

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**



5 March 2021

Our Ref PCC – 18.03.2021  
Contact. Committee Services  
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To: Members of the Committee: Ruth Brown (Chair), Daniel Allen (Vice-Chair), Val Bryant, Morgan Derbyshire, Mike Hughson, Tony Hunter, David Levett, Ian Moody, Sue Ngwala, Sean Prendergast, Mike Rice and Tom Tyson

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

**NOTICE IS HEREBY GIVEN OF A  
MEETING OF THE PLANNING CONTROL COMMITTEE**

to be held as

**A VIRTUAL MEETING**

On

**THURSDAY, 18TH MARCH, 2021 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**

<b>Item</b>	<b>Page</b>
<p><b>1. WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY</b></p> <p>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: <a href="https://www.north-herts.gov.uk/home/council-and-democracy/council-and-committee-meetings">https://www.north-herts.gov.uk/home/council-and-democracy/council-and-committee-meetings</a>.</p>	<p>(Pages 5 - 6)</p>
<p><b>2. APOLOGIES FOR ABSENCE</b></p> <p>Members are required to notify any substitutions by midday on the day of the meeting.</p> <p>Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.</p>	
<p><b>3. MINUTES - 10 FEBRUARY 2021 - 24 FEBRUARY 2021</b></p> <p>To take as read and approve as a true record the minutes of the meeting of the Committee held on the 10 February 2021 and 24 February 2021.</p>	<p>(Pages 7 - 42)</p>
<p><b>4. NOTIFICATION OF OTHER BUSINESS</b></p> <p>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.</p> <p>The Chair will decide whether any item(s) raised will be considered.</p>	
<p><b>5. CHAIR'S ANNOUNCEMENTS</b></p> <p>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.</p>	

**6. PUBLIC PARTICIPATION**

To receive petitions, comments and questions from the public.

**7. 18/02722/FP LAND SOUTH OF HEATH LANE, CODICOTE,  
HERTFORDSHIRE, SG4 8YL  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER**

(Pages  
43 - 188)

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).

**8. PLANNING APPEALS  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER**

(Pages  
189 -  
198)

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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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## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### PLANNING CONTROL COMMITTEE

MEETING HELD AS A VIRTUAL MEETING  
ON WEDNESDAY, 10TH FEBRUARY, 2021 AT 7.30 PM

#### MINUTES

**Present:** *Councillors: Councillor Ruth Brown (Chair), Councillor Daniel Allen (Vice-Chair), Val Bryant, Morgan Derbyshire, Mike Hughson, Tony Hunter, David Levett, Ian Moody, Sue Ngwala, Mike Rice and Tom Tyson*

**In Attendance:** *Councillors Claire Strong and Sam North*

*Simon Ellis (Development and Conservation Manager) and Nurainatta Katevu (Legal Regulatory Team Manager), Tom Allington (Principal Planning Officer), Anne McDonald (Acting Principal Planning Officer), Andrew Hunter (Senior Planning Officer), William Edwards (Committee, Member and Scrutiny Officer), Matthew Hepburn (Committee, Member and Scrutiny Officer)*

**Also Present:** *At the commencement of the meeting approximately 8 members of the public, including registered speakers.*

#### 87 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY

The Chair welcomed everyone to this virtual Planning Control Committee meeting that was being conducted with Members and Officers at various locations, communicating via audio/video and online. There was also the opportunity for the public and press to listen to and view proceedings.

The Chair invited the Committee, Member and Scrutiny Officer to explain how proceedings would work and to confirm that Members and Officers were in attendance.

The Committee, Member and Scrutiny Officer undertook a roll call to ensure that all Members, Officers and registered speakers could hear and be heard and gave advice regarding the following:

The meeting was being streamed live onto YouTube and recorded via Zoom.

Extracts from the Remote/Partly Remote Meetings Protocol were included with the agenda and the full version was available on the Council's website which included information regarding:

- Live Streaming;
- Noise Interference;
- Rules of Debate;
- Part 2 Items.

Members were requested to ensure that they were familiar with the Protocol.

The Committee, Member and Scrutiny Officer advised Members that due to a change to the remote meeting software votes at this meeting would be conducted by roll-call.

The Chair of the Planning Control Committee, Councillor Ruth Brown started the meeting proper.

**88 APOLOGIES FOR ABSENCE**

*Audio recording – 3 minutes 30 seconds.*

Apologies for absence were received from Councillor Sean Prendergast.

**89 MINUTES - 24 NOVEMBER 2020, 17 DECEMBER 2020**

*Audio Recording – 3 minutes 39 seconds.*

**RESOLVED:** That the Minutes of the Meetings of the Committee held on 24 November 2020 and 17 December 2020 be approved as a true record of the proceedings and the Committee, Member and Scrutiny Officer be authorised to apply the Chair's digital signature.

**90 NOTIFICATION OF OTHER BUSINESS**

*Audio recording – 4 minutes 20 seconds.*

There was no other business notified.

**91 CHAIR'S ANNOUNCEMENTS**

*Audio recording – 4 minutes 29 seconds.*

- (1) The Chair welcomed those present at the meeting, especially those who had attended to give a presentation;
- (2) The Chair advised that, in accordance with Council Policy, the meeting would be audio recorded;
- (3) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.
- (4) To clarify matters for the registered speakers the Chair advised that members of the public had 5 minutes for each group of speakers i.e. 5 minutes for objectors and 5 minutes for supporters. This 5 minute time limit also applied to Member Advocates.

A warning would be given at 4 ½ minutes and speakers would be asked to cease at 5 minutes.

- (5) The Chair advised that the Committee would adjourn for a comfort break around 9PM.

**92 PUBLIC PARTICIPATION**

*Audio recording – 5 minutes 59 seconds.*

The Chair confirmed that all registered speakers and Member Advocates were in attendance.

**93 20/02631/FP Site of Former 15, Luton Road, Offley, Hertfordshire**



*Audio Recording – 6 minutes 10 seconds.*

Erection of one detached 3- bedroom dwelling house, including use of existing garage and existing vehicular access and provision of 2 further on-site car parking spaces (as amended by drawings received 16th and 18th December 2020).

The Principal Planning Officer presented the report in respect of application 20/02631/FP supported by a visual presentation consisting of plans and photographs and provided the following updates:

- Since publication of the report three further consultation responses from the neighbour at 3 & 4 Claypit Cottages had been received which had been circulated to Members;
- The officer summarised the issues raised in these responses including the issues of land levels, surface water runoff and potential overlooking by users of the side access door of the existing garage.
- Condition 4 requiring a landscaping plan to be submitted and approved prior to commencement was to be amended to include details of additional screening to provide privacy;
- Condition 6 requiring survey plans detailing ground levels was to be amended to require the development to match levels as stated in the plans currently before the Committee;
- The Lead Local Flood Authority (LLFA) had raised no objections and was satisfied with the drainage conditions but an informative was to be added to the report advising the applicant to seek approval from the relevant Water and Sewerage Company.

The Chair invited Alan Jones to address the Committee.

Alan Jones thanked the Chair for the opportunity to speak in objection to the application and addressed the Committee including:

- The committee should be bound by the decision of the planning inspector;
- Policy 57 should continue to apply;
- This site had an extensive and complex history with the planning authority in part due to officers' failure to prevent the illegal construction of a property on the site which had to be demolished;
- The first development permitted on this site was unviable due to the location of a drain and the applicant in that case went on to construct in an alternative but not permitted location;
- Mr Jones had instigated proceedings for judicial review of the Council's actions relating to the unlawful construction and these proceedings were still outstanding;
- A senior planning inspector had ordered the unlawful property demolished and stated that the application approved in 2012 would be an acceptable fallback position for all parties;
- The present application did not overcome the reasons for demolition outlined in the decision of the inspector;
- The binding decision of the inspector stated that the operative issue was the distance between the proposed building and the boundary with Mr Jones' neighbouring property, not the distance between the proposed building and his buildings;
- Officers must not attempt to dilute the binding decision and must compare the application at hand with the approval in 2012 and examine any policy which might cause them to deviate from the development approved by the inspector;
- References in the officer's report to Emerging Policy D3 were not relevant and policy 57 deemed relevant by the inspector had not fallen away;
- It was identified that 1350mm was the approved distance between the proposed property and the boundary of 3 & 4 Claypit Cottages; any less than this distance would cause harm;

- The officer's report identified that this distance cannot be maintained due to the location of the drain and states that the application is to construct the house at a distance of 980mm from the boundary, on the basis that the difference between these figures is insignificant;
- Mr Jones argued that if such a difference was insignificant the applicant should instead reduce the size of their proposed development by that amount.

The following Members asked questions:

- Cllr Sue Ngwala

In response to questions Alan Jones advised:

- The officers' report has identified that 1350mm is the correct distance between the corner of the proposed property and the boundary of Mr Jones' property;
- The applicant has confirmed that this distance cannot be achieved and a distance of 980mm is instead viable;
- The difference between these distances is 370mm;
- The officers' report deems this distance insignificant; if it is insignificant the applicant can reduce the size of the proposed house by that amount rather than adjusting the position of the house away from the site approved by the inspector at appeal.

The Chair thanked Alan Jones for his presentation.

The Chair invited Cllr Claire Strong (Member Advocate) to address the Committee.

Cllr Claire Strong thanked the Chair for the opportunity to address the Committee including:

- There had been much consultation with the parish council on this item;
- The Committee should be minded of the importance of the inspector's decision included at page 61;
- The unlawful property had stood for 5 years until demolished and Mr Jones and his family had lived with an oppressive building at the end of their garden for that time;
- The applicant has made a submission about the history of the site and did not appear to accept the decision of the inspector;
- The Committee decided to refuse a prior application to retrospectively approve the building on this site which the inspector had deemed unlawful;
- The adjusted application before the Committee did not align with the fallback position approved by the inspector and though the difference in distance may be small the inspector's decision should be given due weight;
- This development will be visible from the garden of 3 & 4 Claypit Cottages;
- There was still harm arising from the location of this development and the application would not meet policy 57;
- The only way for the applicant to satisfy the Committee of the suitability of development on this site would be to bring an application in line with the fallback position approved by the inspector.

The following Members asked questions:

- Cllr Daniel Allen

In response to questions Cllr Strong advised that she had only had consultation with Alan Jones and with Offley Parish Council.

The Chair thanked Cllr Claire Strong for her presentation

The Chair invited Chris Watts to address the Committee.

Chris Watts thanked the Chair for the opportunity to address the Committee including:

- He was an agent speaking on behalf of the applicant;
- He was aware of the lengthy and challenging planning history of the site and requested that the Committee note that there were always two sides to every dispute;
- The applicant was grateful for the officers' recognition that the present application overcame the problems identified by the inspector and were recommending approval with conditions;
- Previous concerns were specific and related to siting, scale and height of the house and its impact on neighbours;
- It should be noted that plans submitted with the application were not accepted by officers until they could be verified as accurate;
- On three occasions at appeal the Council had confirmed that the site can accommodate a detached dwelling and accepted the 2012 permission as a fallback position;
- The proposed placement of the house is in a very different place to the unlawful as-built dwelling; the previously as-built dwelling cut across the sight line from 3 & 4 Claypit Cottages and was materially closer to that property;
- The sight line should not be considered in isolation and other factors including changes to the proposed size, height and scale of the property were important;
- The new house was proposed to have a ridge height of 8.1 meters compared to a height of 9.1 meters of the house as-built and the height of 9.6 meters as originally approved in 2012; this is a significant reduction in height;
- The proposed property as a whole was smaller in size with 3 bedrooms rather than the 4-5 bedrooms with rooms in the attic as allowable under the 2012 approval;
- The ground levels had been reduced by up to 200mm as part of the applicant's compliance with the enforcement notice and the applicant was prepared to reduce ground levels by a further 200mm as part of the current proposal;
- The house would benefit from an existing garage which an inspector had been allowed to remain despite being visible from the neighbouring properties;
- An independent transport consultant had examined the parking spaces and advised they were viable;
- The applicant understood and accepted that permitted development rights would be removed in the interests of neighbouring properties;
- The end gable of the new house facing neighbouring properties would have no 1<sup>st</sup> floor windows and result in no loss of light or sunlight;
- The proposed property would be at least 25 meters from the rear wall of N. 6 Claypit Cottages and at least 22 meters from the rear wall of numbers 4 & 5 Claypit Cottages;
- These distances were reasonably and normally accepted especially taken in to consideration alongside the reduced height of the property, reduction in ground levels, and the hedges along the boundary of property N. 4&5 Claypit Cottages;
- The applicant had made major changes to the height and siting of the property in order to accommodate the outlook of neighbours;
- The change in sight lines resulting from this proposal was under a foot in distance and could not cause the material harm suggested by the objectors.

The Chair thanked Chris Watts for his presentation.

The Chair invited the Principal Planning Officer to respond to the issues raised.

In response, the Principal Planning Officer advised:

- Planning history was a material planning consideration;
- Each application must be considered on its own merits;

- On the basis that the application was considered on its own merits the decision before the Committee was not a clear cut choice between following the Inspector's decision in 2018 and rejecting it;
- Planning history including the inspector's determinations was a relevant factor as were previous approvals from this Committee in 2012 and the features of the proposed development in the application;
- The approval in 2012 included assent to a gap between the corner of the proposed property and the neighbouring boundary of 1.35 meters; the current application would have this distance reduced to 98cm, a difference of 37cm.
- The officer did not suggest 37cm was totally insignificant but was relatively minor in the scale of the house, particularly in light of the reduced ground level and the reduced height of the house;

The following Members asked questions and took part in the debate:

- Cllr Daniel Allen
- Cllr Tony Hunter
- Cllr David Levett
- Cllr Sue Ngwala

In response to questions the Principal Planning Officer advised:

- The recommendations in the report represented his professional opinion and in his view an Inspector would agree with his assessment were this application brought to appeal;
- The decisions of the inspectors regarding this site were circulated to Members to read for themselves and in his view they did not mean that no approval could be granted without the distance in question meeting the 1350mm mark; the 2018 decision stated that the crucial feature of the acceptable 2012 fallback position was that the development was situated north of the sight line and the unlawful house was significantly south of it as-built;
- The current applicants were not the applicants for the 2012 approval;
- The 2012 proposal could not be implemented without building over a drain;
- The Committee had to determine the proposal in the application before them.

