Codicote community (and not just to the new residents of the proposed development) and thus also weigh in favour of the proposed development.

Summary and conclusion

4.3.176 It is your officers' view, applying the approach set out in paragraph 144 of the NPPF, that the other considerations identified, particularly those related to education and housing, clearly outweigh the harm to the green belt and the other harm identified so that very special circumstances do exist to justify a permission. Whilst each case turns on its own merits such an approach, which includes educational benefits and the provision of housing in the context of a lack of a 5YHLS, has been supported by the Secretary of State in other decisions that are referred to in this report.

4.3.177 The proposal would enable the expansion of the primary school which would address an existing unmet need and would provide 167 dwellings, 67 of which would be affordable units, against the context of the Council's 2.2 year 5YHLS thereby providing homes that are desperately needed. Both of these issues merit very substantial weight, which together with the substantial weight attributed to the releasing of further sites allocated in Codicote, the moderate weight afforded to the site's allocation in the ELP and the additional weight attributed for additional community benefits, these are considered to clearly outweigh the harm to the Green Belt and the other harm identified in this report. As such, very special circumstances exist to justify a permission and permission should therefore be granted.

5.0 Alternative Options

5.1 None applicable (see 'Key issues' section of this report above)

6.0 Climate Change mitigation measures

6.1 This application is accompanied by a 'Sustainability and Energy Statement' by Bluesky Unlimited consultants and dated September 2018. Members will note that this application was submitted before the Council announced a Climate Emergency and so the proposals have been submitted on the basis of the Policy requirements in the ELP and the NPPF.

6.2 Notwithstanding this, there are several aspects of this proposal which are of note, with regard to seeking to mitigate climate change and whilst many of these have already been discussed in this report, these are summarised below:

- Each dwelling with a dedicated and adjacent parking space will include an Electric Vehicle charging point (and the 15 apartments will include x2 EV charging points).
- The site will include for at least one car-club vehicle (intended to be an electric vehicle).
- Substantial contributions towards sustainable transport, including the improvement and expansion of the 315 bus service, making it a more viable option for the village as a whole.
- All dwellings to be provided with secure cycle storage (details to be required via condition).
- The implementation of the submitted Travel Plan, seeking incentives to reduce use of the private car and push towards more sustainable modes of travel.

- Although some hedges will be lost, approximately 180m of hedgerow would be replanted and reinforced within the site.

- Approximately 500 additional trees would be planted throughout the site, including amongst proposed housing, along the road layout and including approximately 0.6 ha of woodland.
- Biodiversity net-gain on site and contributions towards additional net-gains off-site.
- The submission of a 'Landscape and Ecology masterplan' in order to implement and maintain the on-site landscaping and ecology benefits.

- A recommended condition will require that a Site Waste management plan be submitted prior to commencement, in order to reduce waste both during and after construction;

6.3 The Sustainability and Energy Statement outlines that:

- The fabric standards of the buildings exceed the requirements of the Building Regulations and emissions are reduced from the maximum permitted by Part L by 6,576 kg CO2 per year, which equates to a reduction of 2.45%.
- Reduction in carbon dioxide emissions compared to the maximum permissible by the Building Regulations (Part L) through energy efficiency measures'.
- The water use to each unit will achieve the enhanced standard required by the Building Regulations of 110 litres per person per day.
- 100% of domestic fixed internal lighting to be energy efficient.
- The completed building fabric is to achieve air leakage rates of no greater than 4m3/hr/m2 for all units.
- Sanitary fittings will be selected that minimise the consumption of mains water and all dwellings will achieve a water efficiency target of 110 l/p/d
- The surface water disposal strategy proposes a range of sustainable urban drainage (SuDs) techniques including the use of permeable paving, geocellular storage, oversized pipework, swales and filter drainage
- Passive solar gain - The energy required for space heating and lighting can be reduced by using the orientation, form and fenestration to make the most use of passive solar gain. The site layout seeks to set out the majority of homes with either a southeast/northwest, northeast/southwest, north/south or east/west orientation.

6.4 Notwithstanding the above, as the submitted Energy and Sustainability statement is now two years old, a further condition will require that this be updated and resubmitted to the Council, whereby the use of sustainable technologies can be reconsidered.

7.0 **Pre-Commencement Conditions**

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

8.0 **Legal Implications**

- 8.1 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.

9.0 **Recommendation**

- 9.1 That planning permission is resolved to be **GRANTED** subject to referral to the Secretary of State for Housing and subject to the following:

A) The completion of a satisfactory legal agreement and completion of the associated land transfer agreement and the applicant agreeing to extend the statutory period in order to complete the agreement if required and;

B) The following conditions and informatives:

10.0 **Appendices**

- 10.1 Appendix A - Note from HCC Growth and Infrastructure Unit

- 10.3 Appendix B - Advice note from Counsel

- 10.4 Appendix C(i) - Draft s106 Legal agreement
Appendix C(ii) - Associated Draft Heads of Terms of Land Transfer Agreement

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

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

3. Prior to the commencement of the development hereby approved, other than site preparation works, a schedule of the materials to be used on all external elevations and the roofs of the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority 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. The development hereby permitted shall not commence until one of the proposed accesses have been constructed to accommodate construction traffic to the minimum standard of base course construction for the first 20 metres and the join to the existing carriageway has been constructed to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction.

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

5. Prior to the occupation of any of the dwellings hereby approved located to the south of Codicote Footpath 015, the proposed principal access road offset from the St Albans Road, as defined on in principle drawing number 16208 P201 revision L, will be provided to binder course level to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction. Following completion of construction, the access road will be completed to surface course.

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

6. Prior to the occupation of any of the dwellings hereby approved located to the north of Codicote Footpath 015 the proposed principal access road offset from Heath Lane, as defined on in principle drawing number 16208 P201 revision L, will be provided to binder course level to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction. Following completion of construction, the access road will be completed to surface course.

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

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

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

8. Before the accesses are first brought into use, as defined on drawing 2015/2368/003 revision F, vehicle to vehicle visibility splays of 2.4 metres by 59 metres to both directions shall be provided and permanently maintained to the St Albans Road vehicles access and 2.4 metres by 57 metres to both directions shall be provided and permanently maintained to the Heath Lane vehicles access. Within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

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

9. No part of the development shall be occupied until full details have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed

arrangements for the future management of traffic along the narrow link road that crosses the right of way Footpath 15 between plots 143 and 107 from the northern sector and the southern sector of the site for an appropriate priority give and take arrangement complete with raised tables, traffic signing, pedestrian priority and deterrent parking bollards. The link shall thereafter be maintained in accordance with the approved management and maintenance details.

Reason: To ensure satisfactory future management of traffic along the narrow ink road and to ensure this part of the estate roads are managed and maintained thereafter to a suitable and safe standard.

10. No part of the development shall be occupied until full details have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established.

Reason: To ensure satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard.

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

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

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

The Construction Method Statement shall address the following matters:

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

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

13. Prior to the first occupation of the development hereby approved details of the siting, number and design of secure/covered cycle parking spaces have been submitted to and approved in writing by the Local Planning Authority and the Highway Authority. The approved details shall thereafter be installed prior to the occupation of each dwelling and permanently retained for cycle parking.

Reason: To ensure the provision of cycle parking spaces in line with the Council's adopted standards and to encourage use of sustainable modes of transport.

14. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Surface Water Drainage Strategy carried out by RSK reference 132884-R1(2)-FRA dated 25 September 2018 and supporting information. Unless otherwise agreed in writing. The surface water drainage scheme should include;

1. Implementing the appropriate drainage strategy based on infiltration using appropriate above ground SuDS measures.
2. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
3. SuDS features to include deep bore soakaways, permeable paving, detention basins, filter drains and geo-cellular storage.

Reason: To prevent the increased risk of flooding, both on and off site.

15. No development excluding site preparation works shall take place until the final design of the drainage scheme has been submitted to, and approved in writing by, the local planning authority. The surface water drainage system will be based on the submitted Flood Risk Assessment and Surface Water Drainage Strategy carried out by RSK reference 132884-R1(2)-FRA dated 25 September 2018. The scheme shall also include:

1. Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
2. All calculations/modelling and drain down times for all storage features.
3. Demonstrate an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage.

4. Incorporate the use of catch pits, interceptors and additional swale features etc. for highway drainage.
5. Silt traps for protection for any residual tanked elements.

6. Details of final exceedance routes, including those for an event which exceeds the 1:100 + cc rainfall event

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent the increased risk of flooding, both on and off site.

16. Upon completion of the drainage works, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include;

1. Provision of complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

17. 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
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.

18. 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 17.

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.

19. 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 17 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.

20. (a) No development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:
- (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
 - (ii) The results from the application of an appropriate risk assessment methodology.

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

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

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

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

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

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

21. Prior to occupation, each dwelling with a dedicated and adjacent car parking space shall incorporate an Electric Vehicle (EV) ready domestic charging point.

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

22. Prior to occupation, two Electric Vehicle (EV) ready domestic charging points shall be provided to serve the car parking spaces for the 15 apartment dwellings. One EV charging point shall be installed to serve Plots 1-5 and one EV charging point shall be installed to serve Plots 18-27 (plot numbers as indicated on drawing Site Masterplan Roof Level - ref: 16208 dated 25.07.18.)

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.

23. No development excluding site preparation works shall take place until a revised Energy and Sustainability statement has been submitted to, and approved in writing by, the local planning authority. The approved details shall thereafter be installed prior to the occupation of each dwelling and permanently retained, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to provide a sustainable form of development, to reduce the carbon footprint of the development and in order to minimise the impact on Climate change.

24. Prior to first occupation of each relevant dwelling, all the noise mitigation measures for that dwelling detailed in section 5, Table 5.1, Table 5.3 and Figure 3 of the Grant Acoustics report reference GA-2017-0007-R1-RevA dated 26th July 2018 (Noise Assessment for Proposed Residential Development- Land South of Heath Lane, Codicote, Hertfordshire) relating to acoustic trickle vents, acoustic air bricks and fencing specifications shall be fully implemented. Once implemented, the scheme of measures shall be maintained in accordance with the details in perpetuity.

Reason: In order to protect the residential amenity of future occupiers of the development.

25. During the construction phase no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00hrs and Sundays and Bank Holidays: no work at any time.

Reason: In order to protect the residential amenities of existing neighbouring and future occupiers of the development.

26. No dwelling hereby permitted shall be occupied unless and until an external lighting strategy has been submitted to and approved in writing by the local planning authority. The strategy shall be designed to minimise the potential adverse effects of external lighting on the amenity and biodiversity of the site and its immediate surroundings. The development shall be carried out in accordance with the approved details.

Reason: In the interests of biodiversity and local amenity.

27. Prior to the commencement of relevant landscaping works landscaping details shall be submitted to and approved in writing by the Local Planning Authority and the details shall include the following:

- a) which, if any, of the existing vegetation is to be removed and which is to be retained.
- b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting.
- c) the location and type of any new walls, fences or other means of enclosure and any hardscaping proposed.
- d) details of any earthworks proposed, including any retaining walls.
- e) Details of on-site bin/ waste storage for each plot.
- f) details of the planting along the existing Public Rights of Way (Codicote Footpath 15 and Codicote Footpath 14).

Reason: To ensure the submitted details are sufficiently comprehensive to enable proper consideration to be given to the appearance of the completed development.

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

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

29. Prior to the commencement of relevant landscaping works a landscape and ecological management plan (LEMP) which details how a minimum of 22.95 ecological units will be delivered on the development site shall be submitted and approved in writing by the local planning authority in consultation with Hertfordshire Ecology. The LEMP should describe the management required to maintain the features proposed within the landscaping plan, and implemented accordingly. This is to enable the LPA to be satisfied the proposed landscaping elements - once established - will be managed in an appropriate manner consistent with maintaining their ecological value. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.

- b) Description of the species composition of habitats to be created.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for establishment and management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures required to maintain target habitat condition and quality required by approved Biodiversity Impact Calculation score.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.'

Reason: To ensure that the agreed landscaping and biodiversity gains are delivered and maintained in the interests of local biodiversity, ecology and the visual amenity of the site.

- 30. None of the trees to be retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed without the prior written agreement of the Local Planning Authority.

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

- 31. Any tree felled, lopped, topped, uprooted, removed or otherwise destroyed or killed contrary to the provisions of the tree retention condition above shall be replaced during the same or next planting season with another tree of a size and species as agreed in writing with the Local Planning Authority, unless the Authority agrees in writing to dispense with this requirement.

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

- 32. Before the commencement of any other works on the site, trees to be retained shall be protected in accordance with all of the measures as set out in the submitted 'Arboricultural Impact Assessment & Method Statement' by ACD Environmental and dated 28/08/2018. In addition. No building materials shall be stacked or mixed within 10 metres of a tree. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to trees.

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.

33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended the garages approved as part of this permission will be retained for the parking of vehicles and will not be converted to any other use without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area.

34. Prior to the commencement of the relevant part of the development hereby approved, full details of the pumping station, sub-station buildings and enclosures located at the north-western corner of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure that development is implemented as approved.

35. Prior to first occupation of the development hereby approved further details of the circulation route for refuse collection vehicles have been submitted to the local planning authority and approved in writing. The required details shall include a full construction specification for the route, and a plan defining the extent of the area to which that specification will be applied. No dwelling forming part of the development shall be occupied until the refuse vehicle circulation route has been laid out and constructed in accordance with the details thus approved, and thereafter the route shall be maintained in accordance with those details.

Reason: To facilitate refuse and recycling collections.

36. Prior to the commencement of development a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Waste Planning Authority. The SWMP shall demonstrate how waste which arises both during and after construction will be reduced. The development shall be carried out in accordance with the approved details.

Reason: To seek to reduce waste from the site, both during and after construction, in accordance with Policies 1, 2 and 12 of the adopted Hertfordshire Waste Core Strategy and Development Management Policies Development Plan Document 2012.

Proactive Statement:

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

Informative/s:

1. Doors to bin stores should be sufficient in widths to allow the movement of bins at their widest and prevent entrapment of limbs. This is likely to be a minimum of 20cm in addition to the widest bin contained in the bin store.
Walls and doors should have protection strips to prevent damage and a mechanism for holding doors open should be available.
Doors should ideally be keypad entry or standard fire brigade keys. We do not support the use of electronic key fobs.
Roller shutters on bin stores can be considered to save space however the additional noise impacts should be considered.
Dropped kerbs should be provided to allow for ease of movement of bins to the collection vehicle and the pathway should be 1.5m in width taking the most direct route avoiding passing parked cars.
We do not advise the use of bin compactors, as they often cause excessive damage to bins or cause waste to get stuck inside bins. If bin compactors are used on site you should advise your waste collection contractor.
Bins in communal bin stores should be manoeuvrable to the refuse collection vehicle without the need to move other bins.
For flats, bins should be ordered direct from the Council's contractor 10 weeks in advance of first occupation to ensure they arrive in time for the first residents moving in. Pull distances to the collection vehicle should not exceed 15m in accordance with BS5906:2005.
2. Separate internal storage provision for waste should be provided in kitchen areas to support the recycling of different waste streams to support the National Planning Policy for Waste's requirements to support driving waste up the waste hierarchy.
The surface to the collection point should be uninterrupted, level with no gravel or similar covering, and have a width to enable the easy passage of wheeled bins. For two-wheeled bins this should be 1 metre, for four-wheeled bins this should be 1.5 metres wide (including doorways), with a maximum gradient of 1:12.
It is noted that in many areas residents are expected to pull bins past parking bays. This is not recommended and often leads to bins being left out on the pavements or grassed areas.
Storage areas should be conveniently located with easy access for residents - residents should not have to take their waste and recycling more than 30metres to a bin storage area, or take their waste receptacles more than 25metres to a collection point, (usually kerbside) in accordance with Building Regulations Approved Document H Guidance.
Consideration should be given to parking arrangements alongside or opposite the access to individual streets. If car parking is likely in the vicinity of junctions then parking restrictions may be required to ensure access is not inhibited.
For infill applications consideration should be given to parking arrangements alongside or opposite the access to the site. If car parking is currently permitted the consideration of parking restrictions may be required to ensure access is not inhibited.
For houses, bins should be ordered direct from the Council's contractor 2 weeks in advance of first occupation to ensure they arrive in time for the first residents moving in. Pull distances from the storage point to the collection point should not be within close proximity to parked cars.

3. Construction standards for works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 38/278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.
4. It is advisable that all internal roads could be designed and built to adoptable standards.
5. Prior to commencement of the development the applicant is advised to contact the North Herts Highways Network Team [NM.North@hertfordshire.gov.uk] to arrange a site visit to agree a condition survey of the approach of the highway leading to construction access likely to be used for delivery vehicles to the development. Under the provisions of Section 59 of the Highways Act 1980 the developer may be liable for any damage caused to the public highway as a result of traffic associated with the development considering the structural stability of the carriageway. The County Council may require an Officer presence during movements of larger loads, or videoing of the movements may be considered.
Rights of Way
6. Before commencement of the proposed development, the applicant shall contact Hertfordshire County Council's Rights of Way Service <http://www.hertfordshire.gov.uk/services/envplan/countrysideaccess/row/> (Tel: 0300 123 4047, email at row@hertfordshire.gov.uk) to obtain their requirements for the ongoing maintenance of the surface of the Public Right of Way that routes through the site and along the proposed development access.
Reason: To ensure the surface of the Public Right of Way does not deteriorate as a result of an increase in vehicle movements using the access, in the interests of pedestrian safety on a Public Right of Way.
7. The Public Right of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works.
The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times.

The condition of the route should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overspills of cement & concrete) should be made good by the applicant to the satisfaction of this Authority. All materials should be removed at the end of the construction and not left on the Highway or Highway verges.

If the above conditions cannot reasonably be achieved, then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order.

8. The requirement as part of the offsite s278 works is to extend the existing speed limit along Heath Lane to the west direction. The details of the Speed Limit Order should be included as part of the s278 drawing as part of the required highway work in conjunction with the development.
9. The offsite s278 works includes extending the footway along Heath Lane from the new development junction and providing a new bus stop, shelter and real time passenger information along Heath Lane located opposite the new development.
As a requirement of the section 106 agreement the bus stops along the High Street are required to be upgraded fully to Accessibility Act-compliance in order to maximise accessibility of the site. The bus stops will need to be upgraded with easy access kerbs (shelters may not be appropriate and real time passenger information to be secured the section 106 agreement This will need to be agreed in conjunction with appropriate parties as alluded to in the s106 section of this response.
10. Minimum standards regarding the maintenance of the Public's rights and safety during and after construction.
 - o The Public Rights of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works.
 - o The safety of the public using the route and any other routes to be used by construction traffic should be of paramount concern during works, safe passage past the site should be maintained at all times.
 - o The condition of the routes should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overspills of cement & concrete) to be made good by the applicant to the satisfaction of this Authority.
 - o All materials to be removed at the end of the construction and not left on the Highway or Highway.

If the above conditions cannot reasonably be achieved, then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order.

11. In the event of bats or evidence of them being found, work must stop immediately and advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England.

12. The proposed tanks are shown to be located within private curtilage and serving multiple properties. As the system is serving more than one property, the lack of maintenance would affect several properties. We would recommend appropriate arrangements are made for easy access or ensure that appropriate management arrangements will be put in place for future maintenance. Management arrangements should include the need for easements, information on how the assets will be protected and ensure there is no future modification of the drainage asset. This information should be provided to ensure that the assets are secured and future buyers are aware of the proposed drainage features and their functions through covenant on property sales.
13. The applicant contacts Hertfordshire Constabulary Crime Prevention Design Service with the intention to achieve full SBD accreditation for this development.
14. Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing a positive pumped device (or equivalent reflecting technological advances) to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions. Fitting only a non-return valve could result in flooding to the property should there be prolonged surcharge in the public sewer. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed online via www.thameswater.co.uk/wastewaterquality.
15. With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>
16. The ground gas monitoring investigation should be based upon the guidance in CIRIA C665. It is, however, required that a minimum period of nine (9) months of landfill gas monitoring shall be undertaken and that it utilises all of the existing ground gas monitoring installations on the application site. This is necessary to ensure that the monitoring coincides with periods of falling atmospheric pressure and so that a full range of weather and ground conditions are encountered.

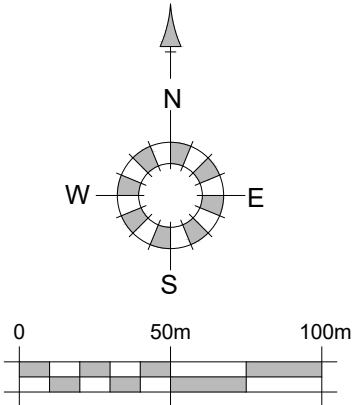
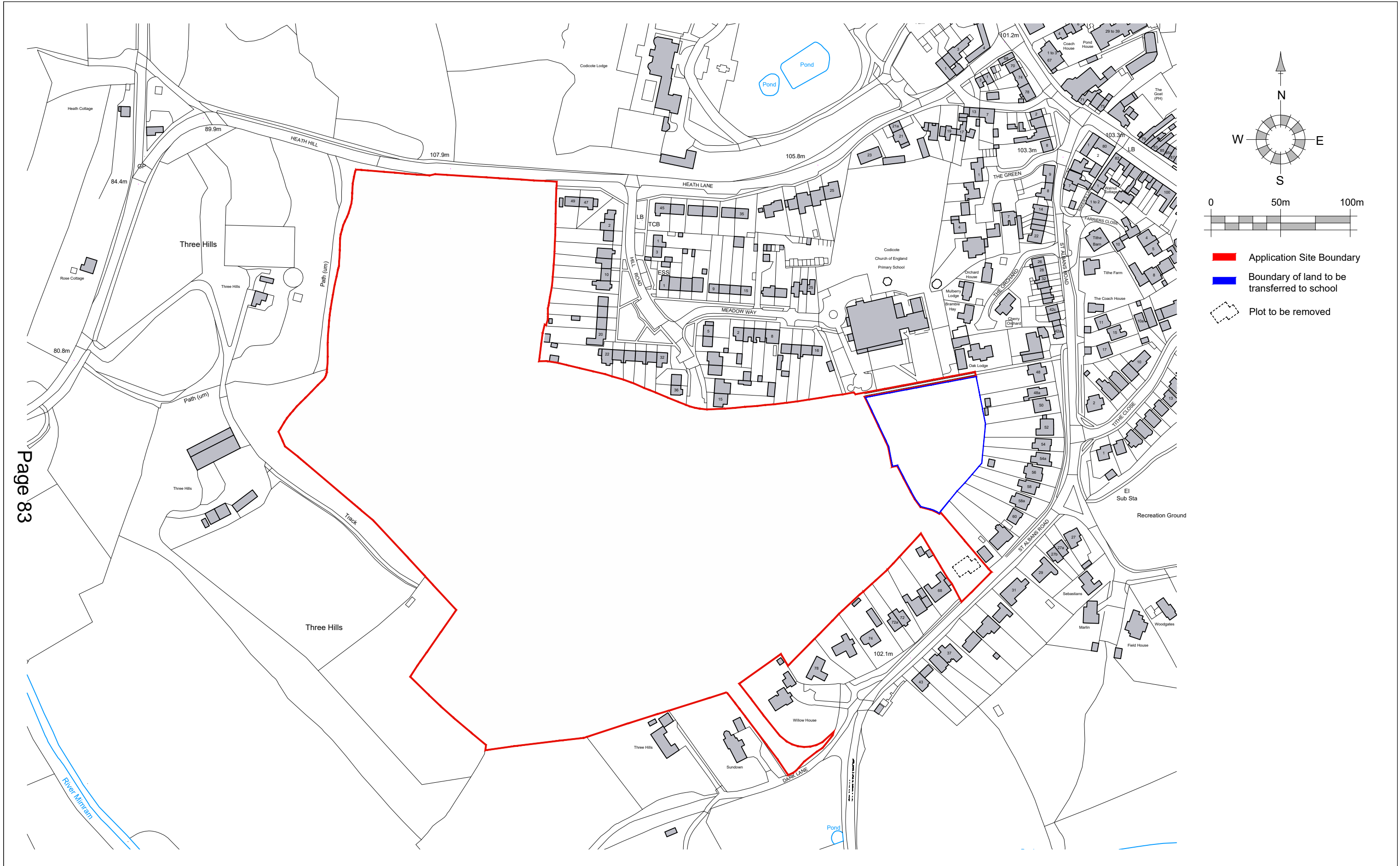
17. EV Charging Point Specification:

Each charging point shall be installed by an appropriately certified electrician/electrical contractor in accordance with the following specification. The necessary certification of electrical installation should be submitted as evidence of appropriate installation to meet the requirements of Part P of the most current Building Regulations.


Cable and circuitry ratings should be of adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A (which is recommended for Eco developments)

- o A separate dedicated circuit protected by an RBCO should be provided from the main distribution board, to a suitably enclosed termination point within a garage or an accessible enclosed termination point for future connection to an external charge point.
- o The electrical circuit shall comply with the Electrical requirements of BS7671: 2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7 (PDF). This includes requirements such as ensuring the Charging Equipment integral protective device shall be at least Type A RCD (required to comply with BS EN 61851 Mode 3 charging).
- o If installed in a garage all conductive surfaces should be protected by supplementary protective equipotential bonding. For vehicle connecting points installed such that the vehicle can only be charged within the building, e.g. in a garage with a (non-extended) tethered lead, the PME earth may be used. For external installations the risk assessment outlined in the IET code of practice must be adopted and may require additional earth stake or mat for the EV charging circuit. This should be installed as part of the EV ready installation to avoid significant on cost later.
- o A list of authorised installers (for the Government's Electric Vehicle Homecharge Scheme) can be found at <https://www.gov.uk/government/organisations/office-for-low-emission-vehicles>

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- Application Site Boundary
- Boundary of land to be transferred to school
- Plot to be removed

REV.	DATE	REVISIONS:	BY	STATUS:	CLIENT:	Ashill	PROJECT:	Land at Heath Lane / St. Albans Road Codicote, Herts	 architecture planning masterplanning Broadmeade House, Farnham Business Park, Weydon Lane, Farnham, Surrey GU9 8QT. info@osparchitecture.com www.osparchitecture.com Tel: 01252 267878	
-	-	-	-	Planning	SCALE:	1:2500 (A3 ORIGINAL)	DRAWING:	Site Location Plan		
					DRAWN:	AL	16208	S201		-
					DATE:	02.08.18				
© COPYRIGHT EXISTS ON THE DESIGNS AND INFORMATION SHOWN ON THIS DRAWING					This drawing may be scaled or cross referenced to the scale bar for planning application purposes only. Do not scale for any other purpose, use figured dimensions only. Subject to site survey and all necessary consents. All dimensions to be checked by user and any discrepancies, errors or omissions to be reported to the Architect before work commences. This drawing is to be read in conjunction with all other relevant materials.					

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Chief Executive: Owen Mapley



**Tom Allington
Principal Planning Officer
North Herts District Council
Council Offices, Gernon Road
Letchworth Garden City
Hertfordshire, SG6 3JF**

Hertfordshire County Council
Growth & Infrastructure Unit
Environment & Infrastructure Department
County Hall
Hertford
SG13 8DN

Sarah McLaughlin
01992 555838
growth@hertfordshire.gov.uk

Sent by email to:
tom.allington@north-herts.gov.uk

19th October 2020

Dear Tom,

Proposed expansion of Codicote C of E Primary School, Codicote

The County Council has taken the statutory decision to enlarge Codicote Primary School from 1 form of entry to 2 forms of entry (FE) to ensure future demand for school places from the local community can be met.

The school does not have sufficient classrooms or site area on its own to expand and therefore the county council has made representations to the North Hertfordshire Local Plan requesting that additional land be secured within its Plan to enable the 1FE expansion of the school.

Site allocation CD5 within North Herts DC's draft Local Plan, which is located to the south west of the school site, includes land to enable Codicote C of E Primary School to expand. It is proposed within the CD5 planning application for the housing at Heath Lane that freehold the land be transferred to Hertfordshire County Council to enable it to deliver an expansion of the school. Town planning consent for the expansion scheme, which utilises this additional land as playing field, has been obtained.

NHDC Planning Officers have advised they are considering taking the planning application (REF 18/02722/FP) on land south of Heath Lane (site allocation CD5) to a Development Control Committee meeting to seek approval of the application in advance of the adoption of the Local Plan. As we understand it, very special circumstances will need to be justified in order to grant of permission as the site is currently located in the Green Belt.

This letter seeks to outline and evidence the urgent demand case for the expansion of Codicote Primary School.

The North Hertfordshire Local Plan allocates land in Codicote for a total of 315 dwellings across four sites. Based on a one form of entry (FE) yield per 500 dwellings, this will result in a peak primary pupil yield of approximately 0.7 FE. Further to an assessment of need generated by actual Codicote planning applications submitted and in preparation, the county council estimates that the peak yield will be close to 0.8 FE based on NHDC housing trajectories.

Codicote Primary School serves the village and currently does not have the current capacity to meet the anticipated yield from this scale of new development. The school offers 30 places each year and, even in advance of any additional demand arising from proposed new housing, the school has temporarily expanded to offer additional places to meet existing local demand in four out of the last six years to ensure children living in the village are able to gain a place.

