

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**



12 February 2021

Our Ref Planning Control /24.02.21  
Contact. Committee Services  
Direct Dial. (01462) 474655  
Email. [committee.services@north-herts.gov.uk](mailto:committee.services@north-herts.gov.uk)

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

**WEDNESDAY, 24TH FEBRUARY, 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>
<b>1.</b>	<b>WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY</b> 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> .	
<b>2.</b>	<b>APOLOGIES FOR ABSENCE</b> Members are required to notify any substitutions by midday on the day of the meeting.  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.	
<b>3.</b>	<b>MINUTES - 20TH JANUARY 2021</b> To take as read and approve as a true record the minutes of the meeting of the Committee held on the 20 <sup>th</sup> January 2021.	(Pages 5 - 12)
<b>4.</b>	<b>NOTIFICATION OF OTHER BUSINESS</b> Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.  The Chair will decide whether any item(s) raised will be considered.	
<b>5.</b>	<b>CHAIR'S ANNOUNCEMENTS</b> Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the 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.	
<b>6.</b>	<b>PUBLIC PARTICIPATION</b> To receive petitions, comments and questions from the public.	

7. **20/01886/FP LAND AT CORNER OF PROTEA WAY AND PIXMORE AVENUE, LETCHWORTH GARDEN CITY, HERTFORDSHIRE** (Pages 13 - 70)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- 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).
8. **18/00794/FP LAND TO THE WEST OF ST ALBANS ROAD, CODICOTE, HERTFORDSHIRE** (Pages 71 - 102)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Change of Use of land to use as a residential caravan site for 8 gypsy families including retention of hardstanding and existing lights.
9. **TPO 199 (2020) LAND TO THE WEST OF LUCAS LANE AND EAST OF HEADLANDS, GRAYS LANE, HITCHIN, HERTS, SG5 2HR** (Pages 103 - 138)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
10. **PLANNING APPEALS** (Pages 139 - 150)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

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## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### PLANNING CONTROL COMMITTEE

**MEETING HELD AS A REMOTE MEETING  
ON WEDNESDAY, 20TH JANUARY, 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, Sean Prendergast, Mike Rice and Tom Tyson*

**In Attendance:** *Tom Allington (Principal Planning Officer), Nurainatta Katevu (Legal & Regulatory Team Leader), Andrew Hunter (Senior Planning Officer), William Edwards (Committee, Member and Scrutiny Officer), Louis Franklin (CSC – IT Support)*

**Also Present:** *At the commencement of the meeting approximately 4 members of the public, including registered speakers, and Councillor Lisa Nash as Member Advocate.*

#### **79 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY**

*Audio Recording – 8 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;
- 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.

**80 APOLOGIES FOR ABSENCE**

*Audio recording – 3 minutes 9 seconds.*

Apologies for absence were received from Councillor Ian Moody.

The Development and Conservation Manager, Simon Ellis, and Senior Planning Officer, Jo Cousins, were absent from the meeting due to unforeseen circumstances.

**81 NOTIFICATION OF OTHER BUSINESS**

*Audio recording – 3 minutes 15 seconds.*

There was no other business notified.

**82 CHAIR'S ANNOUNCEMENTS**

*Audio recording – 4 minutes 9 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.

The Chair advised that the Principal Planning Officer, Tom Allington, had stepped in at short notice to replace absent officers and request that Members be considerate of the limited time he had to prepare prior to the meeting.

**83 PUBLIC PARTICIPATION**

*Audio recording – 5 minutes 45 seconds.*

The Chair confirmed that the registered speakers and Member Advocate were in attendance.

**84 20/00637/FP Flint Hall Farm, London Road, Royston, Hertfordshire, SG8 9LX**

*Audio Recording – 5 minutes 50 seconds.*

Conversion of existing barn and grain store to provide two 4-bed and one 3-bed dwellings. Erection of two 4-bed dwellings, associated car parking, landscaping and ancillary works.

The Principal Planning Officer presented the report in respect of application 20/00637/FP supported by a visual presentation consisting of photographs and plans.

Ms Jessica Hall thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- The existing structures were a good example of a 19<sup>th</sup> century model farm and formed a non-designated heritage asset;
- Consent for this development had been granted previously but work had not commenced before the 3 year allotment and therefore permission had lapsed;
- The proposed development would retain and protect the existing buildings;
- Intervention was necessary to preserve these heritage assets;
- Commercial and agricultural uses were not viable and therefore a sympathetic residential development was the only option;

The following Members asked questions:

- Councillor Val Bryant

In response to questions Ms Hall advised:

- Since the first application regulations on protected species had changed;
- A bat survey had been required and was completed;
- The central barn area had open roof space and was retained in the proposed development, providing roosting areas for bats.

The Chair thanked Ms Jessica Hall for her presentation.

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

- Councillor Tony Hunter
- Councillor Tom Tyson
- Councillor Val Bryant
- Councillor Daniel Allen
- Councillor David Levett

In response to questions the Principal Planning Officer advised:

- There was provision in the recommendations for electric vehicle (EV) charging points and imposing more might be considered unreasonable;
- The conditions in the report on vehicle access had been imposed on the recommendation of Herts County Council Highways officers and would have to be fulfilled prior to occupation.

Councillor Daniel Allen proposed, Councillor Tony Hunter seconded and it was:

**RESOLVED:** That application 20/00637/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager.

**85     20/02109/FP Nup End Farm House, Nup End, Old Knebworth, Hertfordshire, SG3 6QJ**

*Audio Recording – 24 minutes 37 seconds.*

Erection of one 4-bed and two 3-bed detached dwellings including alterations to existing access.

The Senior Planning Officer presented the report in respect of application 20/02109/FP supported by a visual presentation consisting of photographs and plans and provided the Committee with the following updates:

- Paragraph 4.3.24 of the report should be amended to refer to “3 dwellings”
- Paragraph 4.4.1 of the report should be amended to omit “and to a designated heritage asset.”

The Chair invited Jeanette and Suzie Deards to address the Committee.

Jeanette and Suzie Deards gave a verbal presentation including the following:

- They had lived next to the proposed development site for 40 years and in that time had never been overlooked or disturbed;
- The 3 detached properties proposed would result in overcrowding and would not be in keeping with the area;
- 2 of the proposed properties would overlook their property and have a material impact on their privacy and natural light as well as an impact on the value of their property;
- The proposed entrance to the site had never been used as an entrance before; it was off a busy road with a double corner and therefore dangerous;
- The amount of cars associated with the development would outstrip the proposed parking allocated by the plans and would have a negative environmental impact;
- The developments surrounding the proposed site met existing demand;
- Waste and water drainage in the area was not strong and new residences would result in increased strain on the infrastructure;
- The development was in a conservation area and a green belt site;
- Local schools were oversubscribed; busses were infrequent; there would likely be 2 cars associated with every property which were necessary due to the rural location of the site.

The Chair invited Councillor Lisa Nash (Member Advocate) to address the Committee.

Councillor Lisa Nash thanked the Chair and addressed the Committee including the following:

- Councillor Nash was ward member for the applicant and seeking permission for the applicant to build in their unused back garden;
- The site sat next between a business park against one boundary, residential flats on another and a road on the third, with a well established hedgerow overlooking a small party boundary into open fields;
- A development in this site would not result in any loss of openness;
- The proposed development utilises a small private garden which serves no other purpose at present;
- Some objections contained in the report from nearby residents were not founded on relevant planning considerations;
- In view of Section 13 of the NPPF this development would not alter the boundary of the green belt and would not lead to a loss of openness;
- Previous developments in green belt land had been approved;
- The LEP allowed for this sort of development on other sites.

The Chair invited Mr Stephen Rice to address the Committee.

Mr Rice thanked the Chair for the opportunity to address the Committee and gave a presentation including the following:

- In view of the housing supply shortfall the provision of 3 dwellings should be given some weight;
- The principle in favour of sustainable development meant that unless an exception was in play approval should be given, and that while the land in question was in the green belt a decision of the Supreme Court included in their application indicated that approval could be granted;
- The site was a private garden and not open land and therefore a development would not impact the openness of the green belt; there was no conflict of purpose with the green belt policy and no harm to the existing character of the area;
- The site was well enclosed;
- The site was not situated in an unsustainable location; local facilities were a short walk or cycle away in Knebworth and a bus route ran nearby;
- Development in Old Knebworth nearby had been permitted.

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

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

In response to questions the Senior Planning Officer advised:

- The proposed dwellings would not have first floor windows facing neighbouring residences and no loss of privacy was anticipated;
- HCC Highways officers had not objected to the proposal;
- The development would have limited ecological impact given the nature of the location;
- Infrastructure and sewerage were not relevant considerations here;
- Each application had to be considered on its merits and permission granted to other applications was of no bearing;
- In assessing whether the proposed development was inappropriate for a green belt site the Committee had to consider what development was already present; the site consisted of an area of hard standing and a lawn and the addition of built development represented a significant loss of openness;
- The provision of 3 new dwellings was not significant enough to outweigh the harm resulting from a loss of openness;
- The new dwellings would be reliant on private vehicles and the site was not well connected to public transport routes, with infrastructure for pedestrians and cyclists lacking;
- The proposed development would be in excess of any Permitted Development Rights attached to existing properties, notwithstanding that none of the existing properties had PDR providing the basis to construct outbuildings;
- Advice had been given to the applicant in the pre-application stage about the problems with the proposal;
- The application had reduced the total number of proposed dwellings from 4 to 3 in order to represent a more spacious development and improve relationship with the character of the area.

In response to questions the Principal Planning Officer advised:

- Per Section 143 of the NPPF development on the green belt was by definition harmful and could only be approved in very special circumstances;
- An exceptional could include development on previously developed land as long as there is no adverse impact to openness;

- 'Openness,' in a Planning context had a more expansive definition than merely visual openness;
- New built development on otherwise undeveloped land did represent a significant reduction in openness;
- The Officer cannot comment on other approvals as he was not familiar with them, however each application must be determined on its own merits in any case;
- There were no very special circumstances to approve development apparent in this application.

It was proposed by Councillor Tony Hunter, seconded by Councillor Mike Rice and:

**RESOLVED:** That application 20/02109/FP be **REFUSED** planning permission for the reasons set out in the report of the Development and Conservation Manager.

**86 20/00851/FP Keepers Cottage, Rustling End, Codicote, Hitchin, Hertfordshire, SG4 8TD**

*Audio Recording – 1 hour 10 minutes.*

Change of use and conversion of existing swimming pool, outbuilding and garage into one 3-bed dwelling. Erection of detached garage block with carer flat above following demolition of existing stables, greenhouse and outbuilding (amended by plans received 03/07/20 and 11/12/20)

The Senior Planning Officer presented the report in respect of application 20/00851/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked questions:

- Councillor David Levett
- Councillor Sue Ngwala
- Councillor Tom Tyson
- Councillor Mike Rice

In response to questions the Senior Planning Officer advised:

- The proposed development replacing the swimming pool was of a similar footprint; the proposed carer flat was slightly bigger than the existing structure; the garage building would be approximately 25% larger than the building it replaced;
- More weight should be given to the fact that under the Adopted Local Plan the site is designated as a rural area outside the green belt than its designation under the Emerging Local Plan, which was not yet at a stage of approval as to allow it to take precedence;

In response to questions the Principal Planning Officer advised:

- The designation of the site at present under the Adopted Local Plan should be given precedence;
- At present the site was not in the green belt; to refuse on the basis of harm to the green belt could be considered unreasonable and grounds for appeal.

The Chair invited Councillor Lisa Nash (Member Advocate) to address the Committee.

Councillor Lisa Nash thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- She had supported the objection of Knebworth Parish Council on the basis that they believed the site to be designated as green belt;
- The proposed development would significantly reduce the plot size of the dwelling;
- Converting the outbuildings in to residential dwellings would create a residential footprint disproportionate to the original buildings;
- This increased footprint would harm the openness of the site.

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

- Councillor Daniel Allen
- Councillor Ruth Brown
- Councillor David Levett
- Councillor Tony Hunter

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

- The report did not contain a construction management plan because the development was small in scale and construction would take place away from the public highway;
- HCC Highways officers had no comment on the proposal;
- The materials stated in the application were of sufficient standard to not require a condition on approval to enforce their use.

It was moved by Councillor David Levett, seconded by Councillor Tony Hunter and:

**RESOLVED:** That application 20/00851/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 and additional conditions:

Condition 6 to be amended to read:

“6. Prior to occupation, the proposed new dwelling and carer flat shall each incorporate an Electric Vehicle (EV) ready domestic charging point to provide two such points in total.

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.”

The following condition to be added:

“8. Details and/or samples of materials to be used on all external elevations and the roof of the garage and carer flat building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before that part of the development is commenced and the approved details shall be implemented on site.

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

The meeting closed at 9.40 pm

Chair

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<b>ITEM NO:</b>	
<u>Location:</u>	<b>Land at Corner of Protea Way And Pixmore Avenue Letchworth Garden City Hertfordshire</b>
<u>Applicant:</u>	<b>C/O Agent</b>
<u>Proposal:</u>	<b>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).</b>
<u>Ref. No:</u>	<b>20/01886/FP</b>
<u>Officer:</u>	<b>Naomi Reynard</b>

**Date of expiry of statutory period :** 23.11.2020

## **Reason for Referral to Committee**

This application has been referred to Committee under officer discretion.

### **1.0 Relevant History**

- 1.1 94/00430/1 – New boundary fencing and temporary hoarding – Conditional permission
- 1.2 01/01239/1 – Demolition of part of building to create parking area for 19 cars, together with alterations and extension to remaining rear section, preparatory to use for warehouse purposes (as amended by plans 13501S/1 and CHQ 01.4759-02 dated 7th September 2001) – Withdrawn in 2002
- 1.3 02/01715/1 - Erection of replacement building for Class B8 purposes (1,370 square metres) with ancillary Class B2 floorspace (190 square metres), 19 car spaces, lorry turning facility and new crossover following demolition of existing building. – Granted conditional permission 16th April 2003
- 1.4 06/01562/1 - Erection of two storey (B1) office building, associated car parking and ancillary works.(as amended by plans received 11th October 2006). – 31st October 2006

- 1.5 19/01433/PRE - Erection of homeless shelter – Pre-application advice given October 2019. The following conclusion was reached in this advice:

***“In summary, the proposal does not comply with development plan policies in relation to employment areas and as such there is an objection in principle on pure planning policy grounds. However, in my informal opinion there are material considerations that indicate that a decision could be taken, that is not in accordance with the development plan. As such there may well be a convincing case to justify the release of the land for the proposed homeless shelter. As you are aware any application would need be accompanied by evidence of lack of market demand for the site for its current allocated use; demand for the type of accommodation sought; detail of any sequential ‘site-search’ exercise and provisions of national policy. The information provided with this pre-application enquiry is most helpful and I would suggest it is added to and updated with the further information as set out above to support an application. In my view the proposal may well meet the overarching objectives of sustainable development in the NPPF. Whilst the economic objective would be limited as it would involve a loss of employment land there would be some economic benefits as there would be staff employed on site and the centre would help provide a stepping stone to employment as well as permanent accommodation. In my view the proposal would meet the NPPF’s social objectives (provision for homeless within North Herts) and environmental objectives (redevelopment of a derelict area of land).”***

2.0 **Policies**

2.1 **North Hertfordshire District Local Plan No. 2 - with Alterations 1996 (Saved Policies):**

Policy 8 - Development in towns  
Policy 26 – Housing Proposals  
Policy 36 – Employment provision  
Policy 37 - Business Uses  
Policy 55 – Car Parking Standards  
Policy 57 – Residential Guidelines and Standards  
Policy 58 – Letchworth Garden City Design Principles

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

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 15: Conserving and enhancing the natural environment  
Section 16: Conserving and enhancing the historic environment

## 2.3 North Hertfordshire District Submission Local Plan (2011-2031):

SP1: Sustainable development in North Hertfordshire  
SP2: Settlement Hierarchy and Spatial Distribution  
SP3: Employment  
SP6: Sustainable Transport  
SP8: Housing  
SP9: Design and sustainability  
SP11: Natural resources and sustainability  
SP13: Historic Environment

ETC1: Appropriate uses in Employment Areas  
T1: Assessment of transport matters  
T2: Parking  
HS2: Affordable housing  
HS3: Housing mix  
HS4: Supported, sheltered and older persons housing  
HS5: Accessible and Adaptable Housing  
D1: Sustainable design  
D3: Protecting living conditions  
D4: Air quality  
NE5: New and improved public open space and biodiversity  
NE8: Sustainable drainage systems  
NE10: Water Framework Directive and Wastewater Infrastructure  
NE11: Contaminated land  
HE1: Designated heritage assets

## 2.4 Supplementary Planning Documents

Vehicle Parking Provision at New Developments  
Design  
Planning Obligations

## 3.0 Representations

- 3.1 **Local Lead Flood Authority** – Recommended refusal initially and following submission of further information recommended condition that no development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval.
- 3.2 **Environmental Protection (Contaminated Land)** – Raised no objection and recommended the land contamination set out below.
- 3.3 **Environmental Protection (Air quality)** – Recommended an EV Recharging Infrastructure condition.