Councillor Daniel Allen proposed, Councillor David Levett seconded and it was:

**RESOLVED:** That application 20/02631/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager and the following amended conditions and additional informative:

Condition 4 be amended to read:

"4. Prior to the commencement of the development hereby approved, a landscaping plan is to be submitted to and approved by the Local Planning Authority and only the approved details must be implemented on site. The landscaping plan 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 including boundary treatments with the neighbouring Claypit Cottages as well as within the development; and
- d) details of any earthworks proposed.
- e) details of additional screening to the western boundary of the site, to ensure privacy between the plot and neighbouring properties.

Reason: In the interests of the visual amenity of the site."

Condition 6 be amended to read:

“6. No development shall take until details of the proposed finished floor levels; ridge and eaves heights of the building hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels surrounding the dwelling hereby approved. The ground level immediately surrounding the proposed dwelling, the finished floor level and ridge height will match those shown on drawings 19.20:03J and 19.20:05D. The development shall be carried out as approved.”

The following Informative be included:

“It is recommended that approval is sought from the relevant Water and Sewerage Company (WaSC) for the intended discharge of surface water into the foul sewer which crosses the site.”

**94 20/00891/FP Land at Turnpike Lane and Adjacent To 4 Manor Close, Turnpike Lane, Ickleford, Hertfordshire**

*Audio Recording – 53 minutes 53 seconds.*

Erection of five dwelling houses in association with a new access spur from the Lodge Court, on-site parking, landscaping (inclusive of new trees), formation of a pedestrian footpath and designated communal open space. (Amended plans received 22/06/20 and 07/12/20).

The Acting Principal Planning Officer presented the report in respect of application 20/00891/FP supported by a visual presentation consisting of photographs and plans along with the following updates to the report:

- An additional condition was to be added to the report as follows:

*“Condition 18:*

*No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.*

*A full detailed drainage design and surface water drainage assessment should include:*

- 1. Full detailed drainage plan including location of all the drainage features.*
- 2. Where infiltration is proposed, evidence of ground conditions / underlying geology and permeability including BRE Digest 365 compliant infiltration tests.*
- 3. Evidence that if discharge to the local sewer network is proposed, confirmation from the relevant water company that they have the capacity to take the proposed volumes and run-off rates is provided.*
- 4. Discharge from the site should be at an agreed rate with the water company. This should be at Greenfield run-off rate; justification will be needed if a different rate is to be used.*
- 5. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.*
- 6. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving.*

7. *Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.*

*Reason*

*To prevent the increased risk of flooding, both on and off site and To reduce the risk of flooding to the proposed development and future occupants.”*

- A letter of objection had been submitted by Ickleford Parish Council and circulated to all members of the Committee prior to the meeting;
- The letter of objection did not raise any new issues additional to those brought during the consultation period and set out at paragraph 2.10 of the report.

The following Members asked questions:

- Cllr Mike Rice
- Cllr David Levett
- Cllr Tom Tyson

In response to questions the Acting Principal Planning Officer advised:

- The advanced stage of the Emerging Local Plan and that there were no objections to the change of the Ickleford settlement boundary was significant;
- The Housing Delivery Test Action Plan adopted by the Council allows for green belt applications such as this to be determined in advance of the adoption of the emerging local plan where proposed sites are losing green belt designation and there are no outstanding objections to the change of designation;
- The proposal was considered acceptable in its layout and design;
- The inspector had not yet given a determination on larger strategic release sites from green belt designation in the Emerging Local Plan but the modifications and comments that had been received made no mention of objections to the change of the Ickleford settlement boundary;
- Under the Emerging Local Plan the land in this site was undesignated and was therefore not considered alongside the strategic release sites designated for housing which had yet to be reviewed by the inspector;
- The land in this site would become ‘white land’ under the Emerging Local Plan as it moved in to the Ickleford settlement boundary and as such there would be no objection in principle to residential development.

The Chair invited Kate Sargent to address the Committee.

Kate Sargent thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- She represented a group of local residents in reiterating their objection to this application;
- The primary focus of their objection was the green belt status of the land which afforded it protection unless very special circumstances could be demonstrated;
- The developer had failed to demonstrate these circumstances and as such the proposal was inappropriate development;
- The developer had failed to articulate the benefits of the proposal which did not meet rural housing needs in failing to meet the requirements of the SHLAA and in view of the Emerging Local Plan which already went above and beyond in providing housing for the district;
- A substantial amount of development had already taken place or was planned in Ickleford;

- The land provided ecological benefit to the community and many objections cited the irreversible loss of biodiversity, trees and wildlife habitat;
- The ecological report commissioned by the developer was conducted by a body not recognised by the CIEEM and relates to a survey carried out in late November 2020;
- The developer had already felled mature trees on the land;
- The Committee should consider whether approving development on this site was consistent with the Climate Emergency declared by the Council;
- The application impacts on the Ickleford Conservation Area, 5 Grade-II listed buildings, and the Ickleford Village Archaeology Area in the immediate vicinity of the site;
- There would be breaches of privacy and light amenity to residents of Lodge Court and Manor Close; the officer's report noted with concern the proximity of the site to 4 Manor Close in particular;
- The previous planning officer had objected to the layout and design of the proposed development and found them to be grounds for refusal;
- 33 comments had been made against the original application and highlighted the conditions in the village of Ickleford in particular the issue of traffic;
- The developers transport statement underestimated the level of car ownership and use in the village;
- Other objections identified the already overwhelmed sewerage system which would be exacerbated by further development;
- There was support for sustainable development and the proposal to build new residences on a site nearby but there was no justification for holding the benefit of 5 additional houses as sufficient to constitute very special circumstances necessary to outweigh the manifest harms that would be caused by this development;
- The development would contribute to the erosion of the boundary between Ickleford and Hitchin.

The following Members asked questions:

- Cllr Tom Tyson

In response to questions Kate Sargent advised that she was not aware of why the site had not met the criteria outlined in the Strategic Housing Land Availability Assessment (SHLAA) but only that it did not.

The Chair invited Cllr Sam North to address the Committee as Member Advocate.

Cllr Sam North thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- Cllr Sam North was speaking in objection to the application and wished to reinforce some of the points raised in comments submitted on the application and the evidence presented by Kate Sargent;
- The Council had declared a Climate Emergency in 2019 and Members took this declaration seriously; the Council had an obligation to current and future residents of North Hertfordshire;
- This land was currently in the green belt;
- The Emerging Local Plan was still far from completion;
- The removal of land from green belt designation was wrong;
- The Campaign for Rural England had submitted a letter which Members were aware of that stated that until the Emerging Local Plan was adopted the current designation of sites under the Adopted Local Plan must take precedence, citing *Suffolk Coastal District Council v Hopkins Homes Ltd* [2017] UKSC 37;
- The Committee should appreciate that the ruling in the cited case compels them to consider the designation of the site under the Adopted Local Plan as green belt with full strength;

- The environmental impact of allowing this development would outweigh the slim benefits involved and therefore no very special circumstances were present;
- Issues of sewage, traffic, proximity to sites of archaeological interest, and the overprovision of housing in the Emerging Local Plan were all factors Members should consider against this application;
- The development would have a harmful impact on the conservation of heritage assets nearby;
- Objection to this development had garnered significant local support.

The Chair invited James Clark to address the Committee.

James Clark thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- The developers had sought to reflect the character of the area and its edge of village location while at the same time using the site to meet the pressing housing needs of the borough;
- The designs of the properties were of a traditional nature;
- The built footprint of the properties including patios and hardstanding was small and the majority of the site would be open or garden development;
- There was a range of housing size in the development including two two-bedroom units suitable for first time residents and the mix was compliant with Council policies;
- The development had a dedicated area of green space as a buffer between the conservation area and the development which was visually attractive, enhanced biodiversity, and a future play area for residents;
- The loss of the lime tree was regrettable but the development proposed to plant 9 heavy to medium trees and native hedgerows and soft landscaping;
- The report by Cherry Field Ecology (a locally based company) provided confirmation that there was no high animal activity on the site and this report should not be downplayed;
- The properties would all have solar panels and EV charging points;
- The site had been designated for green belt release to white land in the settlement boundary of Ickleford and development would help meet the housing needs of the district;
- The Council was under the presumption in favour of sustainable development and housing needs were pressing;
- The residence proposed closest to 4 Manor Close would be situated 15-16 meters from the residence, with no side windows and angled to avoid sitting face on to the property to reduce loss of amenity;
- Trees which had been cut down were cut down by an employee of the Council due to their condition of decay, not by the developer;
- The case law on the applicability of historical local plans was not as clear cut as had been suggested.

The following Members asked questions:

- Cllr Daniel Allen
- Cllr Mike Hughson

In response to questions James Clark advised that

- The trees felled had been on the western boundary of the site, were conifers, and were diseased; None of these trees were subject to a TPO; The trees had been felled by an employee of the Council.



- The Supreme Court had made a number of decisions recently, including that in some cases historic Planning Policies should not be discounted, but also that in other cases housing need should take precedence over green belt designation.

The Chair thanked James Clark for his presentation.

In response to questions the Acting Principal Planning Officer advised:

- The objections submitted by the Ickleford Parish Council made reference to the SHLAA and the fact that the site had been deemed incompatible due to access to the site impacting the listed buildings and conservation area in Lodge Court;
- This SHLAA assessment was out of date and a second study had recommended that development in the village could be accommodated using access via Turnpike Lane, concluding that impact would depend on individual schemes;
- The comments made by other officers and referenced by Cllr Sam North that mentioned less than substantial harm to the amenity and character of the heritage assets neighbouring the site referred to an earlier application for 8 houses not the present application for 5 including a large area of open space; these changes overcame the problem of harm to the listed buildings and conservation area.

The following Members asked questions and took part in the debate:

- Cllr David Levett
- Cllr Tony Hunter
- Cllr Val Bryant
- Cllr Mike Rice
- Cllr Mike Hughson

In response to questions the Acting Principal Planning Officer advised that applicants have a period of 6 months to appeal a decision.

The Legal Regulatory Team Manager & Deputy MO advised that applicants also had the option of applying a second time if circumstances had changed.

The Development and Conservation Manager advised that if the Committee was minded to refuse on the basis of green belt designation under current policy circumstances the applicant would have a period of time to lodge an appeal and the planning authority would have to produce a case; if during that time the policy circumstances changed the Committee could be asked to reconsider this application and their decision in light of those changes.

Councillor David Levett proposed and Councillor Tony Hunter seconded and it was:

**RESOLVED:** That application 20/00891/FP be **REFUSED** planning permission for the reasons below:

The application site is within an area designated in the North Hertfordshire District Local Plan no.2 with Alterations as Green Belt, within which there is a presumption against inappropriate development, such as that proposed, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority the proposal is not supported by such circumstances. Moreover, it would harm the fundamental aim of Green Belt policy which seeks to maintain the openness of the area. As such, the proposal would not accord with the provisions of Policy 2 of the District Local Plan no.2 with Alterations 1996 or with the provisions of section 13 of the NPPF.

*N. B at 9.15 PM the Chair adjourned the meeting for a brief comfort break.*

*The meeting reconvened at 9.20 PM whereupon the Committee, Member and Scrutiny Officer conducted a roll-call to determine the required Members, Officers and Registered Speakers were present.*

**95 20/01564/FP Land Adjacent to Dungarvan, Back Lane, Preston, Hertfordshire, SG4 7UJ**

*Audio Recording – 1 hour 53 minutes and 8 seconds.*

Erection of one detached 4-bed and two detached 5-bed dwellings including garages and creation of vehicular access off Back Lane (as amended by plan received 19.11.2020).

The Senior Planning Officer presented the report in respect of application 20/01564/FP supported by a visual presentation consisting of photographs and plans.

The Chair invited Margaret Trinder to address the Committee.

Margaret Trinder thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- Ms Trinder was Chair of Preston Parish Council and was speaking in objection to this application;
- The Preston Neighbourhood Plan (PNP) was formally made on 3 April 2020 and forms part of the statutory development plan for North Herts; this was the first application assessed against the PNP;
- The report concerning this item did not appear to consider the policies of the PNP and in this applications previous appearance before the Committee it failed to meet policies HD3 and HD4 but was nevertheless recommended for approval;
- The policies of the PNP were described at that meeting as 'aims,' or 'objectives,' where they should have been regarded as policies as required by law;
- The National Planning Policy Framework (NPPF) was clear that every development site should be utilised to maximise the number of dwellings to meet local needs while confirming with the local character of a site;
- This application should be refused because it fails to do this; Paragraphs 77, 117, 123, 127 are particularly relevant; P117 emphasises the need for decision makers to make the best maximum use of development sites;
- Paragraph 77 advises that in rural areas planning policies and decisions should be responsive to local circumstances and support developments that support local needs;
- The revised site plan was welcome but did not clearly demonstrate how landscaping and biodiversity needs were addressed;
- The Parish Council was of the view that the landscape and ecological management plan should have been part of the planning application to allow for scrutiny of the plans;
- The changes to the energy statement were welcome but it was disappointing to discover that the report included a public transport plan which appeared to have been cut and pasted from another application.
- The application should be refused because it is contrary to policies HD3 and HD4, the NPPF paragraphs mentioned, the energy statement was unreliable, and because there had been no pre-decision ecological survey, and it did not meet the needs of residents of Preston.

The Chair thanked Margaret Trinder for her presentation.