For the 2019 Reception intake, there were 11 pupils living within the Codicote parish who were unable to obtain a place at Codicote Primary School but were offered another school outside the village. For September 2020, the School is full in its Reception class.

Forecast demand for reception places exceeds the number of places available at Codicote Primary School in 2021/22 and 2022/23 and analysis of the local pre-school aged population living closest to Codicote from GP registration data indicates a close match the same or more 0 to 4 year olds living in the village compared with places available at the School.

Count of pre-school aged children for whom Codicote Primary is their closest school (GP registration data) March 2020

School name	Year of entry to Reception			
	2020/21	2021/22	2022/23	2023/2024
Codicote (C of E) School	30	50	41	30

As illustrated with the above data, the numbers of children living in the village and requiring a reception place year on year is not a constant. The pre-school aged population, in line with the general population ebbs and flows. However, it is clear that the school at 1 form of entry has been unable recently, and will be unable in the future, to meet all existing local demand.

The county council has worked with the school to agree temporary expansions at the school on an annual basis in order to ensure village children are able to access a place at their local school. However, with the school running additional classes in temporary accommodation and with the operational issues of increased pupils and staffing within the existing buildings, in 2019 the county council agreed with the school that it is no longer possible to provide additional temporary capacity in this way.

There are no further options for temporary expansion without locating a mobile classroom on the existing playing field, further encroaching onto the already constrained site area, or on the location of a new permanent classroom block plus placing further pressure on the existing core facilities.

The anticipated pupil yield from the proposed new housing sites combined with identified level of unmet demand in the village demonstrates a need to support a 1FE permanent expansion of the school.

The school requires the identified parcel of land within the CD5 site allocation in order to achieve compliance against BB103 site standards at 2FE.

The draft S106 agreement and associated land transfer agreement requires that the land transfer takes place between February 2021 and May 2021. Whilst the S106 agreement (as currently drafted) does not give certainty on the precise date of transfer of the education land, the granting of planning permission would be a significant step forward and help reduce the risk of delays to the transfer of the education land and accordingly reduce the risks of delays to the delivery of the school expansion project. The school cannot be expanded without this additional land; it will provide the school with sufficient playing field for a 2fe primary school. It is acknowledged that a public footpath runs between the current school site boundary and the parcel of land which is proposed for the school's playing field. The playing field will be fenced with secure gated access from the existing school site, with access managed by the school & pupils crossing the footpath supervised to ensure the safety of the school community.

There is already unmet demand from the existing community. With the additional demand arising from the known new housing coming forward in Codicote, there is a need for certainty around both the delivery and timing of additional school places. This can only be achieved by securing the land at CD5.

As the transfer of this land is currently linked to the planning consent of land south of Heath Lane, the delay in the adoption of the Local Plan means we cannot be certain when an expansion of the school can be implemented. This risks local children being unable to access a local school place. With the next nearest primary schools over 2 miles away, this impacts not only on sustainable transport but also on community cohesion.

Until the expansion of the school can be brought forward, it is likely that some children in the existing community will be unable to access a place at the school in some years due to the demand exceeding the current number of places available. Therefore in the meantime, those pupils could be travelling out of the village to the next nearest schools which are Welwyn St Mary's C of E Primary School (2.3 miles away), Oaklands Primary School (2.6 miles away), Kimpton Primary School (2.8 miles away) and St Michaels Woolmer Green Primary School (3.9 miles away).

Hertfordshire County Council has not pursued a Compulsory Purchase Order and would only resort to this where there is no realistic alternative to the acquisition of the requisite land. In this case we have been offered the land on a voluntary basis by private treaty by the freeholder in the anticipation that the residue of this land will attract planning permission for residential development. That permission is unlikely to be forthcoming unless all infrastructure requirements are met, the expansion of the existing school being one of those requirements. Accordingly, the County Council believe that resorting to compulsory powers to acquire the requisite land is not appropriate in this instance.

Hertfordshire County Council is keen to support appropriate strategies which secure the identified additional land to enable the delivery of the expansion scheme at the school as soon as possible to meet existing local demand and to ensure that the families moving into the new housing will more easily be able to access a local school place.

Please feel free to contact me should you have any queries with regard to the content of this letter.

Chief Executive: Owen Mapley



Yours sincerely,

A handwritten signature in black ink, appearing to read "SMcLaughlin".

Sarah McLaughlin
Head of Growth & Infrastructure Unit
Hertfordshire County Council

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**IN THE MATTER OF AN APPLICATION FOR PLANNING PERMISSION FOR LAND SOUTH OF HEATH
LANE, CODICOTE, HERTFORDSHIRE**

ADVICE

1. I am asked to advise on an application to develop land in the Green Belt for 167 dwellings and associated works that is due to go to the Council's Planning Control Committee in November 2020.
2. There is no prohibition on the granting of planning permission for residential development in the green belt ahead of adoption of the Local Plan provided members are satisfied that the very special circumstances test, which is contained in paragraph 144 of the NPPF, is met.
3. I have read the officers' report to committee and can confirm that in my view this provides a sound basis for granting a planning permission were members minded to agree with the recommendation in the report that the very special circumstances test is met in this case, namely, that the harm to the green belt together with the other harm caused by the proposal is clearly outweighed by the benefits of the proposal which in the main comprise qualitative and quantitative improvements to primary school education in Codicote and the provision of market and affordable housing in circumstances where there is a chronic shortage of both in the District.

**SUZANNE ORNSBY QC
FRANCIS TAYLOR BUILDING
TEMPLE
EC4Y 7BY
29 OCTOBER 2020**

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DATED _____ **2020**

NORTH HERTFORDSHIRE DISTRICT COUNCIL

and

HERTFORDSHIRE COUNTY COUNCIL

and

**ZEDRA TRUST COMPANY (UK), DIANA LADY FARNHAM and LUCINDA MARY
CORBY, MICHAEL JOHN GILBERT BRIDGE and PATRICIA ELLEN BRIDGE**

DEED

Under Section 106 of the Town & Country Planning Act 1990
Land at Heath Lane, Codicote, Herts

Legal Services
North Hertfordshire District
Council
Council Offices, Gernon Road
Letchworth Garden City
Hertfordshire SG6 3JF
(Ref: 18/02722/FP/LL13793)

THIS DEED is made the

day of

2020

BETWEEN:

- 1 **NORTH HERTFORDSHIRE DISTRICT COUNCIL** of Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF ("the Council")
- 2 **HERTFORDSHIRE COUNTY COUNCIL** of County Hall Pegs Lane Hertford Hertfordshire SG13 8DE ("the County Council")
- 3 **ZEDRA TRUST COMPANY (UK) LIMITED** (Co. Regn. No. 00920880) whose registered office is at Booths Hall, Booths Park 3 Chelford Road, Knutsford, Cheshire, England WA16 8GS ("Zedra")
- 4 **DIANA LADY FARNHAM** of 11 Earls Court Gardens, London, SW5 0TD and **LUCINDA MARY CORBY** of 24 Malwood Road, Clapham London SW12 8DN ("Farnham")
- 5 **MICHAEL JOHN GILBERT BRIDGE and PATRICIA ELLEN BRIDGE** of Three Hills Springs, Heath Lane, Codicote, Hitchin SG4 8WW ("Bridges")

RECITALS

- A The Council and the County Council are the local planning authorities for the Land for the purposes of the Act.
- B The Council is a principal council for the purposes of the Local Government Act 1972.
- C The County Council is the Education Authority for the purposes of the Education Acts as defined in section 578 of the Education Act 1996 the Highway Authority for the purposes of the Highways Act 1980 the Fire and Rescue Authority the Social Services Authority and the Libraries Authority for Hertfordshire.
- D Zedra are the registered freehold proprietors of the Land registered at HM Land Registry under Title Number HD571744 free from encumbrances that would prevent Zedra from entering into this Deed.
- E Farnham are the registered freehold proprietors of the Land registered at HM Land Registry under Title Number HD406461 free from encumbrances that would prevent Farnham from entering into this Deed.

- F Bridges are the registered freehold proprietors of the Land registered at HM Land Registry under Title Numbers HD574789 free from encumbrances that would prevent the Bridges from entering into this Deed.
- G Together Zedra, Farnham and Bridges are referred to in this agreement as the Owners.
- H On 12 October 2018 the Application was submitted to the Council for Planning Permission for the Development.
- I This Deed is entered into to make provision for regulating the Development and securing the matters hereinafter referred to which are required in order to enable the Development to go ahead.

OPERATIVE PROVISIONS:

WORDS AND EXPRESSIONS

1. In this Deed the following expressions shall have the following meanings unless inconsistent with the text:

"Act"

means the Town and Country Planning Act 1990 as amended;

"Affordable Housing"

means subsidised housing within the definition of affordable housing contained in Annex 2 of the NPPF (or any subsequent replacement or modification thereof) that will be available to persons who cannot afford to rent or buy housing generally available on the open market;

"Affordable Housing Land"

means the land upon which the Affordable Housing Units will be built;

"Affordable Housing Plan"

means the plan showing the location of the Affordable Housing Units attached hereto;

"Affordable Housing Provider"

means an organisation that is involved in the delivery and management and ownership of Affordable Housing which is registered or eligible for registration under chapter 3 part 2 of the Housing and Regeneration Act 2008 or such other body as shall be approved in writing by the Council which is capable of managing Affordable Housing and receiving grant from Homes England;

"Affordable Housing Units"

means those Dwellings permitted as part of the Development which are to be provided as Affordable Housing to Qualifying Persons in accordance with paragraphs 1 and 2 of Part I of Schedule Two and shown marked [] on the attached plan;

"Affordable Rented Unit"

means a unit of Affordable Housing let by a local authority or private registered provider of social housing to households who are eligible for social rented housing in accordance with the definition of affordable rented housing contained in Annex 2 to the NPPF (or any subsequent replacement or modification thereof) but for the avoidance of doubt must be at an affordable rent which is subject to rent controls that require:

(i) in the case of each one or two bedroom unit a rent of no more than 80% of the equivalent local market rent (including service charges, where applicable) for one and two bedroom units respectively;

(ii) in the case of each three bedroom unit a rent of no more than 70% of the equivalent local market rent (including service charges, where applicable) for three bedroom units; and

(iii) in the case of each four bedroom unit a rent of no more than the equivalent rent (excluding service charge where applicable) for a four bedroom Social Rented Unit;

"Application"

means the application for detailed planning permission for the Development submitted to the Council by or on behalf of the Owners on 12 October 2018 and allocated reference number 18/02722/FP;

"Application Housing Mix"

means the mix of housing proposed by the Owner as part of the Application as set out in Schedule

"BCIS Index"

means the Building Cost Information Service All-in Tender Price Index published from time to time

"Bus Link Contribution"

Means the sum of two hundred and twenty thousand and five hundred pounds (£220,500) Index Linked which shall be applied towards the expansion of the 315 Bus Route through Codicote (Kimpton to Welwyn Garden City and vice-versa).

"Car Club Spaces"

means one parking space (unless an alternative number is otherwise agreed between the Council and the Owners in writing) to be provided on the Land as part of the Development and to be made available for use in accordance with Travel Plan at no cost to the Council;

"Chargee"

means any mortgagee or chargee of the Owners or Affordable Housing Provider or the successors in title to such mortgagee or charge or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;

"Commencement"

means the carrying out by any person (which for the avoidance of doubt may or may not be a Party to this Deed or their agents or representatives) of a material operation comprised in the Development within the meaning of Section 56 of the Act save that for the purposes of this Deed only "material operation" shall not include:

- a. site clearance;
- b. demolition of existing buildings;
- c. archaeological investigation;
- d. the assessment of contamination;
- e. remedial action in respect of any contamination;
- f. diversion and laying of services;
- g. the erection of fencing or other means of enclosure for site security;
- h. the display of advertisements;
- i. any off-site highways works;

and the term Commence and Commences shall be construed accordingly;

"Community Centre Contribution"

means the sum of two hundred and fifty one thousand, seven hundred and fifty three pounds and thirty-ninepence (£251,753.39) (£) Index Linked which shall be applied towards the replacement/ re-build of the Codicote Scout Hut;

"County Council Contributions"

means together the Bus Link Contribution, Libraries Contribution, Primary Education Contribution, Secondary Education Contribution, the Sustainable Transport Contribution, Travel Plan Evaluation and Support Contribution and the Youth Services Contribution;

"CPT Index"

Means the Confederation of Passenger Transport Index for bus and coach industry costs which is published by the Confederation of Public Transport twice annually;

"Development"

means the development authorised by the Planning Permission and described as Residential development of 167 dwellings (Use Class C3) and associated works

including formal open space, internal road network, landscape enhancement and creation of accesses from Heath Lane and St Albans Road; and the demolition of 66 St Albans (as amended by drawings received 1st and 6th November 2018 and 17th and 18th December 2018;

"District Council Contributions"

means the Community Centre Contribution, Pitch Sport Contribution, the Waste Collection and Recycling Facilities Contribution;

"Disposal"

means the transfer of a legal estate in an Affordable Housing Unit and "Dispose" shall be construed accordingly;

"Dwellings"

means an individual residential unit permitted as part of the Development and "Dwellings" shall be construed accordingly;

"Ecology Contribution"

[means the sum of twenty-six thousand, seven hundred and sixty pounds (£26,76000) (Index Linked) which shall be applied towards a local off-site biodiversity project to offset the impact on biodiversity as a result of the Development

"Environment Bank"

means The Environment Bank Ltd of Low Bramley Grange Farm, Bramley Grange, Grewelthorpe, Ripon, North Yorkshire, HG4 3DN, a body that delivers practical and effective net gain solutions for biodiversity in the planning system thereby achieving positive and large-scale outcomes for nature;

"Fire and Rescue Service"

means that part of the County Council known as the Hertfordshire Fire and Rescue Service;

"Healthcare Contribution"

means the sum of [one hundred and eighteen thousand, two hundred and three pounds and thirteen pence (£118,203.13) (Index Linked) shall be applied towards reconfiguration of Bridge Cottage GP 41 High Street Welwyn AL6 9EF;

"Homes England"

means the body that funds and regulates Affordable Housing Providers and such expression shall include successors to the functions and powers of Homes England;

"Index Linked"

means that for the Libraries Contribution, Secondary Education Contribution and the Youth Services Contributions such sum shall be index-linked by reference to PUBSEC in accordance with **clause 11.1;**

means that for the Sustainable Transport Contribution and sum shall be index linked by reference to the SPONS Index in accordance with **clause 11.2;**

means for the Waste Collection and Recycling Facilities Contribution the Travel Plan Evaluation and Support Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.3;**

means for the Travel Plan Evaluation and Support Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.4;**

means for the Primary Education Contribution such sum shall each be index linked by reference to any increase in the BCIS Index in accordance with **clause 11.5;**

means for the Bus Link Contribution such sum shall be index linked by reference to any increase in the CPT Index in accordance with **clause 11.6;**

means for the Community Centre Contribution, and the Pitch Sport Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.7; and**

means for the Ecology Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.8 ;**

"Interest"

means interest at two percent above the base lending rate of Lloyds Bank from time to time;

"Land"

the land shown for identification purposes edged red on Plan 1;

"Libraries Contribution"

means the sum of [twenty-eight thousand, eight hundred and seventy-four pounds (£28,874)] (Index Linked) which has been calculated in accordance with the Application Housing Mix and shall be applied towards the cost of the reconfiguration of Welwyn Garden City Library to enable a Creator space;

"Local Connection"

means that the Qualifying Person has one of the following connections to the relevant area:

- (i) has been continuously resident by choice in the relevant area for the last 12 months or has been resident by choice in the relevant area for 3 out of the last 5 years;
- (ii) has permanent employment in the relevant area; or
- (iii) has an immediate family member (this would normally be their mother, father, brother, sister or adult child) resident in the relevant area. Their residency must be by choice and have been so for a minimum of 5 years;

"Management Body"

means a body whose objects are for the management and maintenance of open space which has been approved by the Council in accordance with the Open Space Management Scheme

"NHS"

means the East and North Hertfordshire Clinical Commissioning Group (CCG) of Charter House, Parkway Welwyn Garden City Hertfordshire AL8 6JL

"Nominations Request Form"

means the nominations request form (Annex A to the 2019 – 2024 North Hertfordshire Housing Association Nominations Agreement) or such variations thereof as are approved by the Council

"NPPF"

means the National Planning Policy Framework issued by the Department for Communities and Local Government dated 19 February 2019 or any Government issued policy statement amending or replacing the same from time to time;

"Occupation"

means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the term "Occupied" and "Occupy" shall be construed accordingly;

"Open Market Dwelling"

means a Dwelling constructed on the Land as part of the Development which is not an Affordable Housing Unit;

"Open Space Land"

means that part of the Development identified as being Open Space pursuant to paragraph 4 of Part I of schedule Two and shown marked [] on the attached plan;

"Open Space Management Scheme"

means the scheme for the long-term management and maintenance of the Open Space Land by a Management Body to be approved by the Council pursuant to paragraph 4.3 of Part I of Schedule Two or such variation thereof as may be agreed by the Owners and the Council;

"Open Space Scheme"

means the scheme for the laying out, landscaping, construction and maintenance of the Open Space Land as Open Space which shall include a scheme for the Public Right of Way to be approved by the Council pursuant to paragraph 4.1 of Part I of Schedule Two or such variation thereof as may be agreed by the Owners and the Council;

"Party"

Means any party to this Agreement;

"Pitch Sport Contribution"

means the sum of fifty-six thousand, five hundred and sixty two pounds and 50 pence (£56,562.50) Index Linked) which shall be applied towards the Codicote Pavilion refurbishment;

"Plan 1"

means the plan attached to this Deed and numbered Plan 1;

"Planning Obligations SPD"

means the North Hertfordshire District Council Planning Obligations Supplementary Planning Document dated November 2006;

"Planning Permission"

means the planning permission granted by the Council in pursuance of the Application a draft of which is attached at Schedule One;

"Primary Education Contribution"

means the sum of £1,573,560.17 (Index Linked) which has been calculated in accordance with the Application Housing Mix and shall be applied towards the expansion of Codicote Primary school by one form of entry;

"Public Right of Way"

means the footpath shown marked [] on the plan attached hereto that shall be provided as part of the Open Space Scheme;

"PUBSEC Index"

means the extension of PUBSEC Tender Price Index of Public Sector Non Housing Smoothed All-In Index published by the Building Cost information Service of the Royal Institution of Chartered Surveyors (or any successor organisation), specifically the series called 'Extension of Public Sector Tender Price Index of Public Sector Building Non Housing' or equivalent replacement index;

"RPI Index"

means the measure of change in the prices charged for goods and services bought for consumption in the UK produced by the Office for National Statistics

"Qualifying Person"

means a person or household in need of Affordable Housing identified in accordance with the provisions below:

- (i) in the case of an Affordable Rented Unit a person accepted on to the North Hertfordshire Common Housing Register (from time to time) in accordance with the North Hertfordshire Housing Partnership Common Housing Allocation Scheme 2013 (or any successor scheme approved in writing by the Council); and
- (ii) in the case of a Shared Ownership Unit, a person who meets the eligibility criteria for Shared Ownership housing set by the Government from time to time and who is approved by the relevant Help to Buy Agency appointed by the Homes and Communities Agency for the area in which the Shared Ownership Unit is located

and the term "Qualifying Persons" shall be construed accordingly;

"School Land"

means the land shown for identification purposes edged [] on Plan 1

"Secondary Education Contribution"

means a sum of [three hundred and eighty-nine thousand, four hundred and forty-five Pounds (£389,445)] (Index Linked) which has been calculated in accordance with the Application Housing Mix and shall be applied towards the

expansion of Monks Walk School by one form of entry from 8 forms of entry to 9 forms of entry;

"Secretary of State

means the Secretary of State for Communities and Local Government (as that title is used in the Secretary of State for Communities and Local Government Order 2006 (SI 2006/1926)) or such other office holder who at the relevant time is the person to whom an appeal may be made under Section 78 (1) of the 1990 Act;

"Shared Ownership Lease"

means a lease in the form of the Homes England's model shared Ownership lease and on terms that permit part purchase of the open market value of the equity in a unit in multiples of 5% (at no less than 25% initial tranche) up to a maximum of 80% together with rent payable for the open market rack rental value of the unpurchased percentage of the equity in the unit up to a value which does not exceed the rent set by the Homes England from time to time (or such other rent or form of lease approved in writing by the Council);

"Shared Ownership Unit"

means a unit of Affordable Housing to be made available by an Affordable Housing Provider under a Shared Ownership Lease and the term Shared Ownership shall be interpreted accordingly;

"Social Rented Unit"

means a unit of Affordable Housing which is owned by local authorities or private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime (such unit may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the Council) and in all cases in accordance with the definition of social rented housing contained in Annex 2 to the NPPF or any subsequent replacement or modification thereof;

"SPONS Index"

means the index linked by reference to the price adjustment formula for construction contracts in the monthly bulletin of indices published by the Building

Cost Information Service (BCIS) as collated into a single index known as the Price Adjustment Formulae Indices (Civil Engineering) Series 2” .

“Sustainable Transport Contribution”

means the sum of seventy six thousand pounds (£76,000) (Index Linked) which shall be applied towards the cost of upgrading the bus stop at the Peace Memorial and the bus stop at The Bell Public House

“Travel Plan Annual Review”

means an annual study reviewing and monitoring the provisions of the Travel Plan (as more fully set out therein) such annual study to be carried out from the date two (2) calendar months from the first Occupation of any Dwelling and then annually on the corresponding calendar month

“Travel Plan Coordinator”

means the person appointed by the Owners and approved by the County Council who shall be responsible for managing on behalf of the Owners the implementation monitoring progression reporting and review of the Travel Plan in order to achieve its objectives and targets

“Travel Plan Guidance”

means the Hertfordshire County Council’s document entitled ‘Travel Plan Guidance’ (as current at the time of application) which can be found at

<https://www.hertfordshire.gov.uk/travelplans>

“Travel Plan”

means a written agreement with the County Council setting out a scheme to encourage regulate and promote green travel measures for owners occupiers and visitors to the Development in accordance with the provisions of the County Council’s ‘Travel Plan Guidance for Business and Residential Development’ (such version current as at the date of Commencement of the Development) and which such agreement may from time to time be varied with the written consent of the County Council or by the approval of the County Council of any recommendations for amendments or improvements to the Travel Plan made by the Owners pursuant to paragraph 11 or any reasonable amendments or improvements to the Travel

Plan Statement notified by the County Council to the Owner pursuant to paragraph



"Travel Plan Evaluation and Support Contribution"

means the sum of six thousand pounds (£6,000) (Index Linked) as a contribution towards the costs of the County Council of (1) administering and monitoring the objectives of the Travel Plan and of engaging in any Travel Plan Annual Review pursuant to this Agreement and (2) administering and monitoring the objectives of, or engaging in any review of, a travel plan in relation to the development pursuant to the requirements of the Planning Permission

"Waste Collection and Recycling Contribution"

means the sum means the sum to be calculated by £71.00 per dwelling house and £26.00 per dwelling flat (with shared or no amenity space) Index Linked which shall be applied towards the cost of providing waste collection and recycling facilities serving the Development;

"Water Scheme"

means either the proposal prepared by or approved by the water undertaker for the area pursuant to the Water Industry Act 1991 to provide mains water services for the Development whether by means of new mains or extension to or diversion of existing services or apparatus OR where existing water services are to be used it shall mean the details of the Dwellings and the water supply to them

"Working Day"

means any day other than a Saturday or a Sunday or a Public Holiday; and

"Youth Contribution"

means the sum of seven thousand, four hundred and nineteen Pounds (£7,419)_ (Index Linked) which has been calculated in accordance with the Application Housing Mix and shall be applied towards upgrading the group work rooms provision at Bancroft Youth

2. Where the context provides:

- 2.1 words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa;
- 2.2 references to any Party means a party to this Deed and in the case of any of the Owners shall include their respective successors in title and assigns and any persons deriving title through or under them and in the cases of the Council and the County Council shall include successors to their respective functions;
- 2.3 where a Party includes more than one person any obligations of that Party shall be joint and several;
- 2.4 any reference to any statute or any section of a statute includes any statutory re-enactment or modification;
- 2.5 any reference to clauses and schedules are references to clauses and schedules to this Deed;
- 2.6 headings in the Deed shall not form part of or affect its construction;
- 2.7 where a Party is required to give consent or approval by any specific provision of this Deed such consent or approval shall not be unreasonably withheld or delayed;
- 2.8 any provision of this Deed which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Deed; and
- 2.9 any covenant by the Owners not to do any act or thing includes a covenant not to permit, allow or suffer the doing of that act or thing.

3. STATUTORY PROVISIONS AND COVENANTS

- 3.1 This Deed and the covenants within it are made pursuant to section 106 of the Act. To the extent that they fall within the terms of section 106 of the Act the obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council and the County Council against the Owners and each of their successors in title and assigns to each and every part of the Land and any person deriving title to each and every part of the Land through or under the Owners (subject to paragraph 2, Part I of Schedule Two).

3.2 To the extent that any of the obligations in this Deed are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.

3.3 The Owners enter into the obligations for itself and its successors in title with the Council and the County Council to the intent that the obligations hereunder shall be enforceable not only against the Owners but also against the successors in title of the Owners and any person claiming through or under the Owners an interest or estate in the Land or any part thereof PROVIDED THAT

3.3.3 the obligations and restrictions in this Deed shall not be enforceable against a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owners to that statutory undertaker or in respect of any easements relating to cables, pipes or other service media running under the Land nor enforceable against any highway authority which may be responsible for any public highway maintainable at the public expense.

4. **CONDITIONALITY**

4.1 Save where expressly provided for in this Deed, the covenants in this Deed are conditional upon:

- a) the grant of the Planning Permission substantially in the form as annexed at Schedule One; and
- b) the Commencement of Development

5. **PLANNING OBLIGATIONS**

5.1 The Owners covenants with the Council and the County Council to observe the restrictions and to perform the obligations and activities specified in Schedule Two to this Deed.

5.2 The Council covenants with the Owners to perform the obligations or activities specified in Schedule Three to this Deed.

5.3 The County Council covenants with the Owners and the Council to perform the obligations or activities specified in Schedule Four to this Deed.

6. **EXERCISE OF THE POWERS OF THE COUNCIL AND THE COUNTY COUNCIL**

Nothing in this Deed whether express or implied shall prejudice or affect the rights discretion powers duties and obligations of the Council or the County Council under any statute, bye-law, statutory instrument, order or regulation in the exercise of its functions as local planning authority, principle council, education authority, fire and rescue authority, highway authority, Libraries authority and social services authority.

7. **WAIVER**

No waiver whether expressed or implied by the Council or the County Council of any breach or default by the Owners in performing or observing any of the covenants in this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing or from acting upon any subsequent breach or default of any of the covenants.

8. **CONSENTS**

- 8.1 The Owners warrant and confirm that they have obtained all necessary permissions and consents to it enter into this Deed.

9. **SUCCESSORS IN TITLE**

No Person shall be liable for breach of any covenants or obligations in this Deed occurring after the date on which they have parted with all of their interest in the Land PROVIDED THAT they will remain liable for any breach occurring before that date. Neither the reservation of rights nor the inclusion of any covenants or restrictions over the Land in any transfer of the Land will constitute an interest for the purposes of this clause.

10. **PLANNING PERMISSION**

This Deed shall cease to have effect if the Planning Permission is quashed, revoked, expires, is modified by any statutory procedure without the consent of the Owners or is otherwise withdrawn.

11. **EXPENDITURE, INTEREST AND INDEXATION**

- 11.1. Where any sum in Schedule Two is required to be Index Linked by reference to the PUBSEC Index that sum payable shall be increased in accordance with any

change in the Department of Business Innovation and Skills Tender Price Index of Public Sector Non-Housing Smoothed All-In Index by the application of the formula:

$A = B \times (C \div D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the PUBSEC Smoothed All-In Index figure for the date upon which the interim payment described below is actually paid

D is the figure of 175.

11.2. the Sustainable Transport Contribution shall be index-linked to such movements in the SPONS Index from July 2006 to the date on which the Sustainable Transport Contribution is paid.

11.3. The Waste Collection and Recycling Contribution shall be increased by application of the formula:

$A = B \times (C \div D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the Office of National Statistics Index of Monthly Retail Prices Information figure for the date upon which the Contribution is actually paid;

D is the Office of National Statistics Index of Monthly Retail Prices Information figure from April 2006.

11.4. Where any sum in Schedule Two is expressed to be Index Linked by reference to RPI that sum shall be increased by application of the formula:

$A = B \times (C \div D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the Office of National Statistics Index of Monthly Retail Prices Information figure for the date upon which the Contribution is actually paid;

D is the Office of National Statistics Index of Monthly Retail Prices Information figure from April 2014.

11.5 Where any sum is required to be index linked by reference to the BCIS Index that sum payable shall be increased in accordance with any change in the Building Cost Information Service All-in Tender Price Index published from time to time by the application of the formula $A = B \times (C \div D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this deed;

C is the BCIS Index for the date upon which the interim payment described below is actually paid and;

D is the BCIS figure of Q3 2020.