- 3.4 **Environmental Health (Noise and other nuisances)** – Confirmed that the noise report is satisfactory and may be approved. Recommended condition requiring that the noise mitigation measures are implemented and maintained in accordance with the approved details thereafter. Recommended informatives in relation to the construction phase. With regard to housing standards raised no objections to the proposed development. However, development shall need to comply with current housing standards for hostel developments.
- 3.5 **Environmental Health (Housing)** – Provided detailed comments with regards to housing standards.
- 3.6 **Environment Agency** – No comments received.
- 3.7 **Anglian Water** – Recommended informatives regarding assets affected and used water network.
- 3.8 **Hertfordshire Ecology** – Recommended conditions requiring that the recommendations for survey and mitigation works as set out in the Biodiversity Report submitted with the application shall be carried out and that a Biodiversity Gain Plan shall be prepared.
- 3.9 **Planning Policy Officer** - Provided detailed comments and reached the following conclusion:

***“Since pre-application stage, the applicant has provided further background information. Subject to the provision of further evidence as required by emerging Policy ETC1 and the exception criteria in paragraph 5.7 as set out above, there would be no objection in principle to the development. Further clarification/amendments are additionally required in relation to car and cycle parking provision.***

***Given the nature of the proposed use, design matters relating to crime and antisocial behaviour, access and amenity and living conditions need to be carefully considered. Mitigation measures should be put in place where deemed necessary by the case officer so that the relevant planning policies outlined above can be met. This is so that any resulting scheme creates a positive living and working environment for those in neighbouring areas as well as for future clients using the shelter.***

***Without question there is a stark demand for a homeless shelter of this type in North Hertfordshire. This demand is juxtaposed against current demand for employment land, which is heavily influenced by a range of factors including the Covid-19 pandemic, Brexit and general employment land trends. It will be for the case officer to balance the relevant factors in this morphing social and economic context.”***

Further information was received, and she was re-consulted and provided further advice, which is discussed within the key issues section below.

- 3.10 **Urban Design and Landscape Officer** – Provided detailed comments discussed below. No objections. In view of the importance of landscape to this scheme requested details of a planting scheme for the site, together with hard surfacing materials proposed and any lighting features prior to determination of the application.
- 3.11 **Herts County Council Highways** – Initially recommended that planning permission be refused as HCC considered that the proposed waste collection arrangements are contrary to National Planning Policy Framework and Manual for Streets, the carry distance for waste collection bins is beyond the recognised distance for the development for kerbside collection which would lead to a large vehicle obstructing the public highway for a long period of time, as a consequence the road layout would not be fit for purpose. The proposed development would therefore be detrimental to highway safety and amenity. Following discussion amended plans were received and the Highways Authority withdrew their objection and recommended conditions.
- 3.12 **Transport Officer** – No objections with regard to the vehicle and cycle parking requirements.
- 3.13 **Housing Supply Officer** – Provided detailed comments set out in the key issues section below.
- 3.14 **Crime Prevention Design Advisor, Hertfordshire Constabulary** - Made the following comments:

***“I note that in the Planning Statement there is mention of Paragraph 127 which mentions considering issues regarding crime, disorder and the fear of crime yet there does not appear to be any examples of how the applicant intends to address these issues. Although Letchworth is a relatively low crime area it does have issues with antisocial behaviour. There appears to be a public perception that this proposal could become a crime generator. There were similar concerns with the site in Stevenage. One of the ways to reduce the risk of this occurring, and can give service users a sense of security is to ensure that the development is accredited to the Police preferred minimum security standard that is Secured by Design (SBD). As the local Crime Prevention Design Advisor (CPDA), I was involved with the development of the Stevenage site and ensured that it was accredited to SBD. As stated earlier not only does this provide safer and more secure accommodation for service users but it will also ensure compliance with Approved Document ‘Q’ of building Regulations.***

***In addition to the above I am pleased to see that a suitable lighting plan is being devised using both columns and building mounted illuminations. I would not look to the use of bollard style lighting as these are prone to damage and, from a crime safety aspect, can blind you with their light thereby reducing your opportunities to be aware of your surroundings this, in turn, can lead to a rise in the fear of crime.***

***Given my comments above the Police Crime Prevention Design Service are not in a position to support this proposal fully and whilst, we are not looking to object we would ask that the applicant should contact the local CPDA with a view to seeking to achieve SBD accreditation for this development. Should this happen then we would fully support the application.”***

**3.15 Community Protection Manager, NHDC –**

***“The Authority doesn’t have any crime and ASB stats related to this type of issue and connected to this area so it would be very difficult to give a factual representation in this regard as to whether or not the hostel should be located there for those reasons.***

***In a more general sense we previously we have worked with the police (and other partners such as housing) to deal with individuals believed to be homeless/presenting as homeless who have caused ASB, nuisance and crime to address both elements (housing and ASB/crime issue). Anecdotally I would say that provision for this demographic is challenging and limited in North Herts - but Housing/homelessness team would be able to provide a better overview in terms of existing services and demand.”***

Provided us with the contact details of the Police Safer Neighbourhood Team Inspector.

**3.16 North Herts Safer Neighbourhood Team, Local Policing Command – *“Having made enquiries, I understand the local Crime Prevention Officer for North Hertfordshire Mark Montgomery has already provided a response to your team on behalf of Herts Constabulary so I believe this has already been dealt with.”***

**3.17 HCC’s Growth and Infrastructure Unit – *“I refer to the above-mentioned application and am writing in respect of planning obligations sought by the County Council towards: early years provision; primary and secondary education; library; youth; waste; and adult care services to minimise the impact of development on Hertfordshire County Council Services for the local community. We will not be seeking financial contributions at this point in time. This is on the understanding that the development is for ten units or less, and which has a maximum combined gross floorspace of no more than 1000sqm. However, you may receive separate comments from the Highways Unit.***

***Please note that this does not cover the provision of fire hydrants and we may contact you separately regarding a specific and demonstrated need in respect of that provision.”***

**3.18 Contracts Officer, Waste and Recycling – Raised no objections to amended scheme and recommended condition to ensure that the proposed on-site facilities for waste storage and collection are provided.**

**3.19 Letchworth Garden City Heritage Foundation – No comments received**

### **Neighbours/site publicity**

- 3.20 In response to publicity the Local Planning Authority has received objections from some 85 local residents and businesses (running total is available to view on the website). 81 are objections, 3 are in support and 1 is neutral.
- 3.21 The representations have been reviewed by the Council's Policy Team and it is considered that some comments are inappropriate, inflammatory or offensive or based on a negative stereotype. Such comments cannot be condoned by the Council. 61 representations have been removed from the website on the basis that the Policy Team consider them to be inappropriate, inflammatory or offensive or based on a negative stereotype of homeless people. This is in line with NHDC's Statement of Community Involvement for Planning (July 2020). However, the relevant material planning considerations raised have been considered in the report.
- 3.22 I have summarised the range of points raised below:
- Concerns that there might be an increase in crime and anti-social behaviour
  - Some local residents comment that there are existing issues with anti-social behaviour, drug use and drug dealing and drinking already occurring in the area, in particular in the alleyway connecting Pixmore Avenue and Dunhams Lane, the Baldock Road recreation ground the nature reserve that runs from Ridge Road to Birds Hill and they are concerned this could increase.
  - Concerns that the shelter might have a negative impact on the wellbeing and safety of local residents.
  - Concerns about impact on safety of walking routes to local day nursery, schools, parks, work and the train station and local open spaces.
  - Concerns about Police resources in the local area.
  - Concerns about the management of the shelter by the staff and whether it would only be a night shelter.
  - Concerns the proposal would have an adverse impact on the community.
  - Concerns raised based on negative experiences of other homeless shelters, including the Sanctuary in Hitchin and the Haven in Stevenage.
  - Concerns about possible increase in noise and disturbance.
  - Concerns regarding loss of property value/ impact on insurance premiums.
  - Concerns with regard to the scale of the development.
  - Concerns the development would exacerbate existing traffic congestion, highway safety and parking problems.
  - Loss of employment area as designated in the Saved and Emerging Local Plans, which fits with Garden City philosophy.
  - Fails to comply with planning policy.
  - Question need if homelessness is going to be reduced in the next few years.
  - Suggest empty properties could be used to house homeless people.
  - Affect any future plans to develop the surrounding area for housing.
  - Detrimental effect on the character of the local area due to the design
  - Loss of wildlife

- Concern the proposed development would have an adverse impact on local businesses.
- Question the location of the proposed development.
- Many local residents considered that there is a need for homeless shelters, but do not consider this to be the right location.
- Suggest that there are other more suitable locations for a homeless shelter and an empty building could be used.
- Lack of information with regard to management of the shelter.
- Complaints with regards to the consultation – particularly that it did not cover a wide enough area.
- Complaints that the initial notification letter was received much later than dated giving little time to comment.
- Concerns with regard to the objectivity of the decision process, as NHDC will make use of this facility to house residents.

3.23 One representation received was from the Pixmore Avenue Management Company Limited which are the managing agents for the residential estate off Pixmore Avenue, which comprises of 279 units of flats and houses. An initial survey of the residents was undertaken and they received 56 responses. 46 were a clear objection of the proposal, 3 had some reservations, 4 were unsure at this time and only 3 were currently in favour. In behalf of the management company Pixmore Avenue Management Company Ltd they are writing to objection the planning application on the following grounds:

- Anti-social behaviour
- Noise
- The local economic impact
- Intensity of housing
- Traffic and transport
- Parking

3.24 One objection included a petition including 45 signatures, (a list of all the residents from the top of Pixmore Ave, top of Ridge Ave, the green houses and one side of Pix Road) who are opposed to this development which stated that:

***“We the undersigned oppose the plans to erect a 40 bed homeless shelter on the corner of Protea Way and Pixmore Ave. We are not opposed to a hostel and would suggest repurposing the unit opposite the Nip in Cafe.”***

3.25 3 representations received in support – one commented that everyone who becomes homeless should have access to a safe, stable place to live with the care, support and advice needed to transform their lives for the better.



## 4.0 Planning Considerations

### 4.1 Site & Surroundings

4.1.1 The site is on the east side of Pixmore Avenue and Protea Way runs along the south boundary of the site. The site has an area of approximately 0.26 Hectares and currently comprises hardstanding, overgrown grass and scrub, as well as some trees. There had been some fly tipping on the site. The site has been vacant for about 15 years. The site is within the designated employment area in both the existing and proposed new Local Plan. The site is surrounded by commercial premises. There is residential development close to the site to the west and south. The site is not within the Conservation Area. However, is close to the edge of the Conservation Area, which is to the west and south of the site. There are two Grade II Listed Buildings opposite the site to the west (St Edmundsbury Weaving Works and 124 Ridge Road).

4.1.2 The applicant's Planning Statement states that:

***"The application site has been vacant for a considerable time. Aerial images show a commercial unit stood on the site in 2003 with access being achieved from Pixmore Avenue. However, similar images from 2007 show that the building had been demolished by that point and the site has remained vacant ever since."***

4.1.3 The planning history is set out above. Planning permission has twice been granted for a new building on the site for commercial purposes, with the most recent being in 2006. However, these approved schemes have not been implemented, are no longer extant and the site remains vacant.

### 4.2 Proposal

4.2.1 The proposal is for a new homeless shelter, which would provide 40 bed spaces for single homeless people. The proposed building would be three storeys. The proposed development would include a parking area in front of the building with a vehicular access onto Pixmore Avenue. A bin collection area would be included within this parking area. The proposed scheme would include a timber enclosed refuse store to the north of the building along with a new sub-station, storage structure and a plant enclosure, which would include the equipment for the air source heat pump, which is proposed to the rear of the building. The cycle storage would also be to the north of the building and a garden which would wrap around the north side and rear of the building. The proposed building would be mainly constructed with a light brown blend brickwork at ground floor level and to the frontage, and with a textured render at first and second floor levels to the sides and rear. There would be 10 car parking spaces and 16 cycle storage spaces. Solar panels are proposed on top of the roof, set in from the building edge and parapet. The proposal includes planting and a grassed area. The proposed fencing would be a mix of 2m high black weldmesh fencing and 1.8m high hit and miss timber fencing.

4.2.2 The applicant's Planning Statement describes the internal layout of the proposed building as follows:

***"Internally, the building would include 33 No. individual ensuite rooms, 3 No. 'moving on units' comprising 2 No. bedrooms each, and 1 No. accessible ensuite studio bedroom. A total of 40 No. bedspaces would therefore be provided. In addition, a single staff bedroom would be provided along with 4 No. cluster flat kitchen areas, a communal dining/games and lounge area, a laundry room, computer room, an interview room, a training/meeting room, office accommodation for staff and ancillary facilities (cleaning cupboards, stores etc)."***

4.2.3 The applicant's Planning Statement goes on to set out the background to the proposed shelter as follows:

4.2.4 ***"The proposed development is brought forward by Ashe Construction and Haven First (the Applicant), a charity currently operating the existing homeless shelter facility in Hitchin and a purpose built shelter in Stevenage. Haven First have been a registered charity since 2003 and a Registered Provider with the Homes and Communities Agency since 2014. The charity provides emergency accommodation and other vital support services to single people in Hertfordshire who find themselves homeless, or at risk of homelessness."***

***The overall aim of the proposed shelter is to provide a safe environment for homeless people in Letchworth, and the wider North Hertfordshire District. The shelter would provide a stepping-stone to both permanent accommodation and employment.***

***Haven First's experience of operating the new, purpose built facility in Stevenage alongside the lack of facilities for homeless people in Hitchin and Letchworth have been the key driver behind the need to find a site within the North Hertfordshire District. Whilst there is an existing facility at Nightingale Road, Hitchin (also operated by Haven First), this building is no longer fit for purpose with very limited capacity and shared rooms (meaning they are only available to male residents).***

***The construction of a new purpose built shelter will provide the following benefits, which have been evidenced from the very similar building provided and operated by the charity in Stevenage. The benefits of the proposed shelter will include:***

- Being able to accommodate people with more complex health and support needs by having individual rooms and the capacity within the project to implement extra support;***
- Being able to implement day services on site such as counselling, cooking skills, pre-tenancy training, sports activities, and educational programmes, all assisting with 'moving on' skills and improving residents self-esteem;***
- Ability to implement in house substance misuse programmes; and***

***• Being able to move people on in a planned way through supporting their needs and being able to be co-ordinate improved multi agency working and the implementation of bespoke day services which in turn prevent repeat referrals.”***

4.2.5 The application is supported by the following documents:

- Planning Statement
- Design and Access Statement
- Planning Energy Report
- Statement of Community Consultation
- Biodiversity Report
- Noise Assessment
- Transport Statement
- Surface Water Drainage Strategy
- Ground Appraisal Report
- Anglian Water Assessment Report

4.2.6 Notification letters were sent out to local residents and local businesses in early September and the consultation deadline given was 2nd October. However, the letters were not received until late September. We have investigated this matter and understand that there was an issue with our postal provider (an external company who send out letters for us in the post). As such we re-notified local residents on 5th October (when we had been assured that there would be no delays with the post), and we extended the consultation period on the planning application to 31st October 2020. Many residents raised concerns that the consultation did not cover a wide enough area. However, 342 local residents and local businesses were notified of the application, site notices were displayed on the site and a press notice was displayed in the Comet. Wonderland Day Nursery and Hillshott Infant and Nursery School were consulted.

4.2.7 Amended plans were received on 12<sup>th</sup> January 2021 to accommodate the refuse collection point. Given the minor nature of the changes local residents and businesses were not re-consulted.

#### **4.3 Key Issues**

4.3.1 The key issues for consideration are as follows: principle of development/planning policy, need for the homeless shelter, design and landscaping, impact on heritage assets, impact on living conditions; issues regarding crime and anti-social behaviour; highways and parking; waste management; flooding and surface water drainage; land contamination; air quality; ecology; planning obligations; public consultation and use class.