In response to the issues raised the Senior Planning Officer advised:

- The focus of the decision tonight should be on whether the revised application conforms with the requirements of policy HD5 as this was the reason for deferral given by the previous Committee;

- The landscape and ecological management plan was a recommendation of Hertfordshire Ecology and it was typical for that information to be required by planning condition rather than form part of an application;
- The report documents did relate to the application site and while there were small errors in a previous draft those had been corrected and the energy strategy statement was sufficient.

The following Members asked questions and took part in the debate:

- Cllr Daniel Allen
- Cllr Mike Rice
- Cllr Tom Tyson
- Cllr David Levett
- Cllr Val Bryant

In response to questions the Senior Planning Officer advised that in his view the energy saving measures included in the application were sufficient and would have resulted in a reduction of expected carbon emissions by over 50% and that solar panels were not necessary.

In response to the issues raised the Development and Conservation Manager advised that a condition requiring a feasibility study on solar panels could be included.

Councillor Daniel Allen proposed, Councillor Mike Rice seconded and it was:

**RESOLVED:** That application 20/01564/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager and the following additional condition:

“Prior to first occupation of the development hereby permitted, a feasibility study shall be undertaken to fully ascertain the installation of solar panels on the approved dwellings. The study shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. If the feasibility study determines that solar panels are appropriate in certain locations, such panels shall be fitted onto the dwellings prior to their occupation and thereafter retained and maintained for their intended purpose.

Reason: In the interests of reducing potential carbon emissions and mitigating climate change.”

**96 20/00598/FP Land North of Oakleigh Farm, Codicote Road, Welwyn, Hertfordshire**

*Audio Recording – 2 hours 17 minutes 41 seconds.*

Erection of one detached 4-bed and two detached 5-bed dwellings including garages and creation of vehicular access off Back Lane (as amended by plan received 19.11.2020).

The Senior Planning Officer presented the report in respect of application 20/00598/FP supported by a visual presentation consisting of plans and photographs along with the following updates to the report:

- An extension of time had been agreed with the applicant to 15 February
- A neighbour objection from N.85 Codicote Road had been received stating that the road layout drawing 019/942/02F showed works being undertaken and a public footpath which were inaccurate; upon review the applicant confirmed that no such works were being undertaken.

The following Members asked questions:

- Cllr Mike Rice
- Cllr Val Bryant

In response to questions the Senior Planning Officer advised:

- It is the view of the planning officers that both Planning Authorities concerned with this application should come to a determination relating to the application as a whole;
- Welwyn Hatfield Borough Council had already considered the application submitted to them and resolved to refuse planning permission;
- Welwyn Hatfield were not of the view that the site was previously developed land, believed the development would have a more significant visual impact than the existing properties, and took the view that the development would have a suburbanising impact resulting in a spatial and visual loss of openness encroaching into the countryside;
- The view taken by NHDC Planning Officers is that the site was on previously developed land on the basis that a certificate of lawfulness had been issued by NHDC and that the land was used for commercial equestrian purposes which is considered previously developed under the NPPF.
- It was not his view that the dwellings would encroach any further than the existing dwellings or structures.
- Welwyn Hatfield had a further grounds for refusal on the basis that no Section 106 Agreement had been planned.

The Chair advised that it was the role of the Committee to adjudicate on the application before them and that the decision taken by Welwyn Hatfield Borough Council was not a relevant planning consideration.

Councillor Tom Tyson asked for clarification on the legal situation with respect to the duplicate applications.

In response the Development and Conservation manager advised:

- Where developments straddled planning authority boundaries it was incumbent on applicants to submit duplicate applications to all authorities concerned;
- Each authority had to make a decision on the merits of the application before them;
- Paragraph 1.2 of the Report highlights that NHDC had granted a Lawful Development Certificate considering that the use of the buildings was industrial not agricultural and was therefore considered previously developed land;
- Welwyn Hatfield had started from the premise that the buildings were agricultural rather than industrial;
- If Members were minded to refuse on the basis that the proposal was inappropriate development in the green belt the existence of the lawful development certificate issued in 2019 would have to be accounted for at appeal;
- Viability was not a material planning consideration.

The Chair invited Tom Donovan and Scott Moore to address the Committee.

Tom Donovan thanked the Chair for the opportunity to address the Committee and explained that Scott Moore was present in the event that Members had any technical questions. He went on to give a presentation including:

- The site contained a number of former agricultural buildings which had been used for a range of commercial, industrial and equine uses and that the site had functioned as an industrial estate with unrestricted use for some years;

- The application site was in the green belt and its current use was out of keeping with the character of the green belt and its locality, particularly given the proximity of residential properties;
- The applicants intention was to provide a high quality residential development in place of an aesthetically unpleasant industrial plot;
- A significant benefit of the proposal was the remediation of the large area of open storage and scrap to the north east of the site;
- This proposal represents the best opportunity to secure its clearance;
- There was no proposal to develop land outside of the application site;
- The scheme brought with it a number of significant benefits including a benefit to the housing stock, ecological benefits from waste clearance and decontamination, and improvements for biodiversity;
- The applicants were preparing for an appeal on the Welwyn Hatfield refusal.

The following Members asked questions:

- Cllr David Levett

In response to questions Tom Donovan advised:

- The applications submitted to each local planning authority were identical but the terms used by each local authority to couch those applications had differed; that Welwyn Hatfield referred to it as a change of use was not as a result of the applicants.

In response to the issues raised the Senior Planning Officer advised that Welwyn Hatfield Borough Council's decision to describe the application differently was their choice but that both applications were for the same development proposal.

The Chair thanked Tom Donovan for his presentation.

The following Members asked questions and participated in the debate:

- Cllr David Levett
- Cllr Ruth Brown
- Cllr Tony Hunter
- Cllr Daniel Allen
- Cllr Sue Ngwala
- Cllr Tony Hunter

In response to questions the Senior Planning Officer advised:

- Welwyn Hatfield Borough Council determined to treat the site as one composite location which had been used for multiple things i.e storage, equestrian, and took the decision not to grant a certificate of lawful development on that basis.
- NHDC's approach was to look at each building independently leading to a certificate of lawful development on the basis that most of the buildings had been demonstrated as of an existing industrial use.
- Paragraph 145 of the NPPF referring to previously developed land holds that developments should not adversely impact the existing openness of the site; the proposed development only 2% larger than the existing industrial buildings;
- All of the buildings in the northern part of the site where the proposed houses were to be situated were considered as lawfully previously developed land.

It was proposed by Councillor David Levett, seconded by Councillor Daniel Allen and:

**RESOLVED:** That application 20/00598/FP be **REFUSED** planning permission for the following reason:

“The proposed development constitutes inappropriate development in the Green Belt and causes harm to the openness of the Green Belt. In addition to the harm by reason of inappropriateness, other harm is identified in relation to one of the purposes of including land in the Green Belt and the impact on the character and appearance of the area. The harm by reason of inappropriateness, and the other harm identified, is not clearly outweighed by other material planning considerations such as to constitute the very special circumstances necessary to permit inappropriate development in the Green Belt. The proposal does not comply with Policies 2 and 3 of the 1996 Adopted Local Plan; Policies SP1, SP2, SP5 and D1 of the Emerging Local Plan; and Sections 12 and 13 of the National Planning Policy Framework.”

**97 20/01254/FP Bibbsworth Hall Farm, Bibbs Hall Lane, Ayot St Lawrence, Hitchin, Hertfordshire, SG4 8EN**

*Audio Recording – 2 hours 59 minutes.*

Erection of one semi-detached 5-bed dwelling, one semi-detached 4-bed and one detached 4-bed dwelling including garaging and home office outbuilding following demolition of existing buildings, re-location of public footpath (amended plans received 18/11/20)

The Senior Planning Officer presented the report in respect of application 20/01254/FP supported by a visual presentation consisting of photographs and plans as well as the following updates to the report:

- An extension of time had been agreed to 15 February;
- Paragraph 4.4.1 should be amended to change “is not however engaged” to “is engaged”;
- Condition 15 should be amended to remove “such as prohibition of construction traffic being routed through any of the country lanes in the area.”

The following Members asked questions:

- Cllr Sue Ngwala

In response to questions the Senior Planning Officer advised:

- There was no Kimpton Parish Neighbourhood Plan and sufficient weight could not be given to the representations of Kimpton Parish Council in order to press for the mix of dwellings they had asked for.

The Chair invited Andy Moffat to address the Committee.

Andy Moffat thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- The form of the development had been led by guidance on design from the conservation officer;
- The applicant owned land in and around Kimpton and was engaged in wider discussions with the Parish Council about the provision of affordable housing;
- It was the view of the conservation team that a rebuild of the properties on the site was of greater heritage benefit than continued reuse;
- The number of units had been reduced from 4 to 3 at the request of the conservation officer, with smaller further changes made since;
- The site was not presently in the green belt;

- Each comment from local residents and the Parish Council had been responded to in detail;
- The large number of conditions on approval in the report had been accepted and agreed.

The following Members asked questions:

- Cllr Mike Rice

In response to questions Andy Moffat advised that the site was not designated as green belt in the Adopted Local Plan but that the designation of the site was due to change in the Emerging Local Plan.

The Chair thanked Andy Moffat for his presentation.

The following Members asked questions and took part in the debate:

- Cllr David Levett
- Cllr Daniel Allen
- Cllr Tony Hunter

Councillor David Levett proposed, Councillor Daniel Allen seconded and it was:

**RESOLVED:** That application 20/01254/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager.

## 98 PLANNING APPEALS

*Audio recording – 3 hours 21 minutes.*

The Development and Conservation Manager presented the report entitled Planning Appeals.

There were no questions from Members.

**RESOLVED:** That the report entitled Planning Appeals be noted.

**REASON FOR DECISION:** To keep the Planning Committee apprised of planning appeals lodged and planning appeal decisions.

The meeting closed at 10.43 pm

Chair

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**NORTH HERTFORDSHIRE DISTRICT COUNCIL**

**PLANNING CONTROL COMMITTEE**

**MEETING HELD AS A VIRTUAL MEETING  
ON WEDNESDAY, 24TH FEBRUARY, 2021 AT 7.30 PM**

**MINUTES**

**Present:** *Councillors: Ruth Brown (Chair), Daniel Allen (Vice-Chair), Val Bryant, Morgan Derbyshire, Mike Hughson, Tony Hunter, David Levett, Sue Ngwala, Mike Rice, Tom Tyson, Carol Stanier (in place of Sean Prendergast) and Michael Muir (in place of Ian Moody)*

**In Attendance:** *Simon Ellis (Development and Conservation Manager), Nurainatta Katevu (Legal Regulatory Team Manager), Naomi Reynard (Senior Planning Officer), Nigel Smith, (Strategic Planning Manager), Chris Braybrooke (Senior Compliance Officer), Anna Gouveia (Committee, Member and Scrutiny Officer) and Matthew Hepburn (Committee, Member and Scrutiny Officer)*

**Also Present:** *Councillor Gary Grindal as Member Advocate and, at the commencement of the meeting approximately 5 members of the public, including registered speakers.*

**99 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY**

*Audio recording 7 seconds*

The Chair welcomed everyone to this virtual Planning Control Committee meeting that was being conducted with Members and Officers at various locations, communicating via audio/video and online. There was also the opportunity for the public and press to listen to and view proceedings.

The Chair invited the Committee, Member and Scrutiny Officer to explain how proceedings would work and to confirm that Members and Officers were in attendance.

The Committee, Member and Scrutiny Officer undertook a roll call to ensure that all Members, Officers and registered speakers could hear and be heard and gave advice regarding the following:

The meeting was being streamed live onto YouTube and recorded via Zoom.

Extracts from the Remote/Partly Remote Meetings Protocol were included with the agenda and the full version was available on the Council's website which included information regarding:

- Live Streaming;
- Noise Interference;
- Rules of Debate;
- Voting and;
- Part 2 Items.

Members were requested to ensure that they were familiar with the Protocol.

The Chair of the Planning Control Committee, Councillor Ruth Brown started the meeting proper.

**100 APOLOGIES FOR ABSENCE**

*Audio recording – 3 minutes 48 seconds*

Apologies for absence were received from Councillors Sean Prendergast and Ian Moody.

Having given due notice, Councillor Carol Stanier advised that she would be substituting for Councillor Prendergast, and Councillor Michael Muir advised that he would be substituting for Councillor Moody.

**101 MINUTES - 20TH JANUARY 2021**

*Audio Recording – 4 minutes 14 seconds*

Councillor Ruth Brown proposed, Councillor Daniel Allen seconded and it was:

**RESOLVED:** That the Minutes of the Meeting of the Committee held on 20 January 2021 be approved as a true record of the proceedings and the Committee, Member and Scrutiny Officer be authorised to apply the Chair's digital signature.

**102 NOTIFICATION OF OTHER BUSINESS**

*Audio recording – 5 minutes 0 seconds*

There was no other business notified.

**103 CHAIR'S ANNOUNCEMENTS**

*Audio recording – 5 minutes 6 seconds*

- (1) The Chair welcomed those present at the meeting, especially those who had attended to give a presentation;
- (2) The Chair advised that, in accordance with Council Policy, the meeting would be audio recorded as well as filmed. The audio recording would be available on Mod.gov and the film recording via the NHDC YouTube channel.
- (3) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.
- (4) To clarify matters for the registered speakers the Chair advised that members of the public had 5 minutes for each group of speakers i.e. 5 minutes for objectors and 5 minutes for supporters. This 5 minute time limit also applied to Member Advocates.

A warning would be given at 4 ½ minutes and speakers would be asked to cease at 5 minutes.

**104 PUBLIC PARTICIPATION**

*Audio recording – 6 minutes 22 seconds*

The Chair confirmed that the registered speakers were in attendance.