- 11.6 The Bus Link Contribution shall be index-linked to such movements in the CPT Index from the date of this Deed to the date on which the Bus Link Contribution is paid.
- 11.7 The Community Centre Contribution and the Pitch Sport Contribution shall be index-linked to such movements in the National Statistics Index of Monthly Retail Prices Information from April 2019 to the date on which the Community Centre Contribution and the Pitch Sport Contribution are paid
- 11.8 The Ecology Contribution shall be index-linked to such movements in the National Statistics Index of Monthly Retail Prices Information from January 2020 to the date on which the Ecology Contribution is paid
- 11.8 If any payment due under this Deed by the Owners is paid late, Interest will be payable from the date payment is due to the date of payment.
- 11.9 Where any sum to be paid to the County Council under the terms of this Deed is required to be indexed then an interim payment shall initially be made based on the latest available forecast figure (or figures as the case may be) at the date of payment and any payment or payments by way of adjustment shall be made within ten (10) Working Days of written demand by the County Council or the payer of the interim payment (as the case may be) once the relevant indices have been finalised
- 11.10 If prior to the receipt of any of County Council Contributions the County Council incurs any expenditure in providing additional primary education secondary education libraries youth facilities bus services sustainable transport measures or travel plan evaluation and support as the case may be the need for which arises from or in anticipation of the Development then the County Council may immediately following receipt of the relevant County Council Contribution deduct from the relevant County Council Contribution such expenditure incurred as appropriate.

12. **COSTS**

The Owners shall pay the Council's and the County Council's reasonable legal costs plus disbursements incurred in connection with the preparation negotiation and completion of this Deed immediately upon completion.

13. **REGISTRATION OF THIS DEED**

This Deed shall be registrable as a local land charge following completion by the Council as local planning authority.

14. **THIRD PARTIES**

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any right to enforce any of the terms and provisions herein on any person who is not a Party hereto or a successor in title to a Party hereto.

15. **NOTICE**

The Owners shall give the Council and the County Council prior written notice using the proforma set out in schedule 5 of

15.1 the Commencement of the Development;

15.2 the Occupation of the 1st Dwelling;

15.3 the Occupation of 50% of the Open Market Units;

15.4 the completion of the Development.

15.5 save for the disposal of any individual Dwellings to owner/occupiers any change of any interests in the Land occurring before all of the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of Land purchased by reference to a plan15.6 the Owner shall give the County Council prior written notice using the proforma set out in schedule 5 of:

15.6.1 the Occupation of the 42nd Dwelling;

15.6.2 the Occupation of the 84th Dwelling;

15.6.3 the Occupation of the 126th Dwelling; and

15.6.4 the Occupation of the 167th Dwelling.

16. SERVICE OF NOTICES AND DOCUMENTS

Any notice required or authorised to be given by any Party shall be in writing in the form of proforma set out in Schedule Five and shall contain the Application reference number 18/02722/FP and reference to the date of this Deed and shall be sufficiently given if sent by first class post or facsimile to the following persons:

The Council Planning Control and Conservation Manager North
Hertfordshire District Council Council Offices Gernon Road
Letchworth Garden City Hertfordshire SG6 3JF ref
18/02772/FP.

The County Council Chief Legal Officer Hertfordshire County Council County Hall
Hertford Hertfordshire SG13 8DE ref 11288.

The Owners [tbc].

17 DETERMINATION OF DISPUTES

In the event of there being a dispute arising out of this Deed or the subject matter thereof the following provisions shall apply:

17.1 The Parties shall use their reasonable endeavours to resolve the dispute by agreement.

17.2 If agreement cannot be reached the matter in dispute shall be referred to and settled by some independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person shall act as an expert on the application of either Party after giving notice in writing to the other party to this Deed.

17.3 The person to be appointed pursuant to clause 17.2 shall be a person having ten years or more post qualification experience of projects comprising works of the scale and nature of the Development.

17.4 Reference to the expert shall be on terms that determination shall take place within 28 working days of the expert accepting his instructions.

- 17.5 The expert shall have the power to award costs of the determination in favour of either Party to the dispute at the expense of the other Party and failing such determination such costs shall be borne by the parties in equal shares.
- 17.6 The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision.
- 17.7 The findings of the expert shall (other than in the case of a manifest material error) be final and binding on the parties to the dispute
- 17.8 For the avoidance of doubt references to 'Party' or 'Parties' in clause 17.1 exclude the County Council and the County Council shall not be required to submit to or be bound by the provisions of Clauses 17.1 -17.7.
- 17.9 For the avoidance of doubt this Clause shall not limit the right of any Party to refer any matter to the courts for determination.

18 MISCELLANEOUS

- 18.1 Without prejudice to the Council's and the County Council's statutory rights the Owners hereby grant to the Council and/or the County Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter any part of the Land to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed provided that the Council or County Council gives the Owners two days notice and complies with any reasonable on site health and safety requirements of the Owners during any such inspection.
- 18.2 At the written request of the Owners at any time after the planning obligations have been fully and satisfactorily discharged/performed, the Council may issue the Owners with written confirmation of the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 18.3 Nothing in this Deed shall be construed as affecting prohibiting or limiting any rights to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted whether before or

after the date of this Deed by the Council the County Council or the Secretary of State or any other competent authority.

18.4 Where any approval, agreement, consent, confirmation or expression of satisfaction is required under the terms of this Deed the request for it shall be made in writing and where a request is made the approval, agreement, consent, confirmation or expression of satisfaction shall not be unreasonably withheld or delayed.

18.5 Should any application for approval be made in writing by the Owners to which a response is not made by the Council within 20 working days such approval will be deemed to have been granted.

19 **JURISDICTION**

19.1 This Deed is to be governed by and interpreted in accordance with the laws of England.

19.2 The Courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Deed. This clause operates for the benefit of the Council and the County Council who retain the right to sue and enforce any judgment against the Owners in the courts of any competent jurisdiction.

20 **EXECUTION**

The Parties have executed this Deed as a deed and it is delivered on the date set out above.

SCHEDULE ONE

DRAFT PLANNING PERMISSION

SCHEDULE TWO

PART I

OWNERS'S COVENANTS TO THE COUNCIL

Affordable Housing

1. The Owner covenants with the Council:
 - 1.1 that the Owner shall ensure that at least 40% of the Dwellings to be built on the Land shall be Affordable Housing Units:
 - 1.2 that the Owner shall ensure that 65% of the Affordable Housing Units to be built on the Land are Affordable Rented Units/Social Rented Units and 35% of the Affordable Housing Units to be built on the Land are Shared Ownership Units;
 - 1.3 to provide the following types of Affordable Housing Units:
 - 1.3.1 as Affordable Rented Units or Social Rented Units:
 - 9 x one bedroom flats;
 - 20 x two bedroom house
 - 13 x three bedroom house and
 - 3 x four bedroom house
 - 1.3.2 as Shared Ownership Units:
 - 6 x one bedroom flats;
 - 6 x two bedroom houses; and
 - 10 x three bedroom house
 - 1.4 the Affordable Housing Units shall be designed and constructed so as to meet the standards contained in the National Space Standards;
 - 1.5 not to Occupy more than 35% of the Open Market Dwellings until 50% of the Affordable Housing Units:

- 1.5.1 have been constructed in accordance with the requirements set out in **paragraph 1.4** above, the Planning Permission s;
 - 1.5.2 those Affordable Housing Units have been transferred to an Affordable Housing Provider; and
 - 1.5.3 subject to **paragraph 2** below and unless otherwise agreed in writing by the Council, all nominations will be made in compliance with the North Hertfordshire Common Housing Allocations Scheme and a Nomination Request Form (Annex A of the 2019-2024 Housing Association Nominations Agreement) has been submitted to the Council for all Affordable Rented Units. The Council shall have the right to nominate a Qualifying Person to occupy each of the Affordable Rented Units as referred to in **paragraph 1.16** (or such variation or substitution issued by North Hertfordshire District Council thereafter);
- 1.6 not to Occupy more than 70% of the Open Market Dwellings until all of the Affordable Housing Units:
 - 1.6.1 have been constructed in accordance with the requirements set out in **paragraph 1.4** above;
 - 1.6.2 all of the Affordable Housing Units have been transferred to an Affordable Housing Provider;
 - 1.6.3 subject to **paragraph 2** below and unless otherwise agreed in writing by the Council, all nominations will be made in compliance with the North Hertfordshire Common Housing Allocations Scheme and a Nomination Request Form (Annex A of the 2019-2024 Housing Association Nominations Agreement) has been submitted to the Council for all Affordable Rented Units. The Council shall have the right to nominate a Qualifying Person to occupy each of the Affordable Rented Units as referred to in **paragraph 1.16** (or such variation or substitution issued by North Hertfordshire District Council thereafter);
- 1.7 that the transfers referred to in **paragraphs 1.5.2** and **1.6.2** shall contain the following:

- 1.7.1 the grant by the Owners to the Affordable Housing Provider of all rights of access from the public highway and full and free passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;
- 1.7.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development;
- 1.7.3 in the case of a lease the term shall not be less than 125 years;
- 1.7.4 covenants by the Affordable Housing Provider that:
 - 1.7.4.1 subject to **paragraph 2** below, each Affordable Housing Unit shall be used for no other purpose than Affordable Housing;
 - 1.7.4.2 subject to **paragraph 2** below, the grant of a lease, tenancy or Shared Ownership Lease in any Affordable Housing Unit shall be restricted to a Qualifying Person;
- 1.8 that subject to **paragraph 1.9 and paragraph 2** below the grant or assignment of a tenancy, lease or Shared Ownership Lease of any Affordable Housing Unit shall be restricted to a Qualifying Person with a Local Connection to the parish of Codicote;
- 1.9 that subject to **paragraph 2** if no Qualifying Person satisfies the requirements of paragraph 1.8 above then the grant or assignment of any tenancy lease or Shared Ownership Lease of any Affordable Housing Unit Rented shall be made to a Qualifying Person with a Local Connection to one of the following areas (in order of priority from **paragraph 1.9.1 to 1.9.3**):
 - 1.9.1 the Parishes of Kimpton and Knebworth; or
 - 1.9.2 if no Qualifying Person satisfies **paragraph 1.9.1**, other rural parishes within North Hertfordshire; or
 - 1.9.3 if no Qualifying Person satisfies **paragraphs 1.9.1 or 1.9.2**, North Hertfordshire generally;
- 1.10 that subject to **paragraph 2** and with the exception of a Disposal of a Shared Ownership Lease the Owners shall not Dispose of a freehold or leasehold estate in the Affordable Housing Units or the Affordable Housing

Land other than to another Affordable Housing Provider which shall observe the covenants contained in this Deed;

- 1.11 that the Owners shall notify the Council immediately in the event of service of any notice under Sections 40 and 41 of the Housing Act 1996 or any notice, order or direction served, made or given under Schedule One Part IV of the Housing Act 1996 (or any replacement provisions to any of the above in the Housing and Regeneration Act 2008 or any subsequent statutory re-enactments or modifications thereof);
- 1.12 that subject to **paragraph 2** below the Owners shall not Occupy or permit the Affordable Housing Units to be used or Occupied other than for the provision of Affordable Housing in accordance with the terms of this Deed;
- 1.13 that subject to **paragraph 2** below the Owners shall not Occupy or permit the Affordable Rented Housing Units to be provided pursuant to **paragraph 1.3.1** to be used or Occupied other than as Affordable Rented Units in accordance with the terms of this Deed;
- 1.14 that subject to **paragraph 2** below the Owners shall not Occupy or permit the Shared Ownership Units to be provided pursuant to **paragraph 1.3.2** to be used or Occupied other than as Shared Ownership Units (with the exception of those Dwellings that have been Staircased) and not to permit a tenant or occupier of a Shared Ownership Unit to initially purchase more than 80% of the equity of the Shared Ownership Unit in accordance with the terms of this Deed;
- 1.15 that subject to **paragraph 2** below the Owners and the Developer shall not Occupy or permit the Affordable Housing Units to be used or Occupied other than by Qualifying Persons and their dependants;
- 1.16 that subject to **paragraph 2** below and unless otherwise agreed in writing by the Council, the Council shall have the right to nominate a Qualifying Person to occupy the Affordable Housing Units as follows:
 - 1.16.1 the right to nominate Qualifying Persons to occupy all of the Affordable Rented Units in respect of the first Disposal (by way of lease or otherwise) of all of the Affordable Housing Units; and
 - 1.16.2 the right to nominate Qualifying Persons to occupy three out of every four of the Affordable Rented Units in respect of the second and

subsequent Disposals of the Affordable Housing Units (by way of lease, assignment or otherwise);

- 1.17 that subject to **paragraph 2** below the Owners shall not Occupy or permit each Shared Ownership Unit to be Occupied unless and until in respect of that Shared Ownership Unit the Affordable Housing Provider referred to in **paragraph 1.6.2** above has entered into a Shared Ownership Lease to a Qualifying Person with a Local Connection.
2. The provisions of **paragraph 1.1, 1.2, 1.3, 1.5.3, 1.6.3, 1.7.4, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, 1.16** and **1.17** shall not be binding or enforceable against:
 - 2.1 any person who shall acquire the freehold or leasehold interest in any Affordable Housing Unit pursuant to any statutory right of acquisition and any successor in title or mortgagee of that person;
 - 2.2 a Chargee which shall have the benefit of a legal mortgage or charge secured against the Affordable Housing Provider's estate or interest in any Affordable Housing Unit(s) on the Affordable Housing Land who wishes to exercise its power of sale (or any person deriving title from such Chargee appointed by such Chargee) PROVIDED THAT the Chargee or receiver or manager appointed by the Chargee has notified the Council in writing that it wishes to exercise its statutory power of sale and for a period of three months from such written notification the Chargee having used reasonable endeavours has not completed the Disposal of the Affordable Housing Unit(s) to an Affordable Housing Provider PROVIDED THAT nothing in this paragraph shall require the Chargee to Dispose of the Affordable Housing Unit(s) at a price which is less than the outstanding balance of its legal mortgage or charge over the Affordable Housing Unit(s) (including interest, costs and expenses) FOR THE AVOIDANCE OF DOUBT if such Disposal has not completed after the three month period from such written notification the Chargee, shall be entitled to Dispose of the Affordable Housing Unit(s) free from the provisions of paragraphs 1.1, 1.2, 1.3, 1.5.3, 1.6.3, 1.7.4, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, 1.16 and 1.17;
 - 2.3 a Chargee which shall have the benefit of a legal mortgage or charge secured against a tenant's estate or interest (leased by an Affordable Housing Provider) in a Shared Ownership Unit who wishes to exercise its power of sale (or any person deriving title from such Chargee) PROVIDED

THAT the Chargee has notified the Council in writing that it wishes to exercise its statutory power of sale and for a period of three months from such written notification the Chargee having used reasonable endeavours has not completed the Disposal of the Shared Ownership Unit to an Affordable Housing Provider or Qualifying Person PROVIDED THAT nothing in this paragraph shall require the Chargee or receiver or manager to Dispose of the Shared Ownership Unit at a price which is less than the outstanding balance of its legal mortgage or charge over the Shared Ownership Unit (including interest, costs and expenses) FOR THE AVOIDANCE OF DOUBT if such Disposal has not completed after the three month period from such written notification the Chargee, shall be entitled to Dispose of the Affordable Housing Unit(s) free from the provisions of paragraphs 1.1, 1.2, 1.3, 1.5.3, 1.6.3, 1.7.4, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, 1.16 and 1.17.

Contributions to the Council

- 3 The Owners covenant with the Council:
 - 3.1 to pay 50% (fifty percent) of the Council Contributions to the Council prior to the Occupation of the Development; and
 - 3.2 not to cause or permit Occupation of the Development until it has paid 50% (fifty percent) of the Council Contributions to the Council in accordance with **paragraph 3.1** above.
 - 3.3 to pay the remaining 50% (fifty percent) of the Council Contributions to the Council prior to the Occupation of 50% (fifty percent) of Open Market Units; and
 - 3.4 not to cause or permit Occupation of more than 50% of the Open Market Units until it has paid the remaining 50% (fifty percent) of the Council Contributions to the Council in accordance with **paragraph 3.3** above.
 - 3.5 to pay the Ecology Contribution to the Council prior to first Occupation of any Dwelling on the Development;

- 3.6 not to cause or permit first Occupation of any Dwelling until it has paid the Ecology Contribution to the Council in accordance with **paragraph 3.5** above;
- 3.7 to pay the Healthcare Contribution to the Council prior to the Occupation of no more than 50 (fifty) Open Market Dwellings
- 3.8 not to cause or permit the Occupation of more than 50 (fifty) Open Market Dwellings until it has paid the Healthcare Contribution to the Council in accordance with **paragraph 3.7** above;

Open Space

- 4 The Owner covenants with the Council:
 - 4.1 to submit the Open Space Scheme to the Council for approval within three (3) months of the Commencement of the Development;
 - 4.2 to submit the Open Space Management Scheme to the Council for approval within three (3) months of Commencement of the Development;
 - 4.3 prior to Occupation of 80% of the Dwellings to lay out the Open Space Land in accordance with the Open Space Scheme (as approved by the Council) and fully implement and comply with the Open Space Scheme (as approved by the Council);
 - 4.4 not to cause or permit the Occupation of more than 80% of the Dwellings until the Open Space Land has been laid out fully in accordance with the Open Space Scheme (as approved by the Council) to the Council's satisfaction and the Council has issued a certificate of completion in respect of the Open Space Land;

- 4.5 prior to Occupation of 80% of the Dwellings to offer transfer the Open Space Land to the Management Body in accordance with the requirements of the Open Space Management Scheme:
- 4.6 not to cause or permit the Occupation of more than 80% of the Dwellings until (unless otherwise agreed in writing with the Council) the Open Space Land has been transferred to the Management Body in accordance with the requirements of the Open Space Management Scheme approved by the Council and thereafter the Management Body to manage and maintain the Open Space Land in accordance with the Open Space Management Scheme approved by the Council;
- 4.7 not to use the Open Space Land for any use or purpose other than as public open space for use by and for the enjoyment of the public in perpetuity.

Car Club

- 6. Car Club
 - 6.6.1 The Owner shall not Occupy the Development until it has submitted a draft scheme for the operation of a Car Club including:
 - (a) the location of the Car Parking Space in the Development to be made available by the Owner to residents of the Development; and
 - (b) the timing of the start of the operation of the Car Club on the Site to the Head of Planning for his approval such scheme in its approved form referred to herein as the "Car Club Scheme";
 - 6.6.2 No more than 20 % of the Development shall be Occupied unless and until the Car Club Scheme has been approved in writing by the Head of Planning;
 - 6.6.3 The Owner shall procure the establishment and promotion of the Car Club on the Site in accordance with the Car Club Scheme and shall provide the names and address of the operator of the Car Club to the Head of Planning prior to Occupation of 30% of the Development;

- 6.6.4 The Owner shall secure that one Car Parking Space is reserved for the use of the Car Club on the Site and shall provide and retain that spaces as part and for the lifetime of the development.
- 6.6.5 In the event that a Car Club operator cannot be secured within 12 months of first Occupation of the Development then the Owner shall pay the sum of £5,000 (five thousand pounds) to the County Council in lieu of the Car Club provisions and on payment of such sum, the provisions of paragraphs 6.6.1 to 6.6.4 of this Schedule shall cease to have effect.

PART II

OWNERS'S COVENANTS TO THE COUNTY COUNCIL

Contributions to the County Council

5. The Owners covenant with the County Council:
- 5.1 to pay 50% (fifty per cent) of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution Youth Service Contribution and to the County Council prior to the Occupation of Development; and
- 5.2 not to cause or permit Occupation of the Development until it has paid 50% (fifty per cent) of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution Youth Service Contribution and Travel Plan Evaluation and Support Contribution to the County Council in accordance with **paragraph 5.1** above.
- 5.3 to pay a further 50% (fifty per cent) of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution Youth Service Contribution and Travel Plan Evaluation and Support Contribution to the County Council prior to the Occupation of more than 50% of Development; and
- 5.4 not to cause or permit Occupation of more than 50% of the Development until it has paid the further 50% (fifty per cent) of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution Youth Service Contribution and Travel Plan Evaluation and Support Contribution to the County Council in accordance with **paragraph 5.3** above.5.4
- 5.5 to pay the Bus Service Contribution to the County Council in the following instalments:
- 5.5.1 £44,100 prior to first Occupation;
- 5.5.2 £44,100 prior to Occupation of the 42nd Dwelling or the first anniversary of first Occupation, whichever is earlier;

5.5.3 £44,100 prior to Occupation of the 84th Dwelling or the second anniversary of the first Occupation , whichever is earlier;

5.5.4 £44,100 prior to Occupation of the 126th Dwelling or the third anniversary of the first Occupation , whichever is earlier;

5.5.5 £44,100 prior to Occupation of the 167th Dwelling or the fourth anniversary of the first Occupation , whichever is earlier;

5.6 not to Occupy the Development until the first instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 5.5.1.

5.7 not to Occupy more than 41 Dwellings until the second instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 5.5.2;

5.8 not to Occupy more than 83 Dwellings until the third instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 5.5.3;

5.9 not to Occupy more than 125 Dwellings until the fourth instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 5.5.4;

5.3.5 not to Occupy more than 166 Dwellings until the fifth instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 5.3.5;

- 6** to pay the Travel Plan Evaluation and Support Contribution prior to Commencement and not to Commence the Development until the Travel Plan Evaluation and Support Contribution

Fire Hydrants

7. The Owners covenant with the County Council:
- 7.1 ensure that the Water Scheme incorporates fire hydrants in accordance with BS 750 (2012) as reasonably and properly required by the Fire and Rescue Service.
- 7.2 To prepare and submit the Water Scheme to the Fire and Rescue Service for its written approval prior to Commencement of the construction of any Dwelling to be constructed as part of the Development.
- 7.3 not to Commence nor cause nor permit Commencement of the construction of any Dwelling to be constructed as part of the Development until they shall have prepared and submitted the Water Scheme for the Development to the Fire and Rescue Service for its written approval.
- 7.4 To construct and provide at no cost to the Fire and Rescue Service or the County Council the fire hydrants reasonably and properly indicated in the Water Scheme and to advise the Fire and Rescue Service in writing of the date upon which each and every fire hydrant becomes operational and ready to be used for the purpose of fire-fighting by the Fire and Rescue Service.
- 7.5 once operational to maintain the fire hydrants in good condition and repair such that they are suitable at all times for use by the Fire and Rescue Service until they are adopted by the Fire and Rescue Service which adoption shall take place upon the issue of a certificate of satisfaction by the Chief Fire Officer of the Fire and Rescue Service the issue of which shall not be unreasonably withheld or delayed provided that such certificate shall not be issued prior to the issue by the Director of Environment of any certificate of maintenance for the highways in which the fire hydrants are located.
- 7.6 To ensure that each Dwelling can be served by a fire hydrant which is operational and ready to be used for the purpose of fire-fighting by the Fire and Rescue Service prior to Occupation of the Dwelling.

- 7.7 not to Occupy nor cause nor permit Occupation of any building forming part of the Development including any Dwelling until such time as it is served by a fire hydrant which is operational and ready to be used for the purpose of fire-fighting by the Fire and Rescue Service.
- 7.8 address any notice to be given to the Fire and Rescue Service to the Water Services Officer, Fire and Rescue Service, 9 Merchant Drive, Mead Lane, Hertford SG13 7BH Telephone 01992 507638.

Transfer of the School Land

Travel Plan

9. The Owners hereby covenant with the County Council:
- 9.1 prior to Occupation of the Development to submit a draft Travel Plan for written approval to the County Council and obtain such approval.
- 9.2 not to Occupy nor cause nor permit Occupation of the Development until the Travel Plan has been submitted to and approved in writing by the County Council
- 9.3 prior to Occupation of the Development to nominate a Travel Plan Coordinator for written approval of the County Council and obtain such approval and such nomination shall include the contact details for the proposed Travel Plan Coordinator and the nature of their relationship to the Owners
- 9.4 Not to Occupy not cause nor permit Occupation of the Development until the details of the Travel Plan Coordinator has been submitted to and approved in writing by the County Council and appointed
- 9.3 at all times during Occupation of the Development to:
- 9.3.1 comply with the terms of the approved Travel Plan including but not limited to implementing any actions by any dates specified in the Travel Plan;

- 9.3.2 promote and publicise the approved Travel Plan to owners occupiers and visitors to the Development;
- 9.3.3 implement the Travel Plan by the dates or within the time limits set out in the Travel Plan;
- 9.3.4 carry out the Travel Plan Annual Review and submit a written report setting out the findings of such review to the County Council within three (3) calendar months from the dates of each Travel Plan Annual Review such report shall include (but shall not be limited to) recommendations for amendments or improvements to the approved Travel Plan and whether or not the objective of the Travel Plan have been achieved;
- 9.3.5 comply with any variations or amendments to the Travel Plan permitted by this Deed which shall in addition include any amendments or improvements reasonably required by the County Council following review of the report submitted pursuant to subparagraph 9.3.4 above and notified in writing to the Owners within three (3) calendar months from the date of receipt of such report.

SCHEDULE THREE

COUNCIL'S COVENANTS

1. The Council covenants with the Owners to pay the District Council Contributions and the Ecology Contribution into an interest-bearing account with the Council's bankers and together with all interest that may from time to time accrue the said monies will be applied by the Council towards the provision of the relevant facilities as specified in the definition of each such contribution.
2. If any part of the District Council Contributions paid to the Council has not been expended or committed to be spent by the Council within ten years of the date of receipt by the Council, the Council shall repay any such unexpended sum with any interest accrued thereon to the party who made that payment.
3. If a local off-site biodiversity project is not identified and/or any part of the Ecology Contribution paid to the Council has not been expended or committed to be spent by the Council within five years of the date of receipt by the Council, the Council shall give any such unexpended sum to the Environment Bank.
3. At the written request of the Owners the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been fully performed.
4. The Council covenants with the Owner to hold the Healthcare Contribution in an interest bearing account until such time as the NHS makes a written request for the Healthcare Contribution together with a proposal for the expenditure of the Healthcare Contribution for the purposes identified in this agreement.

SCHEDULE FOUR

COUNTY COUNCIL'S COVENANTS

1. The County Council covenants with the Owners to use all sums received from the Owner under the terms of this Deed for the purpose(s) specified in this Deed for which they are paid
.
2. If any part of the County Council's Contribution paid to the County Council has not been expended or committed to be spent by the County Council within ten years of the date of receipt by the County Council of notification of completion of the Development the County Council shall repay any such unexpended sum to the party who made that payment.
3. At the written request of the Owners the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been fully performed.

SCHEDULE FIVE

PROFORMA

EVENT NOTIFICATION AND PAYMENT

PURSUANT TO SECTION 106 AGREEMENT

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE.....

HCC DU REFERENCE

SITE ADDRESS

.....

.....

.....

SITE OWNERS DETAILS

Name

Contact name

Address

.....

.....

Telephone nos.

Main

Mobile

Email

EVENTS BEING NOTIFIED

Commencement Date – date :.....

Occupation of Development (Number if relevant) – date:.....

Completion of Development – date:

COMPLIANCE WITH OBLIGATION(S)

Schedule **Paragraph**

Details of obligation and compliance

.....