##### **Principle of development / Planning policy**

4.3.2 The Planning Policy Officer was consulted on the application and provided detailed comments, which have informed the discussion below.

#### 4.3.3 Local Plan Policies

At the pre-application stage I advised that as a matter of principle the proposed scheme would be contrary to policy, however on reflection I do not consider that to be the case for the reasons set out below. This site is in a designated Employment Area in both the North Hertfordshire District Local Plan No. 2 - with Alterations 1996 (Saved Local Plan) and the North Hertfordshire District Submission Local Plan (2011-2031) (Emerging Local Plan). The site lies within area LE1 of the Proposed Submission Proposals Map. Saved Local Plan Policies 36 and 37 do not apply as the application does not relate to an employment or business use. Saved Policies 36 and 37 do not contain exception criteria for non-employment uses. It is worth noting that following the publication of the National Planning Policy Framework (NPPF) in March 2012, policies in the Local Plan need to be considered alongside those of the NPPF. Policies which are inconsistent with the NPPF will have less weight applied to them. The Council believes that most policies in the Local Plan remain broadly consistent with the NPPF and therefore still have significant weight in determining applications. There are four particular policies where the Council has identified an inconsistency between the Local Plan and the NPPF (as set out on the Council's website). One of which is Policy 36 on employment provision: the policy is broadly consistent with the NPPF, with the notable exception that the NPPF allows for the loss of designated employment land where there is no reasonable prospect of the site being used for the allocated employment use. As discussed below the applicant has provided a convincing argument that this is the case.

- 4.3.4 However, the proposal should also be assessed in light of Policies SP3 and ETC1 in the Emerging Local Plan which are relevant to development on this site. Policy ETC1 has exception criteria that relates to Employment Areas. Policy ETC1 reads as follows (as set out in the Proposed Main Modifications November 2018) :

***“Within the safeguarded allocated Employment Areas, and the Employment Allocations (BA10 and RY9), as shown on the Policies Proposals Map, planning permission will be granted where provided:***

- a. Within those parts of the Employment Areas designated for business use only, development is for Use Class B1;***
- b. Elsewhere within Employment Areas, development is for Use Classes B1, B2 or B8;***
- c. For allocated sites any relevant site-specific criteria are met; and***
- d. Any Use Class B8 development is easily accessible from the primary road network.***

***Planning permission for other employment-generating uses will be granted as an exception to the above criteria provided they are:***

- i. Ancillary to the above uses;***
- ii. Essential to the continued operation of an established premises;***
- iii. Would bring comparable benefits to a B-class use in the same location; or***
- iv. Would make use of a site that would otherwise be likely to become or remain vacant for an extended period of time.”***

4.3.5 The proposal does not comply with exception criteria (i) or (ii). However, the proposed development is considered to meet exception criteria (iii) and (iv). With regard to exception criteria (iii) it is considered that the applicant does demonstrate that the proposal would bring comparable benefits to a B-class use in the same location. The applicant does make a strong case of the number of employees at the proposed site being comparable to other employment uses. This factor is also supported by paragraph 4.36 of the Emerging Local Plan, which recognises the importance of job creation from other parts in the local economy. Also, increasing the employability of the clients will support job creation longer term, therefore bringing an added benefit.

4.3.6 With regards to exception criteria (iv), the site has remained vacant for a significant amount of time (about 15 years) and the applicant does supply information relating to viability testing that has been undertaken in 2016. In view of this, it is considered that part (iv) of ETC1 is additionally met.

4.3.7 Paragraph 5.7 in the supporting text of the Council's Emerging Local Plan sets out exception criteria which apply are dealt with in turn below. This paragraph reads as follows:

***“Development proposals which seek to make use of the exception criteria of this policy will be considered on their merits. When assessing such proposals, the Council will have regard to (as applicable in each instance):***

- ***employment generation on site;***
- ***impact on relevant town centres;***
- ***where appropriate, the level and type of retail involved on the site;***
- ***any potential benefits to the community or surrounding businesses from the proposed use;***
- ***the proportion of the site to be used for sales and display as opposed to repairs and servicing, in the case of motor trade uses;***
- ***accessibility by non-car modes of transport;***
- ***any evidence clearly demonstrating that:***
- ***the land or premises is no longer required to meet future employment needs of the District;***
- ***the land or premises is inappropriate or unfeasible for employment use, based on market conditions or amenity / living condition problems; and***
- ***no other suitable sites outside designated employment areas are viable and available; and***
- ***details of any sequential and / or impact testing.”***

4.3.8 In this case the development proposal seeks to make use of exception criteria (iii) and (iv) of Policy ETC1. The proposal has been assessed under each of the above headings. At the pre-application stage I advised that any application would need be accompanied by evidence of lack of market demand for the site for its current allocated use; demand for the type of accommodation sought; detail of any sequential 'site-search' exercise and provisions of national policy. The applicant has submitted this further information with this application and has provided more information as requested during the course of the application.

### **Employment generation on site**

- 4.3.9 The applicant details the employment generation on the site. The development would employ around 19 people. The applicant maintains that based on the footprint of the shelter this would be higher than the jobs generated by B8 (storage and distribution), B1c (light industrial) and B2 (general industrial) uses, which would equate to 7.5, 11 and 14.5 jobs (according to the Government's 2010 'Employment Densities Guide (2nd Edition)' produced by Drivers Jonas Deloitte). The proposal would provide a net gain of 19 jobs as the site is currently vacant. As such I am satisfied that the applicant meets the requirement of ETC1 (iii) as it would bring comparable benefits to a B-class use in the same location.

### **Impact on relevant town centres**

- 4.3.10 With regard to impact on relevant town centres, the applicant did not initially supply information that explicitly addresses this matter and this was raised with them. The agent for the applicant provided the following response on this matter:

***“With reference to Policy ETC1 of the emerging Local Plan, queries are raised in respect of whether all of the exception criteria set out in Paragraph 5.7 of the emerging Local Plan, are met. In terms of the potential for impact on the relevant town centre (which would be Letchworth Garden City centre), the loss of the site from a traditional employment generating use, would not result in any adverse impact upon Letchworth Garden City centre. As indicated within the consultation response, bringing the application site back into use will not only provide employment opportunities for staff commensurate (or greater than) those that would be provided on the site in a former B1(c), B2 or B8 Uses, it also brings residents to this location. Both staff and residents are likely to make use of facilities, services and retail opportunities within Letchworth Garden City centre, thereby adding to their viability over the longer term.”***

- 4.3.11 Given the employment generation both of staff and clients over time, I consider this to be positive. Additionally, I concur that the scheme has potential to increase footfall of the town centre retail areas bringing employees and clients from a currently unused site.

### **Where appropriate, the level and type of retail involved on the site**

- 4.3.12 This criterion relates to the level and type of retail to be provided and is not relevant to the application.

**Any potential benefits to the community or surrounding businesses from the proposed use**

- 4.3.13 The applicant supplies detailed information explaining the potential benefits to the community in addressing the need for homelessness provision in the District. Therefore, I am satisfied that this criterion is met. This is discussed in more detail under the section: "Need for the Homeless Shelter" below.

**The proportion of the site to be used for sales and display as opposed to repairs and servicing, in the case of motor trade uses**

- 4.3.14 The criteria relating to motor trade uses does not apply.

**Accessibility by non-car modes of transport**

- 4.3.15 The site is accessible from non-car modes of transport, including frequent bus and train public transport connections and therefore this requirement is met. The applicant's Planning Statement states:

*"The site is within a highly sustainable location being roughly 700 metres walking distance to Letchworth Town Centre, which is to the west of the site. The site is also within close proximity to a number of services and facilities, including Howard Park, Baldock Road Recreation Ground and doctor's surgeries. The site would be in reasonable walking or cycling distance from all the services and facilities of Letchworth Town Centre, including Letchworth Railway Station, which has frequent services to London. The site is also within very close proximity to bus stops on Pixmore Avenue, including Phoenix Park bus stop (~200 metres) and Pixmore Centre bus stop (~100 metres). These bus stops serve the 90 and 91 bus services between Letchworth and Royston/Odsey. There are other bus stops within close proximity to the site, including within the town centre."*

- 4.3.16 Later they go on to explain that:

*"The Protea Way/Pixmore Avenue site was chosen, in addition to its availability and likely deliverability, as it is situated in a convenient location close to Letchworth Town Centre (which is within reasonable walking distance from the site). This makes the site highly accessible to allied facilities which residents may use on a weekly basis. These facilities include North Hertfordshire District Council offices, which residents may use to find permanent housing and other Council Services. The Town Centre also contains the Job Centre (unlike Hitchin) and Citizens Advice Bureau. To the east of the site is a Drug and Alcohol service run by Change Grow Live who aim to help people reduce and, ultimately, stop drug and/or alcohol use. To the south of the site is a Narcotics Anonymous meeting place, on Pixmore Way, which also aims to help people with narcotic addictions. The site is centrally located between these services and the Town Centre. Being at the edge of an employment area and within walking distance of the Town Centre, there is access to a range of employment opportunities for residents also."*

***There are a number of bus stops within 1-2 minutes' walk from the site. These bus stops cater for a number of services...These bus routes run a relatively regular service, with the more local services running several times an hour. This ensures that residents will be able to easily access the local services outlined above, but will also be able to travel further afield, with connections to Letchworth Railway Station possible, from which direct rail services to London can be obtained."***

- 4.3.17 I note that the Job Centre is located in Letchworth rather than Hitchin, which is a benefit to this site over the current site of North Herts Sanctuary in Hitchin. In my view the fact that the site is on the edge of the employment area and within walking distance of the town centre, facilities and public transport is a positive factor and evidence that the site is accessible by non-car modes of transport.

**Any evidence clearly demonstrating that the land or premises is no longer required to meet future employment needs of the District**

- 4.3.18 The application did not initially include clear evidence that the premises are no longer required to meet the future employment needs of the District. This information was requested; and the agent provided the following information:

***'The application site is currently an overgrown area of land enclosed by temporary metal fencing and which has laid vacant for around 15 years. Given this very substantial length of time without the site being utilised for a traditional employment use, there is little prospect of its uptake for such a use in the future. The site is well situated and benefits from good accessibility and there is therefore no locational reason for its failure to attract employment investment. As set out within the Planning Statement, the development of the site for commercial or employment purposes was not considered to be viable following a review by Satchells in 2016. There has been a clear change in the economic situation since 2016, and unfortunately not for the better. As alluded to within the consultation response, the impact of Brexit and now the Covid-19 pandemic, have further reduced the potential market for the site and there is no realistic prospect of its delivery for a traditional employment use. In addition, it should be noted that Paragraph 120 of the NPPF specifically promotes the support of applications for alternative uses of sites as this for developments that meet a local need.'***

- 4.3.19 In my view sufficient evidence has been provided to demonstrate that the land is no longer required to meet future employment needs of the District, particularly given the economic factors at present including the impact of the Covid 19 pandemic, Brexit and general employment land trends.

**Any evidence clearly demonstrating that the land or premises is inappropriate or unfeasible for employment use, based on market conditions or amenity / living condition problems**



4.3.20 The Planning Statement explains that the application site is owned by Ashe Construction and Letchworth Garden City Heritage Foundation and has been vacant for around 15 years. As set out above planning permission was granted in both 2003 and 2006 for the erection of a building for commercial purposes, but neither were implemented. The Planning Statement explains that in 2016, Satchells were instructed by Ashe Construction to look at the viability of the development of the site for commercial/employment use. This concluded that given rents available at the time of that assessment, it was unviable to construct and let either small employment units or one larger unit. They comment that since 2016 there has been a general downturn in the commercial/employment market, in part associated with the uncertainties surrounding Brexit and the Covid-19 crisis has had a further significant impact on demand and take-up of industrial and commercial premises, with a particularly severe impact felt across the office accommodation sector, as many businesses have struggled to maintain services and many formerly office based employees have been 'working from home'. They conclude that:

***“the redevelopment of the application site for traditional Class B forms of employment use therefore remains highly unlikely given the recent trends in commercial and industrial demand (which show no indication of changing), and therefore the viability of the site for use uses. This position is further exacerbated by the ongoing, and largely unknown, impacts of the Covid-19 crisis.”***

4.3.21 The applicant does explain how Satchells were instructed to explore the viability of the site for commercial/employment uses in 2016. I consider that whilst this evidence is not up to date, the picture is unlikely to have improved particularly in recent months. The agent provided some further comments on this issue:

***“In terms of the loss of employment land, this was addressed in part within the letter of 10th December 2020, where the following was stated:***

***‘The application site is currently an overgrown area of land enclosed by temporary metal fencing and which has laid vacant for around 15 years. Given this very substantial length of time without the site being utilised for a traditional employment use, there is little prospect of its uptake for such a use in the future. The site is well situated and benefits from good accessibility and there is therefore no locational reason for its failure to attract employment investment. As set out within the Planning Statement, the development of the site for commercial or employment purposes was not considered to be viable following a review by Satchells in 2016. There has been a clear change in the economic situation since 2016, and unfortunately not for the better. As alluded to within the consultation response, the impact of Brexit and now the Covid-19 pandemic, have further reduced the potential market for the site and there is no realistic prospect of its delivery for a traditional employment use. In addition, it should be noted that Paragraph 120 of the NPPF specifically promotes the support of applications for alternative uses of sites as this for developments that meet a local need.’***

***Whilst the Policy Officer notes, and it is not disputed, that the Satchells assessment is now over four years old, as alluded to above, the economic situation has certainly not improved, even prior to the Covid-19 crisis. Over a number of years there has been a general move away from more traditional manufacturing industries (those that would fall under former Use Classes B1(c) or B2) as the national economy, particularly within the South East, becomes more service driven. In addition, the use of the site for a traditional Use Class B8 warehousing use is significantly limited due to the size of the site and its position away from the strategic road network. There is no evidence to suggest that the economic climate or demand for sites such as the application site for traditional B1(c), B2 or B8 uses has done anything other than decline further over the period since the Satchells assessment was undertaken in 2016.***

***Unfortunately, the applicant is not able to provide an updated version of the Satchells assessment, as this has not been commissioned and it would seem unreasonably onerous to require such an updated report at this point given the well documented national economic issues and the points set out above.***

***It has been accepted by the Policy Officer that the proposed shelter would indeed provide a highly comparable or better level of employment than a traditional B Class employment use and the proposed development should not therefore be seen as a loss of employment land, but rather a re-purposing that allows for its future efficient use which would not detract from the general economic development aims of the Plan or designation. The selection of the application site and its use for a homeless shelter therefore complies with the requirements of the emerging Local Plan and enables the land to provide a level of employment generation and provide a much needed shelter for homeless people within North Hertfordshire District, a key Council priority."***

- 4.3.22 The work undertaken by Satchells is now four years old, and although circumstances have likely worsened this is not evidenced as such. I would not necessarily expect this given the unprecedented circumstances at present. I accept the applicant's position regarding demand for the employment land. I consider that they have provided sufficient evidence that demonstrates that the land or premises is inappropriate or unfeasible for employment use, based on market conditions.

**Any evidence clearly demonstrating that no other suitable sites outside designated employment areas are viable and available**

- 4.3.23 Paragraph 5.7 of the Emerging Local Plan also sets out that the applicant should show that there are no other suitable sites outside of designated employment areas that are viable and available based on the information provided.

4.3.24 The Planning Statement states:

***“The search for suitable sites for a new homeless shelter to serve North Hertfordshire began in 2016. The search parameters established were: site area; site location; site ownership; deliverability; proximity to other services; and cost/viability/alternative use/competition.”***

4.3.25 They state that the site search identified 8 potential sites for consideration. They explain that:

***“The site search was informed by a similar search undertaken by Settle (a Registered Provider) for sites predominantly around Hitchin. Furthermore, in September 2017, Housing Officers from North Hertfordshire District Council who were aware of the need for additional homeless accommodation as a temporary solution, given the increase in single homeless people requiring assistance, considered the temporary use of Council owned properties. As part of this, the temporary use of both Town Lodge offices and Letchworth Museum were considered as a solution. However, both buildings would have required significant works to change to a residential use. In addition, the Vantage Point building, a vacant Letchworth Garden City Heritage Foundation property, was also considered. Similarly, this building also required significant works for its conversion from employment use to residential.***

***Whilst it is acknowledged that 7 No. of the 8 No. potential locations identified fall within Employment Areas, this was not a search criteria or intention and arose merely as a consequence of sites that may be available. The search revealed that there was a lack of suitable residential or other public sector land opportunities given the high housing need and demand across the District.”***

4.3.26 A site search assessment is attached as an appendix to the Planning Statement and explains why none of the other eight sites were suitable and available. The application site was the only site found to meet the selections criteria and be both suitable and available for the project. They comment that: ***“Importantly given the nature of the use and development proposed, the site owners were willing to work with Haven First to achieve the required accommodation.”***

4.3.27 The applicant was asked to provide greater detail about site selection and viability to determine whether the criteria can be met, in particular that non-employment sites were considered prior to the employment sites.