105 20/01886/FP LAND AT CORNER OF PROTEA WAY AND PIXMORE AVENUE, LETCHWORTH GARDEN CITY, HERTFORDSHIRE

*Audio recording 6 minutes 32 seconds*

Erection of homeless shelter to provide 40 bedspaces including creation of vehicular access off Pixmore Avenue, parking, landscaping and associated works (as amended by plans received 12th January 2021).

*NB: Committee Member Councillor Sue Ngwala advised that she would be acting as a Member Advocate for this item and would not take part in the debate or vote on this item only.*

The Senior Planning Officer presented the report in respect of application 20/01886/FP supported by a visual presentation consisting of photographs and plans, and provided the following updates:

- It was clarified that the applicant was Haven First and the application was submitted on their behalf by the agent, Smith Jenkins Ltd;
- There was an error in the published Committee report at paragraph 3.21 which stated that some representations had been removed from the website. However, it was confirmed that no representations had been removed from the website at this time. Representations had been reviewed by the Council's Policy Team and it had been considered that over 60 of the representations were inappropriate, inflammatory, offensive or based on a negative stereotype of homeless people. As such, all the representations from local residents, management companies and businesses would be removed from the Council's website after the Committee meeting, as the Council could not condone inappropriate or offensive representations. However the relevant material planning considerations raised had been considered in the report;
- With reference to paragraph 3.20 of the report, in response to publicity the Local Planning Authority had received 86 representations - 82 were objections, 3 were in support and 1 was neutral;
- The Crime Prevention Design Advisor, Hertfordshire Constabulary, was incorrectly referred to as the Architectural Liaison Officer in paragraph 4.3.90;
- There was an error in paragraph 3.3.113. A condition was not recommended in relation to the use class. The following informative was recommended:

***"A homeless shelter does not fall within a Use Class as set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) and is a 'sui generis' use (a use falling 'in a class of its own'). Therefore, planning permission would be required for any change of use of the approved development."***

- The applicant had agreed to pre-commencement conditions 11, 13 and 17, but had suggested changes to the wording of the other pre-commencement conditions. Following consultation with the relevant consultees it had been agreed with the agent to change the wording to some of the conditions as follows, as their requested wording was reasonable and acceptable:

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 **prior to any works above slab level commencing. The development shall be implemented in accordance with the approved details.**

4. Notwithstanding the approved plans, a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority, **and subsequently implemented as approved, all prior to the first occupation of the development hereby permitted.** The landscape scheme 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

6. **Prior to the installation of any external lighting and prior to the first occupation of the development hereby permitted,** details of all external lighting required in association with the development scheme shall be submitted to and approved in writing by the Local Planning Authority. Such lighting shall thereafter be installed in accordance with the approved details or particulars and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

15. **Prior to the first occupation of the development hereby permitted, a detailed scheme showing the coverage of the site and buildings by appropriate fire hydrants shall be submitted** to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details **and thereafter retained and maintained to the satisfaction of the Local Planning Authority,** unless otherwise agreed in writing by the Local Planning Authority.

16. **Prior to any above ground level construction works, the final design of the drainage scheme shall be completed and sent to the Local Planning Authority** for approval. The surface water drainage system will be based on the submitted Surface Water Drainage Strategy carried out by Solution Consulting Civil & Structural Engineers, Job No. 1039, dated July 2020, the additional Pre-Planning Assessment Report conducted by Anglian Water, dated 03 December

2020. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

1. Detailed infiltration testing to BRE Digest 365 standards carried out at the location and depth of the proposed soakaway feature.
2. Should infiltration prove to not be a viable discharge method then a drainage scheme relating to connection into the public surface water sewer should be submitted with a limited discharge rate of 2 l/s and any surface water attenuation required.
3. Final detailed drainage layout for the proposed development site which indicate the size, volume, depth of the SuDS features including any connecting pipe runs.
4. Detailed engineered drawings of all the proposed features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance for climate change events.
5. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

18. A Biodiversity Gain Plan shall be prepared, detailing how measurable net gain will be achieved. **Prior to the first occupation of the development hereby permitted the plan shall be submitted to the Local Planning Authority for written approval and the approved details shall be fully implemented,** unless otherwise agreed in writing with the Local Planning Authority.

The Senior Planning Officer then summarised the application as follows:

- The applicant, Haven First, was a charity currently operating the existing homeless shelter facility in Hitchin and a purpose-built shelter in Stevenage. The proposal was for a new homeless shelter, which would provide 40 bed spaces for single homeless people. This would replace the existing homeless shelter in Hitchin – the Sanctuary, which provided a vital service, but was not fit for purpose with very limited capacity and shared rooms (meaning they are only available for male residents). The proposed homeless shelter would be a purpose-built facility like the one operated by Haven First in Stevenage. This would have individual rooms and the space to provide more support to residents, including during the day;
- This site was in a designated Employment Area in both the Saved Local Plan and the Emerging Local Plan. However, the proposed homeless shelter complied with two of the exception criteria in Emerging Local Plan Policy ETC1: Appropriate uses in Employment Areas, as the proposal would bring comparable benefits to a B-class use in the same location and would make use of a site that would otherwise be likely to become or remain vacant for an extended period of time. Emerging Local Plan Policy ETC1 could be given some weight given the stage of the Local Plan process and lack of objection to this policy;
- The proposal had also been assessed against the applicable points set out in supporting paragraph 5.7 of the policy. It was considered that the proposal would result in employment generation on site; would not have an adverse impact on Letchworth town centre; would provide benefits to the wider community by providing accommodation and support for homeless people; the site was accessible by non-car modes of transport; sufficient evidence had been provided clearly demonstrating that the land or premises was no longer required to meet future employment needs of the District; the land was unfeasible for employment use, based on market conditions and no other suitable sites outside designated employment areas were viable and available;
- The other key material consideration that weighed strongly in favour of the proposed development in the planning balance was the clear and demonstrated need for a homeless shelter in North Hertfordshire.
- In the Senior Planning Officer's view the proposal met the social, environmental and economic objectives of the NPPF;
- One of the main issues raised by local residents and businesses was the concern that the proposed homeless shelter could result in an increase in anti-social behaviour and crime in the area. This was covered in the Senior Planning Officer's report. In the absence of an objection from any consultees, including the Police, in her view there would not be sustainable grounds to refuse planning permission on the basis of possible increase in crime and anti-social behaviour;
- Whilst the concerns raised by local residents were noted, it was considered that there were no sustainable reasons to withhold planning permission.

Ms Sarah Choudhury thanked the Chair for the opportunity to address the Committee in objection to application 20/01886/FP and included the following points in her presentation:

- Ms Choudhury was representing residents who lived close to the proposed development and had strong objections to the location although they were not opposed to a homeless shelter 'per se';
- The residents had concerns about the planning application process and considered that the development warranted further review before going ahead;
- There had been 189 objections to the development. These had been made on the planning website, in response to a survey by the managing agent of the Phoenix Park Housing Estate, and included 61 objections deemed inappropriate which had been removed from the website;

- Residents felt there had been failures in the consultation process which called into question the legitimacy and legality of the proposal;
- The group strongly objected to the proposed development due to its proximity to established residential areas populated by families with young children, the elderly and vulnerable people;
- The site search was five years old and should be recommissioned to identify a more suitable site in North Hertfordshire;
- Planning permission was granted in 2013 to expand the Hitchin shelter but was not implemented – this could be considered further by the developer;
- The proposed site was contaminated and needed extensive drainage and highway works which made the site costly to develop therefore surely it would be more sustainable and cost-effective to use an existing vacant building elsewhere;
- There was high biodiversity in the site but a lack of detail regarding its protection;
- Some residents had serious concerns about an increase in anti-social behaviour, noise disturbance and feeling safe in the community which they felt were being ignored;
- There was particular concern for the safety of children and a potential increase in anti-social behaviour in the alleyway which linked Pixmore Avenue with Dunhams Lane;
- Concerns had been discounted in the planner's report due to a lack of before and after data of crime figures relating to a similar provision;
- The CPDA originally asked for the scheme to meet the Secure by Design status but the developer had said that this was not needed due to additional cost which was another example of the residents' concerns being ignored;
- The proposal did not meet the National Planning Policy Framework Section 8 - Promoting Healthy and Safer Communities;
- A Business Sustainability Impact Study should be carried out as there were concerns that business could be lost if people avoided the area;
- The proposal did not comply with the emerging Local Plan as the site was for employment use and the developer was changing the site classification by exploiting a loophole in planning policy;
- The group of residents felt that the developer had failed to demonstrate how the proposal fitted in with the local area without causing a profound impact on existing and incoming residents, their welfare, ecology and local businesses;
- The Committee was therefore requested to review the entire process and refuse the application to allow a review of an alternative location.

The following Members asked questions of clarification:

- Councillor Daniel Allen;
- Councillor David Levett.

Ms Choudhury responded to questions raised as follows:

- It was possible that the figure of 189 complaints made might include some double-counting of people who had complained on more than one occasion to more than one party;
- The residents had submitted and were awaiting the response to a Freedom of Information Request concerning crime/anti-social behaviour figures around homeless shelters as they considered that it was clear that crime increased around such facilities.

During the discussion, it was noted that the online consultations which had happened in July and August 2020 which some residents were not aware of were part of the developer's consultation process. The Planning Authority's consultation process took place subsequently and gave residents the opportunity for comment.

Councillor Sue Ngwala, Member Advocate, thanked the Chair for the opportunity to address the Committee in objection to application 20/01886/FP.

Councillor Sue Ngwala gave a verbal presentation including:

- As a Councillor she was representing the concerns of the residents of Letchworth East;
- 82 objections had been received including a petition from the Management Company for the Phoenix Park Estate – this was a considerable number of dissatisfied residents and their concerns ought to be heard;
- Initially residents were only given one week to reply to the consultation which was subsequently extended. Some 27 residents did not receive consultation letters;
- The proposed site was, under the emerging Local Plan, a designated employment area. Post Brexit and the COVID-19 pandemic, the Council should not be releasing land within an employment area. With businesses closing and loss of jobs, it was more important than ever to retain employment sites for future development;
- The proposed site was not solely within an industrial area but some 200 yards distance from permanent homes on Pixmore Avenue, the Phoenix Park Estate and opposite on Ridge Road. These residents had quite rightly raised their objections to the change in the primary use of this land in order to build a homeless shelter;
- Residents had strongly objected to this application because they feared that a shelter of this nature may generate crime and social disorder within the area, a consideration acknowledged in paragraph 3.9 of the Senior Planning Officer's report, and paragraph 3.14 referred to the Crime Prevention Design Advisor for Hertfordshire Constabulary asking for a Secure By Design (SBD), to be attached to this development;
- The alleyway that ran alongside the residential area of Ascot Drive and Phoenix Drive giving access to amenities such as McDonalds, Costa and Aldi, was some 200 yards from the proposed site and was likely to be used by residents of the homeless hostel;
- Haven First described their residents as typically having complex needs. Coupled with the proposal for some 40 beds and it was not hard to imagine how crime and disorder may be generated where by alley ways and parks became areas in which antisocial behaviour developed;
- The National Planning Policy Framework Policy 8 "Promoting healthy and safe communities", paragraph 91 stated "Planning policies and decisions should aim to achieve healthy, inclusive and safe places to live so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion";
- The Crime Prevention Design Officer's view was that there was a public perception that such a hostel could become a crime generator and the level of fear and anxiety that had been expressed about this possibility was significant;
- Residents were extremely concerned that this hostel would generate crime, disorder and antisocial behaviour within the area as a result of a homeless hostel being situated only yards from their homes and as such would undermine the quality of their lives;
- It was noted that Haven First require residents to sign a Licence Agreement when entering the shelter but there remained a concern that these residents would have no commitment to the local area being there temporarily, whereas permanent residents had a greater vested interest in creating a harmonious and safe community in which to live;
- Although there was a desperate need for homeless accommodation in North Herts, this was not the right location for such a development.

The following Members asked questions:

- Councillor Daniel Allen

Councillor Sue Ngwala, Member Advocate responded accordingly to questions raised.

Ms Barbara Howard, CEO of Haven First, thanked the Chair for the opportunity to address the Committee in support of application 20/01886/FP and included the following points in her presentation:

- The concerns had been heard and she would like to take away some of the misconceptions of the clients accommodated as well as provide reassurance on the management of the project;
- Many of the residents were referred to them due to relationship breakdown and mental health issues. Not all the clients were ex-offenders or had addictions, but the people supported were from all walks of life who were genuinely homeless and in need of help;
- Nearly 300 referrals received had been last year;
- Those with addictions and offending history were supported in every possible way to move forward with their lives - day services such as employability skills, counselling, mediation, volunteer placements, health and wellbeing activities and pre-tenancy training were provided;
- Unacceptable behaviour was not tolerated – clients were aware of being good neighbours and knew that they would be evicted if they breached their licence agreement following warnings;
- The building would be managed by staff on a 24/7 basis providing full support to clients as well as reassuring the local community that there was always someone available to speak to at any time;
- Over the years Haven First has built on its successes and learnt from its failings which have not waived the necessity to keep driving forward with this development which is in line with the Council's 5 year plan and Housing strategy;
- The Stevenage hostel has shown that this work really helps and does make a difference and Haven First wants to mirror this much needed service to those people in need in North Herts.

Ms Helen Lowe, Chartered Town Planner acting on behalf of Haven First, thanked the Chair for the opportunity to address the Committee in support of application 20/01886/FP and included the following points in her presentation:

- There was a pressing need for such a facility within North Herts, with the only existing hostel in Hitchin being severely constrained in terms of its size and not being fit for purpose – this need had increased as a result of the pandemic;
- The application site has been vacant since at least 2007 and despite a previous proposals for office accommodation, no development has been forthcoming. Given the current economic situation and the lack of demand for new commercial premises, the proposal would not lead to a loss of active employment land. In addition, the proposed shelter would employ a similar number of people than a similarly sized commercial unit in this location;
- Alternative sites were considered, but these were not suitable or deliverable for the provision of the shelter. These included the Vantage Point building referenced by some objectors, however, this building was not available for delivery in the short to medium term;
- The proposed shelter allows for a greater number of bedspaces and facilities in a purpose-built structure that would not be possible within a converted or re-purposed existing building;
- The development was in line with the aims of the Council Plan and the Council's current Housing Strategy which included a priority to improve accommodation provision for single homeless people;
- As set out within the planning officer's report, there were no technical objections to this application and detailed information in relation to need, the search for a suitable site and the measures that Haven First as a 'good neighbour' would employ to manage the shelter have been provided and accepted by officers.