PAYMENT OF S106 CONTRIBUTIONS

Payment Type	Amount	Interim Indexation	Final Indexation	Total	Payable to
Example Education (primary)	X £	Y £	Z £	X+Y £	Herts County Council

Payment of S106 contributions can be made by BACS, CHAPS or cheque. In any event the form should be completed to ensure the payment is identified correctly and forward to:

- a) The County Secretary
Hertfordshire County Council
County Hall,
Pegs Lane
Hertford
Hertfordshire
SG13 8DE

(Ref : 11288)

- b) To Planning Control and Conservation Manager North Hertfordshire District Council
Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF(18/02722/FP)

Schedule 6

Application Housing Mix

Development Mix by Tenure and Size					
HOUSES			FLATS		
Number of bedrooms	A) Open Market & Shared Ownership	B) Affordable Rented	Number of bedrooms	A) Open Market & Shared Ownership	B) Affordable Rented

EXECUTED and DELIVERED as a **DEED** on the date of this document

EXECUTED under the Common Seal of
NORTH HERTFORDSHIRE
DISTRICT COUNCIL

in the presence of:

Duly Authorised Officer

EXECUTED under the Common Seal of
HERTFORDSHIRE COUNTY COUNCIL

in the presence of:

Chief Legal Officer/ Assistant Chief Legal Officer

EXECUTED as a **DEED** by
ZEDRA TRUST COMPANY (UK)
Acting by two Directors/a Director
and its Secretary

Director

Director/Secretary

EXECUTED AS A DEED by)
DIANA LADY FARNHAM)
in the presence of)

Witness
Signature
Address

EXECUTED AS A DEED by)
LUCINDA MARY CORBY)
in the presence of)

Witness
Signature
Address

EXECUTED AS A DEED by)
MICHAEL JOHN GILBERT BRIDGE)
in the presence of)

Witness
Signature
Address

EXECUTED AS A DEED by)
PATRICIA ELLEN BRIDGE)
in the presence of)

Witness
Signature
Address

Version date 03.11.20

Proposed Heads of Terms for Land Transfer Agreement relating to the transfer of land at Heath Lane Codicote to be laid out for a playing field associated with an expanded Codicote Church of England Primary School

The Transferor and the Transferee will execute a Land Transfer Agreement which incorporates the following terms:

Transferor:	Zedra (and their successors in title)
Transferee:	Hertfordshire County Council
Land to be transferred:	0.543 hectares (1.342 acres) of agricultural/pasture land to the rear of residential properties north and west of St Albans Road Codicote adjacent to footpaths 14 and 15 Codicote as shown edged red on plan S203 dated 22/01/19 attached
Conditions:	<p>Transfer shall be subject to:</p> <ul style="list-style-type: none">a) The HCC obtaining planning permission to lay out the land edged red on the plan for use as a playing field in association with the Codicote Church of England Primary School application reference 20/01494/HCC (“ the Playing Fields Permission”, and:b) The HCC obtaining planning permission for the temporary Haul Road as set out in the Plan ref (“the Haul Road Permission”)c) The grant of planning permission by North Herts District Council in respect of application reference 18/02722/FP relating to the residential development of the land south of Heath Lane, Codicote or any other planning permission relating the development of that land that may supersede permission 18/02722/FP (“the Residential Development Permission”)
Interest to be transferred:	The unencumbered freehold interest with vacant possession.
Title Insurance	It is understood from the Land Registry that prior to the registration of the freehold interest in the land shown edged red on plan XXXX the deeds to that land had been lost and that there may be restrictions affecting that land that may still be capable of enforcement. The transferor shall arrange suitable insurance cover to indemnify the County Council against any claim that may arise in respect of any party seeking to enforce any such restriction.
Consideration:	£1 if demanded.
Transfer Timing:	

The transfer of the playing fields takes shall take place on either:

- (i) 4 months after the statutory challenge period in respect of the playing fields permission plus [] days SAVE in the event that challenge proceeding are commenced in relation to that permission within the said 4 month period and [] days then an extension of time shall apply until any proceedings are finally resolved; or
- (ii) the Transfer of the Residential Development Land

whichever is the later

Definition of “Transfer of Residential Development Land” either

- (i) the transfer of the Residential Development Land to a third party for development; or
- (ii) 4 months after the statutory challenge period in respect of the residential development permission plus [] days SAVE in the event that challenge proceeding are commenced in relation to that permission within the said 4 month period and [] days then an extension of time shall apply until any proceedings are finally resolved

Noting the following in respect of ii) above

that a Notice of the transfer of the Residential Development Land to a third party for development is served within 14 days of exchange with the third party and that the Notice should be for the transfer of the playing field land to be “on or within six weeks of completion of that transfer”.

whichever is the earlier

Documentation:

The transfer will be concluded in accordance with a draft transfer that will form an annex to the proposed agreement.

Access:

a) Temporary access (haul road)– The Transferor to use best endeavours to ensure that there is nothing in the planning permission of the residential development prohibiting or in contravention of this; and (ii) the haul road planning permission is in accordance with the plan ref [xx]; and (iii) the permanent access (see below) has not been constructed then; and (iv) another suitable alternative haul road has not been afforded then immediately upon the transfer of the land edged red on the plan to the HCC the transferor shall grant to the HCC and its agents a right to pass over the adjoining land with and without vehicles along the route referred to below for the purpose of laying out the land edged red for use as a playing field. The extent of the route shall only be within an area as shown on Plan [xx] or such other route as the parties may agree. This right shall be granted at no cost to the HCC and shall continue up until the earlier of; (i) the date when access can be

provided in accordance with the permanent access provision; or (ii) the date when another suitable alternative haul road has been afforded.

HCC covenants to apply and pursue the permission of the haul road.

b) Permanent access – The planning permission for the residential development will include the demolition of 66 St Albans Road to enable to widening of the footpath No. 14 Codicote such that it may be made up to form one of the principle vehicular access roads to the residential development. Until such time as that access road may be adopted as a public highway the HCC will require the Transferor to grant to the HCC (including any successors, assigns and agents) a permanent right to pass and repass over it in order to gain access to the land edged red for the purposes of access by emergency vehicles, grounds maintenance and other uses ancillary to its use as a primary school playing field.

c) Access for surveys – From time to time prior to the transfer of the land edged red on plan S203 the HCC (and its agents) may need to access to that land for survey purposes in order to prepare a works specification for the laying out of the playing field. The transferor will permit HCC (and its agents) access for that purpose provided that the HCC has given the Transferor reasonable notice of its intention, such access and works to be subject to an appropriate licence.

d) Implementing the adjoining residential development – The developer may need access to the land edged red to implement the residential development and it is likely that the developer will require access to part of this land to facilitate construction of a footpath on the adjoining land. HCC will permit the developer (and its agents) access for that purpose provided that the works are carried out within the school holidays, that the developer has given HCC [14 days] notice and enters into an appropriate licence for works to include provisions to reinstate.

Management:

Until such time as the land edged red is transferred to the HCC the transferor will continue to manage that land in an appropriate manner and will not permit anything to be done (or may arise) that may adversely affect the intention of the HCC to lay the land out as a playing field associated with the Codicote Church of England Primary School.

Condition:

Assuming that the Transferor complies with the conditions outlined above the HCC will accept the land in its current condition.

Vacant Possession:	Full vacant possession will be required on completion of the transfer.
Costs:	The Transferor will be responsible for meeting the HCC's costs associated with the execution of the Land Transfer Agreement and the transfer of the land edged red to the HCC.
Drafting:	The drafts of the proposed Land Transfer Agreement and the Land Transfer will be prepared by HCC as Transferee and submitted to the Transferor for approval.

ITEM NO:	
<u>Location:</u>	Land North of Ashwell Street and South of Lucas Lane Between Huntsridge And East Lodge, 22 Lucas Lane, Ashwell, Hertfordshire
<u>Applicant:</u>	Mr Oscar Briggs
<u>Proposal:</u>	Erection of 24 dwellings including creation of vehicular access off Ashwell Street, footpath link to Lucas Lane, associated public open space and landscaping (as amended by plans received 17.08.20).
<u>Ref. No:</u>	20/00126/FP
<u>Officer:</u>	Naomi Reynard

Date of expiry of statutory period

Extended statutory expiry date – 23rd November 2020.

Reason for delay

An extension of time has been agreed to allow time for some of the issues with the application to be addressed and for the application to be reported to Planning Committee.

Reason for Referral to Committee

The site area is larger than 0.5 hectares and therefore the application needs to be presented to Planning Committee for determination, in accordance with the Council's constitution.

1.0 Relevant History

- 1.1 A pre-application request (19/01214/PRE) was made to the Council regarding proposed residential development comprising 23 dwellings on this site.

2.0 Policies

2.1 North Hertfordshire District Local Plan No. 2 with Alterations 1996 (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 29 – Rural Housing Needs
Policy 51 – Development Effects and Planning Gain
Policy 55 – Car Parking (SPD Car parking);
Policy 57 – Residential Guidelines and Standards.

2.2 National Planning Policy Framework (NPPF):

In general and with regard to:

Section 2 – Achieving sustainable development;
Section 4 – Decision-making;
Section 5 – Delivering a sufficient supply of homes;
Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 11 – Making effective use of land;
Section 12 – Achieving well-designed places;
Section 14 – Meeting the challenge of climate change, flooding and coastal change
Section 15: Conserving and enhancing the natural environment
Section 16 – Conserving and enhancing the historic environment.

2.3 North Hertfordshire District Council Local Plan (2011-2031) Proposed Submission

Section 2 – Strategic Policies

SP1 - Sustainable development in North Hertfordshire;
SP2 - Settlement Hierarchy;
SP5 – Countryside and Green Belt
SP6 – Sustainable Transport
SP7: Infrastructure Requirements and Developer Contributions
SP8 - Housing;
SP9 - Design and Sustainability;
SP10 - Healthy Communities;
SP11 - Natural resources and sustainability;
SP12 - Green infrastructure, biodiversity and landscape;
SP13 - Historic Environment;

Section 3 – Development Management Policies

CGB1 – Rural areas beyond the Green Belt
CGB2 – Exception sites in rural areas
T1 - Assessment of transport matters
T2 - Parking;
HS2 - Affordable housing;
HS3 - Housing mix;
HS5 - Accessible and Adaptable Housing
D1 - Sustainable design;
D3 - Protecting living conditions;
D4 - Air quality;
NE1 - Landscape;
NE5 - New and improvement public open space and biodiversity;
NE6 – Designated biodiversity and geological sites;
NE7 - Reducing flood risk;
NE8 - Sustainable drainage systems;

NE9 - Water Quality and Environment
NE10 - Water Framework Directive and Wastewater Infrastructure
NE11 - Contaminated land
HE1 - Designated heritage assets
HE4 - Archaeology.

Supplementary Planning Documents

Design

Vehicle Parking at New Development

Supplementary Planning Guidance

Ashwell Village Design Statement (October 2000)

3.0 Representations

3.1 **Historic England** – Objected to the application on heritage grounds. They consider that the site is important to the significance of the Conservation Area and it should be retained as open space. Their full comments are attached as an appendix.

3.2 **NHDC Conservation Officer** - Raised an in-principle objection concluding that the degree of harm to the Ashwell Conservation Area would be less than substantial towards the upper end of the continuum.

3.3 **NHDC Landscape and Urban Design Officer** – Provided detailed comments on the original and amended scheme. Reached the following conclusion in response to the amended scheme:

“The amendments do not fully address my concerns about the layout, and I am still particularly concerned about the access off Ashwell Street. There is still insufficient information provided on the changes to Ashwell Street to accommodate the new junction into the site to assess the full landscape and visual impact of creating a vehicular access off Ashwell Street. The information that has been submitted indicates that the development will have a detrimental effect on the character of Ashwell Street. Without an acceptable access into the site there can be no development.”

3.4 **HCC Historic Environment Advisor, Natural, Historic and Built Environment Team (Archaeology)** – Believes that the proposed development is such that it should be regarded as likely to have an impact on heritage assets and recommended conditions.

3.5 **HCC Hertfordshire Ecology** - Natural, Historic and Built Environment Team - No objections following receipt of further information. Recommended conditions and informatives.

3.6 **HCC Rights of Way (Footpaths Unit)** – Raised an objection to the application as originally submitted. Following re-consultation on the amended plans they withdrew this objection and made the following comments.

“The changes to the sweep into the development to discourage general use of the eastern section of Ashwell Byway 16 by vehicles, are acknowledged as an improvement. Also the capacity for a shared route into the development being in accordance with Hertfordshire Highways standards for a development of this size, make this development access acceptable.

The non-motorised route though the development, linking Ashwell Street to Lucas Lane however should be a minimum of 6m wide, and have a variety of surfaces, eg sealed, unsealed surface and amenity margin that are in keeping with the development, as described in the Countryside and Rights of Way Design Guide for non-motorised routes, Aug 2020.

Under these terms I do not object to this application, although I have not taken into consideration the changes in the character of Ashwell Street, as a quiet Green lane, that this new access, surface and increased use will produce.”

- 3.7 **HCC Area Highway Development Control Manager** – No objections and recommended conditions and informatives. Withdrew their previous objection following receipt of amended plans to demonstrate that proposed access road serving this site would be adequate by reason of the width to serve the range of waste collection vehicles in current use.
- 3.8 **NHDC Transport Policy Officer** – Comments made regarding parking provision, travel plans and sustainable transport contributions.
- 3.9 **Contract Officer Waste, Recycling and Street Cleansing** - No objections. Consider that the scheme is now acceptable following receipt of further details of the circulation route for refuse collection vehicles.
- 3.10 **NHDC Housing Supply Officer** - No objection to 8 units being provided for affordable housing which is a contribution of 35%.

The applicant's proposals vary slightly from the recommended mix. The proposals include the provision of 8 affordable housing units: 2 x 1 bed (2 person) flats; 2 x 2 bed (4 person) bungalows; 2 x 2 bed (3 person) houses and 2 x 3 bed (4 person) houses for the affordable housing.

The proposed mix, with the provision of 2 x 2 bed bungalows instead of a two-bed house and a three-bed house is acceptable to the council, provided the 65% rented/ 35% intermediate affordable housing tenure mix is met. The SHMA identifies a greater need for smaller homes for rent and therefore she recommends that the 2 x 3 bed houses are for intermediate affordable housing tenure along with either a two-bed bungalow or house.

The Housing Supply Officer's comments set out the more detailed requirements for the affordable housing.

- 3.11 **HCC Growth and Infrastructure Unit, Hertfordshire County Council** – Raised an objection, summarised as follows:

“There is not sufficient capacity in Ashwell Primary School to accommodate this unallocated development site:

- ***Ashwell primary school does not have the capacity to expand.***
- ***There are no other primary schools within a statutory safe walking distance of the application site.***
- ***Therefore, this development is unable to be mitigated and the County Council’s objection to the planning application remains.”***

- 3.12 **Environment Agency** - Confirm that they will not be commenting on this application as it falls outside their remit at this time.

- 3.13 **Anglian Water** – No objection and recommended informatives.

- 3.14 **Affinity Water** – No comments received.

- 3.15 **HCC Lead Local Flood Authority** – Following submission of further information, the LLFA have withdrawn their objection and recommended conditions. The LLFA were re-consulted following concerns raised by local residents specifically in relation to recent flooding at Hodwell and the timing of the infiltration testing. As such the LLFA have recommended an additional condition to be attached to the planning permission for provision a ground investigation report with further infiltration testing to be carried out to ensure the feasibility of the proposed design.

- 3.16 **Architectural Liaison Officer Herts Police** – Recommended an informative that the applicant is requested to contact the Hertfordshire Constabulary Crime Prevention Design Service with a view to seeking the Police preferred minimum security standard that is Secured by Design.

- 3.17 **NHDC Environmental Protection (Contaminated Land)** – No objection and recommended a contaminated land condition.

- 3.18 **NHDC Environmental Health (Noise and other Nuisances)** – No objections. Recommended a condition requiring full details of a construction phasing and environmental management programme to be submitted and approved prior to commencement. Recommended informatives in relation to BS5228-1:2009 (Code of Practice for noise control on construction and open sites) and hours of work during construction phase.

- 3.19 **NHDC Environmental Protection (Air Quality)** – Recommended condition requiring that prior to occupation, the new development shall incorporate Electric Vehicle (EV) ready domestic charging points on the basis of 1 charging point per unit (dwelling with dedicated parking), or 1 charging point per 10 spaces (unallocated parking).

- 3.20 **HCC Minerals and Waste Planning Policy** – Confirmed that British Geological Survey Data reveals that the site is not underlain with any sand and gravel deposits and as such the county council, as the Minerals Planning Authority, has no concerns with regards to mineral sterilisation. They require a Site Waste Management Plan, which could be required by planning condition.
- 3.21 **NHDC Grounds Maintenance** - Made comments on the application as originally submitted with regard to maintenance, concern about loss of existing open space and queried if there is a need for a formal equipped play area that can serve not only the development but also the surrounding village.
- Following re-consultation on amended plans they commented that due to its location in Ashwell it is unlikely that the District Council would adopt any open space. And as such, there would be little opportunity to consider any off-site contributions for a NHDC location and potentially this is likely to be maintained by a management company if not the parish in the future.
- 3.22 **NHS East and North Hertfordshire Clinical Commissioning Group** – ***“It would not be our intention to respond to this application. Any concerns that the Parish Council have can be raised with the CCG direct.”***
- 3.23 **HCC Fire and Rescue Service** – No comments received at time of writing report. They were not consulted initially in error and have been consulted late in the process. On similar scale developments they have said that the provision of fire hydrants is required within the development, which are to be secured by condition.
- 3.24 **Ashwell Parish Council** – The Parish Council made comments on the application as originally submitted in February 2020. They made objections on the amended plans in September 2020. Both sets of comments are attached as appendices and the more recent response includes objections raised by local residents.

The Parish Council’s objections are copied below:

“(i) Vehicular access onto Ashwell Street. Conflict with the right of way; the unmade track known as the Ruddery, BOAT Ashwell Byway 16. Exacerbation of existing safety issues at the Kingsland Way junction. See points 2 (i) and (ii) below.

(ii) Harm to a Heritage Asset; Local Plan Policy HE1 and NPPF. The pre-application advice from NHDC to the applicant stated that the benefits of the development would not outweigh the harm to the character and appearance of the Conservation Area.

(iii) Sustainable development. Para 8 of the NPPF sets out criteria for this but the proposed development conflicts on the following:

- ***Education capacity -need for primary age children to travel out of the village,***
- ***Medical facility capacity -need to travel out of the village,***
- ***Failure to protect the natural and the built historic environment,***

- **Access to other facilities and employment – need to travel, e.g. to the station 2 miles from the village.**

(iv) Adverse impact on important views both into and out of the site.

This conflicts with the District Local Plan: Ashwell Conservation Area Character Statement July 2019, KeyView23. See also point 2 (iii) below.

Also the proposed layout puts the taller houses at the top of the slope further impacting on the views across the site.

(v) Conflict with the emerging Ashwell Neighbourhood Plan. Community views are in favour of small developments of ten houses or less.

(vi) Drainage and flood risk. See also 2 (iv) below. Despite the further information provided by the applicant to the flood authority, concerns remain particularly in the light of recent flooding events to properties in Ashwell. The impact of heavy rainfall on the movement of debris from unmade roads and surfaces on significantly sloping land had not been taken into account. In other parts of the village this had frequently led to blockage and failure of drainage systems. Concerns were expressed about the use of a SUDS system for dealing with surface water given that the proposed development had vehicular access via an unmade road. This would introduce soil and other solid matter that could clog the drainage ‘pores’ that the SUDS system relied on to provide drainage into the underlying ground. Once the SUDS paving was clogged the water would stay on the surface and run downhill towards Lucas Lane properties. The proposals for this site needed to address these issues before any development is given approval.”

3.25 Neighbours

In response to publicity the Local Planning Authority has received objections from some 27 local residents (running total is available to view on the website). For a full understanding of all comments received Members can inspect the relevant pages on the Council's website.

The objections and the issues raised include the following matters:

Principle

- Site currently outside village boundary
- There is currently a dispute as to whether the proposed change in boundary for the new local plan was properly raised in the consultations and is therefore justified.
- Not an allocated housing site in the draft local plan so not plan-led.
- There has already been far too much green field development in Ashwell in recent months.
- Loss of good agricultural land.
- Building on this site would not reflect Government guidelines under NPPF for ‘conserving and enhancing the natural environment’.
- Contributes to the emblematic patchwork quality and ragged edge of the village bringing in greenery and landscape amongst the village houses and built environment. By filling in this gap, Ashwell will have a continuous hard

- boundary between the residential settlement and farmland along the high, ancient visible line of Ashwell Street.
- Contrary to emerging Ashwell Neighbourhood Plan.

Highways

- Impact on highway safety.
- Unacceptable vehicle access.
- Impact on safety of users of Ashwell Street, which is a single lane unmade by-way with no footpath, lighting, passing places or turnings areas frequently used by pedestrians, walkers, joggers, families, children, cyclists, horses. Concerns regarding safety due to traffic in both directions, funding for the upgrades, future maintenance, whether it will have a pedestrian walkway and public should have priority over cars as it is a BOAT (a byway open to all traffic), potential for accidents and conflict between Ruddery users and car drivers.
- Ashwell Street unsuitable for increased level of vehicles and larger vehicles - in a poor state of repair with large potholes.
- Questioned why the Ruddery has been considered at all in the first place when there was the possibility of an entrance via Lucas Lane.
- Vehicles would exit east (even if not made up) as quickest route to station and A505.
- Any upgrading of Ashwell street from Station Road to Hunts Ridge would destroy its character
- Impact off increase traffic on Ashwell Street/Kingsland Way junction which is already hazardous because of the gradient and restricted sight lines.
- Impact of increased traffic on Ashwell Street/Station Road junction
- Increased traffic (during construction and from new residents) in already crowded village and on A505 and A1.
- The application makes reference to the availability of public transport; but the first bus is not until 9.30am.
- Concern how refuse collection vehicles or fire engines would be able to enter the site if needed.

Parking

- Inadequate parking provision. This may lead to cars being parked in Lucas Lane or Ashwell Street thus further exacerbating congestion.
- No electric vehicle charging points seem to be proposed in the current housing.

Impact on Heritage Assets

- Adverse impact on the Conservation Area.
- The Icknield Way is part of our National Heritage and should be preserved.
- Site is of significant archaeological significance and concern with regard to loss of archaeological heritage

Visual impact/Impact on character of the area

- Character of Ashwell has been retained until recently by retaining fields and meadows within the village boundary.
- Cumulative impact of recent housing developments granted over left few years (Claybush Hill 30, Lucas Lane 4, and Station Road 9) - disproportionate to the size of Ashwell and not sustainable.

- Visual impact on village as on a slope.
- Out of character architecture.
- This site was identified in the Village Design Statement as an open space of importance to the character of the village.
- The green field is a visual amenity in the village, especially to when seen from north of the village, and should be retained to preserve the village environment.
- The quality of the environment of the byway (Roman road), which is currently a pleasant walkway offering beautiful views, will be ruined by vehicular access to this site due to paving and vehicles and loss of green tunnel banks and trees.
- Loss of much loved and valued view from existing gate at the top of the site looking north over the Cam Valley – identified as important view in NHDC Ashwell Conservation Area Character Statement.
- The field contributes to the village's emblematic patchwork quality and ragged edge – bringing in greenery and landscape amongst the village houses and built environment. By filling in this gap, Ashwell will have a continuous hard boundary between the residential settlement and farmland along the high, ancient visible line of Ashwell St, and all sense of organic development over the last centuries will be irrevocably lost.

Design/layout

- Car dominated layout.
- Density is too high.
- Bungalows not very accessible for elderly or those who have mobility needs.
- Proposed location of affordable housing.

Impact on neighbours

- Overlooking/loss of privacy.
- Loss of light, overshadowing and dominance particularly to the bungalows in Lucas Lane.
- Nothing in the proposals to show visual impact on neighbouring properties.
- The proposed layout maximises housing at the lower end of the field which carries the greatest intrusion (due to elevation) on the privacy of neighbouring properties.
- Noise and disturbance.
- No green buffer for residents in Lucas Lane.
- Loss of neighbouring properties' enjoyment of private outside space.

Housing need

- Almost all the affordable houses are clustered in the north-east corner. If developed this would be a better location of bungalows – less impact (bulk and privacy) on neighbouring properties and easier access for residents on foot into the village.
- Ashwell has exceeded Governmental housing demands and houses built some years ago remain unsold – there is no demand for more houses in Ashwell.
- Ashwell is already having around 40 extra houses being built or approved and cannot take anymore.

- The housing need in Ashwell is for small developments of housing for the elderly and those who have mobility issues (as shown in the housing survey undertaken by the Ashwell Neighbourhood Working Party in 2015 and has been corroborated by the report of the Office for National Statistics of September 2018). Scheme does not address this need as one of the bungalows is half-way up the hill.

Impact on local infrastructure

- Cumulative impact of recent developments on infrastructure and local services - waste disposal, sewers, roads, parking, doctors, dentist and schools.
- Impact on schools - Ashwell school and neighbouring schools are at capacity. Not sustainable for children to have to travel elsewhere to attend primary school. Knights Templar Secondary School in Baldock is oversubscribed.
- Impact on GP surgery - Currently a non-urgent/routine appointment with the local GP surgery is normally at least 3-week wait.
- Impact on dental surgery.
- Impact on the sewerage system - The sewerage system around the area of development needs major investment. Sewerage system is heavily overloaded. Inadequate water/sewage services, particularly in respect of the dwellings in Lucas Lane.

Loss of habitat and wildlife

- Impact on owls, bats, hedgehogs, newts, birds and various amphibians.
- Excessive tree or hedgerow removal can affect drainage, soil stability, wildlife habitat, hunting, atmosphere and appearance of the area.

Impact in light of climate crisis

- The houses as proposed do nothing to address the needs of climate change.
- Plans state that British Gas can supply gas into the development – no mention of using heat or air pump in these houses; lack of integrated solar power is disappointing, no details as to whether the properties being constructed and insulated to a standard which gives zero heat transfer in or out of the properties and little on information on how this development would impact on the water supply.

Security/safety issues

- Concerns regarding impact on security of the new pedestrian access to Lucas Lane between the gardens of no 8 and 4.
- The application provides no information on street lighting, fence construction/heights, boundary ownership and maintenance.

Concerns with regard to drainage /run off/flooding

- Increased risk of surface water flooding, as inadequate provision for rainwater run off.
- Concerns that the proposed development will drain via infiltration and that all parts of the development will drain via permeable paving. Recent experience at Philosopher's Gate is that permeable block paving is not absorbing of all the run-off and is causing problems.

This would be exacerbated on a hill location. Massive potential for harm to the properties lying down the if the drainage is not managed to completely percolate within the site boundary. The properties in Lucas Lane are at risk of flooding.

- Exacerbate existing surface water flooding issues in Lucas Lane. The drains in Ashwell regularly cannot cope with the existing rain run off at present.

Insufficient information

- No full and accurate site sections

Further objections were received on the **AMENDED** plans. Many of the objections raised issues set out above so have not been repeated below. However, the comments specifically in relation to the amendments included the following points:

Highways

- The amended plans do not address concerns about the adverse impact on nearby road junctions which are already dangerous.
- The amended plans have not addressed concerns about the encroachment into the Ruddery (Ashwell Street).
- The amended plan has the exit onto the Ruddery curving so it apparently will force traffic to turn right – it is naive to maintain traffic will turn right when turning left would offer a shortcut to the station and the A505.

Parking

- There remains insufficient parking (not quite 2 per household) bearing in mind that each household in this rural area is likely to have at least two cars. This could lead to yet more cars being parked on Ashwell St or Lucas Lane.
- The revised plan adds a small number (6) of visitor parking spaces, which would not be enough.

Design/layout

- The amended plan offers more green space but offers no detail regarding maintenance of these areas
- Regarding housing mix and distribution, the revised scheme is an improvement on the last proposal - there is a group of bungalows directly adjacent to the existing Lucas Lane bungalows, which seems an appropriate arrangement.
- If planning permission is given, then the hedgerow at the south side of the site should be left in place – do not agree that it is in a poor state.
- Proposed density is too high.

Visual impact

- The two 'viewing corridors' proposed by the developer only partly respond to this objection offering glimpses between rows of houses – they would not be inferior and not as dramatic as that from the present gate.
- Introduction of the possibility of two, different, narrow and inferior views and losing an irreplaceable, much valued and enjoyed vista.
- Loss hedgerow along the Ruddery is unnecessary and would have impact on wildlife.

Impact on neighbours

- There is nothing in the proposal to show the visual impact on adjoining properties.

Housing need

- The amended plans do not address the housing needs of Ashwell.

Impact on local infrastructure

- The developers have still not addressed concerns regarding the strain on Ashwell's infrastructure which does not have the capacity for continuous expansion.

Loss of habitat and wildlife and impact in light of climate crisis

- Comments received from Greening Ashwell, which is a new community group formed to protect and enhance the biodiversity of Ashwell's natural environment. This includes proposed development where, if approved, the external works and landscape proposals should also provide net biodiversity GAIN. The current revised proposal does not achieve this objective and need to be revised.
 - o Lack of proposals for solar energy, power points for electric vehicles, bicycle provision, car sharing initiatives etc.
 - o Impact another development will have on us already over stretched services, traffic, sewage, lack of real affordable homes for locals and provision for the growing elderly populations.
 - o The impact the proposal will have on Ashwell Street, not only an ancient by-way but an important ecological corridor, already effected by current usage let alone possible increase traffic.

Security/safety issues

- Concerns regarding security with the new pedestrian access to Lucas Lane between the garden of no. 8 and no. 4 Lucas Lane. The application provides no information on street lighting, fence construction / heights, boundary ownership and maintenance – if the application is approved, would like to see it conditioned that the boundaries to the existing bungalows either side of the path are full height brick walls that can't be easily scaled.

Concerns with regard to drainage /run off/flooding

- Concerns about drainage and run off have not been adequately addressed.
- Apparently, the drainage testing was carried out from 3 months from May 2020. This was when there was a drought and there was little or no rainfall so the grave concerns from the Lucas Lane residents regarding water run-off and the ability of the sewerage system to cope with such a large extra number of houses have not been assuaged.
- Queried why the result of this testing is not online for all to view.

In June 2020 an email was submitted from a local resident with photos of flooding in Hodwell, Ashwell, just outside the Church. Said that this is a regular occurrence at this site even with lighter levels of rainfall.

Asked if this could be taken into consideration against current planning applications for the village, particularly application ref. 20/00126/FP where the developers have been asked to prove that the site will not add to flooding and indeed evidence how they could mitigate existing levels of flooding. This site is at a much higher level in the village and would presumably contribute to increasing water levels.

3.26 North Herts Archaeological Society

Objection received 7th March 2020:

"I am writing to you on behalf of the North Hertfordshire Archaeological Society to OBJECT to this application. Our reason is that we consider the known archaeology of this field to be of national importance which should be preserved from development. I attach documents which explain and evidence why we think this, including one showing the location of our test pits in relation to the geophysical (magnetometry) survey.