4.3.28 The agent provided the following comments in response to this:

***“As has previously been advised, the search for a suitable site to accommodate a homeless shelter to serve single homeless people within the North Hertfordshire area ultimately resulted in a number of employment sites being identified and considered. The submitted Planning Statement confirms that this site search was informed by a similar search undertaken by Settle and followed an agreement by the Council's Asset Management Group in September 2017 to seek possible locations for a temporary solution to the increasing demand for single homeless accommodation across the District.***

***The site search initially considered the possibility of converting or redeveloping sites under the ownership of the Council or the Letchworth Garden City Heritage Foundation (as set out in the Planning Statement). However, as the Council transferred all of its housing stock to a Registered Provider in 2003, the only potentially available Council owned sites were those already in employment use. The potential to re-use or redevelopment a site already in residential use was not therefore possible on Council owned land. This was also the case in respect of land or buildings owned by Letchworth Garden City Heritage Foundation.***

***Whilst other non-Council owned residential sites could have been considered, the proposed development of a homeless shelter by either the Council itself or a registered charity (as is the case with Haven First) would not be able to compete on the open market for otherwise potentially suitable sites. A vacant site or a site with redevelopment possibilities for residential use will attract a far higher market rate than an employment use and the funds available to procure such land for the shelter are very significantly lower than a housebuilder would be able to offer. Unfortunately therefore, the site search was not able to identify any other non-employment land sites that could be suitable for the proposed homeless shelter use and subsequently (as set out in the Planning Statement) the application site at Pixmore Avenue was considered the most appropriate and deliverable.”***

4.3.29 It is also noted that planning permission was granted for the erection of a three-storey building including demolition of existing hostel at 25 Nightingale Road, conversion and extension of no. 2 Grove Road, alterations to parking, access and landscaping, to form new hostel and annexe for North Herts Sanctuary in Hitchin (13/00628/1). This scheme was not implemented and the permission is no longer extant. This scheme would have created 16 single bedrooms with ancillary accommodation including lounge/dining room, staff room, kitchen, office and a basement housing a training room, laundry and store room. I appreciate the constraints of this site and that the current proposal in Letchworth of a purpose-built scheme would be able to provide a better facility for significantly more people.

4.3.30 As a result, I am satisfied that sufficient evidence has been provided clearly demonstrating that no other suitable sites outside designated employment areas are viable and available.

**Any evidence clearly demonstrating details of any sequential and / or impact testing**

4.3.31 The final requirement of paragraph 5.7 is to detail any sequential and/or impact testing. It is worth noting however that the general thrust of the policy is in relation to main town centre uses when applying the sequential test and therefore is not relevant to a homeless shelter. However, the applicant was asked to detail any impact testing to support the application.

4.3.32 The agent for the applicant responded as follows:

***“It is noted that the consultation response also refers to sequential and impact testing, however, these are only relevant if the alternative use of an employment site for a main town centre use is proposed. A town centre uses sequential assessment would be required if a main town centre use were proposed (i.e. retail or leisure development) in order to establish if a more appropriate town centre location were to be available. The proposed homeless shelter does not fall within the definition of a main town centre use and as such a sequential assessment is not required. In addition, an impact assessment is also only required in relation to retail and leisure uses (as per Paragraph 89 of the NPPF).”***

4.3.33 The applicant has also responded on some positive benefits that the scheme would provide in terms of bringing staff and residents to the town centre. Therefore, I am satisfied on these points and think they have submitted sufficient information on this matter. Although the applicant doesn't supply information on sequential testing, this isn't needed due to the homeless shelter use and it also ties back to the beginning of the exception criteria that enables an 'as applicable in each instance' approach.

4.3.34 In my view the applicant has provided sufficient information to demonstrate that the proposed development would comply with the applicable exception criteria of Emerging Local Plan ETC1.

4.3.35 Policy HS4 applies to supported, sheltered and older persons housing in use classes C2 and C3. In my view the proposed use as a homeless shelter is a 'sui generis' use therefore this policy does not apply. In any case the proposed development would comply with this policy, as there would be good access to local services and facilities, the site is well served by public transport, appropriate levels of on-site landscaping, amenity space and car parking are provided and the scheme would provide a density, scale and character of development appropriate to its location and surroundings.

#### 4.3.36 SP3: Employment

SP3: Employment is a strategic policy states that: “The Council will proactively encourage sustainable economic growth, support new and existing businesses and seek to build on the District’s strengths, location and offer.” It sets out what the Council will do to achieve this. Points (b) and (h) are of relevant to this application and are copied below:

***“b. Designate Safeguard the Employment Areas within the District’s main settlements, as shown on the Policies Map, to enhance and protect their safeguard employment potential;***

***h. Ensure relevant policies of this Plan recognise the contribution of non-B-class sectors, including tourism, to the provision of jobs in the District.”***

4.3.37 For the reasons already set out above it is considered that the proposed development would meet these two criteria, given that the proposed development would generate a similar level of employment to that generated by a B1 use.

4.3.38 With regard to the weight that can be given to the Emerging Local Plan at this stage, the Planning Policy Officer made the following comments in November 2020:

***“The emerging Local Plan for North Hertfordshire has been submitted to the Secretary of State and is currently being examined. Hearing sessions were scheduled between 13 November 2017 - 27 March 2018, proposed modifications have been published and consultation on these modifications took place in November 2018. Additional hearing sessions were scheduled in March 2020 but have been postponed until November 2020 due to Covid-19.***

***Paragraph 48 of the (NPPF) provides advice on weight which might be given to the emerging policy having regard to:***

***(a)The stage the 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.***

***With regards to criteria (a), the plan is well advanced, with the issuing of modifications marking a definitive move forward. With regards to criterion (b), the issued modifications considered representations made against the plan and resolve such issues.***

***Further to this, the relevant emerging Local Plan policies to this application have only received a modest number of objections as follows: ETC1 (4 objections), HS3 (8 objections), HS4 (2 objections), D1 (11 objections), D3 (0 objections), T1 (9 objections) and NE5 (now NEx New and improved open space) (4 objections).***

***The publication of modifications to address issues raised through the Plan’s consultation and examination hearing sessions indicates that the Council has***

***considered the issues raised and still considers it sound and capable of adoption with modifications. The outcomes from hearing sessions to date suggest that there is a high degree of consistency between the policies and the NPPF and any proposed modifications to the plan secure this consistency.”***

- 4.3.39 Since these comments were made, the hearing sessions took place in November and December 2020. A Hearing session was held on 9th Dec on ETC1 amongst other policies affected by the UCO changes. There are two further Hearing sessions planned on 1st and 2nd February relating to master planning and BK3. Therefore, the view remains as set out above. As such in my view weight can be given to Emerging Policies SP3 and ETC1 and this weighs in the planning balance.

### **National Planning Policy Framework**

- 4.3.40 Paragraph 8 of the NPPF sets out the economic, social and environmental objectives that should be met in order to achieve sustainable development. In my view the proposal would meet the overarching objectives of sustainable development in the NPPF.
- 4.3.41 Whilst the economic objective would be limited, as it would involve a loss of employment land, there would be economic benefits to the scheme, as there would be staff employed on site (it would bring comparable benefits to a B-class use in the same location) and the shelter would help provide a stepping stone to employment as well as permanent accommodation. In my view the proposal would meet the NPPF’s social objectives as it would provide much needed accommodation for homeless within North Herts and would also provide ongoing support and training for residents enabling them to learn new life and employment skills, along with tackling any problems they may have, which assist in residents moving on to secure their own accommodation. The proposed development would meet the environmental objectives of the NPPF, as it would involve the redevelopment of a derelict area of land, which has been subject to fly tipping and enclosed by Heras fencing. Also, the proposed building would incorporate solar photovoltaic panels to the roof and would have an Air Source Heat Pump, both of which would reduce the energy take for the development.

- 4.3.42 Paragraph 92 of the NPPF states that:

***“To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: (a) plan positively for the provision and use of...other local services to enhance the sustainability of communities and residential environments.”***

In my view the proposed homeless shelter would enhance the sustainability of the wider community.

4.3.43 Paragraph 118 of the NPPF states:

***“Planning decisions should...give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;”***

4.3.44 The site is brownfield land within a settlement and the development would remediate the degraded state of the site.

Paragraph 120 of the NPPF states:

4.3.45 ***“Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:***

***a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and***

***b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.”***

As set out above there does not appear to be any reasonable prospect of an application coming forward for the employment use allocated in the plan and this alternative use as a homeless shelter would contribute to meeting an unmet need for development in the area.

#### **Summary of principle of development/planning policy**

4.3.46 This site is in a designated Employment Area in both the Saved Local Plan and the Emerging Local Plan. However, the proposed homeless shelter complies 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 can be given some weight given the stage of the Local Plan process and lack of objection to this policy. The proposal has also been assessed against the applicable points set out in supporting paragraph 5.7 of this policy. It is 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 is accessible by non-car modes of transport and sufficient evidence has been provided clearly demonstrating that the land or premises is no longer required to meet future employment needs of the District; the land is unfeasible for employment use, based on market conditions and no other suitable sites outside designated employment areas



are viable and available. The proposal would comply with national planning policy guidance in principle.

I shall now consider the other material considerations.

#### **Need for the homeless shelter**

- 4.3.47 The NPPF refers to the requirement to meet the housing needs of different groups in the community. Paragraph 56 reads:

***“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, and that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”***

- 4.3.48 Paragraph 61 states:

***“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).”***

- 4.3.49 The Planning Statement sets out the evidence for the need for a homeless shelter. The key points are as follows. They start by explaining that:

***“The Housing Act 1996 imposed a duty on local authorities to secure accommodation for persons who are homeless, in priority need and not intentionally homeless. However, it did not impose a duty to secure accommodation for all homeless people who were not considered to be of priority need, this included single homeless individuals. The Homelessness Reduction Act 2017 brought about significant changes to legislation and the duties of local housing authorities. The 2017 Act statutorily requires local housing authorities (the Council) to provide all eligible homeless people with a new relief duty. This includes help to secure accommodation that lasts for a minimum of 56 days. There is also a new prevention duty for those threatened with homelessness.”***

***Research into the causes of homelessness has identified several factors, some of which relate to the wider state of the economy and the housing market, and others which are personal to the individual or family.”***

- 4.3.50 The Planning Statement refers to the Strategic Housing Market Assessment (SHMA) update, which covers the combined area of Stevenage and North Herts for the period 2011-2031. They refer to key figures in the SHMA update as follows:

***“From this table it is clear that the number of vulnerable people across the two authority areas is expected to grow over the 20 year period of the emerging Local Plan. By 2031 there will be approximately 360 single homeless people with support needs, 740 people aged 18-64 in need due to alcohol misuse and a further 470 people aged 18-64 in need due to mental health problems, the last two groups being a primary reason for homelessness.***

***Whilst these numbers may not represent a significant portion of the overall housing need in the 20 year period, the statutory duty of the Council to assist in securing temporary accommodation for these people represents a substantial expenditure for the Council (discussed further below).”***

- 4.3.51 They comment in the Planning Statement that the Council produced a document in December 2018 titled the ‘Review of Homelessness in North Hertfordshire’ and that this references a publication by Crisis, titled ‘The 2018 Homelessness Monitor’, which covers the UK. The Crisis publications concludes that: rough sleeping rose by 19% between 2010 and 2017; and the number of households accepted as homeless by local authorities are 48% higher than in 2010. North Herts Council’s Review of Homelessness report acknowledges that the District faces the same challenges as Crisis found across the UK. They also comment as follows:

***“Chapter 2.2 of the Review of Homelessness report identifies that between April 2014 and March 2018 there were 4,583 households who approached the Council for homelessness or housing advice. These included 563 homeless applications over the period, with a further 670 households being prevented from homelessness. People aged 18-24 and 25-34 were the most likely to approach the Council homelessness services. Figure 8, above, taken from the Review of Homelessness report sets out the location of the last known address of people approaching the Council regarding homelessness. This shows a majority arising from Letchworth, closely followed by Hitchin.”***

- 4.3.52 They also highlight that the Review states: ***“Single homeless people from North Hertfordshire would be better served by hostel accommodation within the District rather than outside it.”***

The Planning Statement refers to the latest figures for the number of households approaching the Council and for which it now has a relief duty and recent information from the Council’s Housing Supply team with regard to the numbers of people who have approached the Council for assistance since the Covid-19 crisis.

They go on to make the following point in the Planning Statement:

***“Within North Hertfordshire District social housing is in continual high demand and single adults without serious medical needs are unlikely to be assessed as high priority. Furthermore, private rented accommodation is also limited and single adults under the age of 35 are limited to the shared accommodation Housing Benefit rate which is significantly below market rental rates. This leaves***

***many single adults with little in the way of options, with a local hostel or other emergency accommodation the only option.”***

- 4.3.53 Affordability is also highlighted as a major issue. The Planning Statement comments that: ***“The ONS data relating to affordability ratios shows that North Hertfordshire District has high levels of unaffordability...These ratios indicate that maintaining a household in North Hertfordshire is significantly less affordable than the England average and still considerably less affordable than the East region average. The data also shows that North Hertfordshire is particularly unaffordable for those at the lower end of the earnings scale. The lack of availability of housing that is affordable to those on lower wages within the North Hertfordshire area is therefore particularly acute. This therefore emphasises the need to deliver homes that are affordable to those on lower incomes within the District.”***

They also make the following comments in relation to the issue of affordability:

***“The significant under-delivery of affordable homes exacerbates the issue of affordability for local people and, in part, contributes towards the issues surrounding homelessness within the District.***

***Haven First’s view of the provision for homeless accommodation is similar to that of the Council, in that there is very limited provision specific to Letchworth and North Hertfordshire and the needs of homeless people are not being met. North Hertfordshire District Council have no supply of housing stock, with Housing Associations and hotels relied upon to ‘plug the gap’.***

- 4.3.54 With regard to the need for the shelter the existing provision is a key issue. The Planning Statement provides the following information on this matter:

***“Provision for homeless people in North Hertfordshire is very limited with no provision at all for the mixed vulnerable client group which Haven First, and the proposed shelter, will cater for. Whilst there is some limited provision at the existing shelter at Nightingale Road, Hitchin, this is limited in terms of the numbers of people that can be accommodated and the services it is able to provide to those in need. Whilst well located geographically within Hitchin, being close to the railway station, bus links and the town centre, it is not ‘fit for purpose’ and with a very limited capacity.***

***The Nightingale Road building is a four bedroom property purchased by the Haven First charity. It can accommodate a maximum of 17 No. residents (sharing rooms) but due to the shared dormitory arrangement of the accommodation, this is available to men only. This limited capacity and outdated arrangement has been highlighted during the ongoing Covid-19 crisis where further restrictions have been necessarily imposed (for social distancing reasons) and as such only 5 No. homeless people have been able to be housed here since the restrictions were brought in. This has resulted in significant increases in the need for***

***alternative accommodation (i.e. Bed & Breakfast/Hotel provision), in addition to the Council's requirement to house all rough sleepers due to Covid-19.***

***Notwithstanding the recent Covid-19 related issues, the Nightingale Road centre is very small with limited space, making it difficult to accommodate any form of structured day services. The Hitchin site does not offer any kitchens for use by residents, any training space nor any laundry facilities for residents use. Hertfordshire County Council acknowledge that the property is not 'fit for purpose' and the North Hertfordshire District Council Housing Supply Officer and Planning Officer also acknowledged this at the pre-application advice stage."***

4.3.55 At the pre-application stage I carried out a site visit to the existing Sanctuary homeless shelter in Hitchin and the Haven, the purpose-built homeless shelter in Stevenage. I witnessed that the Sanctuary, whilst providing an invaluable service, is not fit for purpose. The residents have to share rooms with three or four to a room and they are unable to accommodate women. There is very little space for residents to stay in the building during the day. There is not adequate room to provide structured day services to support the clients, training, one to one sessions or staff meetings.