The following Members asked questions:

- Councillor Mike Rice;
- Councillor David Levett;
- Councillor Daniel Allen;
- Councillor Tony Hunter;
- Councillor Michael Muir.

Ms Barbara Howard and Ms Helen Lowe responded to questions as follows:

- The Stevenage shelter was located close to other housing;
- There had been no complaints apart from one relating to loud music which was resolved;
- Several alternative sites had been considered for this development – 4 sites in Hitchin 1 in Royston and another 2 in Letchworth – but these were not suitable for a number of reasons;
- Freemans House had been looked at, but there were alternative plans for it and it was expensive;
- The proposed development could safely accommodate both male and female clients;
- Priority would be given to residents from North Hertfordshire;
- Haven First had worked with the Crime Prevention Design Officer in Stevenage and would also do so with this hostel. Cost was a consideration as this was a charity;
- The cost of installing CCTV at the end of the footpath was very high and it was outside the vicinity of the hostel. The Police had not requested the installation of CCTV as part of the development.

Councillor Gary Grindal, Member Advocate, thanked the Chair for the opportunity to address the Committee in support of application 20/01886/FP, including:

- The Council had a statutory obligation to address homelessness, underlined by the Homelessness Reduction Act introduced by the government in 2017;
- North Hertfordshire was woefully short of accommodation for the homeless;
- The Sanctuary in Hitchin was past its useful life and unsuitable for current needs;
- He welcomed the Officer's detailed report and the Officer's recommendation to grant the application as there were no reasonable planning grounds for it to be rejected;
- The proposed site was ideal in many aspects particularly its proximity to the Town Centre and that it was in Letchworth which had a Job Centre;
- The site had been abandoned for 17 years and used as a fly-tipping site so this was a well worth opportunity to make good use of that site for the community;
- It was very disappointing to hear about the negative comments that had been received;
- With the current pandemic, people were losing their homes – these were business people, homeowners, people who had lost their homes due to relationship breakdown, for example;
- It was a grave misconception to think that the clients at the shelter would bring crime to the area;
- People with concerns were strongly urged to contact Barbara and visit the facility in Stevenage;
- The temporary accommodation would provide a stepping-stone to getting people rehoused in permanent properties;
- A local social landlord will fund the scheme and lease it to Haven First. As Executive Member for Housing he was pleased to note that in future we may have more social housing as the design could be converted into flats.

The Senior Planning Officer responded to issues and points raised as follows:

- Regarding the consultation, there had been an issue with the delivery of the letters which had been sent out in early September and not received till late September. This was investigated and residents were re-notified and given until the 31<sup>st</sup> October to respond;
- No representations had been removed from the website, but all would be taken down after the meeting;
- Following consultation with the Police, the Senior Planning Officer had stated in her report that the impact of the development on crime and anti-social behaviour was a material consideration, however very clear evidence that the proposed development would result in an increase in crime and anti-social behaviour would be required to recommend a refusal of planning permission – this evidence would be needed to support a decision to refuse, should this application be appealed. This evidence had not been provided by any consultees including the Police;
- The alleyway had been considered in the application. The existing problem with anti-social behaviour in the alleyway would not be a sustainable reason to refuse planning permission. The alleyway was outside the application site so if CCTV was required it would require a Section 106 agreement – the Senior Planning Officer did not think this would be reasonable and it was not related to the development as it was outside of the site.
- The planning permission for the existing Sanctuary site which had now lapsed would have only created 16 single bedrooms with some ancillary and communal areas. The site had constraints whereas the proposed site in Letchworth would provide a purpose-built scheme with a much better facility for significantly more people;
- The Planning Authority was satisfied that sufficient evidence had been provided that demonstrated that the land or premises was no longer required to meet the future employment need of the district and it was unfeasible for employment use given the current market conditions and that no other suitable sites outside the designated employment areas were viable and available. The possible community benefits of the scheme weighed the planning balance in that consideration.
- There would be two electric vehicle charging points at the site as recommended;
- The Construction Traffic Management Plan – Hours of Operation was covered by Condition 11 which was a standard condition recommended by Highways, under point G which would ensure construction activities including delivery times and removal of waste would avoid school drop off and pick up times.

*NB: Councillor Sue Ngwala was placed in the waiting room at the commencement of the debate.*

The following Members took part in the debate:

- Councillor David Levett;
- Councillor Daniel Allen;
- Councillor Michael Muir;
- Councillor Mike Hughson;
- Councillor Val Bryant;
- Councillor Tony Hunter

The following points were raised in the debate:

- Some of the representations made against this application had been inappropriate and should have been removed from the website. Anyone could become homeless at any time; Members of the Council had found themselves in this position - the pandemic had compounded the issue which was likely to get worse;

- The footpath had been there since the time of the original Garden City concept. It had a longstanding problem with anti-social behaviour. CCTV in this area could not be enforced as part of this development;
- A homeless shelter had been considered at Freeman House owned by County Council a couple of years ago but they had earmarked the property for private housing;
- The development would result in a loss of employment land, but that piece of land had been vacant for a long time and had been used for fly-tipping. Ascot Drive had once been Ascot Car Factory so there was a precedent in the area for employment land being lost to housing;
- A huge amount of research on homelessness had been done by Councillors including speaking to the Residents Association in the Phoenix Park area;
- This would be a much-needed facility for homeless women in North Herts as there currently was no provision;
- The objectors seemed to be working from the basis that homeless people were likely to commit crime, whereas homeless people could come from a wide spread of society, made worse during economic downturn brought about by the pandemic, and anyone could be at risk of losing their home;
- The development would take 40 homeless people off the streets or out of difficult living conditions.

Councillor David Levett proposed, Councillor Daniel Allen seconded and upon being put to the vote, it was:

**RESOLVED:** That application 20/01886/FP be **GRANTED** planning permission subject to the conditions and reasons contained in the report of the Senior Planning Officer and the following amended conditions and informatives:

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 **prior to any works above slab level commencing. The development shall be implemented in accordance with the approved details.**

4. Notwithstanding the approved plans, a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority, **and subsequently implemented as approved, all prior to the first occupation of the development hereby permitted.** The landscape scheme 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

6. **Prior to the installation of any external lighting and prior to the first occupation of the development hereby permitted,** details of all external lighting required in association with the development scheme shall be submitted to and approved in writing by the Local Planning Authority. Such lighting shall thereafter be installed in accordance with the approved details or particulars and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

15. **Prior to the first occupation of the development hereby permitted, a detailed scheme showing the coverage of the site and buildings by appropriate fire hydrants shall be submitted** to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details **and thereafter retained and maintained to the satisfaction of the Local Planning Authority,** unless otherwise agreed in writing by the Local Planning Authority.

16. **Prior to any above ground level construction works, the final design of the drainage scheme shall be completed and sent to the Local Planning Authority** for approval. The surface water drainage system will be based on the submitted Surface Water Drainage Strategy carried out by Solution Consulting Civil & Structural Engineers, Job No. 1039, dated July 2020, the additional Pre-Planning Assessment Report conducted by Anglian Water, dated 03 December

2020. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

1. Detailed infiltration testing to BRE Digest 365 standards carried out at the location and depth of the proposed soakaway feature.

2. Should infiltration prove to not be a viable discharge method then a drainage scheme relating to connection into the public surface water sewer should be submitted with a limited discharge rate of 2 l/s and any surface water attenuation required.

3. Final detailed drainage layout for the proposed development site which indicate the size, volume, depth of the SuDS features including any connecting pipe runs.

4. Detailed engineered drawings of all the proposed features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance for climate change events.

5. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

18. A Biodiversity Gain Plan shall be prepared, detailing how measurable net gain will be achieved. **Prior to the first occupation of the development hereby permitted the plan shall be submitted to the Local Planning Authority for written approval and the approved details shall be fully implemented**, unless otherwise agreed in writing with the Local Planning Authority.

Informative:

“A homeless shelter does not fall within a Use Class as set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) and is a 'sui generis' use (a use falling 'in a class of its own'). Therefore, planning permission would be required for any change of use of the approved development.”

*NB: The Committee took a comfort break at 20.50*

*The meeting resumed at 20.55 at which time the Committee, Member and Scrutiny Manager undertook a roll call.*

**106 18/00794/FP LAND TO THE WEST OF ST ALBANS ROAD, CODICOTE, HERTFORDSHIRE**

*Audio recording 1 hour 27 minutes 11 seconds*

Change of Use of land to use as a residential caravan site for 8 gypsy families including retention of hardstanding and existing lights.

*NB: Councillor Sue Ngwala re-joined the meeting at 8.50pm*

*Councillor David Levett notified the Committee that as he was named in some of the objections he would not take part in the debate or vote.*

The Development and Conservation Manager presented the report with plans and provided the following updates:

- Nigel Smith, Strategic Planning Manager was present to answer questions on Appendix 2 – the Matter 25 statement that related to the Local Plan;
- Chris Braybrooke, Senior Compliance Officer was present to answer questions which might be appropriate on any enforcement matters;
- An apology was given for the lack of photographs – the case officer was not working at the time and due to time and Covid travel restrictions the Development and Conservation Manager had not been able to travel to the site to take photographs;
- Appendix 1 showed the Temporary Planning Permission which was granted for Gypsy and Traveller Accommodation on this site which had been allowed on appeal against an Enforcement Notice served by the Council. Five year planning permission had been granted by the Inspector to enable the resolution of the issue through the new Local Plan;
- The Appeal Permission had expired on 8<sup>th</sup> March 2017 so from that date this had been an unauthorised development. By 9<sup>th</sup> March 2021, the use of land would become lawful, by virtue of the 4 year rule which is well-established in planning law for residential uses;
- The determination of this planning application had been delayed on the basis that this site would be needed and that the Local Plan would be resolved by March 2021. Recent Local Plan hearings had revealed that the occupiers of this site may not be travellers;
- The Council was seeking the Inspector's agreement to modify the plan policy designation as greenbelt. This will allow the Council to regain control of the site and enable the occupants to find alternative accommodation by October 2022;
- Should Members agree the recommendation, this strategy would negate the need for the Council to rush through an enforcement notice;
- The alternative of an Enforcement Notice was viewed as unnecessarily adversarial.

Ms Joan Shiach thanked the Chair for the opportunity to address the Committee in objection to application 18/00794/FP.

Ms Shiach's presentation included:

- The following points contained in a letter from Codicote Parish Council:
- The Parish Council continued to object to this application especially when the original appeal application allowed a temporary permission for six pitches whereas this application was indicating eight pitches;
- The standard of living conditions on site could not be established as no site visits had been undertaken for some considerable time and none were planned in the foreseeable future;
- The Parish Council would not want to see an increase from six to eight pitches nor for the extension period to be 18 months but would advise 12 months by which time the work of the Planning Inspector should be completed;
- It came to light during the Local Plan hearing sessions that there are in fact currently nine pitches on the site occupied by non-travellers and this therefore calls into question whether additional pitches are in fact required up to 2031;
- Members were referred to page 25 of the hard copy of the 2018 ORS report, figure 6 – sites and yards visited in North Hertfordshire. Also, on page 78, 4.3.6 the Officer stated that their conclusions were based on a robust evidence base i.e. the ORS report of 2018 – this evidence had now been called into question at the LP hearings.
- Ms Shiach and her son Alistair also wished to make the following points which are on record from 2018 and stand:
- There had been breaches of the conditions set out in the Appeal Decision which had not been dealt with, i.e. there were 11 caravans on the site and these were occupied by non-travellers;

- The Appeal Decision stipulated that following the end of the temporary planning period closure of the site should be enforced. The family who was the subject of this report, and who evidently needed a secure home, had long since moved away so why had four years passed since the temporary permission elapsed with no enforcement taking place to return the site to its original state and why had the planning application not been brought to the Committee before now?
- In summary, the number of pitches should not be increased from 6 to 8, an extension period of 12 would be more appropriate, and the conditions (notwithstanding type of occupiers) laid down by the original Appeal Decision should apply to the application and be enforced.

The following Member asked a question of clarification:

- Councillor Daniel Allen

Ms Shiach responded to the question of clarification as follows:

- It was not known whether the caravans were being used for financial gain or being rented out – this query would be best directed to the applicant.

The Development and Conservation Manager responded to points raised as follows:

- Although the strategy to await the outcome of the Local Plan may have been mistaken, no-one could have anticipated that the process would have taken as long as it had;
- The deadline was imminent and there was no time to negotiate conditions such as the numbers of homes on site as the four year rule would come in during this process and make the site permanent;
- The 18 month timeframe had been suggested as a reasonable amount of time to enable officers to assess the situation, to find out who was occupying the units and, if needed, to decide upon an enforcement strategy;
- If there were more than 8 homes on the site this would be a breach of the conditions, and granting the planning permission would enable the Council to regain control of the site which at the moment it had no control over and had not been able to access.

The following Member asked questions:

- Councillor Ruth Brown.

The Development and Conservation Manager responded to the questions as follows:

- If the Committee wished to restrict the site to travellers this had to be referred to the Secretary of State which would risk not being able to get the planning permission out by the four year deadline of 8 March 2021;
- Six months would not in his view give a reasonable amount of time to resolve the matter;
- If Members were minded to grant permission, the site would not be in breach of the land use category. No enforcement action on the use of the land would be applicable until the permission expired;
- If a compliance notice was needed in future it would only need to be a matter of a few months' duration as this planning permission was notification that the occupiers would need to look for alternative accommodation;
- The four year rule would re-start once the new planning permission, if granted, expired as the Council would regain control of the land;
- If planning permission was not granted, it would be difficult to prepare a legitimate enforcement notice within a few days and there was a risk that it would not be effective and the four year rule would apply.