The site is covered in highly significant archaeological remains of the prehistoric, Iron Age, Roman, Saxon and Medieval periods. These include Roman ditched enclosures, one of which on the west side of the site may well be enclosing a Roman temple overlooking Ashwell Springs, evidence for which includes the finding of a silver-gilt Roman priest's ritual rattle handle, currently the subject of a Treasure Inquest; post-holes of timber buildings which may be Roman or Saxon; a deep hollow containing early Saxon pottery, bone pins and needles, etc. which may be either a ritual ceremonial hollow or a grubenhaus (sunken-featured building – timber building with a shallow cellar). I believe it to be the former, but if the latter the finds in it may suggest ritual closure by votive offerings at the end of its life. Moreover, the geophysical survey indicates that there are other such features nearby on that west side of the site which have not been investigated either by this Society's test pitting or by the Mola trial trenching.

You may see from the attached documents that my interpretation of the archaeology of the site is profoundly different from Mola's. You will see from the attachments that Mola is mistaken to write that there are no finds from the site to support my interpretation. I did offer to share the NHAS site archive with Mola, but they did not take up the offer.

As the Society believes this site to be of national importance we are applying to Historic England to have it Scheduled as a Monument of National Importance. At the very least, we believe that the area where the Saxon hollow within the double-ditched Roman (possible temple) enclosure is located should be preserved as a public green open space. This could be achieved by altering the layout of dwellings."

Further comments received 12th September 2020:

“I am writing on behalf of the North Hertfordshire Archaeological Society. Further to our earlier comments, as you know, we applied to Historic England to have the whole site Scheduled as an archaeological monument of national importance. Failing that, we encourage the applicant and Local Planning Authority to enlarge the planned public open space in the north-west quadrant of the field so that it is 70 m north-south and 30 m west-east. This would preserve the most significant parts of the known buried archaeological remains.”

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The site lies on the south-east edge of Ashwell. Ashwell is a Selected Village in the current Saved Local Plan. It is approximately 1.2 Ha in area. The site is currently outside the settlement boundary of this selected village. However, the site is included within the settlement boundary in the Emerging Local Plan along with other open spaces along Ashwell Street and Ashwell is classified as a Category A Village. The site is within the Conservation Area. It is also covered by an Archaeological Area designation.

4.1.2 The site is currently grassland and slopes down to the north towards Lucas Lane. As a result, the change in levels across the site is quite significant. It is bounded by residential development on its west, north and east sides and by Ashwell Street along its southern boundary. The site lies to the south of Lucas Lane, rear of numbers 2-12 Lucas Lane. The site adjoins the properties Huntsridge, Ashwell Street, and 5 High Street to the west and East Lodge, 22 Lucas Lane to the east. Ashwell Street is Public Right of Way and a Byway Open to All Traffic, which runs along Ashwell Street between Kingsland Way and Station Road. Beyond Ashwell Street there is open countryside to the south. There is a row of mature trees along the southern boundary with Ashwell Street and there are mature trees on the strip of land between 4 and 8 Lucas Lane.

4.2 Proposal

4.2.1 The proposal is for the erection of 24 dwellings comprising 2 flats, 4 bungalows and 18 houses. The proposal includes the creation of a vehicle access off Ashwell Street. Two new pedestrian accesses are proposed, one off Lucas Lane on the northern boundary and one, off Ashwell Street, on the southern boundary. The scheme includes two areas of public open space - one in the north east corner of the site and the other along the southern boundary of the site. The scheme includes hard and soft landscaping.

In summary the proposed dwellings comprise:

- 2 x 1 bed flats
- 2 x 2 bed detached bungalows
- 2 x 2 bed semi-detached bungalows
- 4 x 2 bed semi-detached houses
- 2 x 3 bed semi-detached houses

- 4 x 3 bed mid-terrace houses
- 3 x 3 bed end terrace houses
- 4 x 4 bed link-detached houses
- 1x4 bed detached house

8 of the properties would be affordable housing and would comprise of:

- 2 x 1 bed flats
- 2 x 2 bed bungalows
- 2 x 2 bed semi-detached houses
- 2 x 3 bed semi-detached houses

52 parking spaces are proposed. All the properties have two allocated parking spaces, except for the two one-bedroom flats which would have one parking space each, and there would be six visitor spaces. The scheme includes five detached car ports, which each serve two properties and are proposed in addition to the allocated parking spaces. Each dwelling has a private garden area, except for the two flats which have a small communal garden area.

4.2.2 Amended plans were received on 19th August 2020. The agent confirmed that the main amendments consist of:

- A new 3-metre-wide landscape buffer along the west and east boundaries;
- Removal of the proposed 2.5-metre-high reclaim brick wall on the eastern boundary;
- A second pedestrian link connecting to Lucas Lane;
- Revised layout of first floor of plot 1 style units;
- Revised layout of plots 16-19 and plots 21-22 and 24;
- A second viewing corridor from Ashwell Street to Lucas Lane;
- Removal of all single carport/garages;
- Revised junction details on Ashwell Street.

Local residents and statutory consultees were re-consulted on the amended plans.

4.2.3 The agent submitted a rebuttal letter with the amended plans in response to a detailed feedback letter from the case officer which set out the issues with the application.

4.2.4 The application is supported by the following documents:

- Planning Statement
- Design and Access Statement
- Heritage Report
- Landscape and Visual Appraisal
- Detailed Landscape Design
- Arboricultural Impact Assessment
- Phase 1 Habitat Survey
- Ecological Mitigation Statement
- Archaeological Desk-based Heritage Assessment
- Archaeological Trial Trench Evaluation
- Geo-Environmental Desk Study Report
- Geo-Environmental Results of the Soakage Testing
- Geo-Environmental Groundwater Monitoring Results

- Flood Risk Assessment (revised)
- Statement of Community Engagement
- Transport Note
- Travel Plan
- Services Appraisal
- Education Report
- Draft S106 Heads of Terms

All these documents are available to view on the Council's website.

4.3 **Key Issues**

4.3.1 The key material planning considerations are as follows:

- Principle of development and planning balance
- Impact on Heritage Assets
- Visual impact on the character of the area
- Design, layout and landscaping
- Living conditions
- Open space management
- Highways
- Parking
- Right of Way
- Ecology
- Archaeology
- Surface water drainage
- Housing mix
- Waste and recycling
- Climate change
- Planning obligations

4.3.2 **Principle of development and planning balance**

The site is undeveloped agricultural land in the Rural Area beyond the Green Belt which falls outside of a Selected Village (Ashwell) as specified in Policy 6 of the North Hertfordshire District Local Plan No. 2 with Alterations 1996 (Saved Local Plan - SLP), albeit the site borders the Ashwell village boundary on its north and west sides. The whole site is within a Conservation Area. The North Hertfordshire District Council Local Plan (2011-2031) Proposed Submission (Emerging Local Plan - ELP) sets a settlement boundary for Ashwell that includes the application site.

4.3.3 The adopted Saved Local Plan is however relatively old, with local and national planning policies having changed and evolved since its 1996 adoption. The North Hertfordshire District Council Local Plan (2011-2031) Proposed Submission (Emerging Local Plan - ELP) is now at a reasonably advanced stage having gone through a public examination process and subsequent Modifications published for public consultation.

- 4.3.4 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, permission be granted if the harm of doing so would not significantly and demonstrably outweigh the benefits unless i. or ii. of the same paragraph dictate otherwise.
- 4.3.5 Part i. of 11 d) refers to ‘the application of policies in this Framework that protect areas or assets of particular importance and these provide a clear reason for refusing the development proposed’, (which in footnote 6 includes designated heritage assets – in this case being the Ashwell Conservation Area). The footnote specifies that the policies referred to are those in this Framework and include those relating to designated heritage assets. Paragraph 196 states:
- “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”***
- 4.3.6 The planning balance in this case must be calibrated neutrally (not tilted) as the proposal would occasion ‘less than substantial’ harm to a heritage asset, harm which by itself offers clear reasons to refuse planning permission. The NPPF clearly requires that any harm to a heritage asset requires clear and convincing justification (paragraph 194). This harm amounts to conflict with ELP policy HE1 and the NPPF. It is my view that the public benefits of the proposal (provision of 24 houses including 8 affordable dwellings and the required S106 planning contributions) would not outweigh the less than substantial harm to the significance of designated heritage asset (Conservation Area). This balancing assessment is discussed in more detail below.
- 4.3.7 It is acknowledged that the Council is unable to demonstrate a 5 year housing land supply and at the time of writing this report, the latest figure stands at 2.2 years as of April 2020 (as outlined in the Councils most recent response to the Inspector ‘Examination Document ED191B Appendix 1 NHDC 5 year Housing Land Supply at 1 April 2020’) which is a significant and serious deficit. This significant and acute shortfall of housing land supply reflects a historic chronic under supply of housing compared to targets over the past 9 years or so and reflects the severe mismatch between the Government’s ‘standard method’ (which forms the basis of the five-year requirement in the absence of an up-to-date plan) and anticipated supply from ‘deliverable’ housing sites in the coming years.
- 4.3.8 With regard to the Council’s current housing land supply, it is noted that since 2011 (the start date for the planning period in the Emerging Local Plan), housing completions have been on average 313 dwellings per year, with the highest completions in 2016/17 with 539 units and the lowest in 2014/15 with just 180 completions. Until the ELP is adopted, the Council’s 5 year housing land supply for decision-making purposes and Housing Delivery Test results are based on the premise that between 700-1,000 dwellings should be provided per year. Past delivery has been significantly below these levels and this clearly demonstrates a significant shortfall of delivery over a period of 9 years.

- 4.3.9 The Housing Delivery Test (HDT) is a requirement of national policy. The Action Plan details the steps being taken to improve housing delivery in the District. The first HDT results were published in February 2019. The latest results were published in February 2020. The latest Action Plan was approved by the Council's Cabinet in June 2020. It is acknowledged that North Hertfordshire delivered 44% of the homes required in the three-year period 2016-2019. Paragraph 80 of the Action Plan states:

“Continuing to grant permission for suitable schemes in advance of the new Plan’s adoption will ensure an ongoing supply of new homes until such time as the largest, strategic sites come on stream. Taking greater ownership of the Council’s growth agenda and proposals would allow for more proactive negotiation of (prospective) schemes to ensure they can proceed through the planning system without unnecessary delay.”

However, for the reasons set out in this report, this proposal is not considered to be a suitable scheme.

- 4.3.10 In terms of public benefits, we have given some weight to the provision of 24 houses in light of the Council's lack of a five-year land supply. It is accepted that the public benefits of delivering new housing are greater when we only have a 2.2 year housing land supply than they would be with a 5 year housing land supply. It is acknowledged that the Council does not have a 5 year housing land supply and therefore the public benefits of delivering new housing can be given some weight. Although it is also worth noting the progress of the Emerging Local Plan, which is approaching a point where we can achieve a 5 year housing land supply and therefore the weight that can be given to unplanned development is reduced. It is considered that the S106 obligations would constitute public benefits, although a S106 agreement has not been submitted and agreed. It could be argued that the areas of public open space would constitute public benefits. However, it is questionable how much these open spaces would be used by the wider community, particularly as an equipped play area is not proposed. Also, the proposal would result in the loss of large area of open space, albeit private, which has public amenity value. It could also be argued that the pedestrian link to Lucas Lane would be a public benefit. However, whilst this connection is a positive of the scheme it is fairly tenuous in terms of a public benefit, given that pedestrians can access Lucas Lane from Ashwell Street via Station Road or Kingsland Way. The applicant maintains that the creation of two viewing corridors is a public benefit of the scheme. However, this is not significant in my opinion, particularly given the loss of the existing view from the gate. As such, it has been concluded that the public benefits of the proposed scheme are limited to the provision of 24 homes, including 8 affordable dwellings, and the S106 contributions. It has been concluded that the public benefits would not outweigh the harm to the Heritage Asset, especially as both Historic England and the Conservation Officer have concluded that the degree of less than substantial harm is towards the “higher end”.

4.3.11 In their rebuttal letter that applicant has disputed our approach.

“In your letter, you have argued that the titled balance of the presumption in favour of sustainable development cannot be applied due to the less than substantial harm identified to the significance of the heritage asset (the Ashwell Conservation Area). We dispute this assessment for two reasons. Firstly, we do not consider the proposal would lead to harm to the significance of the heritage asset, and secondly, you have not, as required by paragraphs 196, carried out a balancing assessment of the harm and public benefits to justify the judgement that you have reached. The reporting of less than substantial harm does not provide a clear reason to refuse the proposal without carrying out a balancing assessment as required by paragraph 196.”

However, it is considered that the decision-making framework we have adopted for assessing the application is correct. Firstly, I consider that the proposal would lead to harm to the significance of the heritage asset - so we have reached a different judgement on this matter to the applicant. I agree with the second point in the respect that the assertion of less than substantial harm does not automatically provide a clear reason to refuse the proposal without carrying out a balancing assessment as required by paragraph 196. However, I have carried out a balancing assessment of the harm vs public benefits such that would justify the judgement that we have reached. I am of the view that the proposal would lead to less than substantial harm to the heritage asset (this is discussed in more detail below). Both Historic England and the Conservation Officer have taken the view that the degree of less than substantial harm is towards the “higher end”. The Conservation Officer has identified that the proposal would result in less than substantial harm to the heritage asset (Ashwell Conservation Area) and has provided a detailed justification of this. The public benefits of the proposed scheme would be the provision of 24 houses, of which 8 would be affordable and the S106 obligations (albeit a S106 agreement has not been submitted and agreed) and these public benefits would be quite significant. However, in my view the harm to the heritage asset outweighs the public benefits, and as such there is a clear reason to refuse the proposal based on a neutrally calibrated assessment (non-tilted). In a situation where the public benefits of the scheme outweigh the less than substantial harm to the heritage asset then there would not be a clear reason to refuse the proposal, and the tilted balance would be engaged. However, that is not the case here.

4.3.12 Saved Local Plan Policy 6 sets out what development would normally be allowed in the Rural Area with an aim of maintaining the existing countryside and villages, and their character. The proposal would not comply with parts i-iv of Policy 6, therefore would not be development acceptable in principle under this policy. Policy 7 of the adopted Local Plan is not relevant as the site is not within the selected village boundary of Ashwell.

4.3.13 In their rebuttal letter the agent has stated that Saved Local Plan Policy 6 should not be given weight, as it has been identified as being inconsistent and out of date when considered against the NPPF.

- 4.3.14 The following clarification on this issue is provided on the Council's website:
“...there are four particular policies where the Council has identified an inconsistency between the Local Plan and the NPPF: Policy 6 on development in the rural areas beyond the green belt: the NPPF is more permissive of rural businesses being allowed to grow”.

This is not relevant to this proposed scheme for residential development. I consider that Saved Local Plan Policy 6 can be given weight in that it is broadly consistent with a core principle of the National Planning Policy Framework, which is to recognise the intrinsic character and beauty of the countryside.

- 4.3.15 Policies SP1 (Sustainable Development in North Hertfordshire) and SP2 (Settlement Hierarchy) are of relevance to the site, however, given that the ELP is not adopted or even completed examination in public, limited weight can be given to these policies. In my view this development proposal would remain unacceptable even if the plan were adopted and the site was incorporated into the new settlement boundary.
- 4.3.16 To emphasise this point the ELP sets a settlement boundary for Ashwell that includes the application site. The Settlement Boundary has been carried forward to the Modifications. Policy SP2 of the ELP defines Ashwell as a Category A village, where general development will be allowed within the defined settlement boundary. However, the fact that the site is proposed to be included within the settlement boundary does not mean that residential development would automatically be acceptable on the site. Whilst it is noted that the site has now been included within the settlement boundary in the ELP, the site is not an allocated housing site and it is not to be assumed that the site is suitable for residential development because it has been included within the settlement boundary. Any applications on sites which are now within the settlement boundary would be considered as windfall sites and would need to be considered on their own planning merits.
- 4.3.17 The National Planning Policy Framework (NPPF) is a material consideration which is also to be given significant weight. The ELP is considered consistent with the NPPF by implication due to the stage that has been reached towards adoption. The NPPF does not prescribe the type of development that would be acceptable in principle in the rural area. However, as discussed above, the proposed use of the site for residential development is not acceptable in principle when assessed against the adopted Local Plan.
- 4.3.18 Paragraph 8 of the NPPF sets out the economic, social and environmental objectives that should be met in order to achieve sustainable development. The proposal would fail to achieve the environmental objective, as in my opinion it would fail to protect the natural, built and historic environment for the reasons set out below, in particular the development would have an adverse impact on the rural character of Ashwell Street and the surrounding area. Whilst there would be some economic benefits (including creation of employment during the construction phase) and social benefits from the provision of 24 dwellings including 8 affordable homes and S106 contributions (albeit there is not a completed S106 Agreement) in my view the adverse environmental impacts would outweigh the economic and social benefits.

4.3.19 It is noted that Paragraph 68c of the NPPF states that: ***“To promote the development of a good mix of sites local planning authorities should...support the development of windfall sites through their policies and decisions giving great weight to the benefits of using suitable sites within existing settlements for homes”***. For the reasons set out below this is not considered a suitable site.

4.3.20 It is noted that a recent application (ref. 19/00455/FP) for nine houses was approved in September 2019 by this committee in line with officer recommendation on land at the Junction of Ashwell Street and Station Road. However, each application is considered on its own merits and the Case Officer made the following comments with regard to the balancing assessment.

“The Council’s Conservation Officer has verbally given the view that the development would result in less than substantial harm.

Less than substantial harm should therefore 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 9 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 as in the wider context of the locality including the Conservation Area the development of the site for residential and the type and quality of residential development are considered 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.”

As such they employed the tilted balance set out in Paragraph 11 of the NPPF and reached the following conclusion:

“The Local Planning Authority cannot demonstrate a 5 year supply of housing land as required by the NPPF. Indeed the position soon to be confirmed in the Annual Monitoring Report would be less than 1.5 years. 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.

No adverse impacts from the proposed development are apparent. A benefit is that the 9 new dwellings proposed would make a contribution to housing supply in Ashwell and the District. The Examination Inspector dealing with the emerging Local Plan has not questioned the designation of the site within the Ashwell settlement boundary. Overall, I consider that the proposals achieve sustainable development as required by the NPPF."

- 4.3.21 The site is currently in use as pastoral land, used for the grazing of sheep. Paragraph 170 of the NPPF states that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with the statutory status of identified quality in the development plan)."

- 4.3.22 Paragraph 112 of the NPPF states:

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

- 4.3.23 Agricultural land is graded by the Agricultural Land Classification (ALC) which grades land to assess and compare the quality of the agricultural land at national, regional and local levels. It assesses the potential for land to support different agricultural uses, such a growing crops for food and does not consider the land's current use. Land is graded from 1 – 5 with Best and Most Versatile (BMV) agricultural land being land in the grades of 1, 2 and 3a and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non-food crops for future generations

- 4.3.24 No information on this matter appears to have been provided with the application, but from checking the Natural England website appears that the application site comprises grade 3 agricultural land - good to moderate. It is not specified whether the site is classed as 3a and therefore best and most versatile agricultural land. At approx. 1.2 ha the site area is lower than the 20 ha threshold that would require Natural England to be consulted. However, it is considered that the loss of just over a hectare of grade 3 agricultural land would not be a sustainable reason grounds for refusal in this instance.

- 4.3.25 Summary on principle of development and planning balance

In summary, the proposal's clear and identified harm to the heritage asset, the proposed development's adverse impact on the rural character of the area and the lack of an agreed S106 Agreement would in my judgement significantly and demonstrably outweigh the public benefits of 24 additional dwellings including 8 affordable units and the required S106 planning contributions. As such there would be an objection in principle to the proposed development.

4.3.26 Impact on Heritage Assets

It is considered that the proposed development would result in less than substantial harm to the Heritage Asset (Ashwell Conservation Area). Historic England were consulted on the amended plans and their position and recommendation is copied below.

“Historic England’s Position

Historic England considers that the proposed scheme would cause less than substantial harm, on the high end of the scale to the significance of the Ashwell Conservation Area.

We consider that any development in this location would be dominant from Lucas Lane and would obliterate the key view mentioned as number 23 within the conservation area appraisal.

We therefore consider that the principle of development within this site would be harmful and that it should be resisted.

Recommendation

Historic England were consulted on the amended plans and I have copied their position and recommendation below.

Historic England objects to the application on heritage grounds. We consider that the site is important to the significance of the conservation area and it should be retained as open space.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 193, 194, 196 and 200.

In determining this application you should bear in mind the statutory duty of section 72(10) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character of appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.”

4.3.27 The Conservation Officer provided detailed comments on the original and amended plans. His summary and recommendation in relation to the amended plans and information is copied below:

“4. Summary

• Strutt & Parker have stated that “It is also not for the CO to direct whether or not the principle of residential development is acceptable on the site”. In response, I acknowledge that the principle of development from a planning

viewpoint is down to the case officer to comment, however, where I have raised objection to the principle of development, this is based on Heritage matters only.

- As stated by Strutt & Parker “An assessment of the alleged less than substantial harm to the designated heritage asset and public benefits of the proposal has been carried out in the Conservation Area section below. In terms of environment, this appears to be the main area of contention”. I agree that consideration of the ‘less than substantial harm’ case is key to the determination of this application.**

- The application site is in the Ashwell Conservation Area (a Designated Heritage Asset) and is identified in Key View 23 of the Ashwell Conservation Area Character Statement.**

- On the one hand the agent acknowledges that the application site is “within close proximity to the village core” but on the other is rather dismissive of the importance of this view as being one which “looks out over the edge of the settlement and Conservation Area and so has less heritage value”. The heritage value of the conservation area is the sum of all its parts and whilst the view north is not directly towards the historic core, the view does include (see left image below) properties on the east side of The Springs including the late C17 or early C18 thatched pairing that is Mulberry Tree Cottages nos. 6 and 8 Springhead (towards bottom left) and the twin stacks of Ringstead House (considered to be worthy of BLI status) in the background with red brick Victorian properties between. Whilst the right-hand image below shows the mid C19 Alder Cottage (grade II). The map below assists in locating these buildings.**

- Although not visible in KV23, this area to the east of the historic core still includes listed buildings such as the war memorial designed by Sir Edwin Luytens (grade II) and Ducklake House (grade II*) together with the recreation ground (an important community facility). In other words, although St Mary’s Church cannot be seen in this view (which it could be said identifies approximately the centre of the village), this area to the east still has significance by reason of The Springs, Ducklake House, recreation ground, war memorial and other listed buildings and buildings of local interest.**

- Although I have previously stated the impact of the development on the setting of listed buildings would be ‘small’ I should have qualified this by stating that this is relative to the impact of the development on the character and appearance of the conservation area.**

- Apart from being located within the Ashwell Conservation Area, the site’s significance is also held in its relationship to the medieval trackway situated on higher ground that is Ashwell Street and I concur with Historic England’s assessment that the site “represents an important link between the understanding of the routeway and the growth of the village”. I do not share the agent’s view that “... The impact on the rural character of this part of Ashwell Street will be maintained....”.**

- **The agent states that “While the views towards the church and core of the village have obvious heritage value (my emphasis in bold), it is less obvious what degree of heritage value the views towards Lucas Lane and the playing field have”. As noted by Historic England, the site is “an attractive area of open land on a sloping valley side leading down to the springs at the bottom of the valley” and is “probably the only location from which the view, mostly undisturbed by recent development, can be appreciated”. From my recollections, this site possesses some characteristics that are not dissimilar to the character of the sites at Angells Meadow and Woodforde Close pre-development.**
- **The site, thus, enables a view across to and over Lucas Lane towards the open countryside setting to the conservation area beyond. A point that I have made previously.**
- **Notwithstanding: i) the conservation area designation, ii) KV23, iii) the archaeological interest, and iv) the association with the medieval Ashwell Street, the agent disputes the claim that the proposed development of this site would harm the character and appearance of the Conservation Area.**
- **Contrary to the agent’s view that “the potential harm to the Conservation Area arising from the proposals would be very minor”, my view aligns more closely with that of Historic England i.e. the degree of less than substantial harm is towards the “higher end”.**
- **The agent states the following: “With regards to the harm arising from the Inter-visibility point, upon which the CO has placed importance and great weight, the inter-visibility between the described properties is not achievable or experienced from within the public domain (along Ashwell Street). It is not a publicly accessible viewpoint”. In addition, the agent states that “The view identified in the Conservation Officer’s comments towards St Mary’s Church was taken from within the garden of Townsend House, which is a private view”. For the avoidance of doubt, I have not stated that I have given ‘great weight’ specifically to the matter of ‘inter-visibility’, what I have said is that I have given “great weight” to the conservation of the Ashwell Conservation Area (of which the ‘inter-visibility’ issue is but only one part) and I have also considered the setting of nearby listed buildings. I maintain the view that the visual connection between Townsend House, no.5 High Street and the church is a particularly positive one which would be significantly impaired by the development of the application site.**
- **The appearance of this part of the Ashwell Conservation Area is enhanced by a number of important buildings which are not (but in my opinion should be) identified as Buildings of Local Interest on the Ashwell Conservation Area Map - No.5 High Street (Queen Anne Revival building), No.22 (Townsend House) Lucas Lane (pre-1881, 5-bay, Victorian House with portico / pediment entrance), No. 32 (The Cricketers) Lucas Lane and Ringstead Farmhouse, Springhead). The purpose of this point is to ensure that the significance of this part of the conservation area is not understated.**

5. Recommendation

By reason of the following:

- i) The application site makes a very positive contribution to the character and appearance of the Ashwell Conservation Area and (I understand) possesses some archaeological and ecological interest;***
- ii) The fact that (in the agent's own words) the site represents the "last area of land that could be developed along Ashwell Street" heightens the importance of this site's contribution to local character. The development of this site would remove the sole remaining opportunity to experience the village nestled in the so-called 'river valley' from the south side of the village and unfettered by development in the fore or mid ground. The development would impair views towards an area to the east of the historic core which includes properties on the east side of The Springs namely the late C17 or early C18 thatched pairing that is Mulberry Tree Cottages nos. 6 and 8 Springhead and Ringstead House also at Springhead and the mid C19 Alder Cottage, no.16 Lucas Lane (grade II).***
- iii) That part of the development would impact upon the high degree of inter-visibility between Townsend House, 5 High Street and the parish church of St Mary the Virgin; and***
- iv) That Ashwell Street represents an important link between the understanding of the routeway and the growth of the village. Even though the access would narrow back down to tie into Ashwell Street's existing width, the development of this site would adversely impact upon the character of the medieval route that is Ashwell Street by the creation of a 5 metre wide shared surface with the transition from the traditional carriageway to the new shared surface made via a raised table to help reduce speed;***

it is considered that the proposal would fail to satisfy the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018). I raise an in-principle OBJECTION concluding that the degree of harm to the Ashwell Conservation Area would be less than substantial towards the upper end of the continuum."

- 4.3.28 It should be highlighted that this is one of the few examples left of pockets of grazing land / open space amongst the built development on the edge of Ashwell. It is acknowledged that there have been other schemes granted in this part of the Conservation Area in recent years including one house at 22 Lucas Lane (10/02608/1), four houses on Lucas Lane (20/00847/FP) and nine houses on the junction of Ashwell Street and Station Road (19/00455/FP). There is an argument to say that should this application be granted it would represent a cumulative erosion of the Conservation Area. Taking account of these representations it is concluded that the less than substantial harm to the significance of the designated heritage asset would outweigh the public benefits of the proposal.

As set out by Historic England and the Conservation Officer I agree with their assessment that the degree of less than substantial harm is towards the “higher end”. The public benefits are limited to the provision of 24 houses, of which 8 would be affordable and the S106 obligations (albeit a S106 agreement has not been submitted and agreed). Even though there have been some improvements to the detailed design and layout of the scheme in the amended plans, the objection in principle to wholesale development of this site cannot be overcome in my judgement.

4.3.29 Summary on impact on Heritage Assets

It is concluded that the degree of less than substantial harm is towards the “higher end”; and that the less than substantial harm to the significance of the designated heritage asset would outweigh the public benefits of the proposal.

4.3.30 **Visual Impact on the character of the area**

I consider that the proposed development would have an adverse visual impact on the rural character of Ashwell Street (known locally as the Ruddy). The Principal Landscape and Urban Design Officer have made comments on the original and amended plans. Her description of the site is copied below:

“ 1. The 1.1ha site lies on the south-east edge of Ashwell within the settlement boundary and the Conservation Area. It is also covered by an Archaeological Area designation. The site is currently grassland and slopes down towards Lucas Lane. It is bounded by residential development on its west, north and east sides and by Ashwell Street along its southern boundary. Ashwell Street is PROW Ashwell 016, a BOAT (Byway Open to All Traffic) which runs along Ashwell Street between Kingsland Way and Station Road. The fall across the site down towards Lucas Lane affords views to and from the north from the upper slopes and from gaps in the boundary vegetation along Ashwell Street.

2. There is an existing gated access off Ashwell Street which at this point is an unsurfaced, single track lane bordered by mature hedgerow trees and shrubs growing on banks lining the route. These features create a rural character more akin to a country lane. Any change to the access into the site will impact on the rural character of this part of Ashwell Street.”