4.3.56 Haven First have public consultation pages in relation to the proposed scheme. These include videos of the current site in Hitchin (the Sanctuary) and the purpose-built shelter in Stevenage. The link is below:

<https://www.havenfirstletchworth-consultation.co.uk/#Overview>

4.3.57 The proposed homeless shelter in Letchworth would have a similar level of accommodation and support services and facilities to the existing shelter in Stevenage. The proposed shelter would not only provide housing for homeless people but would provide ongoing support and training for residents enabling them to learn new life and employment skills, along with tackling any problems they may have. I understand that these additional facilities ensure a high degree of success in residents moving on to secure their own accommodation.

4.3.58 The Housing Supply Officer provided detailed comments on the application, which are copied below:

***"Under the adopted Local Plan, the affordable housing requirement on a threshold of 20 dwellings or more is 25%.***

***Following the Cabinet meeting in September 2016, public consultation and the Council meeting on 11 April 2017, the affordable housing requirement is 40% on sites which will provide 25 dwellings and above, in accordance with the proposed submission Local Plan.***

***The applicant, Haven First, is a Registered Provider and the proposals are for the provision of a homeless shelter providing rented housing and support for single homeless applicants. The accommodation will comprise en-suite bedrooms, including an accessible en-suite studio on the ground floor with a double bed that could be used by couples, if required, and one en-suite bedroom for a staff member. The shelter will include communal accommodation/ facilities and office accommodation for staff to provide extensive training opportunities and support for residents.***

***The site is not allocated and is within an employment area in the saved Local Plan and the proposed submission Local Plan. There is a lack of demand for the site's current allocated use and the site has been vacant for many years. There are residential dwellings nearby and the demand for office type accommodation is likely to be further reduced by the Covid 19 pandemic. In addition, several people will be employed by Haven First to manage the shelter and provide support and training for employment, tenancy management and life skills to support this vulnerable group of people and help them move on and sustain successful tenancies.***

***The applicant's proposals include the provision of 3 move-on units within the shelter, which is one of the key benefits of the proposed development and the provision of a "pathway" out of homelessness including support and independent living skills to prevent homelessness recurring; not just provision of emergency accommodation.***

***The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals, in accordance with the 2018 NPPF.***

***Paragraph 61 of the revised NPPF says "Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)".***

***The council has a statutory duty to secure accommodation for unintentionally homeless households who are in priority need and a duty to work with people to prevent and relieve homelessness.***

**The council's Homelessness and Rough Sleeping Strategy for 2019-2024** <https://www.north-herts.gov.uk/home/housing/housing-strategies-and-plans/housing-and-tenancy-strategies> (see section 5): "The Council has a duty to review homelessness in the district and to formulate a homelessness strategy based on the results of that review. The government's Rough Sleeping Strategy published in August 2018 further introduces the requirement that all local authorities explicitly consider how to tackle the problem of rough sleeping, producing homelessness and rough sleeping strategies by winter 2019."

**The provision of the new shelter would specifically help us to meet our stated priority of improving accommodation provision for single homeless people, especially those with complex support needs (para 5.37). Paras 5.14-5.19 specifically mention single homeless people and rough sleepers and the issues they face in securing decent suitable accommodation.**

**The 2016 Stevenage and North Hertfordshire Strategic Housing Market Assessment (SHMA) update identified a need for additional accommodation for single homeless people with support needs, people in need due to alcohol misuse and people with mental health problems. The latter two groups being a primary reason for homelessness.**

**There is a great need in the district for this type of accommodation; the SHMA indicates that the number of vulnerable people is expected to grow over the period of the emerging Local Plan. By 2031 in Stevenage and North Herts there will be approximately 360 (220 North Herts.) single homeless people with support needs, 740 (440 North Herts.) people aged 18-64 in need due to alcohol misuse and a further 470 (290) people aged 18-64 in need due to mental health problems. In addition, there has been an increase in rough sleepers across the district.**

**The most recent figures for those owed relief duty and of those, the number of single households:**

**Households assessed as owed a relief duty**

	2019/20			2020/21	
		Q1	Q2	Q3	Q4
<b>Q1*</b>					
<b>All households</b>	<b>42</b>	<b>50</b>	<b>52</b>	<b>75</b>	<b>98</b>
<b>of which, single adult households</b>	<b>30</b>	<b>33</b>	<b>39</b>	<b>60</b>	<b>79</b>

**Source: NHDC data submitted to MHCLG H-CLIC**

**\* not yet validated**

***The current shelter in Hitchin provides very limited accommodation comprising 17 shared rooms, which can only accommodate male applicants. The current building is in a very poor state of repair and is not fit for purpose, particularly at present due to the dormitory type nature of the facility. It is not possible for bedrooms to be shared in this way due to Covid 19 and the need for clients to meet social-distancing guidelines.***

***The current building is unsuitable to accommodate all clients in the shared project and has escalated the need to provide decent accommodation (with separate ensuite bedrooms) for single homeless men and women. Many single homeless people have had to leave the North Herts. area to access hostel accommodation because of a lack of suitable accommodation in the district. The increased number of units proposed in the new shelter will assist the council in meeting its statutory obligations.***

***The proposed location of the new shelter is ideal being within walking distance of the town centre, facilities and transport links.***

***All the units should be let to applicants with a local connection to the district of North Hertfordshire on initial and subsequent lets to ensure that the council is able to discharge its legal housing duties. The council may consider allowing access to applicants without a local connection to North Hertfordshire, subject to the needs of district being met in the first instance.”***

4.3.59 The Planning Policy Officer made the following comments in relation to need for the homeless shelter:

***“The SHMA (2016) identifies a need for additional accommodation for single homeless people with support needs; offenders; people with mental health problems and people with alcohol misuse problems over the plan period. It has also been identified that alternative, existing homeless provision in Hitchin and Stevenage is not fit for purpose and has issues relating to capacity.***

***It is significant to acknowledge that the Council has a statutory duty under the Homelessness Reduction Act 2017. Additionally, the North Hertfordshire District Council Review of Homelessness (2018) states that a homeless hostel is needed within the District. Further compounding evidence is presented by the applicant from the Council's Housing Supply team that the picture relating to homelessness has since worsened as a result of the Covid 19 pandemic. I am without doubt there is an established need for a homeless shelter of this nature in the District. I would also go further in that the need for provision of this nature will require close review given the current economic circumstances, and that consideration is likely to be required for future provision, which may include new or the expansion of existing sites. This is of paramount importance given the costs to the Council in relation to temporary accommodation.”***

- 4.3.60 In my view the applicant has provided compelling evidence that there is an urgent need for the proposed homeless shelter; and this is verified by the Council's Housing Supply Officer. This is a material consideration in the determination of this application. I witnessed that whilst the Sanctuary provides a vital service it is not fit for purpose, and I acknowledge that the proposed new purpose-built homeless shelter in Letchworth would be able to provide better facilities. The homeless shelter would provide a wider public benefit to North Hertfordshire.

#### **Design and landscaping**

- 4.3.61 The site is currently a derelict area of land that is overgrown and subject to fly tipping. The Landscape and Urban Designer made the following comments on the original plans:

***"1.The site is located on the corner of Pixmore Avenue and Protea Way. The rectangular site has a short frontage on to Pixmore Avenue and extends back along Protea Way. It is surrounded by commercial properties although there are residential areas close by. Protea way provides access to commercial enterprises at the rear of the site.***

***2.The proposal is to erect a three-storey building, positioned in line with the building line along Pixmore Avenue. The building would be located close to the Protea Way boundary with car parking spaces provided at the front, behind a landscape strip, and private amenity space to the rear. Cycle and bin storage would be located at the side and accessible from the front. The main entrance would be off Pixmore Avenue and a footway is proposed along Protea Way to improve pedestrian access.***

***3.The footprint, scale and orientation of the building and the general external layout is fine. The small car park at the front, set behind a tree planted bed, contributes to the character of the street scene and allows a larger area to be created at the rear of the building for amenity space.***

***4.The 3D views of the proposals suggest that the site will be open at the front and that fencing will only be provided to secure the bin and cycle storage at the side and the private amenity area at the rear. The DAS indicates that the external environment is critical in delivering a successful scheme and that plants and trees are seen as providing physical and psychological relief from the built environment. In view of the importance of landscape to this scheme I would like to see details of a planting scheme for the site, together with hard surfacing materials proposed and any lighting features."***



- 4.3.62 The building would be three-storey in height. The buildings immediately surrounding the site are one and two storey commercial buildings. The buildings immediately to the north and south of the site are only two-storey, but given their commercial function with high ceilings they are high buildings. Although it is noted that the Pixmore Business Centre situated to the north along Pixmore Avenue is three storey and there is a three-storey block of apartments to the south and there are warehouse units in Protea Way. It is noted that the proposed building would have a flat roof behind a parapet to limit the overall height. In my view the proposed building would be acceptable in height, form, massing and proportions in this location. There are Garden City style commercial buildings opposite. In my view the proposed scheme would not dominate or clash with these traditional buildings and would be acceptable in this context given the modern commercial buildings that surround the site, which have little architectural value, and the mix of design of buildings in the area. The layout of the site is considered to be acceptable. The building would be set back roughly in line with the adjacent building so it would sit comfortably in the streetscene. In my view the layout of the site would be acceptable with parking and some landscaping to the front of the site, servicing areas (substation, bin storage area, cycle store, plant compound and external store) tucked in between the new building and the adjacent building to the north and a garden area wrapping around the building.
- 4.3.63 The application was accompanied by a Design and Access Statement. The Planning Statement explains the design approach adopted:

***“In terms of the detailed appearance of the building, this has been designed to incorporate a modern approach to a traditional building being converted into residential use. The proposed shelter therefore exhibits a more commercial rather than domestic appearance, which is considered appropriate given its situation and function. The building would utilise traditional materials to the exterior, with a brown brick frontage to reflect the immediately adjacent properties, but with brick at ground floor level and textured render above for the side and rear elevations. Following the receipt of feedback through the consultation process, and discussions with the Letchworth Garden City Heritage Foundation, the building incorporates a parapet roof, white window reveals within the front brick built elevation, decorative soldier courses and window transoms. These features are found amongst nearby buildings and are representative of the Garden City style, enabling the building to display an appropriate level of reflection to its surroundings, whilst still delivering a modern purpose built facility. The proposed building would accommodate solar photovoltaic panels to the roof, however, these would be set back from the roof edge and largely hidden behind the parapet. The building is therefore considered to appropriately reinforce local distinctiveness.”***

4.3.64 As such in my view this design approach is entirely appropriate and the proposal would comply with Saved Local Plan Policy 57 (Residential Guidelines and Standards), Saved Local Plan Policy 58 (Letchworth Garden City Design Principles) the proposed development would be in sympathy with the traditional buildings of Letchworth. In my view the proposal would comply with Emerging Local Plan Policy D1 (Sustainable Design) and SP9 (Design and sustainability) and Section 12 (Achieving well-designed places) of the NPPF.

4.3.65 Paragraph 130 of the NPPF states:

***“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions...”***

4.3.66 Given the commercial and utilitarian nature of the adjacent buildings and the derelict state of the application site in my view the proposal would be ascendant development, as it would improve the streetscene.

4.3.67 A condition is recommended requiring samples of all external materials to be submitted and approved by the Local Planning Authority. Following discussion with the agent for the applicant, it has been agreed with the Landscape and Urban Design Officer that the planting, hard landscaping and external lighting can be dealt with by condition, given details of the proposed landscaping are shown on the submitted plans and a description of the type of planting is provided within the DAS however, providing full planting plans and external lighting plans prior to determination places additional costs on the applicant prior to determination. It is agreed that imposing conditions would require details to be submitted and considered by the Council prior to their implementation and therefore the ultimate control of these would remain with the Council. The intention is to maintain some of the larger trees on the northern edge of the site.

4.3.68 There has been a change to the layout of the site in order to accommodate a waste collection area to the front of the building. She made the following comments:

***“1. Amendments to the scheme have been submitted and are shown on Proposed Site Plan dwg no. (SK)100 rev D. These have been submitted to provide an acceptable location for a bin collection point that is within pulling distances for the bins and proximity to the highway for collection by the refuse collection operatives.***

***2. A collection point on Protea Way was considered to be less visually intrusive than a collection point on the Pixmore Avenue frontage however, Protea Way is a private road, not adopted by the Highways Authority, and therefore not a suitable location.***

**3. The proposal therefore is to create a bin collection point at the front of the site next to the car parking bays. The bin collection point will 'double-up' as an additional car parking space. The extra parking bay/bin collection point has been created by reducing the depth of the planting bed next to the new substation which allows the planting bed along the Pixmore Avenue frontage to remain the same depth. This is acceptable. However, it means that planting details for the front boundary will need to be carefully designed to ensure that the bins and parking bays are appropriately screened, and that the boundary planting enhances the character of Pixmore Avenue."**

- 4.3.69 Letchworth Garden City Heritage Foundation were consulted on this application, but no comments have been received. However, it is noted that LGCHF provided comments on initial plans and elevations and the Design and Access Statement states that: **"Following this advice, a meeting was held to review the final, revised proposals details in this report and they were found to be acceptable."**

In my view the proposed development would be acceptable in terms of design.

#### **Impact on Heritage Assets**

- 4.3.70 The site is not within the Conservation Area, but is close to the Conservation Area. The boundary runs to the west and south west of the site and includes traditional Garden City style residential properties in Ridge Road, Pix Road and the western sided of Pixmore Avenue and Ridge Avenue.
- 4.3.71 There are two Grade II Listed Buildings opposite the site on Pixmore Avenue – these listed buildings are the former St Edmundsbury Weaving Works and 124 Ridge Road. They act as a transition between the modern commercial buildings and the traditional residential properties.
- 4.3.72 The application is accompanied by a Planning Statement and the section on "Impact on Heritage Assets" describes the significance of heritage assets affected and as such has met the requirements of Paragraph 189 of the NPPF. I agree with their assessment of the significance of the nearby Listed Buildings and Conservation Area and in my view the proposal would not conflict with the conservation of any heritage assets.
- 4.3.73 The following comments are made in relation to the setting of the Listed Buildings in the Planning Statement:

**"The proposed shelter will be set well back within its plot in a position akin to the adjacent commercial buildings and not any closer to the designated heritage assets than the existing premises to the south. The scale and form of the proposed building (as set out above) would be complementary and reflective of the surrounding development and will sit comfortably within the context of the listed former Weaving Works. The setting of the former Weaving Works is not one of grand open spaces or prominence, but one practicality of location, which has seen significant and not inappropriate changes over the years. The**

***proposed development would not cause any harm to the building itself, or the way in which the building is appreciated. The listed No. 124 Ridge Road is set beyond the former Weaving Works and therefore whilst in relatively close geographical proximity, is not seen within the same context. The proposed development would not therefore have any detrimental impact upon the setting of these nearby designated heritage assets.”***

- 4.3.74 In my view the proposal would not have an adverse impact on the character and appearance of the Conservation Area and would not have an adverse impact on the setting of the nearby Listed Buildings. This is particularly given the surrounding modern commercial development, which contrasts with these traditional Garden City style buildings at present. In my view the proposed development would be more sympathetic to nearby historic assets than the existing modern commercial development around the site, as the design of the scheme has picked up design cues from surrounding Garden City style development. As such the development would not harm any Heritage Assets and would comply with Emerging Local Plan Policy HE1 (Designated heritage assets), Section 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Area) Act 1990. Even if the view was taken that the proposed development were to result in less than substantial harm to a heritage asset then this would be outweighed by the public benefits of the development (providing housing and support for homeless people and making use of the site that would otherwise be likely to remain vacant) in line with Paragraph 196 of the NPPF.

#### **Impact on living conditions**

- 4.3.75 The proposed development would not have any adverse built impact on the immediate neighbouring properties. The adjacent buildings are commercial buildings with no windows immediately facing the site. The proposal would be some distance from residential properties and therefore would not have any adverse impact on the living conditions of residential properties in terms of loss of light or privacy or being dominant in the outlook they currently enjoy.
- 4.3.76 Policy 57 of the Saved Local Plan sets out the residential guidelines and standards for new residential development and Policy D3 (Protecting living conditions) of the Proposed Submission Local Plan 2011-2031 is relevant and reads as follows:

***“Planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions. Where the living conditions of proposed developments would be affected by an existing use or the living conditions of an existing development would be affected by a proposed use, the Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level. If the Council is not satisfied that mitigation proposals would address the identified harm, development proposals will not be permitted.”***

4.3.77 Paragraph 182 of the NPPF states:

***“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”***

The proposed scheme would be the ‘agent of change’ under NPPF 182 so would have to live with and / or mitigate against any adverse impacts arising from the pre-existing uses that surround it.