The following Members took part in the debate:

- Councillor Mike Rice;
- Councillor Tony Hunter;
- Councillor Michael Muir.

The following points were covered in the debate:

- It was considered that the officer's recommendation was the right way forward to enable effective enforcement action in the future and to avoid the four year rule coming into effect.

It was proposed by Councillor Mike Rice, seconded by Councillor Tony Hunter, and upon being put to the vote, it was:

**RESOLVED:** That application 18/00794/FP be **GRANTED** temporary planning permission subject to the conditions and reasons contained in the report of the Principal Planning Officer.

**107 TPO 199 (2020) LAND TO THE WEST OF LUCAS LANE AND EAST OF HEADLANDS, GRAYS LANE, HITCHIN, HERTS, SG5 2HR**

*Audio recording 1 hour 52 minutes 38 seconds*

The Development and Conservation Manager presented a report with plans and provided the following updates:

- Members would have received a number of representations from local residents seeking the Committee's agreement to confirm the area Tree Preservation Order (TPO) to cover all the trees within the orchard;
- Apologies were given that there were no photographs due to the case officer being off and annual leave being taken the previous week;
- The recommendation was to include only three trees in the TPO: a walnut and two sycamores as noted in the Appendix;
- The TPO needed to be confirmed by 10 March 2021, six months after the provisional TPO was confirmed;
- Area TPOs are discouraged and only seen as an emergency measure;
- The government's area category guidance and appeals procedure was explained in detail;
- If Members were minded to confirm the TPO as originally envisaged that decision could not be challenged at appeal.

The following Members asked questions:

- Councillor Ruth Brown;
- Councillor David Levett;
- Councillor Tom Tyson;
- Councillor Michael Muir;
- Councillor Val Bryant.

The Development and Conservation Manager responded to questions as follows:

- Just three trees and no others in the orchard would be able to be preserved if the Committee was minded to vote for the recommendation in the officer's report;
- If the Committee was minded to reconfirm the area TPO this would make it a criminal offence to fell any tree within the site without further consent;

- If the area TPO was maintained and this site was then allocated in the Local Plan and a planning application for housing was submitted, in any pre-application discussion officers would advise the applicant that it would be in the best interests of the area to have a scheme that protected the trees and build around existing landscape features in line with best urban design practice rather than felling. The TPO would not stop the felling of the trees, but it would require consent to fell the trees and any refusal of consent could be appealed against;
- Any conditions to replace felled trees with newly planted ones would be beyond the scope of this order which was simply to identify which trees ought to be protected;
- The expert had noted that the area had been neglected however this was beyond the remit of the planning authority so further comment was not possible on this.

Mr Phil Davis thanked the Chair for the opportunity to address the Committee in respect of TPO 199 (2020). Mr Davis included the following in his presentation:

- He was speaking on behalf of local residents and also the Save Hitchin Greenbelt petition which started in December and now had 3000 signatures – all these were opposed to the removal of the TPO;
- This woodland would not be there if not for the local residents who protested against the felling of the trees in September 2020 when the developer was ready to fell with the equipment;
- The only reason not to grant the area TPO would be to allow the developer to build additional houses;
- In the Local Plan this land was supposed to be retained and enhanced;
- There was extremely strong support for this woodland which was a wildlife corridor;
- The survey had been done in winter when there was no wildlife around but in spring and summer the area accommodated wildlife such as badgers, bats and deer;
- It was a small but vital area for wildlife and the wood supported an incredible ecosystem.

The following Members asked a question:

- Councillor Daniel Allen

Mr Davis replied to the question as follows:

- Bats were nesting in the area and their food supply was being generated by the insects which lived in the woodland created by the trees.

The Development and Conservation Manager responded to points as follows:

- To manage expectations, should the Committee confirm the area TPO, if planning received an application to fell one of the trees, they could not look at the biodiversity of the area but only the amenity value of the tree. Protected species would need a licence from DEFRA. It would not mean that the trees were protected for ever but that consent would be required to fell them;
- The TPO would be permanent. It would only cover the trees that were already there.

Councillor Ruth Brown sought clarification on the procedure from the Development and Conservation Manager.

The following Members took part in the debate:

- Councillor David Levett;
- Councillor Val Bryant;
- Councillor Tom Tyson;
- Councillor Michael Muir.



The following points were made in the debate:

- It was important to protect and enhance existing wildlife corridors and green lungs around urban areas in North Herts. There was no need to re-wild areas if existing ones were preserved;
- It was an important area which needed to be looked after and hopefully there would be better management of the area in future;
- If an application was made to fell any trees in the area TPO, reference could be made to HT5 in the Local Plan;
- Members would rather see trees planted than felled.

Councillor David Levett proposed an amendment to the recommendation that the existing area TPO 199 (2020) be confirmed.

Councillor David Levett proposed, Councillor Val Bryant seconded, and upon being put to the vote it was:

**RESOLVED:** That the existing area TPO 199 (2020) be confirmed.

## 108 PLANNING APPEALS

*Audio recording 1 hour 24 minutes 24 seconds*

The Development and Conservation Manager advised that he had no updates to provide on the Planning Appeals which had been circulated.

**RESOLVED:** That the report entitled Planning Appeals be noted.

**REASON FOR DECISION:** To keep the Planning Committee apprised of planning appeals lodged and planning appeal decisions.

The meeting closed at 9.55 pm

Chair

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<u>Location:</u>	<b>Land South of Heath Lane Codicote Hertfordshire SG4 8YL</b>
<u>Applicant:</u>	<b>Ashill Lane Ltd</b>
<u>Proposal:</u>	<b>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).</b>
<u>Ref.No:</u>	18/02722/FP
<u>Officer:</u>	<b>Tom Allington</b>

**Date of expiry of statutory period: 11<sup>th</sup> January 2019**

**Extension of statutory period: 1<sup>st</sup> April 2021**

**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 now been through the re-scheduled examination hearings in November and December 2020 and further additional hearings were held on 1<sup>st</sup> and 2<sup>nd</sup> February 2021. The Inspector has stated that the hearings are now closed and he does not intend to hold any further hearings. Whilst the schedule of further main modifications have not yet been published by the Inspector, at the time of writing this report, these are expected to be received before the Planning Control Committee on 18<sup>th</sup> March 2021 and the main modifications are due to be presented to the Council's Cabinet meeting on 16<sup>th</sup> March 2021 (seeking approval to proceed with the consultation on the modifications). Weight can 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 4.3.169 for further 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 4.3.169 for further 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 4.3.169 for further details). An updated 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** – No objection, subject to conditions regarding the width and maintenance of the footpaths. 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 is provided for.



- 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 4.3.169 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 4.3.169 for further 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 283 comments have been received including 266 objections, 13 submissions in support and 3 neutral comments.

- 3.21 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:

### 3.22 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.

### 3.23 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.

### 3.24 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.

### 3.25 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.

3.26 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.

3.27 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.

3.28 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.

- 3.29 This application was originally put on the agenda for the Planning Control Meeting on 19<sup>th</sup> November 2020, before it was removed from that agenda at the request of the applicant. Approximately 21 further objections were received from local residents at that time (which are included in the tally noted above), expressing concerns and objections that the application should not be heard before the ELP Examination Inspector had completed his assessment of the ELP. Further objections were expressed given the timing of that previous committee meeting, just before the re-scheduled November/ December ELP hearings. One representation was received in support, although they advised that they wished to remain anonymous.

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

3.30

- 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:

3.31

- 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.

3.32 **Stephen McPartland MP** – Objection, following the application initially being put on the agenda for the Planning Control Committee 19<sup>th</sup> November 2020. Objections are summarised as follows:

- We must follow through with our commitment to protect our local environment and encourage the longevity of our Green Belt.
- NHDC need to review whether it is absolutely necessary for the 167 dwellings to be approved to meet the five-year housing supply.
- Codicote does not have the relevant infrastructure to cope with the influx of people, cars or demand on services
- The provision of land for the school expansion is inadequate and would soon become oversubscribed
- There is insufficient mitigation of traffic congestion, particularly along the B656.
- I am concerned NHDC are undermining their own plan – this site has been identified as a plot of land to be released only if the Inspector considered exceptional circumstances exist. This is considered premature under the NPPF.

## 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-a-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 24<sup>th</sup> 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 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.

## **Proposed modification to the ELP – Masterplanning requirements**

- 4.3.43 In advance of the February 2021 hearings, the Council proposed significant changes to Policy SP9: Design and Sustainability that, if included in the Plan, would require that significant development be masterplanned and that that it go through a masterplanning process in order to (amongst other things) secure design quality (Examination Document ED216). Supporting paragraph 4.xxx under SP9 of the Council's proposed modification states the following:

*Other significant development requiring a masterplan will be determined according to its scale, complexity, sensitivity and impact on the surrounding environment and community as well as the nature and extent of spatial and design detail being submitted in any relevant planning application. In some circumstances a masterplan may need to consider the cumulative impact and co-ordinated planning and place-making of more than one site to achieve positive planning outcomes. Generally, a threshold of 100 dwellings will apply.*

- 4.3.44 At the time of writing this report, this modification has only been suggested by the Council and has not yet formally been put forward by the ELP Inspector as a potential modification and so strictly speaking, it does not presently exist as a 'relevant policy in an emerging plan' under NPPF paragraph 48 and so carries little weight.
- 4.3.45 Whilst this site has not been through a formal masterplanning exercise as set out under the Council's proposed changes to Policy SP9, the layout and design of the proposals have been through extensive negotiations and improvements with Council officers and as outlined in the sections of this report above, it is officers view that the proposals represent a high standard of design, in keeping with its context and which would include high quality green infrastructure and multi-functional opens spaces. As a full (rather than outline) application, the full extent of the details of this design, layout, on-site green infrastructure etc. are available to the decision-maker now and would be secured through any grant of permission. As such, it is considered that effective masterplan has been secured which would comply with Policy SP9.

## **Impact on the wider landscape setting**

- 4.3.46 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 recognising 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;*'.

- 4.3.47 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.
- 4.3.48 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
- 4.3.49 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.
- 4.3.50 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'.
- 4.3.51 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.

- 4.3.52 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.
- 4.3.53 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.
- 4.3.54 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.
- 4.3.55 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

- 4.3.56 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.
- 4.3.57 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.
- 4.3.58 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 as limited-to-moderate and that this should attract moderate weight.

#### **Impact on the local highway network, access and parking**

##### Impact on local highway network

- 4.3.59 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.

- 4.3.60 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.'*
- 4.3.61 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'*.
- 4.3.62 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)
- 4.3.63 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.

4.3.64 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

4.3.65 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.

4.3.66 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.

- 4.3.67 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.
- 4.3.68 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.
- 4.3.69 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 of consideration under this application (this would have been for the application for the school expansion, approved by HCC Planning Committee on 24<sup>th</sup> 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).
- 4.3.70 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

- 4.3.71 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'*.
- 4.3.72 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.
- 4.3.73 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.
- 4.3.74 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.
- 4.3.75 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

4.3.76 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;*

4.3.77 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

4.3.78 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.

4.3.79 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.

- 4.3.80 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.
- 4.3.81 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.
- 4.3.82 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.
- 4.3.83 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
- 4.3.84 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.
- 4.3.85 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

- 4.3.86 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.
- 4.3.87 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.
- 4.3.88 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.
- 4.3.89 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

- 4.3.90 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).
- 4.3.91 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.
- 4.3.92 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

- 4.3.93 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.



- 4.3.94 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 vision 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.
- 4.3.95 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.
- 4.3.96 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

- 4.3.97 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*'.
- 4.3.98 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

- 4.3.99 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.*

- 4.3.100 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

- 4.3.101 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'*.

4.3.102 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'.

4.3.103 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

4.3.104 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.

- 4.3.105 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).
- 4.3.106 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

- 4.3.107 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.
- 4.3.108 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.

- 4.3.109 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.
- 4.3.110 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

- 4.3.111 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.
- 4.3.112 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

- 4.3.113 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**

- 4.3.114 To achieve sustainable development the economic, social and environmental objectives set out in Section 2 of the NPPF must be met.
- 4.3.115 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.
- 4.3.116 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.
- 4.3.117 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

4.3.118 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.**

4.3.119 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.

4.3.120 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

4.3.121 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, ideally 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).

- 4.3.122 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 24<sup>th</sup> September 2020, under HCC reference PL/0111/19.
- 4.3.123 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 A. 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.
- 4.3.124 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.
- 4.3.125 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.

4.3.126 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 (as noted above). 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. The appended note from HCC outlines the projected demand for places at the school from the existing village of Codicote. As can be seen, although demand fluctuates on a yearly basis, 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.

4.3.127 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.

4.3.128 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 24<sup>th</sup> 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 would be transferred to HCC no later than September 2021, to allow them to implement the expansion of the school. Having discussed this with officers at HCC, the expansion of the school to 2FE could be provided by September 2022 on the basis of these timings.

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, then the school expansion could be delayed by at least a further year until 2023.

4.3.129 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.

4.3.130 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 ....'*

4.3.131 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.

4.3.132 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'*.

4.3.133 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.*

4.3.134 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

4.3.135 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 need ...is 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.

4.3.136 As explained above the Council is unable to demonstrate a 5YHLS and at the time of writing this report, the latest figure for decision making purposes stands at 2.2 years as of April 2020 (as outlined in the Council's 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. The Council is also presently unable to meet the requirements of the Government's Housing Delivery Test (HDT) so currently fails to meet either test in Footnote 7 of the NPPF. The Government's latest Housing Delivery Test results were published in February 2021. These show the Council delivered 36% of the homes considered necessary under this measure. This was down from 44% the previous year and well below the 75% threshold at which the requirements of NPPF Footnote 7 apply. The latest result for North Hertfordshire was the fourth-lowest figure of almost 300 local authorities in the country.