- 4.3.31 This describes the character of Ashwell Street. This is reinforced by Ashwell Village Design Statement, which includes a photograph of ***“Ashwell Street: a ‘green lane’”***. The key issue is that the proposed development would have an adverse impact on the rural character of this part of Ashwell Street and the surrounding area, as a result of the development itself and the loss of vegetation to achieve sightlines for the new vehicular access and the resurfacing of a section of Ashwell Street. We remain to be convinced that an adequate access could be created without having a detrimental effect on the rural character of Ashwell Street and therefore this is a fundamental objection that cannot be overcome. The comments on this matter from the Landscape and Urban Design Officer are copied below:

4.3.32 ***“Proposed access plan (190-TA10 rev F)***

2. The previous Proposed access plan 190-TA10 rev D showed that five trees will be lost to accommodate the entrance and visibility splays. A further five trees, one on the east side of the entrance and four on the west side, together with hedging, would be impacted by the cutting into of the embankment on the north side of Ashwell Street to create the extra width for the shared surface.

190-TA10 rev F amends the eastern side of the access and no longer shows the visibility splays required but the five trees will still need to be removed and the further five trees will still be affected. There is still no information on what pruning works to the trees and hedging is needed to create the visibility splay and what the impact is on tree and hedge roots where the embankment is cut into and presumably roots will be severed. It would still be useful to have a cross-section through the embankment showing the change in profile.

3. 190-TA10 rev F still shows what looks like a slight cutting into of the embankment on the south side of Ashwell Street to achieve the 5m shared surface width. Will tree roots be affected? What protection is being given to the roots of trees on the south side?

4. There is no information on the proposed new pedestrian access into the site located further east along Ashwell Street

5. What will happen to the existing gated access off Ashwell Street?”

4.3.33 Given the recommendation further information was not requested. However, these comments highlight how the removal and works to the trees, hedging and embankment required to create the vehicular (and pedestrian) access onto Ashwell Street would fundamentally change the rural character of this lane.

4.3.34 The Principal Landscape and Urban Design Officer reached the following conclusion considering the amended plans and information submitted:

“Conclusion

The amendments do not fully address my concerns about the layout, and I am still particularly concerned about the access off Ashwell Street. There is still insufficient information provided on the changes to Ashwell Street to accommodate the new junction into the site to assess the full landscape and visual impact of creating a vehicular access off Ashwell Street. The information that has been submitted indicates that the development will have a detrimental effect on the character of Ashwell Street. Without an acceptable access into the site there can be no development.”

4.3.35 I consider that the development would have a detrimental effect/adverse landscape and visual impact on the rural character of Ashwell Street, and a recommended reason for refusal has been framed accordingly on this basis.

- 4.3.36 It is acknowledged that Woodforde Close has a tarmac access and generous bell mouth junction onto Ashwell Street. However, to repeat this form of development here would further erode the rural character of this locality as a bridleway track with a rural aspect.
- 4.3.37 The Landscape and Urban Designer would have liked to have seen more information on aspects of the scheme including, what would happen to the existing gated access off Ashwell Street, clarification of the boundary between public and private space for maintenance purposes, details of means of protecting existing vegetation to be retained and the reasoning behind the use of different hard surfacing. However, given the recommendation further information and amended plans were not requested.
- 4.3.38 The Landscape and Visual Appraisal submitted with the application refers to views of the site from many viewpoints. However, it is considered that the important view is the one looking north from the existing gate. This view is identified as a “key view” in the Ashwell Conservation Area Character Statement - Key View 23: View from Ashwell Street looking north across field towards Alder Cottage including the tree coverage within the Conservation Area. It is repeatedly mentioned in the neighbour representations as well as the Parish Council comments, which reinforces that it is a highly valued local view. As set out above the view has historic value. This is a commanding view that allows members of the public to experience the Conservation Area within the wider context of the countryside/landscape to the north east beyond. This view would be clearly impacted by the proposed development and as such the setting of the Conservation Area as experienced when viewed from the existing gate on Ashwell Street would be adversely affected by the development. The applicant has offered to retain the gate as an original feature. However, it is not the gate that is of value, but the view itself from this gate that would be lost and as such the experience of the setting of the Conservation Area.
- 4.3.39 It is noted that the scheme introduces a viewing corridor south to north across the site. However, this view would not replace the view from the current gate. The current view from the gate takes in the wider landscape to the north east. Another important view is the view of the church across the site and it is welcomed that the viewing corridor of church across site would be retained. The agent for the application suggests that this would be public rather than private view should permission be granted for the development. However, this is already the case as there is currently a view of the church from footpath round edge of field to south east of the site and there are glimpses of the church from Ashwell Street. In any case it is considered that the two viewing corridors shown on the plans would not compensate for the loss of the current highly valued view from the gate.
- 4.3.40 The site would be clearly visible from the elevated footpath directly to the south of the site, as the property, Huntsridge, is currently visible from here. There would also be glimpsed views of the site between 22 and 24 Lucas Lane from the footpath to the south east. The proposed development would also be visible from Lucas Lane, given the topography of the site.

- 4.3.41 The North Herts Landscape Study (Character, Sensitivity and Capacity) (a background evidence for the ELP is of relevance, as it covers the wider landscape surrounding Ashwell. The site is immediately to the north of the site falls within Landscape Character Area 224 North Baldock Chalk Uplands as identified in this document. There is a comment within this statement that: ***“The southern edge of Ashwell is well contained and would be sensitive to further development.”*** It identifies as visual sensitivities ***“long distance views from localised high points”***. The view from the gate takes Landscape Character Area 226 Steeple Morden to the north east with its ***“gently rolling landform to west”***. It is notable that one of the landscape character sensitivities for Character Area 225 Hinxworth Lowlands (to the north west of Ashwell) is: ***“The character area consists mainly of large-scale arable fields but with small paddocks and grazing land with fragmented vegetation adjacent to settlements and watercourses.”*** Whilst sited to the south of Ashwell, the application site would represent an area of grazing land adjacent to the settlement – one of the last remaining pockets of green that breaks up the built development on the edge of Ashwell and forms part of the character of the village.
- 4.3.42 One of the Local Design Principles for Ashwell as set out in the Supplementary Planning Document (Design) is: ***“Seek to protect open spaces maintaining the existing character.”*** Whilst private rather than public open space, the application site is an open space nonetheless and it contributes to the existing village character. It is one of the few remaining meadows that break up the built development on the edge of Ashwell.
- 4.3.43 The proposal would not create a high-quality development that respects and improves its surroundings and would fail to protect key elements of North Hertfordshire’s environment including important landscapes, heritage asset and green infrastructure contrary to Emerging Local Plan Policy SP1 (Sustainable development in North Hertfordshire). The proposal would fail to respond positively to the site’s local context and would not enhance the public realm. As such the proposal would fail to comply with Saved Local Plan Policy D1 (Sustainable Design).
- 4.3.44 It is considered that the proposed development would not function well and add to the overall quality of the area and would not be sympathetic to local character and history, including the surrounding built environment and landscape setting (paragraph 127 of the NPPF). Also, the proposed development would constitute poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 130 of the NPPF). Paragraph 170 b of the NPPF states that: ***“Planning policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside...”*** It is considered that the proposal would harm the intrinsic character and beauty of the countryside.
- 4.3.45 As such it is considered that the wholesale development of this site would be unacceptable in principle, particularly the development on the higher ground.

4.3.46 Summary on visual impact on the character of the area

In conclusion it is considered that the development would have a detrimental effect on the rural character of Ashwell Street, resulting from the creation of an access onto Ashwell Street with the tree removal and surface upgrading that would be involved. In addition, the setting of the Conservation Area as experienced when viewed from the existing gate on Ashwell Street would be adversely affected by the development.

4.3.47 **Design, layout and landscaping**

Notwithstanding the fundamental objections to the scheme, following negotiations the detailed design and layout of the development has been amended. This followed comments from the Conservation Officer and Landscape and Urban Design Officer. Amended plans have been submitted and they address some of the concerns and make some of the suggested changes. However, they have not addressed all the concerns raised.

4.3.48 The removal of the brick wall and introduction of a 3m buffer along the eastern boundary as well as the western boundary is welcomed. The changes to the layout in the north-east part of the site are welcomed – in particular, the replacement of the two storey buildings with two bungalows and a parking area near the boundary with 8-12 Lucas Lane is a definite improvement. The removal of the four single detached car ports is welcomed as it reduces the overall the built development on site.

4.3.49 There are still concerns about some elements of the proposed design and layout in particular the design of the terraces of three houses with their wide palette of materials, the amount of development created by the car ports and the length of built development along the eastern boundary. However, it is not considered that any of these represent a sustainable reason to withhold planning permission.

4.3.50 There is still a concern that the proposed development could dwarf the bungalows in Lucas Lane, given its largely two-storey nature and the topography of the site. However, given that the layout has been changed so that the two-storey development in the north east corner of the site has been replaced with bungalows and a parking area it is considered that this would not be a sustainable reason to withhold planning permission.

4.3.51 There is an Ash tree (T10) with high public amenity value adjacent to proposed path to south east of 8 Lucas Lane and another Ash tree (T11) with public amenity value closer to the access with Lucas Lane to the north east of 4 Lucas Lane. It is noted from the Arboricultural Impact Assessment that these trees would be retained and there will be modest pruning required. Their retention is welcomed.

4.3.52 Whilst it is disappointing that the amended plans have not taken on board all the suggestions, the internal design and layout of the scheme has been improved and on balance it is considered that there would not be sustainable reasons to refuse planning permission on the basis of the detailed internal design and layout of the scheme.

4.3.53 Living conditions

Concerns were raised with regards to the original design and layout of this scheme, as it was considered that the proposed development would have an adverse impact on the living conditions of neighbouring properties. Amended plans were received which have largely addressed these concerns by making the following changes.

- 4.3.54 The layout of the north east corner of the site has been amended so that two bungalows and a parking area would be adjacent to the boundary with 8-12 Lucas Lane and this has adequately addressed the concerns regarding dominance and overlooking. The 3m wide landscape buffers have been introduced along both the west and east boundaries and this has improved the relationship with 22 Lucas Lane. The layout of the first floor of plot 1 style units means that there would only be obscure glazed en-suite windows at first floor level facing neighbouring properties rather than clear glazed bedroom windows, which has addressed concerns with regard to loss of privacy to Huntridge and 4 Lucas Lane.
- 4.3.55 There are elements of the scheme that are still rather unneighbourly, including the overall built impact of the development on Lucas Lane due to the change in levels; the amount of built development adjacent to the eastern boundary which to some extent would result in a sense of enclosure and some overlooking to 22 Lucas Lane; the width and bulk of built form of plots 7 and 8 in relation to 5 High Street which would result in some intrusion into their aspect currently enjoyed given the change in levels; the views from first floor windows in plots 18-20 towards 5 High Street; and the views from plots 6 and 7 towards Huntridge, as this property is very exposed. These matters were all raised with the developer and it is disappointing that more has not been done to improve the relationships with neighbouring properties. However, on balance it is considered that the proposed development would not result in a material loss of light to neighbouring properties or be unduly dominant in the outlook they currently enjoy. It is also concluded that the proposal would not result in a material loss of privacy to the neighbouring properties, particularly given the separation distances. The security concerns raised by neighbours with regards to the pedestrian access being very close to 8 and 4 Lucas Lane are noted, however it is not considered this would be a sustainable reason for refusal. The Architectural Liaison Officer Herts Police has not raised any objections to the scheme.
- 4.3.56 It is considered that the proposed development would provide adequate living conditions for the future occupiers in line with Saved Local Plan Policy 57 (Residential guidelines and standards) and Emerging Local Plan Policy D3 (Protecting living conditions).
- 4.3.57 In conclusion, it is considered that the proposed development would not have an adverse impact on living conditions of the occupiers of neighbouring properties to an extent that planning permission could be refused for this reason.

4.3.58 Open space management

The Council's Service Manager, Greenspace, was consulted on the application and made the following comments:

"Ashwell Parish tend to undertake their own maintenance of the Greenspaces within the village themselves. It would be worthwhile identifying if they wish to do the same with this new development."

There is a concern about loss of existing open space and I do query if there is a need for a formal equipped play area that can serve not only the development but also the surrounding village

Currently our preference would be for the parish to adopt and undertake future maintenance or a management company is created."

4.3.59 They made the following comments on the amended plans:

"Due to its location in Ashwell it is unlikely that the District Council would adopt any open space. Traditionally open spaces in Ashwell have been maintained by the Parish Council who may have their own thoughts regarding this issue."

As such, there would be little opportunity to consider any off site contributions for a NHDC location and potentially this is likely to be maintained by a management company if not the parish in the future."

4.3.60 Highways

The Highways Authority raised an objection to the original plans on the basis that the proposed access road serving this site was inadequate by reason of the width to serve the range of waste collection vehicles in current use. Amended plans showing revised junction details with Ashwell Street and vehicle tracking plans have been submitted which have overcome this objection. The Highways Authority have withdrawn their objection and now recommend conditions. In order to achieve highways requirements for the access the proposed development would result in the removal of vegetation and hard surfacing which would urbanise the rural lane. Whilst the turning space for waste collection vehicles within the site layout this has resulted in a layout that would be vehicle dominated.

4.3.61 The concerns raised by the Parish Council and local residents about the impact of the proposed development on highway safety are noted. Their concerns about the impact of the proposed development on the junctions of Ashwell Street with Kingsland Way and Station Road are appreciated and their concern that the design of the proposed junction with a tight radii will not in fact discourage vehicles from turning left out of the site is acknowledged. However, given that the Highways Authority have raised no objections to the amended scheme, it is considered that a reason for refusal on highway safety grounds would not be defensible should the application go to appeal.

4.3.62 Parking

The scheme includes 52 parking spaces. All the properties have two allocated parking spaces except for the two one-bedroom flats which would have one parking space each, and there would be six visitor spaces. The scheme includes five detached car ports, which each serve two properties and are in addition to the allocated parking spaces. The Council's Transport Officer was consulted on the application and considers that the developer has provided sufficient visitor parking. Therefore, the proposed development would meet the requirements of Supplementary Planning Document: Vehicle Parking at New Development, which requires a minimum of 1 space per 1-bedroom dwelling, 2 spaces per 2+bedroom dwellings and 0.25 visitor spaces per dwelling (as there are no garages in the proposed scheme). The SPD also requires 1 secure covered space per dwelling. Whilst no specific cycle parking spaces have been shown on the plans, all the properties have gardens and ten properties have car ports so this would be satisfactory.

4.3.63 Right of Way

The Access Project Officer, Countryside & Rights of Way, Environment & Infrastructure, Hertfordshire County Council, raised objections to the application as originally submitted. Following re-consultation on the amended plans they withdrew this objection and made the comments set out above. Whilst they have withdrawn their objection, they did make the following comments:

“Under these terms I do not object to this application, although I have not taken into consideration the changes in the character of Ashwell Street, as a quiet Green lane, that this new access, surface and increased use will produce.”

4.3.64 As discussed above it is considered that the changes required to create a safe access onto this lane and the upgrading of the surface and the increased use of the lane would fundamentally change the character of the lane and there is an objection on the grounds of visual impact.

4.3.65 Ecology

The application was accompanied by an extended Phase 1 ecological survey. The application site is described as an improved grassland. It is presently managed by sheep grazing. The Ecology Advisor, Hertfordshire Ecology, Hertfordshire County Council provided detailed comments on the application. They advised that:

“The report carried out surveys of the likelihood of the presence of protected species including bats, reptiles, breeding birds and mammals such as badger and hedgehog. Appropriate measures to ensure they are safeguarded are recommended within the report in sections 9.7 to 9.19. The sections on pollution control 9.7-9, should be secured by Condition. The remaining measures except 9.15 should be included as Informatives with any consent given.”

Initially insufficient information was submitted enable the Local Planning Authority to make a fully informed decision regarding the potential presence of bats (European Protected Species). An outline mitigation strategy was submitted and Hertfordshire Ecology have said that: ***“With these reports in place, I advise that the LPA now has sufficient information to enable the LPA to consider the impact of the proposal on bats prior to determination and satisfy the Habitats Regulations 2017 (as amended).”*** They have recommended a condition to secure the enactment of the proposed strategy for the removal of the ivy clad trees along the southern boundary.

4.3.66 Hertfordshire Ecology were reconsulted following receipt of amended plans including amended landscaping plans. They are pleased to see that the amended landscaping plans have adopted the recommendation as to the siting of fruit trees to the North West of the proposal and removing potential shading problems within the wildflower meadow located to the south of the site. They have advised that a Landscape and Ecological Management Plan (LEMP), which includes the Defra / Natural England v2 metric to demonstrate net gain, should be secured by condition.

4.3.67 The comments made on behalf of Greening Ashwell are noted, however given that Hertfordshire Ecology have raised no objections and recommended the conditions and informatives mentioned above it is considered that there are not ecology grounds to refuse the application.

4.3.68 Archaeology

The site is within an Archaeological Area and the Natural, Historic and Built Environment Advisory Team, Hertfordshire County Council have raised no objections and recommended conditions. They commented that: ***“The trial trenching report, along with a geophysical survey carried out by Kris Lockyear of UCL and test pitting by North Herts Archaeology Group (NHAG), has indicated that significant archaeological remains are present on the site.”*** The North Hertfordshire Archaeological Society have made comments on the application. These were brought to the attention of the Historic Environment Advisor who considered their representation. He responded to their comments, but he confirmed that his recommended provisions and conditions remain the same.

“As per my comments of 24 February, therefore, the entire field should be subject to strip, map and record excavation. The area of the rectangular ditched Roman enclosure and Roman/Saxon ‘hollow’ should be very carefully stripped of topsoil and subsoil and then, in consultation with NHDC and ourselves, a decision made about further archaeological investigation, potential preservation in situ, or full hand excavation and recording. Please note that this should not occur before Historic England have made a decision on any proposed scheduling (unless advised otherwise by Historic England).”

4.3.69 The North Hertfordshire Archaeological Society made an application to add the site to the Schedule of Monuments. Historic England decided not to schedule Hunts Close, field between Ashwell Street and Lucas Lane, Ashwell. North Hertfordshire Archaeological Society requested a review of this decision.

The Listing and Scheduling Review Team at the Department of Culture, Digital, Media and Sport have considered their review request and it contained significant new information. As the original application was rejected at the initial assessment stage, Historic England re-activated the original scheduling application. On 24th August we received confirmation from Historic England that:

“We have taken into account all the representations made and completed our assessment of the monument. Having considered our recommendation, the Secretary of State for Digital, Culture, Media and Sport has decided not to add Multi-period archaeological remains at Hunts Close, Ashwell, North Hertfordshire to the Schedule of Monuments.”

4.3.70 Further comments have been received from North Hertfordshire Archaeological Society:

“I am writing on behalf of the North Hertfordshire Archaeological Society. Further to our earlier comments, as you know, we applied to Historic England to have the whole site Scheduled as an archaeological monument of national importance. Failing that, we encourage the applicant and Local Planning Authority to enlarge the planned public open space in the north-west quadrant of the field so that it is 70 m north-south and 30 m west-east. This would preserve the most significant parts of the known buried archaeological remains.”

However, it is considered that it would not be reasonable for the LPA to request this given the advice of the statutory consultee - the Natural, Historic and Built Environment Advisory Team, Hertfordshire County Council.

4.3.71 **Surface water drainage**

Following submission of further information, the Lead Local Flood Authority have withdrawn their objection and recommended conditions. Local resident raised concerns regarding surface water drainage, based on their local knowledge and recent surface water flooding in Ashwell and their concerns as to when the drainage testing was carried out. These issues were raised with the LLFA and they provided the following comments:

“Thank you for consulting the LLFA on behalf of concerned residents and comments in relation to the above development and the flooding at Hodwell in Ashwell.

Concerns have been raised in relation use of infiltration features at the above planning application site and the potential impact this may have to the existing flooding issues in the area. The LLFA are aware of the existing flood risk issues to the west of the proposed development site and can confirm this was considered when assessing the proposed surface water drainage scheme.

We can confirm that the applicant is proposing to infiltrate all surface water drainage from the site into ground via infiltration measures so there will be no surface water run-off leaving the development site up to the 1 in 100-year rainfall event including an allowance for the impacts of climate change. It is proposed that any exceedance of the surface water drainage system following a rainfall event above the 1 in 100 year + climate change rainfall event, will be routed to and managed within the area of proposed Public Open Space to ensure there will be no surface water run-off discharging off site onto Lucas Lane.

Based on these proposals the LLFA has issued a letter dated 20 May 2020 to the Local Planning Authority recommending conditions relating to the management and maintenance of surface water drainage scheme, compliance of the proposed drainage scheme and the detailed design of the Public Open Space prior to commencement of the development.

We note concerns were raised in relation to the infiltration tests that were carried out. The concerns relate to timing of the infiltration testing, which were carried out during a dry period and this is not representative of the ground conditions during periods of high rainfall. The applicant has undertaken infiltration tests to determine feasibility of soakage as part of the drainage strategy for the purposes of planning. However, at the discharge of condition stage we would expect further details in relation to the ground conditions and the proposed drainage scheme to be provided.

Should the LPA be minded to approve the application, the LLFA can recommend an additional condition to be attached to the planning permission for provision a ground investigation report with further infiltration testing to be carried out to ensure the feasibility of the proposed design. This would include groundwater level monitoring to be carried out during the wetter months."

- 4.3.72 Responses from Affinity Water and Anglian Water have raised no objections. The latter recommended conditions. It is noted that local residents have also raised concerns regarding the capability of the water/sewerage system to cope with the proposed development. This issue has been raised with Anglian Water and Affinity Water; however no further response has been received.
- 4.3.73 The Environment Agency were consulted on the application and have confirmed that they will not be commenting on this application, as it falls outside their remit at this time.
- 4.3.74 In the absence of objections from the LLFA and the water authorities, it is considered that there are no sustainable reasons to withhold planning permission based on impact on surface water drainage or water/sewerage services.

4.3.75 Housing mix

The Housing Supply Officer has provided comments on the housing mix for the affordable housing and considers it to be acceptable.

Policy HS3 in the ELP states that: ***“On most suburban and edge of settlement sites, applicants should therefore make an initial assumption of 60% larger (3+ bed) and 40% smaller (1 or 2 bed) homes to ensure an overall mix is achieved.”***

4.3.76 The housing mix has been amended during negotiations to closely align with this policy - the proposed mix is now 58% larger and 42% smaller.

4.3.77 The comments from local residents regarding housing need is noted, however it is considered that the amended proposed housing mix would be acceptable, as it would meet the requirements of the relevant planning policies.

4.3.78 Waste and recycling

The Contract Officer Waste, Recycling and Street Cleansing considers that the scheme is acceptable. He has removed the requirement for a condition requiring details of the circulation route for refuse collection vehicles have been submitted to the local planning authority and approved in writing, as this information has been provided during the course of the application.

4.3.79 Climate change

The comments raised by local residents and Greening Ashwell group are noted that state that opportunities have been missed with regard to tackling climate change. The developer has responded to the issues raised regarding climate change as follows:

“In terms of climate change, the proposal would comply with ELP policy D1. The proposal would create public realm with the introduction of two areas of POS and links to the existing recreation field. The LLFA has raised no objection on flooding or drainage grounds and recommend a condition on the final drainage scheme. The proposed dwellings will be designed to meet building regulation standards for energy consumption and waste will be minimised and dealt with responsibly by the contractor, and this could form part of a construction waste management plan condition. The proposal will retain as much of the existing vegetation within the site and proposes significant new planting. The proposal includes two pedestrian paths that will link to Lucas Lane to encourage foot and cycling connectivity into the village core.

There is no specific policy requirement to provide electric charging points and these could be retro-fitted by future occupiers if they wish. However, the applicant would be willing to agree to installing EV charging point in some of the dwellings. We would be happy to discuss this in more detail with you to agree the number and location of the charging points.”

4.3.80 The proposed development has missed opportunities to reduce carbon footprint through the design process including maximising passive solar gain where possible and to look at alternative energy solutions. These issues were raised with the developer and it is disappointing that they have not been incorporated into the amended plans. However, given the recommendation further negotiations have not taken place to amend the scheme and it is considered that there would not be a sustainable planning reason to refuse on these grounds.

4.3.81 The Environmental Protection Officer (Air Quality) has recommended a condition that prior to occupation, the new development shall incorporate Electric Vehicle (EV) ready domestic charging points on the basis of 1 charging point per unit (dwelling with dedicated parking), or 1 charging point per 10 spaces (unallocated parking).

4.3.82 **Other Matters**

4.3.83 The Environmental Health Team raised no objections regarding land contamination and noise and other nuisances, and recommended conditions and informatives.

4.3.84 Several of the local residents referred to the Ashwell Neighbourhood Plan, however this can be given little weight, given the stage it is at in the consultation process.

4.3.85 **Planning Obligations**

In considering planning obligations in relation to this development the Framework (paragraph 56) advises that:

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

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

The Community Infrastructure Regulations 2010 (regulation 122) coincides with the above requirements of the Framework.

The application does not include a draft Section 106 document, however it did provide a draft Heads of terms document which lists the following Heads of Terms:

- Affordable Housing
- Primary Education contribution
- On site open space provision
- Waste and recycling
- Library service and youth service

Following consultation with service providers, the developer has been advised that the S106 Agreement would need to cover the following:

- Contribution towards the Ashwell Pavilion Project collected under the 2006 SPD categories of community halls / centres; leisure, play space and pitch sport. To give an indication for the scheme as submitted I calculate the contributions to be J52,000 (based on the 2006 figures – which need to be index linked) so with a possible uplift of about 50% it would be approx. J78,000.
- Affordable Housing. The Housing Supply Office made detailed comments on the requirements.
- SUDs scheme and management scheme. Include a clause that the private management of open spaces includes servicing and maintaining the approved SUDS scheme.
- Open space management plan. Details of the management plan for the open space to be submitted to and agreed by the Council's and these details have to be implemented on site.
- Waste and recycling provision. A contribution towards bin provision (J2,062 (index linked) based on J71 per dwelling house and J54 per flat as per the 2006 SPD);
- County contributions. Notwithstanding their objection on the grounds of primary education, Hertfordshire County Council have set out in their comments the planning obligations contributions they would require for secondary education, youth facilities and library facilities. They would seek indicative financial contributions towards the following projects:
- Library Service towards providing additional capacity at Royston library (J4,130 index linked)
- Youth Service towards the increase of capacity at Royston Youth centre (J991 index linked)
- Secondary school education provision in Baldock (J51,874 index linked)
- The provision of fire hydrant(s).
- Sustainable Transport Contributions. Bus passes to be provided for all new residents as part of the Travel Plan for the development, to encourage sustainable transport for journeys to/from the development. The equivalent of a monthly (four week) ticket for each adult, assuming two per dwelling - J6,720. The contribution would be paid to Herts County Council and administered by them.

4.3.86 With regard to possible health contributions the NHS East and North Hertfordshire Clinical Commissioning Group were consulted on this application, however they have not sought planning contributions.

4.3.87 A revised Heads of Terms document was not submitted. The applicant provided the following comments on this matter:

“Please can you ensure the contributions requested are justified in terms of three tests in Regulation 122 and contained within the adopted planning obligations strategy. We have provided a heads of terms document which contains what we considered appropriate and would be happy engage in further discussions over any other items over and above that which we have put forward. It is important for the Council to ensure what has been requested, is compliant with the regulation and justified.”

- 4.3.88 We are comfortable that the planning obligations that have been sought meet the tests of Paragraph 56 of the NPPF. However, no agreement has been reached between the applicant and Hertfordshire County Council as Education Authority regarding Primary School contributions.
- 4.3.89 The applicant submitted an Education report by EFM with their application and made the following comments regarding this issue:

“The North Hertfordshire County Council (CC) has objected to the proposal due to the identified lack of capacity within the local primary school. The proposed development would generate up to two primary school aged pupils (and two secondary aged pupils).

The CC position on this matter has previously been dismissed by an Inspector for appeal (ref: APP/X1925/W/17/3192151) at Land at Station Road, Ashwell for 46 dwellings. The Inspector stated on this that “the proximity to services must be judged as a whole and whilst access to a local primary school may be an important consideration, it forms just one of a list of numerous facilities and services...”. The appeal Inspector said Ashwell contains a broad range of shops, services, recreational and religious establishments. Therefore, when taken as a whole, the Inspector concluded that even if a small number of children were unable to find school places in Ashwell, the other locational advantages would not form a reason for dismissing the appeal. Notwithstanding, the appeal Inspector’s view on this, we understand that based upon the CC’s latest School Capacity projections for the Baldock Villages area – the roll is expected to fall in the coming years, likely due to the falling birth rate. CC was forecasting the schools to be oversubscribed in 2022/23; they are now forecast to have surplus capacity in 2023/24. Therefore, in view of the low number of pupils that would be generated, particularly for primary school (up to 2), and the locational advantages of Ashwell, we believe making a contribution towards primary education provision would be sufficient to off-set the relatively small impact of the development. The contribution could be used towards the CC’s school building programme. The lack of primary education places (for up to 2 pupils) is not a reasonable justification to refuse this application in light of the housing significant housing needs. This issue was raised in a recent appeal for an outline application for up to 90 dwelling in Stilton, Huntingdonshire (Appeal APP/H0520/W/19/3228494 – Land to the East of North Street, Stilton – decision date 3 February 2020). The Council refused, in part, the application due to lack of primary school capacity in the local primary school, which would require children to would have to attend out of catchment schools resulting in travel by car.