4.3.78 The Planning Statement comments:

***“Furthermore, the Pixmore Avenue site, whilst located within an Employment Area is towards the edge of this area and is surrounded by small to medium sized light industrial and commercial premises. There are no heavy industrial properties nearby that would cause noise, dust or vibration disturbance to future residents and similarly, the introduction of the proposed shelter in this location would not give rise to an unsatisfactory environment that could lead to incompatibility issues.”***

4.3.79 Also, there is existing residential development to the west and south of the site and including the Phoenix Park development is a relatively modern development, therefore the surrounding commercial premises currently operate fairly close to residential properties.

4.3.80 A noise survey was submitted with the application and the Environmental Health Team was consulted on the application. They have raised no objections and consider that the noise report is satisfactory and may be approved. They recommended a condition (set out below) requiring that the noise mitigation measures are implemented and maintained in accordance with the approved details thereafter. They recommended informatives (set out below) in relation to the construction phase.

4.3.81 With regard to housing standards the Environmental Health team raised no objections to the proposed development. However, they commented that the development shall need to comply with current housing standards for hostel developments. The agent has provided more information in relation to internal spacing and size standards. The Environmental Health Officer provided the following comments:

4.3.82 ***"I have had a look at the additional information supplied and am satisfied that the single rooms are a good size. No further information has been supplied on the size of the double rooms or on the facilities in the kitchen. I am assuming my comments have been noted but obviously it is cost effective to ensure room sizes are correct and kitchen services are appropriately located at the design stage.***

***No further comment has been made by the applicant on fire prevention and detection equipment for the building."***

4.3.83 This is not a reason to withhold planning permission, but I have recommended an informative to flag up this issue.

4.3.84 The information supplied does indicate a positive living environment for those rehabilitating, including the creation of accommodation that meets current needs. The proposed shared garden space provides an opportunity to bolster wellbeing and additionally reflects the aims of emerging Policy NE5 (New and improved open space).

4.3.85 As a such in my view the proposed development would not have an adverse impact on the living conditions of the occupiers of neighbouring properties or the future occupiers of the shelter.

#### **Issues regarding crime and anti-social behaviour**

4.3.86 Paragraph 127 of the NPPF states:

4.3.87 ***"Planning policies and decisions should ensure that developments... create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."***

4.3.88 Emerging Local Plan Policy D1 (Sustainable design) states that: ***"Planning permission will be granted where development proposals take all reasonable opportunities, consistent with the nature and scale of the scheme to...design-out opportunities for crime and anti-social behaviour" and Emerging Local Plan Policy D3 (Protecting living conditions) states: "Planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions."***

4.3.89 The applicant provides a Statement of Community Consultation that highlights concerns regarding potential antisocial behaviour and crime. The applicant supplies information on the limited complaints received since the opening of the Stevenage Haven as well as the management practices that would be in place with the proposed development. The Planning Statement provides the following information on this matter:

***“It is acknowledged that a number of concerns have been expressed through the public consultation forums that the proposed shelter will lead to an increase in anti-social behaviour in the area. Such concerns are recognised by Haven First and the management arrangements of the shelter are specifically tailored to prevent anti-social behaviour both within and around the site.***

***The shelter will be staffed on a 24 hours a day, 7 days a week basis with at least two members of staff on site at any time. These will be a combination of both Housing Support Workers and Management, with Management also available on-call at all times. All staff at the shelter are trained in both Health and Social Care and Health and Safety/Safeguarding, in order to be able to provide the support and assistance that residents require, and also ensure the safe running of the shelter for all staff, residents and visitors. The proposed shelter Management Plan is included at Appendix 2 for additional information.***

***Prior to being offered a place at the shelter, new residents are assessed for their suitability to ensure that they are able to accept and adhere to the terms and conditions of their Residents Licence Agreement (example included at Appendix 3 for reference) and to ensure they pose no nuisance or threat to both staff and other residents within the shelter, but also members of the public more generally. No unauthorised visitors are allowed within the shelter.***

***The Residents Licence Agreement requires all residents to adhere to the obligations set out within, including not to have in their possession any drugs; not to consume alcohol on site; not to cause any form of harassment to any other residents, staff, visitors or neighbours; not to carry out any illegal activities; and, not to admit or allow entry to anyone else (amongst others). Any failure to comply with the requirements of the Licence Agreement can result in the offer of accommodation being withdrawn.***

***In addition to providing accommodation, the shelter will also provide a mix of training and learning opportunities for residents and they are expected to attend sessions relating to Tenancy Training, where the requirement to be a ‘good neighbour’ within the shelter, but also when they move on to their own accommodation, is essential.***

***Haven First’s experience of operating and managing the very similar shelter in Stevenage will ensure that the proposed development does not lead to instances of anti-social behaviour in the local area. The Stevenage shelter is situated in a quiet partly residential area with accessible bungalows situated immediately adjacent to the site. In the 5 years of operation of the Stevenage shelter only two complaints (both relating to loud music) have been received and both were dealt with immediately.***

***The proposed shelter will be staffed and managed appropriately to ensure its safe and ‘neighbourly’ operation and the prevention of anti-social behaviour connected with the shelter is of paramount importance to Haven First. Each resident is required to sign a Residents Licence Agreement upon arrival and***

***must then adhere to the obligations within this, or risk the offer of accommodation being withdrawn. The shelter will also operate under a set Management Plan to ensure that the level of amenity for nearby residents is maintained.”***

- 4.3.90 The Police were consulted on the application. Comments have been received from the Architectural Liaison Officer and they are copied below:

***“I note that in the Planning Statement there is mention of Paragraph 127 which mentions considering issues regarding crime, disorder and the fear of crime yet there does not appear to be any examples of how the applicant intends to address these issues. Although Letchworth is a relatively low crime area it does have issues with antisocial behaviour. There appears to be a public perception that this proposal could become a crime generator. There were similar concerns with the site in Stevenage. One of the ways to reduce the risk of this occurring, and can give service users a sense of security is to ensure that the development is accredited to the Police preferred minimum security standard that is Secured by Design (SBD). As the local Crime Prevention Design Advisor (CPDA), I was involved with the development of the Stevenage site and ensured that it was accredited to SBD. As stated earlier not only does this provide safer and more secure accommodation for service users but it will also ensure compliance with Approved Document ‘Q’ of building Regulations.***

***In addition to the above I am pleased to see that a suitable lighting plan is being devised using both columns and building mounted illuminations. I would not look to the use of bollard style lighting as these are prone to damage and, from a crime safety aspect, can blind you with their light thereby reducing your opportunities to be aware of your surroundings this, in turn, can lead to a rise in the fear of crime.***

***Given my comments above the Police Crime Prevention Design Service are not in a position to support this proposal fully and whilst, we are not looking to object we would ask that the applicant should contact the local CPDA with a view to seeking to achieve SBD accreditation for this development. Should this happen then we would fully support the application.”***

- 4.3.91 As such I advised the agent for the applicant to contact the local CPDA with a view to seeking to achieve SBD accreditation for this development and they provided the following response:

***“Crime Prevention and Design***

***It is noted that the comments of Hertfordshire Constabulary refer to Paragraph 127 of the National Planning Policy Framework (NPPF) and the previously submitted Planning Statement. Paragraph 127 of the NPPF relates to achieving well-designed places and with regard to crime and the fear of crime, seeks developments that:***



***'f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'***

***As is set out within the Planning Statement and its accompanying Appendices, the proposed shelter will be permanently staffed and appropriately managed to ensure that future residents of the site do not pose a nuisance to any nearby residents or occupiers. The residents will be required to sign a Residents Licence Agreement and failure to follow and accord with the terms of that Agreement could result in a termination of any offer of accommodation. It should be noted that those residing at the shelter do not have alternative options for accommodation, and the potential to lose their 'home' is a significant and effective deterrent against breaches of Licence Agreements.***

***In addition, the Management Plan for the shelter will ensure that it is staffed 24 hours a day, seven days a week, with at least 2 members of staff on duty at any one time. This not only ensures that the building itself is occupied and 'active', but that trained personnel are on hand to assist any residents with needs and to ensure a safe and welcoming environment. No unauthorised visitors are allowed within the shelter and the potential for those not resident to visit is therefore very low.***

***It is acknowledged that Hertfordshire Constabulary request that the shelter seek to achieve Secured by Design (SBD) accreditation and that the Crime Prevention and Design Service would fully support the proposed development should that occur. This is noted, however, given the additional costs associated with obtaining SBD accreditation, this is not something that is possible for the proposed development due to its charitable status.***

***However, importantly, the SBD initiative's primary purpose is to improve the security of buildings and their immediate surroundings, in order to provide safe places to live, work, shop and visit. The focus being on reducing opportunities for crime by making buildings and their immediate surroundings secure and minimising the ability for criminal access into sites/buildings. As the shelter will be staffed 24/7 the opportunities for crime against the building are minimal. This permanent staff presence, together with the modern construction of the shelter to meet the required Building Regulations standards, the secure enclosure of the rear garden area and appropriate lighting around the site, will ensure that any opportunities for criminal activity are strictly limited and unattractive.***

***The Licencing and Management measures will ensure that the shelter can operate as a 'good neighbour' and not attract, allow or condone anti-social behaviour at the site, or act as a crime generator. In addition, whilst SBD accreditation cannot be achieved, the nature of the development, its design and management will ensure that any opportunities for crime are minimised."***

4.3.92 Given the above, I do not consider it reasonable to require that the applicant achieves Secured by Design accreditation in order to grant planning permission.

4.3.93 The Inspector, North Herts Safer Neighbourhood Team, Local Policing Command was consulted on the application and provided the response set out above. I contacted him to clarify that we consulted him as well, because many of the representations received from local residents and businesses have raised concerns with regard to possible increases anti-social behaviour and crime. However, the Crime Prevention Design Advisor responded and confirmed that the Local Inspector is in agreement with the comments he had provided. Given these responses it would appear that the Police are not looking to object to the proposal for a homeless shelter in this location.

4.3.94 A key concern raised by local residents appears to be that residents of the homeless shelter may only be able to stay in the shelter overnight and have to leave the shelter during the day. I sought clarification on this matter from the agent for the applicant and they provided the following information:

***“In terms of your query below, residents are absolutely able to stay within the unit during the day, it will be open 24/7. Their licence agreement gives them a right to occupy. Residents are able to stay in their rooms, however, the unit offers numerous training/counselling/leisure sessions on site and residents are encouraged to take part in 1-2-1 or group activities to ensure social interaction. A number of the benefits of the proposed building include the ability to hold dedicated training sessions on a variety of themes/topics, the ability for residents to use the computer room for learning/research/communication/employment seeking purposes, and a communal kitchen area where residents will be encouraged to take part in cookery classes, all of which will assist in ensuring they have the skills and knowledge needed to be able to make the move back into their own accommodation.”***

4.3.95 It is noted that the Sanctuary in Hitchin does not have much space to enable residents to comfortably stay in the shelter during the day. A key difference between the proposed development and the Sanctuary in Hitchin is that the proposed shelter would provide individual (not shared bedrooms) and more communal space and activities so residents can stay on site in the day.

4.3.96 The concerns raised by local residents about the long alleyway that runs from Pixmore Avenue to Dunhams Lane and existing issues with anti-social behaviour are noted. From my site visit I could see graffiti and litter in the alleyway. It is also noted that there is also an alleyway into the Phoenix Part Estate from this long alleyway. However, in my view if there is an existing problem with anti-social behaviour in this alleyway this would not be a sustainable reason to refuse planning permission for this proposed development.

- 4.3.97 I considered whether it would be appropriate to require by condition any off site works to improve safety in this alleyway, such as improving lighting or blocking off the small alleyway which leads to the Phoenix Park estate. However, in my view such conditions would not meet the tests of a condition that they be necessary, relevant to the development to be permitted and reasonable as set out in Circular 11/95: the use of conditions in planning permissions. Requirements to carry out work off site would require the applicant to enter into a S106 agreement rather than conditions.
- 4.3.98 In my view the scheme has been mindful of designing out crime in the design of the building and evidence has been provided that these concerns would be addressed by the management of the shelter, as is the case at the Haven in Stevenage. I note the many comments raised by local residents with regard to possible crime and antisocial behaviour related to the proposed development, however in my view this is not a sustainable reason to withhold planning permission in this case.
- 4.3.99 The impact of a proposed development on crime and anti-social behaviour are a material consideration, however we would require very clear evidence that the proposed development would result in an increase in anti-social behaviour and crime in order to justify a refusal of planning permission. We would require this evidence so that a reason for refusal could be robustly defended should the decision be appealed. This evidence has not been provided by any consultees, including the Police. I am a Planning Officer and I am not qualified to provide evidence on this matter and there are no policies in the Local Plan that would support a refusal of planning permission on this basis with a lack of evidence.
- 4.3.100 In the absence of an objection from any consultees, including the Police, in my view there would not be sustainable grounds to refuse planning permission on the basis of possible increase in crime and anti-social behaviour.

### **Highways and parking**

- 4.3.101 The proposed development would involve a new vehicular crossover onto Pixmore Avenue. The Highways Authority, Hertfordshire County Council were consulted on the application. Initially they recommended that planning permission be refused as they considered that the proposed waste collection arrangements were contrary to National Planning Policy Framework and Manual for Streets, the carry distance for waste collection bins is beyond the recognised distance for the development for kerbside collection which would lead to a large vehicle obstructing the public highway for a long period of time, as a consequence the road layout would not be fit for purpose. The proposed development would therefore have been detrimental to highway safety and amenity. Following discussion amended plans were received, showing a small additional area of hardstanding to the front of the site where bins can be placed on the day of collection. On the remaining days of the week when collections are not scheduled, this area will 'double-up' as an additional car parking space. The fenced bin enclosure will remain tucked away to the north of the building for storage of bins on no collection days. The Highways Authority have withdrawn their objection and recommended conditions set out below.

4.3.102 The proposed development would provide parking for 10 cars (including 1 disabled bay and 2 with electric vehicle recharging points). The Council's SPD 'Vehicle Parking Provision at New Development' sets out the parking standards for new development. Policy T1 and appendix 4 in the ELP, also set out the parking standards. The proposed use does not really fall into any of the categories. The Planning Statement provided the following information with regard to parking:

***"The Council's SPD 'Vehicle Parking Provision at New Development' sets out the parking standards for new development. In addition, Policy T1 of the emerging Local Plan and Appendix 4 of that emerging Local Plan also set out the proposed parking standards. Whilst standards are set out for residential dwellings, care homes, residential institutions and hostels, these are not directly comparable with the proposed homeless shelter use. The proposed use constitutes a sui generis use (one 'in its own class') and neither the Council's adopted or emerging parking standards therefore provide a level of parking for a homeless shelter. The level of parking demand generated by the proposed development must therefore be considered on an individual basis.***

***The proposed car parking area to the front of the site will provide a total of 10 No. car parking spaces (with 1 No. of these being a disabled bay and 2 No. providing the ability to charge electric vehicles).***

***Given the nature of the proposed use and the situation in which future residents will find themselves in, it is highly unlikely that they will own a private vehicle. Notwithstanding this, in the unlikely event that residents do own a vehicle, they are not permitted to bring this to the site or park within close proximity of the shelter (this is ensured through both the Management Plan and Resident's Licence Agreement, see Appendices 2 and 3 respectively).***

***As residents of the homeless shelter will not be permitted to bring vehicles to the site, it is only staff and authorised visitors that are likely to generate a parking demand. The proposed shelter will employ around 19 No. people, however these staff members would work a variety of hours and shift patterns, and would not all be on site at the same time. In addition, the sustainable location of the site would allow for, and encourage, both staff and visitors to access the site by other modes of transport (foot, cycle or bus predominantly). The justification for the provision of 10 No. car parking spaces is discussed further within the submitted Transport Statement prepared by M-EC. The experience of Haven First at their Stevenage shelter (of a very similar nature and size) indicates that the provision of 10 No. spaces will ensure plentiful parking for staff and authorised visitors.***

***In relation to cycle parking, a total of 16 No. secure cycle parking spaces are proposed on the site. The parking standards within the SPD do not provide cycle standards for the development of a homeless shelter. The proposed provision of cycle parking spaces has therefore been based upon the experience of Haven First at their Stevenage shelter and a consideration of the partially comparable use of the site for a hostel. A hostel use requires 1 No. space per 3 No. bedrooms***

***and therefore the total of 41 bedrooms (including the staff bedroom) would equate to a minimum requirement of 14 No. cycle spaces. The provision therefore of 16 No. secure spaces is sufficient to accommodate the demands of the proposed development and to encourage the use of cycles by staff and visitors."***

- 4.3.103 The concerns raised by local residents with regard to traffic, highway safety and parking are noted. When I carried out my site visit, I noticed that Protea Way in particular had high levels of on-street parking. However, I consider that the parking proposed would be sufficient for the proposed development and lack of parking would not be a sustainable reason for refusal. The Transport Officer was consulted on the application and has confirmed that they have no objections with regard to vehicle and cycle parking.