- 4.3.137 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.
- 4.3.138 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.
- 4.3.139 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.
- 4.3.140 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.

4.3.141 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 14 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.

4.3.142 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.

4.3.143 As mentioned at paragraphs 4.3.132 – 4.3.134 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 appeal decisions mentioned below 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

4.3.144 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.

4.3.145 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

4.3.146 The Council’s Emerging Local Plan (ELP) was submitted for Examination in 2017. Although this remains ongoing, the additional hearings have now been completed. 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).

4.3.147 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.

4.3.148 With regards criteria (a), the plan is well advanced. It is at Examination, albeit the completion of this process is reliant on further consultation in relation to further Main Modifications, which follow the most recent hearings in November and December 2020 and February 2021. 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 has been 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.

4.3.149 At the conclusion of the November and December 2020 hearings, the Inspector held a 'wash-up' session with the Council to discuss the matters arising and next steps. This session was held in public and is available to view on the Council's YouTube channel. At that session the Inspector stated that going forward, the Council could expect one of two things to happen; either to receive a letter setting out any fundamental concerns or going out for consultation on further main modifications. The Inspector undertook to write to the Council raising any concerns by the end of January 2021 at the latest. The Inspector was clear that any further main modifications would be those that he considered necessary for the soundness of the Plan and that he would not allow modifications with which he was not happy to be consulted upon. At the time of finalising this Planning Control Committee report (early March 2021), no letter has been received from the Inspector setting out any concerns and no indication has been received through the Programme Officer that any such letter should be expected to be received.

4.3.150 The schedule of Main Modifications have not been published by the Inspector at the time of finalising this report but these are expected to be received imminently and before the Planning Control Committee meeting on 18<sup>th</sup> March 2021 (a verbal update will be provided to members on the night). In addition, it is anticipated that the Main Modifications are to be presented to the Councils Cabinet meeting on 16<sup>th</sup> March 2021, seeking approval to carry out the necessary consultation on the Main modifications. The Cabinet agenda and the associated report is available to view on the Council's website.

4.3.151 As noted above, although the Inspectors is yet to publish the final schedule of proposed main modifications (at the time of finalising this report), at his request Council officers have prepared an initial draft schedule of proposed further main modifications based upon the information submitted prior to the hearings, matters discussed at the hearings themselves, and matters on which the Inspector requested additional information having heard evidence at the hearings.

These have been sent to the Inspector for his review and approval. As set out above, he has not raised any significant issues of concern and in broad terms, the draft modifications requested by and submitted to the Inspector to date do not require changes to the position set out by the Council in relation to the matters below:

- The objectively assessed need for housing within the District over the period 2011-2031 of 11,500 homes and a housing supply to meet that need in full, from a range of sites that might deliver over 13,000 homes during the same period;
- The release and use of sites presently in the Green Belt in order to achieve this.
- The approach to the selection and allocation of housing sites;

4.3.152 In light of the above, officers consider that the Inspector is now unlikely to raise any substantive concerns on the matters he heard evidence on during November and December 2020, including the overall housing need, the Council's approach to the selection and allocation of sites, the release of Green Belt land in order to achieve these and the identification of certain villages including Codicote where a greater level of housing development will be allocated. The absence of any formal communication on these issues from the Inspector by the end of January 2021, or any request to prepare any modifications which might substantively alter the emerging plan's position on these matters, provides a strong indication that all of the Green Belt sites currently allocated in the plan, including this site under allocation CD5, will remain in the plan when it is eventually presented for adoption (anticipated later this year).

4.3.153 With regards criterion (b) of paragraph 48 of the NPPF, which refers to '*the extent of unresolved objections*', 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.

4.3.154 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.

4.3.155 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.



4.3.156 As noted above, strictly speaking the Inspector has not provided any written clarity on whether or not the exceptional circumstances test has been met in order to release Green Belt Land for development. However, as outlined above, at the wash-up session in December 2020 the Inspector undertook to raise any substantive concerns regarding the overall approach in the ELP by the end of January 2021 and at the time of writing this report, nothing has been received and it is understood that the Inspector is to move forward with his main modifications, which he deems necessary to make the plan sound. Furthermore, at no part of the examination process has the Inspector raised any issues with regard to the overall principle of 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 substantial weight in this instance.

#### Unlocking development potential on other allocated sites in Codicote

4.3.157 Under the latest draft main modifications of the ELP, the Policies for the remaining sites allocated in Codicote (CD1, CD2 and CD3) now include the requirement that '*Appropriate solution for expansion of Codicote Primary School to be secured to accommodate additional pupils arising from 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.

4.3.158 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

- 4.3.159 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.
- 4.3.160 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.*

- 4.3.161 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.

- 4.3.162 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.

- 4.3.163 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,
- 4.3.164 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

- 4.3.165 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, two 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.
- 4.3.166 In addition to these two key aspects, substantial 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.
- 4.3.167 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

4.3.168 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.*

4.3.169 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:

<b>Element</b>	<b>Detail and Justification</b>
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> <p>(i) <i>4 months after the statutory challenge period in respect of the playing fields permission plus 21 days ....; or</i></p> <p>(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>

	<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> <p>Policy 51 of the North Hertfordshire District Local Plan No. 2 with Alterations. Planning Obligations SPD and HCC Toolkit</p>
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"> <li>1. £76,000 (before indexing) towards the upgrading of nearby bus stops at the Peace Memorial and The Bell PH.</li> <li>2. £225,750 (before indexing) towards the 5 year expansion of the 315 bus route though Codicote</li> <li>3. £6,000 towards the assessment and monitoring of the Travel Plan</li> </ol> <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)	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)  Policy SP7 'Infrastructure requirements and developer contributions'
Community Centre/ Halls Contribution (NHDC)	Contribution of £251,753.39 towards the construction of a new/ replacement Codicote Scout Hut  Policy SP7 'Infrastructure requirements and developer contributions'  Planning Obligations SPD
Pitch Sports Contribution (NHDC)	Contribution of £56,562.50 towards the refurbishment of a disused pavilion at Bury Lane Sports Field  Policy SP7 'Infrastructure requirements and developer contributions'  Planning Obligations SPD
Waste Collection & Recycling (NHDC)	Contribution based on NHDC Planning Obligations SPD (figures are before indexing):  District Contributions: <ul style="list-style-type: none"> <li>- £71 per house</li> <li>- £54 per flat with its own self-contained garden</li> <li>- £26 per flat with shared or no amenity space</li> </ul> Policy SP7 'Infrastructure requirements and developer contributions'  Planning Obligations SPD

Car Club Scheme (NHDC)	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.
Open space/ landscape management and maintenance arrangements	Private management company to secure the provision and long-term maintenance of the open space/landscape buffer and any SuDs infrastructure  Policy SP7 'Infrastructure requirements and developer contributions'
Fire Hydrants (HCC)	Provision within the site in accordance with standard wording  Policy SP7 'Infrastructure requirements and developer contributions'

4.3.170 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.

4.3.171 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**

4.3.172 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.

- 4.3.173 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.
- 4.3.174 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.
- 4.3.175 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.
- 4.3.176 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.
- 4.3.177 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).*

- 4.3.178 As outlined at paragraphs 4.3.114 – 4.3.117 of the report, the development is considered to represent a sustainable form of development. This is neutral in the planning balance. However, there are two main aspects which weigh heavily in favour of this proposed development, with a third key consideration providing further substantial weight.
- 4.3.179 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.
- 4.3.180 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.
- 4.3.181 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

4.3.182 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 hearings have now been completed. Furthermore, it is the officers view that there is now a strong 'inference argument', in that that ELP examination Inspector clearly and publicly stated that he would raise any fundamental concerns regarding the overall approach and direction of the ELP (in terms of housing need, site selection and allocation and the release of Green Belt sites, for example) by the end of January 2021 and he has not done so, therefore 'implying' he is satisfied with these matters to the extent he can now progress with the further main modifications. In addition, the Inspector has at no point raised any specific concerns regarding the principle of this CD5 allocation. However, any weight afforded in this instance is slightly tempered in acknowledging that the Inspector has not yet published any written interim findings with regard to 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 substantial weight in favour of the proposal.

4.3.183 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-terms 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

- 4.3.184 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.
- 4.3.185 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 substantial 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.
- 4.3.186 An advice note is provided by Counsel, attached to this report at Appendix B, which clarifies that the assessment set out in this report provides a sound basis for granting permission, if members were to agree that the very special circumstances test is met in this case. Members should be aware that this advice note is dated 29<sup>th</sup> October 2020 and refers to a previous report for this planning application, when it was originally put on the agenda for the Planning Control Committee meeting on 19<sup>th</sup> November 2020 (before it was removed from that agenda). That previous report, which is similar to this one, is available to view on the Council's website via the following link:

<https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=151&Mid=2425>

Officers are of the view that a new note from Counsel is not necessary for this latest report. This is partially because the report checked by Counsel is largely similar to this current report. In addition, since that report was drafted, the ELP examination hearings have taken place and the Inspector has not raised any fundamental concerns regarding the ELP, as outlined in this report above. As such, increased weight can now be put on the allocation of this site in the ELP (compared to the weight attributed in November) and so the 'Very Special Circumstances' are strengthened in this case, compared to the same consideration on November.

## 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 CO<sub>2</sub> 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 4m<sup>3</sup>/hr/m<sup>2</sup> 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:

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 link 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. In accordance with drawing number 2015/2368/014 Rev E hereby approved, Footpaths 14 and 15 will be provided at a width of no less than 4 metres for their entire length within the boundaries of the site area. The 4 metre width will include a 2 metre wide path with 1 metre wide strip of landscaping either side.

Reason: To ensure that the footpaths are of a sufficient width and are retained for proper use for pedestrians and cyclists.

34. 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.

35. 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.

36. 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.

37. 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 overflows 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 overflows 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](mailto:wwriskmanagement@thameswater.co.uk). Application forms should be completed online via [www.thameswater.co.uk/wastewaterquality](http://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>

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

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**Chief Executive: Owen Mapley**



**Tom Allington  
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**Hertfordshire County Council**  
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[tom.allington@north-herts.gov.uk](mailto:tom.allington@north-herts.gov.uk)

25<sup>th</sup> February 2021

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.

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 School from GP registration data indicates the same or more children for whom it is their nearest school compared with places available at the School in all years.

**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	51	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.

In light of the immediate demand from the existing community, the County Council has planned a programme of works to construct the new permanent buildings at Codicote Primary School to enable it to expand from September 2022. In order to deliver this, 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 school expansion delivery programme is based on the CD5 application being consented in March 2021. Any further delay would give insufficient time to complete the expansion scheme for September 2022, and miss the seeding season for the playing field works.

The draft S106 agreement and associated land transfer agreement requires that the land transfer takes place between February 2021 and September 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 that reads "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**

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**ADVICE**

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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 1<sup>st</sup> and 6<sup>th</sup> November 2018 and 17<sup>th</sup> and 18<sup>th</sup> 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 [ ] or any reasonable amendments or improvements to the Travel

Plan Statement notified by the County Council to the Owner pursuant to paragraph 1

***"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 1<sup>st</sup> 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 plan  
15.6 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 42<sup>nd</sup> Dwelling;

15.6.2 the Occupation of the 84<sup>th</sup> Dwelling;

15.6.3 the Occupation of the 126<sup>th</sup> Dwelling; and

15.6.4 the Occupation of the 167<sup>th</sup> 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 42<sup>nd</sup> 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:** Transfer shall be subject to:
- 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.

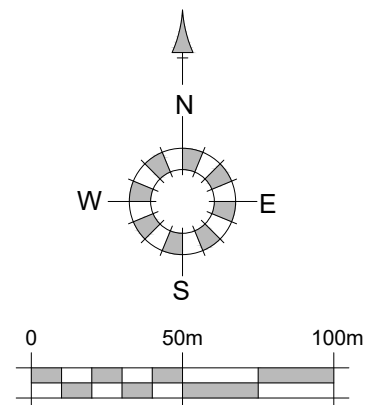
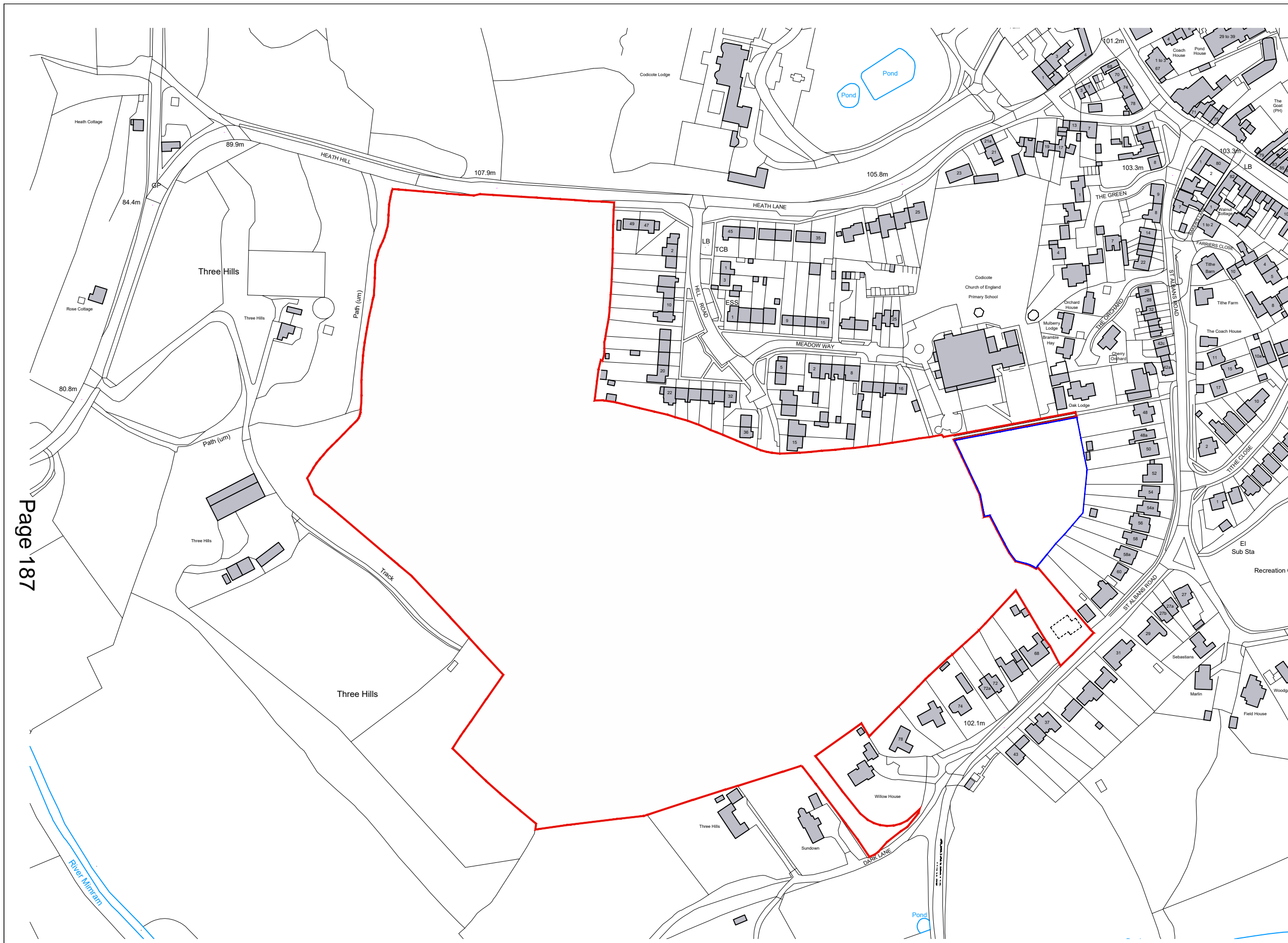
**Management:**