The Inspector stated that education is a more fluid environment with access to Ofsted ratings whereby parents may choose to send their children to schools that require travel by private car. Therefore even if the local primary school had sufficient capacity to accommodate children from the development, there is no guarantee or requirement that children from the appeal site would attend that school. There is no reason why the same consideration could not apply here, particularly in light of the low number of Primary school pupils the scheme would generate.

This position is also supported by the Education Report produced by EFM which was submitted with the application. It states that it would be a dereliction of duty on the part of the CC to object to the application on the basis that there is not capacity in the local school. It is the responsibility of the CC to put in place long term infrastructure projects/measures to help facilitate the delivery of housing and population growth in the District and Ashwell, which is a focus for development. The report advises that it would be prudent for a financial contribution to be made towards future primary education projects to enable increase in capacity. The applicant is willing to make an education contribution towards future growth/expansion of the existing primary school.

In our view, the CC's objection is wholly unreasonable and represents a failure to discharge its duty towards facilitating growth. Their position is not sustainable, unreasonable and has been dismissed by appeal Inspectors.

Hertfordshire County Council (in this case now through joint working with CBC) has a statutory responsibility to ensure the provision of all school places and associated infrastructure within its area. In addition all new development should contribute appropriately to infrastructure requirements so as to mitigate and accommodate the impact of new development and growth. In providing their advice relevant to this application HCC consider that the requested financial contributions have been calculated correctly according to the scale and type of development and consequent pupil yield. HCC consider that the contributions meet the test set out in Regulation 122 of the Community Infrastructure Regulations 2010 that they are appropriate and 'fairly and reasonably related in scale and kind to the development'."

4.3.90 Later in their rebuttal letter they made the following comments:

"This issue has been addressed in the above section of the letter. However, we believe the Council's position on this is unsustainable and if this position is maintained and the application goes to appeal, we will be seeking a cost claim against the unreasonable and inappropriate position taken by both the County and District Council.

The County Council is failing in its statutory duty to make provision for schools particularly in light of the District Council's future housing growth needs. We therefore request that the District Council reconsiders their position on this.

The applicant is willing to make a contribution towards primary education provision in order to help the County Council to facilitate the extension of the existing primary school in order to help accommodate future housing growth. Also, there are primary schools in the neighbouring villages and towns which could accommodate the pupil numbers generated from the proposed development. The number of pupil this development would generate (up to 2) is not significant to warrant justifying refusing this application and much needed housing.”

- 4.3.91 The Growth and Infrastructure Team provided detailed comments on the application in February 2020, which can be viewed on the Council's website. The section with regard to primary education provision is copied below.

“In terms of primary education provision, Ashwell Primary School is currently full or almost full in every year group. Analysis of the current pre-school aged population, sourced from GP registration data, who live in the village and for whom Ashwell Primary School is the nearest school confirms a close match between the number of children already living locally and the number of places the school is able to offer.

Furthermore, the additional yield expected from new housing proposed locally within the emerging North Hertfordshire District Council Local Plan, the existing demographic and Ashwell Primary School's current accommodation concludes that beyond the allocated development of Land west of Claybush Road (Ref AS1 and 16/01797/1) for 33 homes, which is already included within HCCs primary education strategy, there would not be sufficient primary school provision to meet the needs of any further new development in the village. This includes the proposed development Land between Huntsridge and Ashwell House, 5 High Street, Ashwell. Additionally, professional advice confirms the school does not have the capacity to expand beyond its current size of 1 Form of Entry and appropriate mitigation cannot be provided.

There are no other primary schools within a statutory safe walking distance of the application site, with the closest Hertfordshire school being approximately 4.5 miles away and the closest primary schools outside of Hertfordshire being approximately 2.5 miles away. Transporting primary age pupils to schools beyond the statutory walking distance would be both costly and incongruent to Hertfordshire County Council's duties to promote sustainable school travel under section 508A of the Education Act 1996. Furthermore, to transport pupils to alternative schools would have social, health and environmental implications, as well as leading to unsustainable patterns of school commuting. These are all contrary to the National Planning Policy Framework and the need to create sustainable new developments and communities.

The severity of these issues is the reason that Hertfordshire County Council object to the planning application and no contributions towards primary education provision are sought on this basis.”

4.3.92 In a further response in June 2020 they made the following comments:

“We have assessed the education report that accompanied the application and consider that none of the points raised in the paper alter HCCs position as outlined in our response dated 26th February 2020. To reiterate our position:

- There is not sufficient capacity in Ashwell Primary School to accommodate this unallocated development site:***
 - Ashwell primary school does not have the capacity to expand.***
- There are no other primary schools within a statutory safe walking distance of the application site.***
- Therefore, this development is unable to be mitigated and the County Council’s objection to the planning application remains.”***

The Growth and Infrastructure Team were sent a copy of the rebuttal letter and they confirmed in August 2020 that they do not have any further comments to make.

4.3.93 As mentioned above an application was refused in October 2017 by this committee in accordance with officer recommendation for residential development of 46 dwellings at land off Station Road, Ashwell (ref. 17/01406/1). One of the reasons for refusal was that given the lack of essential services in the vicinity of the site, in particular a lack of primary education provision to serve the needs of this development, the occupiers of the proposed dwellings would be heavily dependent on services provided outside of the immediate area, giving rise to a significant reliance on private transport. This application was dismissed at appeal in October 2018. There were other reasons for refusal of the planning application. The agent for this current application is of the view that: ***“The CC position on this matter has been previously dismissed by an Inspector for appeal (ref: APP/X1925/W/17/3192151) at Land at Station Road, Ashwell for 46 dwellings.”***

4.3.94 The Inspector’s comments on this issue were as follows:

“Education matters and locational sustainability

12. The County Council as Education Authority express the view that the appeal site would generate children of primary school age, who could not be accommodated at the local Ashwell Primary School. This would then involve children being transported to remote schools, with prejudicial effects on health and well-being, as well as adding to car journeys within the area.

13. The County Council has included within its assessment, the likely numbers of children that would arise from a nearby proposal site within the SLP (referred to as the Claybush site) and has assumed that this development would go ahead, for the purposes of calculating school places. The appellant casts doubt on the likelihood of the Claybush site being developed, pointing out that the planning application has been with the Council for some considerable time and remains undetermined and is the subject of unresolved issues.

14. In my view, the proximity of a site to services must be judged as a whole and whilst access to a local primary school may be an important consideration, it forms just one of a list of numerous facilities and services which could determine whether a site or village is well-served or not. In the case of Ashwell, it was acknowledged, and I saw at my visit, that it contains a broad range of shops, health services, social, recreational and religious establishments.

15. When taken as a whole, even if the proposal would result in a relatively small number of children being unable to find a school place at Ashwell, I consider that the other locational advantages are such that this would not form a reason for dismissing the appeal.”

4.3.95 Whilst each planning application must be assessed on its merits, in my view, this appeal decision is a material consideration for the determination of this planning application insofar as the issue of school provision is concerned. The Inspector in the above referenced case was of the view that the issue of sustainability must be considered in the round. The Emerging Local Plan (2011-2031) seeks to classify Ashwell as a category A village, which suggests new development can be accommodated and would be sustainable. It is not for the District Council Planning Authority to comment on or provide evidence outside its area of expertise on when or how education contributions can be spent or where school expansion is feasible or not, particularly in light of the above referenced appeal decision. Having said that, given the above and the lack of agreement between the applicant and the education authority with regard to primary education and consequently, the lack of any formal Section 106 agreement in place a reason for refusal has been framed as follows:

“The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing affordable housing and any other necessary obligations. The secure delivery of these obligations is required to mitigate the impact of the development on local infrastructure and services in accordance with Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) and proposed Local Plan Policy SP7 of the Council's Proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF).”

Moreover, if Members were minded to refuse planning permission and the applicant lodged an appeal it would be for Hertfordshire County Council's Growth and Infrastructure Team to support their objections to this planning application with evidence. This recommended reason for refusal does not explicitly refer to primary education contributions/obligations, because Hertfordshire County Council's Growth and Infrastructure Team are not seeking a primary education contribution, as there is no primary education project. As set out above, they have raised an objection on the basis of the lack of primary education provision to mitigate the impact of the development. In my view the District Local Planning Authority should take a neutral view on this issue for the reasons set out above.

4.3.96 Conclusion

It is considered that the amended plans and further information have satisfactorily addressed the technical issues raised in relation to the internal design and layout of the scheme, the impact on living conditions of neighbouring properties, the lack of information in relation to the potential presence of bats, and the objections from the Highways Authority, Lead Local Flood Authority and Rights of Way team.

- 4.3.97 However, three fundamental objections to the scheme remain and reasons for refusal have been framed accordingly. The proposal's clear and identified harm to the heritage asset (Ashwell Conservation Area), the proposed development's adverse impact on the rural character of Ashwell Street and the lack of a valid legal undertaking (in the form of a Section 106 obligation) securing appropriate provision for primary education in the vicinity of the site (as required by Hertfordshire County Council as Education Authority) and other necessary obligations, would in my judgement significantly and demonstrably outweigh the public benefits of 24 additional dwellings including 8 affordable units and any planning obligations (if agreed) in the planning balance (notwithstanding that the relevant test in this case is neutral). As such there is an objection in principle to the proposed development.

4.3.98 Alternative Options

None applicable

4.3.99 Pre-Commencement Conditions

Not applicable

4.3.100 Climate Change Mitigation Measures

No climate change mitigation measures are proposed given the recommendation for refusal. Climate change mitigation measures such as alternative energy solutions, solar panels, electric vehicle ready domestic charging points etc. could be controlled by condition and therefore would not amount to a reason for refusal of planning permission.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

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

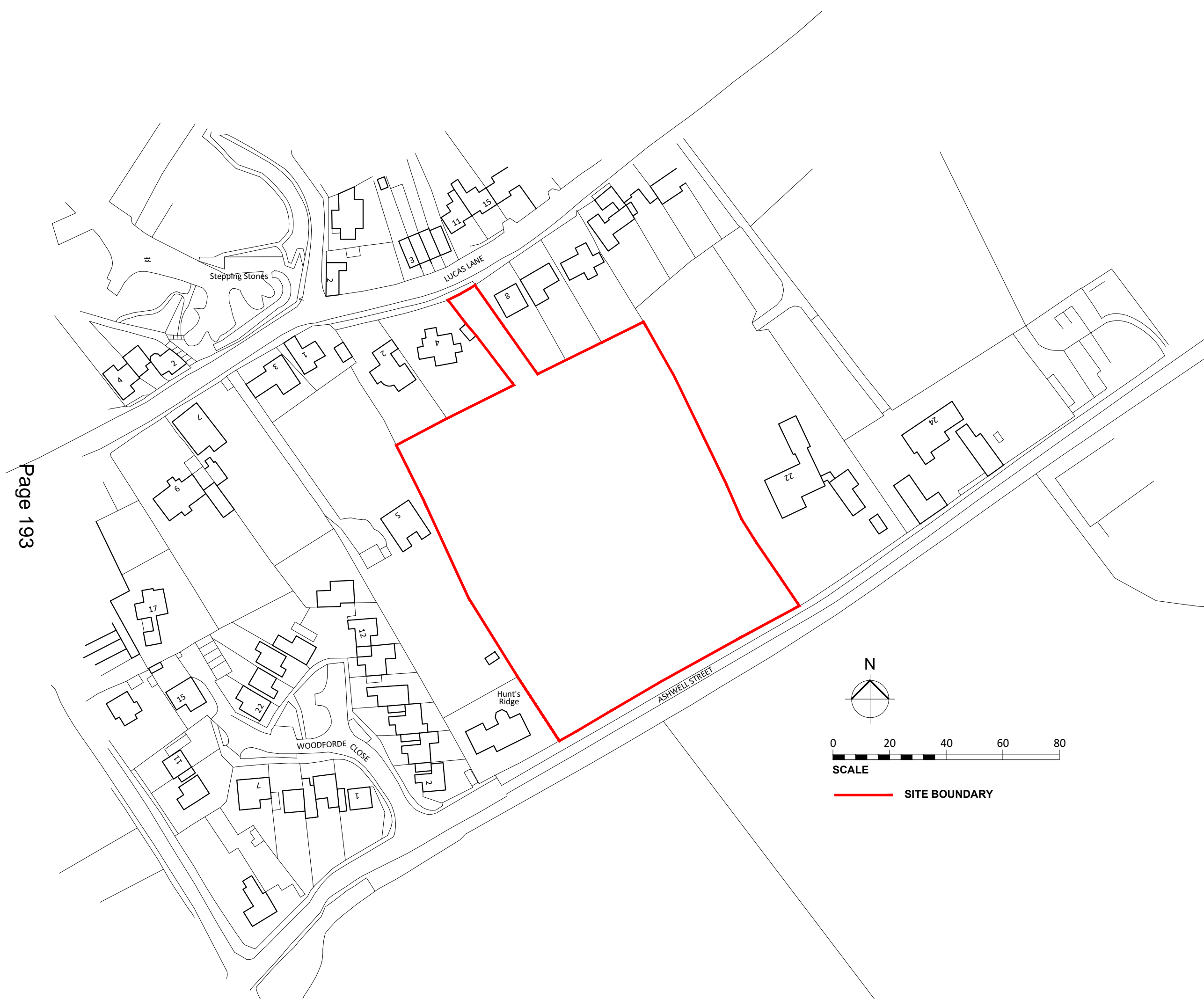
1. By reason of the following: the very positive contribution the application site makes to the character and appearance of the Ashwell Conservation Area; the fact that the site represents the last area of land that could be developed along Ashwell Street; the removal of the sole remaining opportunity to experience the village nestled in the so-called 'river valley' from the south side of the village and unfettered by development in the fore or mid ground; the impairment of views towards an area to the east of the historic core, the impact upon the high degree of inter-visibility between Townsend House, 5 High Street and the parish church of St Mary the Virgin; and the adverse impact upon the character of the medieval route that is Ashwell Street; it is considered that the proposal would occasion less than substantial harm to the significance of the Ashwell Conservation harm toward the upper end of the continuum such that would outweigh any public benefits associated with the delivery of 24 dwellings. Accordingly, the proposal would fail to satisfy the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018).
2. The development would have a detrimental effect on the rural character of Ashwell Street, resulting from the creation of an access onto Ashwell Street with the tree removal and surface upgrading that would be involved. In addition, the setting of the Conservation Area as experienced when viewed from the existing gate on Ashwell Street would be adversely affected by the development. Therefore, the proposed development would not function well or add to the overall quality of the area and would not be sympathetic to local character and history, including the surrounding built environment and landscape setting. The proposed development would constitute poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The proposed development would also fail to recognise the intrinsic character and beauty of the countryside local to the site. As such the proposal would fail to comply with Saved Local Plan Policy 6 of the North Hertfordshire District Local Plan No. 2 with Alterations, Policies SP1 and D1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018) and Sections 12 and 15 of the NPPF.
3. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing affordable housing and any other necessary obligations. The secure delivery of these obligations is required to mitigate the impact of the development on local infrastructure and services in accordance with Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) and proposed Local Plan Policy SP7 of the Council's Proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF).

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

7.0 Appendices

- 7.1 Historic England comments – 3rd September 2020
- 7.2 Parish Council comments – 26th February 2020
- 7.3 Parish Council comments – 10th September 2020



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NOTES:

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REV: | BY: | DATE: | DETAILS:



PROJECT: **Ashwell Street
ASHWELL**

DRAWING TITLE: **Location Plan**

SCALE: 1:1250 (A3) STAGE: Planning DATE: April 2019

DRAWING NO: **A_1906 EX100** REVISION: .

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ASHWELL PARISH COUNCIL

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Chairman: Mark White ☎ 07977 099951*

Ms Naomi Reynard
Senior Planning Officer
North Herts District Council

BY EMAIL

26th February 2020

Dear Ms Reynard,

Re NHDC Case Ref. 20/00126/FP. Land north of Ashwell Street and south Of Lucas Lane between Hunts Ridge, Ashwell Street, and East Lodge, 22 Lucas Lane.

This application was considered by the Parish Council at an on-site meeting on Sunday 16th February. Eighteen local residents and an agent of the landowner were also in attendance.

A proposal was made, and accepted, that no firm recommendation could be made to the NHDC Planning Officer as to whether permission should be granted or not without more detailed information on the matters of concern that had been raised.

These included:

1. The lack of detailed sections across the site to show the impact on (i) existing properties, particularly the bungalows in Lucas Lane, and (ii) important views within the conservation area,
2. The absence of any proposals to address the impact of increased vehicular traffic on the unmade Ashwell Street track and on the junction of Ashwell Street and Kingsland Way,
3. The failure of the proposals to address the housing needs of Ashwell residents as evidenced by the survey conducted as part of the emerging Neighbourhood Plan.

Please see below further detail:

Design and layout.

(i) The impact of the height of the two-storey houses has not been adequately covered in the application. It does not include sectional drawings across the site to show the impact on the bungalows in Lucas Lane and on the significant views from the top of the site (see re Conservation Area Statement below).

(ii) There is precedent in several applications in Ashwell where NHDC Planning Officers have required lower roof heights, including one and a half storeys, to mitigate the negative impact on existing properties. The Heritage Assessment (Examination Library NHE1) for site AS1 in the new Local Plan emphasizes the need for this in relation to sloping sites.

(iv) Concern has been expressed that the number of parking spaces is not adequate/not consistent with guidelines.

- (v) Some concern has been expressed that the affordable housing units are clustered together and it has been questioned whether this is consistent with relevant planning guidelines.
- (vi) Some concern has been expressed that the design and layout does not concur with 'secured by design' guidelines.
- (vii) The differing proposals for walls or fences on different parts of the site has been questioned.

Highways.

The impact of additional traffic movements from the 24 new houses onto Ashwell Street has not been adequately considered in the application. Ashwell Street is an unmade rural track defined as a BOAT and part of the historic Icknield Way path. It is used by a significant number of walkers, horse riders and cyclists for leisure as well as to access local amenities. Such sustainable modes of transport should be encouraged. In particular it provides a significant route for children to access the school from the Station Road end of the village. There exist already significant concerns that it is increasingly used as a 'rat-run' by vehicular traffic and that this is increasingly a hazard to other users. These concerns should be raised with Highways to inform their proposals for necessary works should the application be approved. Proposals to date from others have included, (i) bollards adjacent to the new access to prevent through traffic along Ashwell Street, (ii) works to the junction of Ashwell Street and Kingsland Way to slow traffic and reduce hazards at this already dangerous crossing point.

Conservation Area -Character Statement/Ashwell

(Approved by NHDC Cabinet, meeting 17th December 2019; '...to inform the consideration of planning applications.').

The significant view to the north across the site from the existing field gate is included in this document.

Page 13, section 3.3:

'There are a number of significant views within Ashwell Conservation Area as follows: From Ashwell Street looking north across field towards Alder Cottage including the tree coverage within the Conservation Area (KV23).'

As the proposals include closing off the existing field entrance and creating a new vehicle entrance further along Ashwell Street it is questioned whether this significant view would be retained. Also questioned is whether the height of the new houses would block views across the site to the open landscape beyond (see also above re design and layout).

Housing need.

The recent Neighbourhood Plan survey has demonstrated the need for smaller, lower cost units and dwellings suitable for elderly people. Data from the census and the ONS support the need for more elderly person's accommodation. Requests to the developer for the inclusion of a much higher number of bungalows were made during the pre-application consultation.

Education.

Provision of sufficient places at Ashwell Primary School must be assured.

Other infrastructure/services.

The increase in flooding risk to the bungalows downhill from the new houses needs to be adequately assessed and firm assurances given.

The adequacy of the sewerage system to cope with 24 new dwellings has been questioned. The additional impact on the already inadequate provision of GP services is of concern.

Archaeology.

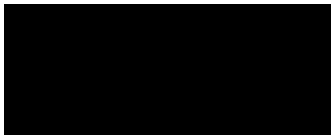
The site investigations carried out by various parties and their subsequent reports have been noted and are commended. The site has been found to be of very significant local importance, and potentially nationally. If permission is granted it is imperative that the relevant statutory condition requiring further work be enforced. Excavations have revealed a Romano-British temple. The field is also the site of a noted WWII aircraft crash that involved the fatality of eight crew of a Wellington. A portfolio of directly relevant information on this has been compiled by the Parish Council. An information board to serve as a memorial to this has been proposed.

Planning obligations.

The Parish Council is to submit the required documentation re the section 106 obligation in support of the New Pavilion Project.

Please contact me if any clarification is required.

Yours sincerely,



Jane Porter (Mrs), Clerk, on behalf of Ashwell Parish Council

Cc District Councillor Tom Tyson.
County Councillor Steve Jarvis.

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ASHWELL PARISH COUNCIL

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Chairman: Mark White ☎ 07977 099951

Ms Naomi Reynard
Planning and Environment
North Herts District Council
Letchworth SG6 3JF

10th September 2020

BY EMAIL

Dear Ms Reynard

Re Land (known as Hunts Close) north of Ashwell Street and south of Lucas Lane between Hunts Ridge and East Lodge, 22 Lucas Lane.

Full Planning Permission: Erection of 24 dwellings including creation of vehicular access off Ashwell Street, footpath link to Lucas Lane, associated public open space and landscaping (as amended by plans received 17.08.20).

Thank you for your consultation on the amendments to this application. The Parish Council would also like to reiterate the objections made in February.

The Parish Council considered its response at a site meeting of the Planning Committee; 17 members of the public and the applicant's agent attended.

They resolved that a recommendation be made to you that permission be REFUSED based on the objections below.

Please also see the objections raised by local residents at the meeting.

1. Objections from the Parish Council.

(i) Vehicular access onto Ashwell Street. Conflict with the right of way; the unmade track known as the Ruddery, BOAT Ashwell Byway 16. Exacerbation of existing safety issues at the Kingsland Way junction. *See points 2 (i) and (ii) below.*

(ii) Harm to a Heritage Asset; Local Plan Policy HE1 and NPPF. The pre-application advice from NHDC to the applicant stated that the benefits of the development would not outweigh the harm to the character and appearance of the Conservation Area.

(iii) Sustainable development. Para 8 of the NPPF sets out criteria for this but the proposed development conflicts on the following:

- Education capacity -need for primary age children to travel out of the village,
- Medical facility capacity -need to travel out of the village,
- Failure to protect the natural and the built historic environment,
- Access to other facilities and employment – need to travel, eg to the station 2 miles from the village.

(iv) Adverse impact on important views both into and out of the site.

This conflicts with the District Local Plan: Ashwell Conservation Area Character Statement July 2019, KeyView23. *See also point 2 (iii) below.*

Also the proposed layout puts the taller houses at the top of the slope further impacting on the views across the site.

(v) Conflict with the emerging Ashwell Neighbourhood Plan. Community views are in favour of small developments of ten houses or less.

(vi) Drainage and flood risk. *See also 2 (iv) below.* Despite the further information provided by the applicant to the flood authority, concerns remain particularly in the light of recent flooding events to properties in Ashwell. The impact of heavy rainfall on the movement of debris from unmade roads and surfaces on significantly sloping land had not been taken into account. In other parts of the village this had frequently led to blockage and failure of drainage systems. Concerns were expressed about the use of a SUDS system for dealing with surface water given that the proposed development had vehicular access via an unmade road. This would introduce soil and other solid matter that could clog the drainage 'pores' that the SUDS system relied on to provide drainage into the underlying ground. Once the SUDS paving was clogged the water would stay on the surface and run downhill towards Lucas Lane properties. The proposals for this site needed to address these issues before any development is given approval.

2. Objections from members of the public at the meeting.

(i) Adverse impact of the proposed vehicular access onto Ashwell Street (unmade track known as the Ruddy; BOAT Ashwell Byway 16).

Objections on safety, environmental and historic grounds. This was a single track, unmade road used regularly by pedestrians, cyclists, horse riders etc and was also an important walking route to the school from the Station Road area of the village. It was an important 'green route' with valued trees and other vegetation and formed part of the historic Icknield Way, a long-distance walking route. Concerns existed that vehicles would, despite measures to discourage this, use it as a short cut when travelling east towards the station, Royston and Cambridge, and to avoid traffic in the High Street.

It was noted that the Highways Development Manager had also raised concerns and the HCC Footpaths Officer had recommended refusal of the application based on this.

(ii) Adverse impact of increased traffic on the Kingsland Way/Ashwell Street junction.

Safety issues already existed at this junction; poor sight lines for vehicles and pedestrians, no footways for pedestrians although a key route to the school, excess speed of traffic. These had been highlighted when the Broadchalke Close development was given planning permission but the safety proposals made at that time were never implemented. No permission should be granted for this application unless safety measures were implemented.

(iii) Loss of significant views (District Local Plan: Ashwell Conservation Area Character Statement July 2019.). The view from the top of the site across the open landscape from the existing field gate had been noted as being of significance and will be lost (the applicant's agent acknowledged that fact). The two new access points would not replace this.

(iv) Exacerbation of existing drainage and flooding issues in the village. The applicant's representative reported that the concerns raised by the HCC Lead Local Flood Authority had been considered and addressed to their satisfaction. Concerns were raised as to what testing had been done and over what period; if during the recent months of drought the data would be meaningless. It was agreed that full details be sought.

(v) Adverse impact on an archaeologically important site. It was noted that evidence of a Roman period temple and other artefacts had been found. The field was also the

site of a WWII air crash. The view was expressed that if permission was given for development, the whole field should be properly excavated.

(vi) Loss of native vegetation. The applicant's representative reported that the landscaping plan included new planting with native species to mitigate loss. The plan was publicly available and comments would be listened to.

Please contact me if any clarification is required.

Yours sincerely,



Jane Porter (Mrs), Clerk
Ashwell Parish Council

Cc District Councillor Tom Tyson

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Historic England

Naomi Reynard
North Herts District Council
PO Box 10613
Nottingham
NG6 6DW

Direct Dial: 01223 582751

Our Ref: P01234250

3rd September 2020

Dear Naomi Reynard

**T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**Land North Of Ashwell Street And South Of Lucas Lane Between Huntsridge
And East Lodge, 22 Lucas Lane, Ashwell, Hertfordshire**

Application No. 20/00126/FP

Thank you for your letter regarding the above application for planning permission. Due to current restrictions we have been unable to visit the site but, on the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Historic England Advice

The Site

The site is an attractive area of open land on a sloping valley side leading down to the springs at the bottom of the valley, which may of given Ashwell its name. The elevated location of the top of the site facing Ashwell Street gives far reaching views across the landscape showing clearly how Ashwell village is nestled at the bottom of a valley and associated closely with the stream. This patch of open ground is probably the only location from which this view, mostly undisturbed by recent development, can be appreciated.

Ashwell Street is also a medieval trackway and being situated on higher ground than the village, the site represents an important link between the understanding of the routeway and the growth of the village. Historic maps indicate that Ashwell grew up to respect the historic trackway of Ashwell Street with gardens and agricultural land associated with the village bordering it. The thin strips of almost burgage plot style dwellings stop at Ashwell Street and wider agricultural land continues to the south of it. This indicates its continued importance as a route serving the land around the village. The maps indicate that this land has always been open, undeveloped and with open views across to the wider landscape. Ashwell Street is, for the most part an unpaved road and retains its tree lined edges giving it the feel of a Holloway.



Historic England

Ashwell is a conservation area and the land in question is noted as key view 23 in the conservation area appraisal. The site is situated within the conservation area boundary.

The Impacts of the Scheme

The houses forming this development will be dominant in the street scene and will be visible from within the Conservation Area. They would dominate the valley side at this point and obliterate the link that Ashwell currently has to surrounding landscape up the valley sides. Lucas Lane is currently characterised by bungalows on its southern edge and the provision of any form of housing on this field would be highly damaging to the sense of space experienced through gaps between them and over the ridgelines.

The impact upon key view 23 would also be damaging as it would be completely lost. The view over the green space to Lucas Lane and countryside beyond would be dominated by housing and the provision of view corridors would not overcome this harm.

The development would therefore cause less than substantial harm on the high end of the scale to the character and significance of the Ashwell Conservation Area.

Notwithstanding this, the design of the proposed scheme would not be consistent with the linear grain of development that dominates Ashwell Village. Although there are pockets of more recent development that contain sinuous street designs, for the most part the development respects the straight line road pattern and is regularly spaced.

Policy Context

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.

Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification.

Paragraph 196 states where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Paragraph 200 states that local planning authorities should look for opportunities for new development within Conservation Areas, and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Historic England's Position



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HistoricEngland.org.uk



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Historic England considers that the proposed scheme would cause less than substantial harm, on the high end of the scale to the significance of the Ashwell Conservation Area.

We consider that any development in this location would be dominant from Lucas Lane and would obliterate the key view mentioned as number 23 within the conservation area appraisal.

We therefore consider that the principle of development within this site would be harmful and that it should be resisted.

Recommendation

Historic England objects to the application on heritage grounds. We consider that the site is important to the significance of the conservation area and it should be retained as open space.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 193,194,196 and 200

In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

Please contact me if we can be of further assistance.