#### **Waste management**

- 4.3.104 The Contract Officer, Waste and Recycling was consulted and recommended a condition that prior to the commencement of development, full details of the on-site storage facilities for waste including waste for recycling shall be submitted to and approved in writing by the local planning authority. As discussed above the scheme has been amended and the Contract Officer, Waste and Recycling, has confirmed that this proposal would work much better from a waste point of view and he approves of the new plans. A condition is recommended that the proposed on-site facilities for waste storage and collection (including waste for recycling) as shown on the approved plans shall be provided prior to the commencement of the use hereby permitted and shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

#### **Flooding and surface water drainage**

- 4.3.105 The applicant's Planning Statements states that: ***"The site is within Flood Zone 1 on the Environment Agency's 'Flood Map for Planning Risk' which confirms that the land is assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). The site is identified as having a very low to low risk of surface water flooding on the Environment Agency's maps."*** The Environment Agency were consulted on the application, but no comments were received.
- 4.3.106 The Lead Local Flood Authority were consulted on the application and recommended refusal initially and following submission of further information recommended condition that no development shall take place until the final design of the drainage scheme is completed and sent to the Local Planning Authority for approval.
- 4.3.107 A copy of an Anglian Water Pre-Planning Assessment Report was submitted with the application. Anglian Water were also consulted on the application and have recommended informatives regarding assets affected and used water network.
- 4.3.108 As such there are no concerns with regard to flooding and surface water drainage matters.

## **Land contamination**

- 4.3.109 The Environmental Health Team were consulted on the application and made the following comments in relation to land contamination:

***“The site is located in an industrial estate area. The Design and Access Statement acknowledges this to be the site of a former factory which has been demolished; the site is now overgrown. There is the potential for ground contamination to be present on the subject site. For this reason and because of the sensitivity (residential land use) of the proposed development to the presence of land contamination, the following condition should be included:”***

The condition they recommended is set out below.

## **Air quality**

- 4.3.110 The Environmental Protection Officer (Air Quality) was consulted on the application and recommended a condition that prior to occupation, the proposed new dwelling shall incorporate 2 Electric Vehicle (EV) ready domestic charging points, as set out below. These are indicated on the plans.

## **Ecology**

- 4.3.111 The application was accompanied by a Biodiversity Survey. The Survey Report concludes that following adherence to pre-works ecology checks, mitigation and enhancement measures, no significant adverse effects on biodiversity would arise. Hertfordshire Ecology, Hertfordshire County Council, were consulted and made the following comments:

***“The site comprises dense scrub, scattered trees, hardstanding, remains of a demolished building, construction waste and fly tipping. The habitats are of site-based value and have the potential to support nesting birds and hedgehogs. One tree (T2) has low bat roosting potential. The Recommendations in the Biodiversity report should be followed to ensure protected and/or notable species are safeguarded from harm.***

***The site will be cleared to make way for the proposed development and without offsetting, this will result in biodiversity net loss. Biodiversity mitigation and enhancements are proposed to help deliver net gain; however full landscape details are not currently available, and it is therefore unknown whether sufficient uplift will be provided to achieve overall net gain.***

***The proposals for native species planting, wildflower areas, bat and bird boxes and log piles, and fencing with wildlife access holes are welcomed. To ensure measurable net gain is achieved (wholly on-site, or on- and off-site\*), further details, should be provided to demonstrate the development can deliver measurable net gain in line with NPPF and emerging Government expectations.”***

The two conditions they recommended are set out below. I have added that the Biodiversity Gain Plan be submitted prior to commencement of development.

### **Public Consultation**

- 4.3.112 The application was accompanied by a Statement of Community Consultation, which sets out the pre-application consultation carried out with the Local Planning Authority, Letchworth Garden City Heritage Foundation and members of the public via a virtual consultation event. The feedback is reported and discussed in the document.

### **Use class**

- 4.3.113 In my view a homeless shelter does not fall within a use class and is 'sui generis'. However, I have recommended a condition that permitted development rights have been removed for change of use to avoid any change of use in future which may have an impact on the area.
- 4.3.114 It is worth highlighting that this is not a site on which we would wish to permit 'mainstream' housing. If planning permission is granted for this homeless shelter it should not set a precedent for the release of land within designated employment areas for 'mainstream' housing. This application includes strong evidence to support the proposal for a homeless shelter on this site. In particular the clear need for a homeless shelter and the public benefits of the provision of this shelter weigh in the planning balance.

### **Planning obligations**

- 4.3.115 From 4th November 2006 the Council has introduced a Planning Obligations Supplementary Planning Document. This requires for planning applications for new housing make contributions to mitigate the impacts of the development. Given that the proposed homeless shelter would be meeting a community need the view has been taken that the requirement for planning contributions would be waived in this instance. The Growth and Infrastructure Team, Hertfordshire County Council, made the comments as set out above, and have not required contributions. The scheme does have a maximum combined gross floorspace of more than 1000sqm, but is one unit accommodating 40 residents, but not 10 individual units. In any case given the given the type of use and the transient nature of the use in particular it would not be expected that this type of development would be required to make contributions towards District Council and County Council services under the District Councils Planning Obligations SPD and therefore no such contributions have been sought in this case. The comments from the Growth and Infrastructure Team, Hertfordshire County Council, regarding fire hydrants are noted and in the absence of a S106 Agreement a condition has been recommended relating to fire hydrants.

## Planning balance

- 4.3.116 This site is in a designated Employment Area in both the Saved Local Plan and the Emerging Local Plan. However, the proposed homeless shelter complies 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 can be given some weight given the stage of the Local Plan process and lack of objection to this policy. The proposal has also been assessed against the applicable points set out in supporting paragraph 5.7 of this policy. It is 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 is acceptable by non-car modes of transport; sufficient evidence has been provided clearly demonstrating that the land or premises is no longer required to meet future employment needs of the District; the land is unfeasible for employment use, based on market conditions and no other suitable sites outside designated employment areas are viable and available. The other key material consideration that weighs strongly in favour of the proposed development in the planning balance is the clear and demonstrated need for a homeless shelter in North Hertfordshire. In my view the proposal meets the social, environmental and economic objectives of the NPPF. Whilst the concerns raised by local residents are noted, it is considered that there are no sustainable reasons to withhold planning permission for the reasons set out above.

### Alternative Options

None applicable

### Pre-Commencement Conditions

- 4.4 The agreement of the applicant has been sought for the pre-commencement conditions. Members will be updated on this matter at the committee meeting.

### Climate Change Mitigation Measures

- 4.4.1 Emerging Local Plan Policy D1: Sustainable Design states that:

***“Planning permission will be granted where development proposals...take all reasonable opportunities, consistent with the nature and scale of the scheme, to reduce energy consumption and waste.”***

- 4.4.2 The proposed building would incorporate solar photovoltaic panels to the roof and would have an Air Source Heat Pump, both of which would reduce the energy take for the development.



- 4.4.3 As set out above a condition is recommended requiring EV re-charging points. The scheme would provide more cycle parking than that required by the Supplementary Planning Document.

## 5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

## 6.0 Recommendation

- 6.1 That planning permission be **GRANTED** subject to the following conditions:

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

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

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

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

3. Details and/or samples of materials to be used on all external elevations and the roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

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. Notwithstanding the approved plans, a detailed landscape scheme shall be submitted and approved in writing by the Local Planning Authority before development commences and the approved details shall be implemented on site. 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

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

5. 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.

6. Prior to the commencement 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.

Reason: To ensure all external lighting is installed in the interests of maintaining community safety and amenity.

7. The proposed on-site facilities for waste storage and collection (including waste for recycling) as shown on the approved plans (drawing no. (SK) 100 Rev. D) shall be provided prior to the commencement of the use hereby permitted and shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

Reason: To protect the amenities of nearby residents/occupiers and in the interests of visual amenity.

8. Before the occupation of any of the shelter hereby permitted, the car parking facilities shown on the approved site plan drawing no. (SK) 100 Rev. D shall be marked out and made available, and shall thereafter be kept available solely for the parking of motor vehicles unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development.

9. Prior to the first occupation of the development hereby permitted the main vehicular access shall be provided and retained at the position shown on the approved drawing number (SK)100 revision D.

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

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

10. Prior to the first occupation of the development hereby permitted the existing disused access that is not being retained shall be closed and the footway and restricted parking (single yellow line) markings shall be reinstated along the frontage of the site to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction.

Reason: To ensure construction of a satisfactory access and in the interests of highway safety and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

11. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan.
- The Construction Management Plan of:
- Construction vehicle numbers, type, routing;
  - Access arrangements to the site;
  - Traffic management requirements
  - Construction and storage compounds (including areas designated for car parking, loading /unloading and turning areas);
  - Siting and details of wheel washing facilities;
  - Cleaning of site entrances, site tracks and the adjacent public highway;
  - Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
  - Provision of sufficient on-site parking prior to commencement of construction activities;
  - Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
  - where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

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

12. Prior to occupation, the proposed development shall incorporate 2 Electric Vehicle (EV) ready domestic charging points.

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

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

(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:

(i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;

(ii) The results from the application of an appropriate risk assessment methodology

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

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

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

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

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

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

14. Prior to the first occupation of the development, the noise mitigation measures detailed in Table 4 of "Pixmore Avenue Noise Assessment", Report reference 9963-RAM-YA-RP-00001 Rev P02 dated 3rd July 2020 by Ramboll.com. shall be implemented. The measures shall be maintained in accordance with the approved details thereafter.

Reason: To protect the residential amenity of future residents.

15. No development shall take place until details of a scheme for the provision of fire hydrants to serve the relevant phases of the development has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the necessary infrastructure for the development is in place and to meet the requirements of the fire authority.

16. No development shall take place until the final design of the drainage scheme is completed and sent to the LPA 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.

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

17. The recommendations for survey and mitigation works as set out in the Biodiversity Report (by FOA Ecology dated June 2020) submitted with the application shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect and enhance biodiversity on the site.

18. A Biodiversity Gain Plan shall be prepared, detailing how measurable net gain will be achieved. Prior to commencement of development the plan shall be submitted to the Local Planning Authority for written approval and the development shall be carried out in accordance with the approved plan unless otherwise agreed in writing with the Local Planning Authority."

Reason: To demonstrate the expectations of NPPF in achieving net gain for biodiversity have been met in accordance with national and local policies.

**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. EV CHARGING POINT SPECIFICATION INFORMATIVE:

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 determination 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.

## 2. HIGHWAYS INFORMATIVE

HCC recommends inclusion of the following highway informative to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

Construction standards for works within the highway: All works to be undertaken on the adjoining highway shall be constructed to the satisfaction and specification of the Highway Authority, by an approved contractor, and in accordance with Hertfordshire County Council's publication "Roads in Hertfordshire - Highway Design Guide (2011)". 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/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

or by telephoning 0300 1234047.

## 3. ENVIRONMENTAL HEALTH INFORMATIVES

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

During the change of use 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.

## 4. HOUSING STANDARDS INFORMATIVE

As each kitchen is shared by 10 residents there should be two cookers, at least two fridge freezers and two sinks with drainers per kitchen these should be spaced apart from each other to ensure ease of use. From a housing point of view it does not come within the definition of an HMO, as Haven First are a Registered Provider although a full fire risk assessment must be completed. Although this does not come within the legal definition of an HMO, there are minimum standards which would expect a single room to be at least 6.5m<sup>2</sup> and a double room to be at least 11m<sup>2</sup> of useable floor space.

## 5. ANGLIAN WATER INFORMATIVES

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

















## 6. USE CLASS INFORMATIVE

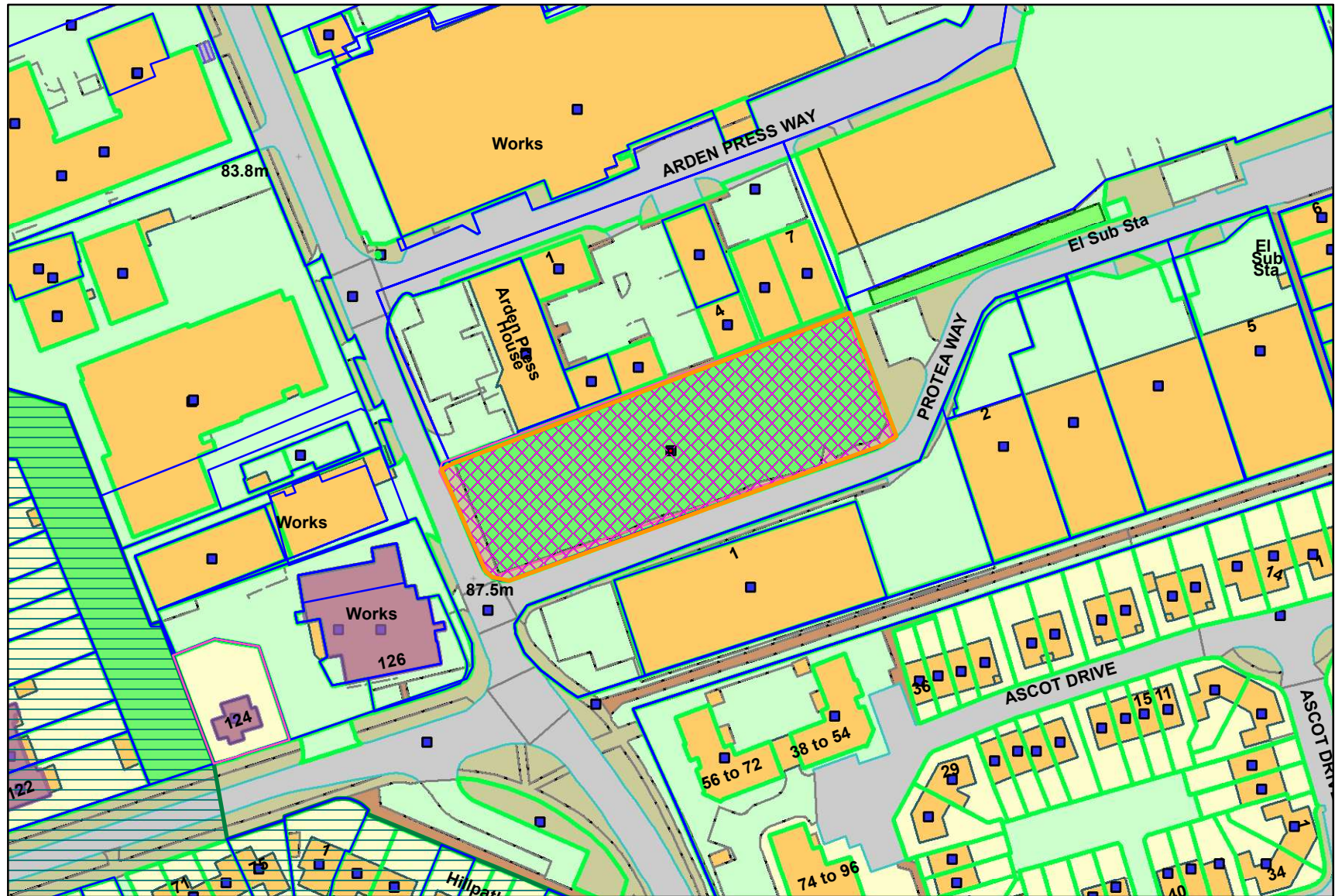
A homeless shelter does not fall within a Use Class as set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) and is a 'sui generis' use (a use falling 'in a class of its own'). Therefore, planning permission would be required for any change of use of the approved development.