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.



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

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REV.	DATE	REVISIONS:	BY	STATUS:
-	-	-	-	-

## Planning

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CLIENT:	Ashill	PROJECT:	Land at Heath Lane / St. Albans Road Codicote, Herts
SCALE:	1:2500 (A3 ORIGINAL)	DRAWING:	Site Location Plan
DRAWN:	AL		
DATE:	02.08.18	16208	S201



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 Tel: 01252 267878

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**PLANNING CONTROL COMMITTEE**

**DATE: 18 March 2021**

**PLANNING APPEALS LODGED**

<b>APPELLANT</b>	<b>Appeal Start Date</b>	<b>DESCRIPTION</b>	<b>ADDRESS</b>	<b>Reference</b>	<b>PROCEDURE</b>
Linden Wates (Royston) LLP and Frontier Estates (Dartford) Ltd	12 February 2021	Erection of a 73-bed care home (within Class C2), parking, access, landscaping and other associated works (as amended by plans received 11 November 2019)	Land West Of Royston Bypass Royston Hertfordshire	19/00248/FP	Written Representation

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**PLANNING CONTROL COMMITTEE**

**DATE: 18 March 2021**

**PLANNING APPEALS DECISION**

<b>APPELLANT</b>	<b>DESCRIPTION</b>	<b>SITE ADDRESS</b>	<b>REFERENCE</b>	<b>APPEAL DECISION</b>	<b>COMMITTEE/ DELEGATED</b>	<b>COMMENTS</b>
Rand Brothers	Permission in Principle: Erection of seven dwellings	Mill Corner Farm Jacksons Lane Reed SG8 8AB	20/01605/PIP	Appeal Dismissed on 17 February 2021	COMMITTEE	The Inspector stated that the appeal proposal would be harmful to the character and appearance of the area. It would conflict with the requirements of Policies 6 (Rural Areas Beyond the Greenbelt), 26 (Housing Proposals) and 57 (Residential Guidelines and Standards) of the North Herts District Local Plan 2007 which, amongst other criteria, require that the existing countryside and villages, and their character, be maintained. It would also conflict with Policies NE1 (Landscape) and CGB1 (Rural Areas Beyond the Greenbelt) of the Emerging Local Plan. The criteria of these policies include requirements that in Rural Areas beyond the Green Belt housing will only be permitted where it meets a proven need for affordable housing in an appropriate location, and that development proposals not cause unacceptable harm to the character and appearance of the surrounding area.

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## Appeal Decision

Hearing Held on 18 January 2021

Site visit made on 19 January 2021

**by M Chalk BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 17 February 2021**

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**Appeal Ref: APP/X1925/W/20/3260353**

**Land North of Jackson's Lane, Reed, Hertfordshire SG8 8AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr R Rand (Rand Brothers) against the decision of North Hertfordshire District Council.
  - The application Ref 20/01605/PIP, dated 22 July 2020, was refused by notice dated 18 September 2020.
  - The development proposed is "Permission in Principle for the erection of seven dwellings at Land North of Jackson's Lane, Reed, Hertfordshire, SG8 8AB".
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal proposal seeks Permission in Principle. This consent route has two stages. The first stage establishes whether a site is suitable in principle for the development proposed. The second stage assesses the detailed development proposals. This proposal is at the first stage, so this appeal considers the principle of development, limited to the location, land use and the amount of development. While applications for Permission in Principle can seek a maximum and minimum number of dwellings, in this instance permission is sought for seven dwellings. The appeal has been determined on this basis.
3. The development plan comprises the North Hertfordshire District Local Plan 1996. The Council's emerging Local Plan is at an advanced stage of examination, and accordingly the policies attract significant weight where there are no unresolved objections.

### Background

4. The Council's most recent annual monitoring report demonstrates 2.2 years' supply of housing land. During the hearing the appellant contested this figure on the grounds that it included sites allocated in the emerging Local Plan, several of which are in the Green Belt. Without these sites the actual figure is suggested to be around 1.6 years.
5. The Council is awaiting a written response from the examining Inspector following the most recent round of hearings on the emerging plan, which is expected to address the status of these sites. In addition, there are planning

applications under consideration for several of the sites with one permission having been granted, and not all the allocated sites are in the Green Belt.

6. There is no guarantee that the examining Inspector will find that the allocation of any or all these sites for housing development is justified. Should they not accept every site, this would result in a housing land supply of between 1.6 and 2.2 years. Even if I were to accept the higher figure given in the annual monitoring report, the Council's shortfall would nonetheless be substantial. That shortfall attracts considerable weight in favour of the development proposed in the determination of this appeal.

### **Main Issues**

7. The main issues are:
  - Whether the development would preserve or enhance the character or appearance of Reed Conservation Area,
  - The effect of the development on the character and appearance of the area; and,
  - Whether the site accords with relevant local policies with regard to location.

### **Reasons**

#### *Conservation Area*

8. The appeal site falls partly within Reed Conservation Area (the CA). The Council's Conservation Area Character Statement (the Statement) for Reed states that the village's layout reflects the early pattern of medieval settlement, with Jackson's Lane one of four lanes defining a roughly square space. The Statement says that the CA can be characterised by extensive tracts of agricultural land with a low density of historic and modern buildings fronting the country lanes, that its character is highly rural with a strong countryside setting and that the key character of the CA is its openness. Based on my visit I see no reason to disagree.
9. On all four sides of the rough square open agricultural land is visible on both sides of the road. The visibility of this open land is a source of relief within the street scene, and contributes significantly to the rural character of the village and the CA. On Jackson's Lane the appeal site is the only such example of open land on the north side of the lane due to the greater density of development in the immediate vicinity. The significance of the CA derives from the character of the buildings therein, and the relationship with the surrounding open land.
10. The development would result in the loss of much of the openness that the appeal site contributes to the CA and its setting. The views through from Jackson's Lane toward The Joint would be significantly curtailed by the presence of the proposed houses. In addition, the contribution of the unbroken frontage and green field to the Jackson's Lane street scene would be diminished by the introduction of a new access. While the development proposed would be relatively low density, in particular considering the developments at 3-9 Brickyard Lane and The Kilns, it would be of a higher density than other sites facing onto Jacksons Lane and as a result would appear out of keeping in the street scene.

11. The harm arising from the loss of openness and rural character would be experienced primarily in the immediate vicinity of the site and would erode characteristics that contribute to the significance of the CA. When weighed against that significance as a whole it would consequently amount to less than substantial harm.
12. The National Planning Policy Framework (the Framework) 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 asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
13. There would be a public benefit from the creation of seven new dwellings in Reed. This would support the Government's objective of significantly boosting the Government's supply of new homes, and as the Council has a substantial shortfall in its housing land supply this attracts additional weight. The development proposed would also deliver economic benefits from the creation of short-term jobs associated with the construction of the houses, and long-term from their occupation in support for the local economy and services. In addition, the development would deliver improved landscaping of the site, which would provide some screening of the development from Jackson's Lane, as well as biodiversity enhancements.
14. However, the scale of benefits arising from a development of seven houses, even allowing for the clear need for additional housing in the District and the additional weight this attracts, would only be moderate. In this instance, the moderate benefits of the development would not outweigh the harm to the significance of the heritage asset.
15. The development proposed would therefore fail to preserve or enhance the character or appearance of the CA. It would conflict with policy HE1 of the emerging Local Plan (the ELP) and the objectives of conserving and enhancing the historic environment that are set out in the Framework. Collectively these require that planning permission only be granted where it enables heritage assets to be used in a manner that secures their conservation and preserves their significance or where any less than substantial harm is outweighed by the public benefits of the development.

#### *Character and Appearance*

16. The appeal site is prominent in the surrounding area, including from neighbouring properties and from The Joint. Due to the dense hedgerows along the southern side of The Joint, the field access to the land to the north of the appeal site offers the only open view across the appeal site from the north, and the only such view from The Joint between the junctions with Brickyard Lane and Crow Lane. As the appeal site slopes down towards Jackson's Lane, this vista presents a clear view to the village beyond, albeit bordered by development to either side and the trees around the field boundary.
17. The development would be relatively low density but contained in the northern part of the site. As a result, a development of seven houses would appear significantly denser than the neighbouring plots on Jackson's Lane which comprise detached and semi-detached houses on large plots, generally with substantial spacing between the facing detached elevations of houses. The site could be screened to an extent by reinforcing the landscaping along the site

boundaries. However, the development would still be sited within the countryside and would cause harm through the loss of a greenfield site that contributes to the village's rural setting.

18. If the appeal were to be allowed a detailed design for the development could be advanced at the second stage that would be in keeping with the general character of neighbouring properties and the village. However, the harm from the loss of the rural character would remain and would not be offset by the detailed design of the dwellings.
19. The appeal proposal would consequently be harmful to the character and appearance of the area. It would conflict with the requirements of Policies 6, 26 and 57 of the North Herts Local Plan 2007 (the LP) which, amongst other criteria, require that the existing countryside and villages, and their character, be maintained. It would also conflict with Policies NE1 and CGB1 of the ELP. The criteria of these policies include requirements that in Rural Areas beyond the Green Belt housing will only be permitted where it meets a proven need for affordable housing in an appropriate location, and that development proposals not cause unacceptable harm to the character and appearance of the surrounding area. There is nothing before me to indicate that the proposed houses would meet the criteria of affordable housing.

#### *Location*

20. Policies 6 and 26 of the LP, when taken together, state that development will be permitted if the proposal is acceptable in that location within the environment. Policy T1 of the ELP requires that development not cause unacceptable impacts upon the highway network.
21. Reed is a rural village with few services or facilities. There is a village hall, a first school, a playground and a café on the far side of the A10, but no local shop, public house or doctors' surgery. Residents of the village must travel further afield for other services, and during the hearing it was indicated that Royston or Buntingford would be the most likely destinations in such cases.
22. There is a bus service serving Reed that travels to both settlements, but this is limited in terms of the number of buses per day. The village is not part of a cycle network. While both Royston and Buntingford can be reached by the A10, this is a busy road and unlikely to be attractive to cyclists. Given the distance to other settlements, residents are not likely to walk to them on a regular basis.
23. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, it also states that 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.
24. The appeal proposal would support the existing services available in Reed but given the few services available this only attracts limited weight. Given the limited range of services and facilities and sustainable travel options available within the village it is likely that the development proposed would result in significant reliance on private vehicle usage.
25. The site does not therefore accord with relevant local policies with regard to location.

*Other Matters*

26. Both parties have referred to previous appeal decisions relating to Reed House, a nearby property on Jackson's Lane. I have considered the Inspectors' findings in these decisions, but that site is wholly outside the CA and the decisions all predate the most recent revision to the Framework. Consequently, these decisions are not comparable to this appeal.

*Planning Balance*

27. It is not in dispute that there is a significant shortfall in the Council's housing land supply. Consequently, Paragraph 11 of the Framework is engaged.

28. This states that where there are no relevant development plan policies, or the policies are out of date, planning permission should be granted except where the application of policies in the Framework provides a clear reason for refusal. Footnote 6 includes those relating to heritage assets amongst the list of those policies.

29. As the appeal proposal would result in harm to the significance of the CA which would not be outweighed by the public benefits of the development, the application of policies in the Framework does provide a clear reason for refusal in this instance. In addition, I have also found harm in relation to location and character and appearance, which reinforces my reasoning.

**Conclusion**

30. For the reasons set out above, the appeal fails.

*M Chalk*

INSPECTOR

**Appearances**

FOR THE APPELLANT

David Fletcher

Strutt and Parker

Ian Alderton

Architectural Management

FOR THE COUNCIL

Sam Dicocco

Senior Strategic Sites Officer

INTERESTED PARTIES

Kenneth Langley

Chair, Reed Parish Council

Gerald Morris

District Councillor