Yours sincerely

Lynette Fawkes

Inspector of Historic Buildings and Areas

E-mail: Lynette.Fawkes@HistoricEngland.org.uk

PLANNING CONTROL COMMITTEE**DATE: 19 November 2020****PLANNING APPEALS LODGED**

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mr And Mrs Camp	13 October 2020	Change of use of annexe to one bedroom dwelling with associated parking spaces.	1 Coronation Row Crow Lane Reed Royston SG8 8AD	19/02906/FP	Written Representation
Mr Danny Taylor	15 October 2020	Erection of one 4-bed dwelling with ancillary access and parking area Land Rear of 33 Wymondley Road	Land Rear Of 33 Wymondley Road Hitchin	20/00892/FP	Written Representation
Mr And Mrs Payne	27 October 2020	Single storey side extensions to both existing elevations	Hogsnorton Cottage Sally Deards Lane Codicote AL6 9UE	20/00791/FPH	Householder Appeal Service

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PLANNING CONTROL COMMITTEE

DATE: 19 November 2020

PLANNING APPEALS DECISION

APELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Mr & Mrs Wright	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	Appeal Dismissed on 5 October 2020	Delegated	The Inspector concluded that the condition is reasonable and necessary in that it allows the Council to assess whether any future additions to the appeal property would be disproportionate and thereby inappropriate development in the Green Belt. Note:The associated application for an award of costs was refused
Mr Christie and Mr Molyneux	Variation to Condition 2 (amendments to the design of the approved dwellings) of 19/00253/FP granted 26/04/2019 for Erection of two 4-bed detached dwellings, parking, amenity space and landscaping, with access from Benslow Rise. Part demolition and extensions to 53 Benslow Rise, with alterations to 55 Benslow Rise.	53 - 55 Benslow Rise Hitchin	20/00293/S73	Appeal Allowed on 8 October 2020	Delegated	The Inspector concluded that the development, with the amendments proposed, would not have an adverse effect on the character and appearance of the area. The development would therefore conform with Policy 57 of the North Hertfordshire District Local Plan (1996) (the Local Plan), which seeks to ensure that new developments are visually acceptable and relate to the physical shape of the site and existing features. As such, it is not necessary or reasonable to retain Condition 2 as originally imposed.

Mrs Joanna Box	Formation of vehicular crossover onto Pixmore Way	154 Pixmore Way Letchworth SG6 1QS	20/00752/FPH	Appeal Allowed on 12 October 2020	Delegated	The Inspector concluded that the appeal proposal would not have an unacceptable impact on highway safety, nor would it result in severe cumulative impacts on the road network. It would accord with the requirements of Policy T2 of the emerging North Hertfordshire Local Plan. Policy T2 requires, amongst other things, that parking be safe and of a design and layout that will function satisfactorily.
Mr B Patel	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	Appeal Dismissed on 20 October 2020	Delegated	The Inspector concluded that the proposals would result in significant harm to the character and appearance of the surrounding area and highway safety.



Appeal Decision

Site visit made on 11 August 2020

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 05 October 2020

Appeal Ref: APP/X1925/W/20/3251426

The White House, Preston Road, Gosmore SG4 7QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Wright against the decision of North Hertfordshire District Council.
 - The application Ref 19/02875/S73, dated 2 December 2019, was refused by notice dated 3 February 2020.
 - The application sought planning permission for Change of use of ancillary building to separate residential dwelling (as amended by drawing 217313DWG001A received 18/01/2017) without complying with a condition attached to planning permission Ref 17/02861/1, dated 25 January 2018.
 - The condition in dispute is No 3 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A-E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority'*.
 - The reason given for the condition is: *'Given the nature of this development, the Local Planning Authority considers that development which would normally be permitted development should be retained within planning control in the interests of the character and amenities of the area'*.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Wright against North Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether condition 3 is reasonable and necessary having regard to the potential effects of permitted development on the openness of the Green Belt.

Reasons

4. Paragraph 145 c) of the National Planning Policy Framework (the Framework) establishes that extensions or alterations to a building within the Green Belt are

not inappropriate development provided that they do not result in disproportionate additions over and above the size of the original building.

5. The evidence indicates that the original building was erected in 2012 and was previously an outbuilding ancillary to the residential use of the adjacent property, known as 'The White House'. Its use as a separate dwelling was then granted planning permission in 2018 with permitted development (PD) rights restricted by condition 3 of that consent. Those proposals were not considered by the Council to be inappropriate development in the Green Belt.
6. Paragraph 53 of the Framework advises against the use of planning conditions to restrict PD rights unless there is clear justification to do so. Such conditions should only be imposed where they are necessary, relevant, and amongst other criteria, reasonable in all other respects. The Planning Practice Guidance states that blanket removal of freedoms to carry out small scale domestic alterations are unlikely to meet the tests of reasonableness and necessity, and it advises that the scope of conditions should be precisely defined. The Council applied condition 3 to remove PD rights within classes A to E¹ inclusive, which refer to various extensions, alterations and outbuildings to domestic properties. The condition is applied to the appeal site only, and it does not extend beyond class E to include other types of domestic development, consequently it is not a full 'blanket' restriction of PD rights.
7. The reason for refusal is clear in that the Council seeks control in assessing any future effects on the Green Belt. A detached house on a large plot could otherwise feasibly undertake a significant amount of development without the need for planning permission. The appeal site's location within the Green Belt, does not, in itself, represent an exceptional circumstance to warrant removal of PD rights. I have considered the particular characteristics of the dwelling and its surroundings. The dwelling sits in expansive grounds but is modest in scale. It is not a conventional new build structure but a conversion of an existing outbuilding with a rural barn-like appearance. Consequently I find it would be sensitive to change from further additions. Notwithstanding the presence of boundary vegetation, the site is considerably open to public view from Preston Road, and longer-range views are also possible through to the open fields beyond.
8. In my judgement, removing the said condition and thus lifting the current embargo on PD rights would have the potential to be disproportionate, significantly increasing the volume of the dwelling and its spread (including large outbuildings) within its extensive lawned gardens. In turn, there is potential for such works to harm the openness of the Green Belt, as well as the character and appearance of the area.
9. The appellant draws my attention to various appeal decisions relating to removal of PD rights. While there may have been good reasons to amend PD rights in those cases, here I find that the circumstances are incomparable in relation to site characteristics and the reasons for the conditions. In any event I have determined this appeal on its own merits. The circumstances surrounding the absence or otherwise of PD rights on nearby properties is not a matter before me such that it can influence my decision. Nonetheless, I noted on my site visit that the majority of dwellings in the immediate area are of

¹ Schedule 2 Part 1 the Town and Country Planning (General Permitted Development) Order 2015 as amended (GPDO).

some age and are unlikely to have been subject to current planning regulations at the time of construction. The potential for an Article 4 Direction is a matter for the Council's consideration.

10. I note that the appellant has no desire to build an upward extension and would be content for such rights under the recent amendments to the GPDO to be limited. However, all types of extensions and alterations that could be carried out under classes A-E inclusive (and including the new class AA) have the potential to be disproportionate and therefore inappropriate here. As such, I find that the condition should remain as originally worded in order to provide the necessary and proper control of development in the Green Belt.
11. Accordingly the removal of the condition to restrict PD rights would not comply with Policy 2 of the North Hertfordshire District Local Plan No.2 with Alterations 1996 which states that except in very special circumstances planning permission will only be granted for extensions and other types of development which are appropriate in the Green Belt, and which would not result in significant visual impact. Whilst Policy 2 of the District Plan is of some age it reflects the general thrust of national Green Belt policy contained within the Framework and therefore I give it significant weight.
12. Policy SP5 of the emerging North Hertfordshire Local Plan 2011-2031 Proposed Submission 2016 is also cited in the reason for refusal. I have not been provided with any information on the current stage of preparation of the emerging Local Plan nor whether there are unresolved objections to the relevant Policies, and as such I give Policy SP5 limited weight.

Conclusions

13. In view of the above I find that the condition is reasonable and necessary in that it allows the Council to assess whether any future additions to the appeal property would be disproportionate and thereby inappropriate development in the Green Belt. I therefore dismiss the appeal.

S Hunt
Inspector

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Appeal Decision

Site visit made on 18 August 2020

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 08 October 2020

Appeal Ref: APP/X1925/W/20/3251399
53-55 Benslow Rise, Hitchin SG4 9QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Christie and Mr L Molyneux against the decision of North Hertfordshire District Council.
 - The application Ref: 20/00293/S73, dated 6 February 2020, was refused by notice dated 24 March 2020.
 - The application sought planning permission for the erection of two four-bed detached dwellings, parking, amenity space and landscaping, with access from Benslow Rise. Part demolition and extensions to 53 Benslow Rise, with alterations to 55 Benslow Rise without complying with a condition attached to planning permission Ref: 19/00253/FP, dated 26 April 2019.
 - The condition in dispute is No. 2, which states that: 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.
 - The reason given for the condition is: to ensure the development is carried out in accordance with details which form the basis of this grant of permission.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of two four-bed detached dwellings, parking, amenity space and landscaping, with access from Benslow Rise. Part demolition and extensions to 53 Benslow Rise, with alterations to 55 Benslow Rise at 53-55 Benslow Rise, Hitchin SG4 9QY in accordance with the application Ref: 20/00293/S73 dated 6 February 2020, without compliance with condition number 2 previously imposed on planning permission Ref: 19/00253/FP dated 26 April 2019, but subject to the attached schedule of conditions.

Procedural Matter

2. It has been confirmed that following the initial granting of planning permission, the Council has approved an application for a non-material amendment. This means that the extant planning permission has been amended. I have therefore proceeded on this basis.

Background and Main Issues

3. Planning permission was previously granted for the erection of two dwellings to the rear of 53 and 55 Benslow Rise, including some alterations to the existing dwellings. This condition was subject to a condition that specified the list of

approved plans. Subsequently, an application was submitted to the Council to amend these plans. It is the refusal of this application that is the subject of this appeal. In consequence, from the evidence before me, the main issues are:

- the effect of the development, with the proposed amendments, on the character and appearance of the surrounding area; and
- the effect of the development, with the proposed amendments, upon the living conditions of neighbouring properties, with reference to outlook.

Reasons

Character and appearance

4. The appeal site consists of two detached bungalows, which both feature large rear gardens. The levels of the gardens vary slightly. The surrounding area contains several dwellings that are constructed to different designs and proportions. The surrounding area features a mixture of buildings, including dwellings arranged in a linear form and some backland properties, including a nursing home.
5. The proposed dwellings would be located to the rear of the existing dwellings and larger than those originally approved, therefore elements of the dwellings would be visible from Benslow Rise. However, they would not be prominent in views from this street owing to most of their form being largely screened by the existing buildings. The presence of the appeal scheme would be further softened by the new landscaping.
6. The proposed dwellings would include projecting front gables. There are examples of similar front projecting gables within Benslow Rise and some of the surrounding streets. In addition, many of the nearby dwellings are constructed to different and contrasting designs, including some backland dwellings and other buildings, such as a care home. Therefore, the prevailing character can be defined as featuring architectural variety and the proposed development would not appear out of place in this context.
7. Elements of the proposed dwellings would be visible from the street, but these would be viewed against a backdrop of varied building uses and designs. These include some dwellings and a nursing home that are sited within back land locations. Accordingly, the sight of two additional dwellings behind the existing bungalows would not be particularly unusual.
8. A condition not in dispute is that the dwellings should be constructed with materials approved by the Council. This provides a mechanism that would ensure that the proposed dwellings would be constructed from a palette of materials that are compatible with the surrounding area and would further reduce the effects of the development upon the character and appearance of the surrounding area.
9. I therefore conclude that the development, with the amendments proposed, would not have an adverse effect on the character and appearance of the area. The development therefore conforms with Policy 57 of the North Hertfordshire District Local Plan (1996) (the Local Plan), which seeks to ensure that new developments are visually acceptable and relate to the physical shape of the site and existing features. As such, it is not necessary or reasonable to retain Condition 2 as originally imposed.

Living conditions

10. The immediately adjoining dwellings are constructed to different designs and located broadly in line with the existing bungalows. A backland dwelling adjoins the site on one side.
11. The proposed dwellings would be of a larger scale than those previously approved. However, they would be located on land that would be lower than the adjoining site levels. The use of a front gable design would also reduce the bulk of the proposed dwellings, as the roof slope would be less apparent from dwellings in Benslow Rise. As such, their general massing would not be harmfully apparent from neighbouring properties.
12. The set back of the proposed dwellings from the rear elevations of the properties in Benslow Rise would be sufficient to prevent the development from having a significant overbearing or enclosing effect on the occupants of these properties when looking out of their rear windows. The proposed dwellings would be visible from the rear gardens of the neighbouring properties in Benslow Rise but such views would be made at an oblique angle. This would reduce the visual presence of the proposed development and also prevents it from being overbearing when viewed from nearby gardens.
13. In addition, the proposed development would have a lower eaves height and a shallower roof slope than the originally approved scheme. In consequence, the scheme before me would not have any greater effects on the levels of outlook of the occupiers of other properties in Benslow Rise than the previously permitted development.
14. The neighbouring back land dwelling features some windows on the side elevation facing the appeal site. However, the level of outlook that these windows experience is limited owing to the boundary treatment that has been installed at the appeal site. The evidence before me indicates that these boundary treatments would be retained post development. In addition, the precise siting of the proposed dwellings would be consistent with those that had previously been granted permission.
15. In consequence, there would not be a notable change in the level of outlook that the occupiers of the existing back land development would experience post construction of the proposed dwellings. In result, the proposed amendment would not result in significant harm to the living conditions of the occupiers of this neighbouring property
16. The revised scheme would result in an increase in the number of windows within the front elevation when compared to the previously permitted development. However, the additional windows facing the rear elevations and gardens of neighbouring properties in Benslow Rise would not be overly large and views from the proposed dwellings would be diffused by the proposed new landscaping, which can be secured via a condition. Accordingly, the proposed development would not result in an adverse effect upon the levels of privacy experienced by existing residents.
17. I therefore conclude that the proposed development, with the amendments proposed, would not have an adverse effect on the living conditions of the occupiers of neighbouring properties. The development would therefore comply with Policy 57 of the Local Plan, which seeks to ensure new developments

function adequately. As such, it is not necessary or reasonable to retain Condition 2 as originally imposed.

Other Matters

18. I have noted references to an emerging local plan. However, the amount of weight that I can attribute to this document is limited on account of the findings of the examination in public being awaited.
19. Concerns have been raised regarding the effect of the development upon the highway system. However, this appeal relates to amendments to a previous permitted scheme. I have no reason to believe that these amendments would result in a greater effect on the highway system.
20. Representations received have also referred to potential restrictive covenants that may affect the appeal site. However, such covenants are civil matters and therefore outside of the scope of this appeal.

Conditions

21. As this appeal relates to revisions to the wording of a condition; the implementation condition also needs to be amended in order not to increase the timeframe for implementation of the planning permission. Due to the outcome of this appeal, I have amended the wording of Condition 2 in order to reflect the new approved plans and those included within the previously approved Non-Material amendment.
22. The original planning permission included conditions relating to building materials; landscaping; a Construction Management Plan; access; and the installation of gates. As these conditions are not disputed by any party and appear necessary in order to ensure that the development would harmonise with its surroundings; would not affect the living conditions of the occupiers of neighbouring properties; would result in the provision of appropriate landscaping; and would not affect highway safety, I have reinstated them apart from Condition 6, which I have amended to include the new proposed site plan.

Conclusion

23. For the preceding reasons, I conclude that the appeal should be allowed, and planning permission granted.

Benjamin Clarke

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the 26 April 2022.
2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and the following list of plans: 108_81_Location; 107_45A_01; 107_45A_02; 107_45A_10; 107_45_11; 107_45A_30; 107_45A_31; 107_46A_10; 107_46A_11; 107_47A_10; 107_47A_11; 107_47A_12; 107_47A_20; 107_47A_30; 107_47A_30-1; 107_47A_31; 107_48A_10; 107_48A_11; 107_48A_12; and 107_48A_30.
3. Details and/or samples of materials to be used on all external elevations and the roof of the development 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.
4. Prior to the commencement of the development hereby permitted full details of all hard and soft landscaping including all boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
5. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. Details submitted in respect of the CMP, incorporated on a plan, shall provide for wheel cleaning facilities during the demolition, excavation, site preparation and construction stages of the development. The CMP shall also include details of the means of recycling materials, the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.
6. Prior to the first occupation of the development hereby permitted the vehicular accesses (as shown on drawing number 107_45A_01) and any other necessary highway works shall be completed in accordance with the Hertfordshire County Council residential access construction specification. Prior to use arrangements 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.
7. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.
8. No gates shall be provided across the access to the site.

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Appeal Decision

Site visit made on 28 September 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal Ref: APP/X1925/D/20/3253415

154 Pixmore Way, Letchworth Garden City SG6 1QS

- 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 Joanna Box against the decision of North Hertfordshire District Council.
 - The application Ref 20/00752/FPH, dated 1 April 2020, was refused by notice dated 27 May 2020.
 - The development proposed is described as "planning permission for a dropped kerb".
-

Decision

1. The appeal is allowed and planning permission is granted for a dropped kerb at 154 Pixmore Way, Letchworth Garden City, SG6 1QS in accordance with the terms of the application, Ref 20/00752/FPH, dated 1 April 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1,250 site location plan, driveway plan.

Procedural Matter

2. The Council has submitted its emerging Local Plan for examination. The examination is ongoing, but the Council states that all objections to Policy T2 in the emerging Local Plan have been addressed, and the appellant has not disputed this. Substantial weight can therefore be given to that policy in the determination of this appeal.

Main Issue

3. The main issue is the effect of the development proposed on highway safety and the road network.

Reasons

4. The front garden of the appeal property has been paved, with space to park one car, although not for that car to turn within the site so it can leave and enter in forward gear.

5. Policy 5 of Hertfordshire's Local Transport Plan 2018 states that special circumstances must be demonstrated for new accesses onto primary and main distributor roads. Pixmore Way is identified as a secondary distributor road, and therefore Policy 5 does not apply, and special circumstances are not required in this instance.
6. Several other houses within the near vicinity of the appeal site have dropped kerbs allowing parking off the street, and very few of these have space within the curtilage to allow a vehicle to turn on site. No information has been submitted regarding whether planning permission was granted for these developments. However, their presence is a material consideration as the National Planning Policy Framework (the Framework) states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
7. The appeal property is one of four in a terrace, none of which have dropped kerbs onto Pixmore Way. There is a bus stop on the opposite side of the road and therefore vehicles cannot park across the road from the proposed dropped kerb. Pixmore Way is straight, and there are no trees or street furniture immediately adjacent to the site of the proposed dropped kerb that would limit visibility for vehicle or pedestrian traffic in the vicinity of the site. The dropped kerb would serve a single property, and there is only space within the appeal site to park a single car. Vehicle manoeuvres associated with the dropped kerb would accordingly be limited. No evidence has been provided to show that there is an existing risk to highway safety in the general vicinity, or that the appeal site would be particularly susceptible to highway safety issues if planning permission is granted.
8. The appeal proposal would not therefore have an unacceptable impact on highway safety, nor would it result in severe cumulative impacts on the road network. It would accord with the requirements of Policy T2 of the emerging North Hertfordshire Local Plan. Policy T2 requires, amongst other things, that parking be safe and of a design and layout that will function satisfactorily.

Conditions

9. I have imposed the standard condition relating to the commencement of development, as well as one confirming the approved plans, for the sake of certainty.

Conclusion

10. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR



Appeal Decision

Site visit made on 28 September 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2020

Appeal Ref: APP/X1925/W/20/3254267

6 St Marks Close, Hitchin, SG5 1UR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr B Patel against the decision of North Hertfordshire District Council.
 - The application Ref 19/02633/FP, dated 30 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed is new single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In its evidence the Council has referred to policies within the emerging North Hertfordshire Local Plan 2011-2031. This plan has not completed Examination in Public, and the Council has not provided detailed information on the extent and content of any unresolved objections to the plan nor conveyed how this may affect the policies to which it has referred. Therefore, whilst I have had regard to them, bearing in mind its stage of preparation, it carries limited weight.

Main Issues

3. The main issues are the impact of the proposed development on:
 - the character and appearance of the area, with specific regard to impact on trees; and
 - highway safety, with specific regard to manoeuvring space.

Reasons

Character and appearance

4. The site is within a predominately residential area though there are some commercial uses to the opposite side of the road. The appeal site is currently utilised as part of the residential garden for No 6 St Marks Close and also encompasses part of Bearton Pond, which is a closed body of water.
5. The pond is surrounded by a boundary wall and fencing, to the adjacent road frontages, with existing dwellings to the east and south. The existing dwellings are set well back and at a higher ground level than the pond, with their rear

gardens extending down to the bank, and some properties having jetties or platforms at the water's edge.

6. There is however substantial, and mature landscaping around the pond, and the existing built development appears as nestled into the landscape, as such the site and adjacent pond retain a soft and natural landscaped character and appearance. Furthermore, although located within a busy urban environment, due to boundary treatment, and mature trees, the site and pond have a secluded and tranquil character.
7. The proposal is to erect a single storey dwelling that would extend over the bank and water, with vehicular access being provided from Bearton Road. The proposal would remove existing landscaping and introduce substantial hard elements that would be at odds with the current soft landscaped character of the site.
8. Although the proposed dwelling would be single storey, it would have a wide frontage and, along with the parking and turning area, result in a hard-developed edge to a significant section of the pond. I saw on my site visit that the water level is significantly lower than the bank in places and the development, in particular the proposed parking and turning areas would be dominant and imposing features.
9. Due to the proposed layout and design, there would be little opportunity for planting to the bank or waters edge to soften the visual impact of the development. Furthermore, it would introduce parked vehicles and aspects such as bin storage in close proximity to the water, which would add to the harmful visual impact on the character and appearance of the site and Bearton Pond.
10. Whilst views into the site are restricted, the proposed dwelling would be higher than the existing boundary treatment and it would therefore be visible from the street. There are however mature trees within and adjacent to the site and these are clearly visible within the street scene. They make a positive contribution to the character and appearance of the surrounding area providing visual relief from the urban environment.
11. The removal of a significant part of a presently undeveloped site and existing trees, which currently make a positive contribution to the character of the area, would have a harmful impact on the spacious and verdant character of the site and this would be to the detriment of the character and appearance of the surrounding area.
12. There are also mature trees in close proximity to the proposed vehicular access and turning area, and I saw on my site visit that the land level to the top of the bank rises in this location with one of the trees being within this area of raised ground. The proposed works would encroach into the Root Protection Areas of these trees, and significant pruning would likely be required to at least one of the trees, which has substantial branches overhanging the site and pond, to facilitate the development.
13. There is a lack of detail on these trees within the submitted tree survey, and the extent of the impact on them or whether they could be realistically retained is not clear. Any extensive pruning or felling of these trees would have an

unacceptable harmful impact on the landscaped setting of the pond and that of the wider area.

14. Therefore for the reasons stated above the development would be contrary to Saved Policies 21, 26 and 57 of the North Hertfordshire District Local Plan, 1996 (LP) which, amongst other things seek to ensure that development is acceptable within the environment and character of the existing area, achieving a high quality design and responding to the sites physical shape and existing features. For the same reasons the proposal would also fail to achieve the high-quality design that is required by Section 12 of the National Planning Policy Framework (the Framework).

Highway Safety

15. The entrance to the site would be via a footway crossover from Bearton Road. I saw on my site visit that this is a busy part of the road network and a location where drivers would need to pay particular attention to road conditions and make decisions, such as changing lanes, braking and adjusting speed.
16. The proposed access would be narrow and constrained by existing fencing and trees. Due to the nature of the road it would be necessary for vehicles to be able to enter and leave the site in a forward gear, as reversing out of the access would impede the free flow of traffic, and this could lead to conflicts between pedestrians and vehicles, even at low speeds, to the detriment of highway safety.
17. The submitted detail indicates how a vehicle may be able to turn within the site, though this does appear to be restricted, with the swept path in very close proximity to existing boundary treatment and trees. Furthermore, it is not clear what types of vehicles this could accommodate or how it would operate in terms of the vehicles entering and exiting the proposed parking spaces. Although the height of the fencing to the site boundary could be reduced to improve visibility, this would not address the concerns in relation to vehicles reversing out onto the highway.
18. Having regard to all of these factors, I therefore conclude that the development would result in an unacceptable risk to highway and pedestrian safety. The proposal would therefore not accord with LP Policy 57 which, amongst other things, seeks to ensure that developments create safe routes for pedestrian and vehicular movements. For the same reasons the proposals have failed to demonstrate they would not have an unacceptable impact on highway safety in accordance with Paragraphs 108-110 of the Framework which seek to ensure developments provide safe, suitable access and minimise the scope for conflicts between pedestrians and vehicles.
19. The appellant states that the submitted tracking details have been accepted by the Council on another site, though I do not know the full details of that case and, on the basis of the information before me, it is evident that there are differences between the sites in terms of the parking layout and manoeuvring arrangements.
20. In addition, the extract provided from Manual for Streets relates to the effect of oversized parking spaces on reducing the need for manoeuvring space. This is not directly relevant or specific to the appeal scheme and does not aid in demonstrating the proposed arrangement would facilitate the turning of

vehicles within the appeal site. Therefore, having considered the appeal on its own merits these matters do not, lead me to a different conclusion.

Other Matters

21. I acknowledge that pre-application discussions took place and that some positive responses may have been given by the Officer at that time. It is unfortunate that Officers of the Council changed but it is the decision of the Council I must have regard to.
22. I note the appellant has attempted to address the Council's objections to a previous scheme on the site. However, this does not alter the harmful effects I have found and having considered the appeal on its merits these other matters do not, therefore, lead me to a different conclusion.

Planning Balance

23. The Council acknowledges that it cannot demonstrate a 5-year housing land supply which means that the approach set out in paragraph 11 d) of the Framework is engaged.
24. There is no detailed information before me with regards to the scale of the Council's housing land supply shortfall, though the provision of only one dwelling could only have a limited benefit in relation to boosting the supply of housing. Furthermore, benefits in relation to employment during construction would be temporary and future occupants use of local services would only result in modest benefits.
25. That the development would be close to local services and facilities, in accordance with Section 9 of the Framework, nor result in any harmful ecological impacts would have a neutral effect, and therefore do not weigh in favour of the appeal.
26. The proposals would result in significant harm to the character and appearance of the surrounding area and highway safety. Although I recognise the important contribution small sites can make to meeting the housing requirement of an area, the harm I have identified means that adverse impacts of granting permission would significantly and demonstrably outweigh the limited benefits, when assessed against the Framework as a whole. Other considerations do not indicate that a decision should be taken other than in accordance with the development plan.

Conclusion

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

A Denby

INPSECTOR

Costs Decision

Site visit made on 11 August 2020

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 05 October 2020

Costs application in relation to Appeal Ref: APP/X1925/W/20/3251426 The White House, Preston Road, Gosmore SG4 7QS

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Wright for a full award of costs against North Hertfordshire District Council.
 - The application sought planning permission for Change of use of ancillary building to separate residential dwelling (as amended by drawing 217313DWG001A received 18/01/2017) without complying with a condition attached to planning permission Ref 17/02861/1, dated 25 January 2018.
 - The condition in dispute is No 3 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A-E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority'.*
The reason given for the condition is: *'Given the nature of this development, the Local Planning Authority considers that development which would normally be permitted development should be retained within planning control in the interests of the character and amenities of the area'.*
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) on appeals (paragraph 030) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 53 of the National Planning Policy Framework (the Framework) advises against the use of planning conditions to restrict permitted development (PD) rights unless there is clear justification to do so. The PPG on conditions states that blanket removal of freedoms to carry out small scale domestic alterations are unlikely to meet the tests of reasonableness and necessity, and it advises that the scope of conditions should be precisely defined.
4. In this case there has not been a blanket removal of freedoms but within classes A to E inclusive on a single property within the Green Belt. The dwelling is modest in size with a rural appearance and sits within open and expansive grounds. My decision found that if permitted development rights were

unrestricted on the appeal site, a significant amount of domestic development could be undertaken and disproportionate extensions and outbuildings have the potential to be inappropriate development and thereby result in harm to the openness of the Green Belt. Other appeal decisions and any lack of restriction of PD rights on neighbouring properties have been given limited weight given the different circumstances involved.

5. The applicant submits that the Council have prevented a development which should clearly have been permitted. However, there is no proposed development before me. The appeal relates to a condition which restricts PD rights, but it does not necessarily follow that any future planning application for domestic extensions, alterations or outbuildings would be rejected by the Council. The condition does not prevent future development but gives the Council a degree of control in assessing whether such development would be inappropriate in the Green Belt.
6. Given the specific characteristics of this site and the surrounding area I find that the Council have not behaved unreasonably in seeking to be given the opportunity to establish the effects of any extensions, alterations or outbuildings on the openness of the Green Belt by way of the submission of a planning application for such proposals.
7. The Council had substantive reasons for refusing the application and adequately justified this in the officer report. I agreed with their concerns, and it follows that I find that the Council had sufficient justification to take the view it did.
8. There has been no failure on the part of the Council to produce evidence to substantiate their reason for refusing the application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Consequently, no award of costs is made.

S Hunt

Inspector