## Application Validation Sheet

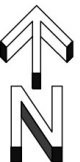
20/01886/FP Land at Corner of Protea Way and Pixmore Avenue, Letchworth Garden City, Hertfordshire

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



Scale 1:1,250

Date: 11/02/2021



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<u>Location:</u>	<b>Land to The West Of St Albans Road Codicote Hertfordshire</b>
<u>Applicant:</u>	<b>Mr J Connors</b>
<u>Proposal:</u>	<b>Change of Use of land to use as a residential caravan site for 8 gypsy families including retention of hardstanding and existing lights.</b>
<u>Ref. No:</u>	<b>18/00794/FP</b>
<u>Officer:</u>	<b>Tom Rea</b>

**Date of expiry of statutory period :** 04.06.2018

**Reason for Delay**

Awaiting the progress of the North Hertfordshire Emerging Local Plan 2011 – 2031.

**Reason for Referral to Committee**

This application was originally called in to Committee by former Councillor J. Gray in the wider public interest

**1.0 Relevant History**

- 1.1 On 20<sup>th</sup> September 2011 NHDC issued an enforcement notice in respect of a material change of use of land at Pulmer Water relating to a mixed use as a residential mobile home and caravan site and the storage of vehicles, machinery and equipment including associated works such as hardsurfacing, enclosures, containers, external lighting and other services.
- 1.2 An appeal against the enforcement notice was submitted. On 8<sup>th</sup> March 2012 an appeal decision was issued granting a temporary planning permission for 5 years. The five-year temporary permission expired on 8 March 2017. This appeal decision is attached as **appendix 1**.
- 1.3 Members will note that the Inspector allowed the appeal on the basis that at the time the Council could not demonstrate sufficient sites to meet the needs of Gypsy and travellers or demonstrate a five-year supply of such sites. In granting a temporary permission it was anticipated that the Council would resolve this matter through its plan making powers and allocate the necessary sites. It is also worth noting a condition of the appeal decision (condition 2) required that the occupiers of the pitches must meet the then definition of gypsy and travellers in order to contribute to meeting the housing needs of this community. The appeal allowed for six pitches (a pitch consists of one static caravan and one touring caravan per pitch).

## **2.0 Policies**

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

Policy 2 - Green Belt  
Policy 34 - Residential Caravans and Mobile Homes  
Policy 55 - Car Parking Standards  
Policy 57 - Residential Guidelines and Standards

### **2.2 National Planning Policy Framework (2019)**

Generally relevant throughout although the following section is particularly relevant:

- Section 5 'Delivering a sufficient supply of homes'
- Section 13 'Protecting green belt land'

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

Policy SP5 :Countryside and Green Belt  
Policy SP6: Sustainable transport  
Policy SP8: Housing  
Policy HS7 'Gypsies, Travellers and Travelling Showpeople'  
Policy D3 'Protecting Living Conditions'  
Policy NE9 'Contaminated Land'

ELP Background paper:

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

NHDC Emerging Local Plan 2011 – 2031 Examination in Public :

Matter 25: New land proposed for allocation – Gypsy and Traveller site at Danesbury Park Road

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

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

### **2.5 Codicote Neighbourhood Plan**

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

## **3.0 Representations**

The following representations have been received:

### 3.1 **Codicote Parish Council:**

#### **OBJECTION:-**

- i) The recent ORS report, which was heavily relied upon at the recent Local Plan hearing into Gypsy and Traveller accommodation requirements in the area, identifies a need based upon substantive interviews with the Connors family; this current application far exceeds that identified need.
- ii) This application should not be considered until the Inspector appointed to review the Local Plan has delivered his findings and, if necessary, any required amendments made and subject to a six week consultation period.
- iii) NHDC should carry out an investigation into the usage of the entire site before further planning consents are granted, to determine if there is an 'unmet' need; a large proportion of Pulmer Water which has previously been granted residential status is a thriving business catering for migrant workers, the family should have priority use of these pitches.
- iv) The development is not appropriate within the Green Belt.
- v) The proposed lighting is not appropriate within the Green Belt and is intrusive to neighbouring properties.
- vi) The conditions of the now expired temporary permission for this site were not enforced, and the family for whom that permission was granted moved away several years ago.
- vii) NHDC should look again at requirements across the area, especially in respect to the undetermined application for the Pottersheath site.

### 3.2 **Local residents and representation from former Cllr:-**

Former Cllr: Ms J Gray Abbotshay Farm Tanyward Lane Codicote (Objects)

#### **Comment submitted date: Tue 09 Oct 2018**

I have read the PC's objections to this planning application and wholly adopt them.

I would add:

o The Gypsy & Traveller ("G&T") need asserted by the ORS reports was clearly considered to be spurious by all, including the Inspector and Ms Ormsby, at the Local Plan hearing regarding Matter 12 on 1st March. Other considerations apart, it was apparent (i) that any increased need that may be asserted was most likely caused by the displacement of G&T provision caused by the alternative utilisation (rent paying tenants / migrant workers) of the land rather than for its intended G&T purpose and (ii) that the sole witness upon whose interview evidence reliance was placed does not himself fall within the 2015 definition of G&T and the evidence he would have to have given regarding the future intentions (necessary for the definition to apply) was by its very nature hearsay as it is incapable of being within his own personal knowledge.

o I was reassured after the hearing by the Executive Member for Planning that very careful further consideration would be given to the evidence and that the increased need, if indeed there is one, will be revaluated very carefully, with one possible outcome (in my view the proper one) being for moving on any non G&T individuals whose presence on land designated for G&T use is causing pressure for G&T accommodation to be provided additionally elsewhere.

o In addition to the Green Belt concerns stated by the PC and the issues regarding the temporary permission conditions, there is also the concern, as I mentioned at the hearing, of the very considerable dominance, contrary to policy, of the G&T / migrant worker community on the Pulmer Water community.

In light of all that has been said at the hearing and now by the PC and myself, I trust that this matter will not be determined until after the Local Plan has been finalised and that even then it will go to committee. Please confirm that this is indeed the case.

#### Two Hollies St Albans Road

Following a hearing on 01 March at Letchworth to consider Gypsy and Traveller needs in the area an independent report submitted by ORS relied upon evidence provided by the applicant Mr Connors. This is a conflict of interest, therefore not independent and should not be relied upon as evidence.

The ORS report in general was flawed. They included migrant workers in the statistics and based assessment needs on unsubstantiated evidence provided by Mr Connors in respect of several interviewees who were absent.

Following the hearing, the portfolio holder for planning, Councillor David Levett, assured Councillor Jane Gray, that NHDC would give close reconsideration to the points made.

Mr Levett recognised that NHDC's representation had been weak and that the true situation would very likely not give rise to any greater needs at all.

North Herts District Council have not adhered to the Planning Policy for Traveller sites.

Under the Planning Policy for Traveller sites (August 2015) the application is in opposition to the following:

#### Policy C: Sites in rural areas and the countryside

"14. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community."

- The nearest settled community consists of only three settled homes, Mimram Cottage, Mimram View and Two Hollies. These are the original dwellings that formed the settlement known as Pulmore Water prior to the existence of any Traveller site. This application sits alongside a much larger traveller site together with a mobile home park owned by the applicant.
- When considering the effect of 'domination' this application should not be examined on its own but should be weighed by the effect of total site development at this location. The site at Pulmore Water is the only authorised Traveller site in NHDC and is vastly disproportionate to the existing nearest settled community.
- The inclusion of lamp posts is an inappropriate means of lighting in Green Belt, dominates the landscape at night and intrusive to the neighbourhood generally.
- NHDC are not compliant with point 14 of the Planning Policy for Traveller sites.

#### Policy E: Traveller sites in Green Belt

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

- This application relies on the original temporary permission granted under 'unmet needs'. The temporary use has expired, and the original unmet needs no longer exist as the families moved from this site many years ago. No enforcement of the lapse of use has been made.

- Development of this nature is not appropriate in the Green Belt.

"17. Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional, limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only."

- NHDC passed the temporary planning application in response to a planning application, not through the plan making process.

- The ORS report concluded that several pitches at Pulmore Water were being occupied by migrant workers. Migrant workers do not fall under the definition of 'Traveller' and therefore, under point 17 above, should not be permitted to reside on a site that has planning permission for traveller and gypsy use.

- If migrant worker numbers are removed from the statistics this will impact the assessment needs, reducing them which in turn would invalidate the need for this application.

- NHDC are not compliant with point 17 of the Planning Policy for Traveller sites.

#### Policy H: Determining planning applications for traveller sites

"22. Planning law requires that applications for planning permission must be determined in accordance with the development plan"

- Legally this application cannot be considered until the outcome of the Inspector's report on the Local Plan has been formalised and any further consultation period exercised.

"26. When considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness

- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children

- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community"

- The site does not enhance the environment

- The site does not increase the openness

- There is no landscaping or play area on this site.



- The site is completely hard landscaped and cypresses trees have been planted and high fencing erected to completely screen the site.
- NHDC are not compliant with point 22 of the Planning Policy for Traveller sites

#### Summary

Local authorities are responsible for identifying land for Gypsy and Traveller communities to live on and it is in this failing that Travellers seek to purchase and develop their own private sites. However, even Traveller websites advise that Travellers do not seek to purchase land in Green Belt.

Once privately purchased, planning rules should apply, without discrimination, to all landowners equally.

NHDC should be accountable to uphold their legal obligation to provide Traveller accommodation. They should be pro-active in identifying and providing future traveller sites to develop and manage under NHDC supervision. This would help to enable Travellers, alleviate tension in communities, offer protection to the Green Belt and probably cost effective given resourcing needs of the current situation.

Proposed private development in North Herts could be contingent upon contribution to the provision and development of sites to accommodate Traveller needs.

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

- 4.1.1 The site is located at the western edge of the Pulmer Water caravan park off St. Albans Road, Codicote. The site area is approximately 0.35 hectares. To the north of the site is a former quarry and to the south east residential property. The site is within the Green Belt.

### **4.2 Proposal**

- 4.2.1 This planning application seeks planning permission for the use of the land as a residential caravan site for 8 gypsy and traveller families each with one caravan or static home.
- 4.2.2 In support of the application the applicant's agent has made the following points within a Planning Statement :-
- It is accepted that the development is inappropriate development in the Green Belt but that there are material considerations that outweigh the harm to the Green Belt
  - The Council does not have a five year supply of sites
  - The development is consistent with national policy or can be made so with appropriate planning conditions and obligations
  - There are material considerations in favour of the development – need for gypsy and traveller sites, lack of suitable sites, failure of policy, lack of five year supply. These outweigh harm and therefore permanent planning permission should be granted



4.2.3 The application is supported by the following documents:

1. Covering Planning Statement

#### 4.3 Key issues

4.3.1 The key issues in the consideration of this application are considered as follows:

- Planning Policy
- The impact of the development on the green belt
- The impact of the development on the character and appearance of the area
- Living conditions
- Highway issues
- Sustainability
- The Planning Balance

#### 4.3.2 Planning Policy

##### 4.3.3 Planning Policy

The Government's Planning Policy for Travellers sites (PPTS) (August 2015) is a key national planning policy document applicable in this case. In addition paragraphs 143 - 145 of the NPPF are relevant in that they set the test and general criteria for considering development within the Green Belt. Paragraph 60 of the NPPF also advises that the size, type and tenure of housing needed for different groups (including travellers) should be assessed and reflected in planning policies.

4.3.4 Paragraph 16 of the PPTS states that :

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

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

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

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

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

4.3.7 The Councils strategy for assessing and making provision for gypsies and travellers was examined at the Emerging Local Plan Hearings held between February and March 2018 under a document '*Matter 12 – 'The housing strategy: provision for gypsies, travellers and travelling showpeople (Policies SP8 and HS7)'*' The document set out the need for additional pitches over the Plan period to 2031 to meet the needs of the travelling community.

4.3.8 In November 2018 the Council published the Proposed Main Modifications to the Submission Local Plan 2011 – 2031 and this included a proposed revision to Policy HS7 Gypsies, Travellers and Travelling Showpeople to revise the number of pitches required to meet the District's Gypsy and Traveller pitch needs up to 2031. This included an increase in the number of pitches at Pulmer Water to 8 permanent pitches (the site subject of this planning application) (Policy CD4) and a new provision at Land at Woodside Place, Danesbury Park Road for 4 permanent gypsy and traveller pitches (Policy CD6).

#### 4.3.9 **Matter 25**

Attached as **appendix 2** is a paper submitted by the Council's Planning Policy team to the Inspector examining the Local Plan suggesting that following a further assessment of need and evidence of who lives on the current site the Council can no longer justify a needs case for 8 pitches on this for gypsy and traveller households and it is therefore proposed to modify the Local Plan to remove this allocation and maintain the sites current status as Green Belt.

4.3.10 Up until this very recent change of strategy the current planning application was placed on hold pending the then expected outcome of the Examination in Public (EiP) into the Local Plan, anticipating that the site would be allocated for gypsy and traveller accommodation and following this confirmation through the Local Plan process officers would more than likely have recommended a permanent planning permission to meet those identified needs through this planning application.

4.3.11 The sudden about turn in approach now requires an alternative strategy for this planning application and this is set out below.

#### 4.3.12 Summary

- 4.3.13 There is no doubt that the application for the use of the site for gypsy and traveller accommodation including the associated structures constitutes inappropriate development in the Green Belt and that it is harmful to openness. It is also contrary to one of the five purposes of the Green Belt in that it leads to encroachment into the countryside.

#### 4.3.14 **The impact of the development on the Green Belt**

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

- 4.3.16 The provision onto the site of up to 8 caravans and associated hardsurfacing and ancillary structures would significantly change the open character of the site. Apart from harm by way of inappropriateness the development is contrary to one of the five purposes of Green Belts i.e. it would fail to assist in safeguarding the countryside from encroachment.

#### 4.3.17 Summary

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

#### 4.3.19 **The impact on the character and appearance of the area**

I am satisfied as did the Inspector who examined the appeal in 2017 that there are no additional harms to the character and appearance of the area other than harm to Green Belt and openness.

#### 4.3.20 Summary

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

#### 4.3.22 **Living conditions**

- 4.3.23 I consider that living conditions on site to be satisfactory and no unacceptable harms to surrounding properties are identified beyond impact on openness which clearly effects the enjoyment of surrounding countryside.

#### 4.3.24 Summary

- 4.3.25 The living conditions of both the applicants living on the site and the surrounding

residents are considered to be acceptable

#### **4.3.26 Highway issues**

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

#### **4.3.28 Summary**

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

#### **4.3.30 Sustainability**

4.3.31 For the nature of the use I do not consider that an argument can be justified to refuse planning permission on the grounds of sustainability.

#### **4.3.32 Summary**

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

#### **4.3.34 The Planning Balance**

4.3.35 It is clear that the use of the land as a residential caravan site, together with associated structures is inappropriate development in the Green Belt and there would be a loss of openness and encroachment into the countryside. Significant weight must be attached to this harm. Consideration should therefore be given as to whether this harm is outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

4.3.36 As the recent revised ORS study and analysis by the Planning Policy team no longer identifies any need for 8 gypsy and traveller pitches on this site and moreover were unable to substantiate with any evidence at the EiP hearings that the occupiers of the accommodation on this site meet the definition of gypsy and travellers there is no case for very special circumstances to justify the grant of a permanent permission in this instance.

4.3.37 However, due to the very unfortunate timing and delay in the Local Plan enabling an about turn in strategy in the interests of fairness for the people occupying the site and to enable a properly thought through enforcement strategy (should it be necessary) there are very special circumstances in my view to justify the grant of a temporary 18 month planning permission for 8 caravan pitches of accommodation for the current occupiers of the site.

#### **4.3.38 Enforcement action**

- 4.3.39 The LPA had suspended any enforcement action with respect to the unauthorised occupation of this site until the outcome of this planning application was known. However, due to the length of time it has taken to resolve this matter should the LPA decide to refuse planning permission or the Secretary of State decides to call-in the application it will be necessary to commence enforcement action prior to March 8th 2021 to prevent a lawful use of the site being established. Following the 8 March 2021 deadline the current use of the site for caravan pitches would become lawful (i.e. 4 years after the expiry of the 2017 temporary five year planning permission).
- 4.3.40 If Members were however minded to support the recommendation to grant a further 18 month planning permission for the current use this would enable the current occupiers to find suitable alternative accommodation and if necessary should the use still be in place post 31 October 2022 provide time for the Council's enforcement officers to carry out the necessary welfare checks, assist in providing information on alternative accommodation if necessary and if required at the end of this period prepare its case for formal enforcement action if necessary in accordance with the Council's Corporate Enforcement plan.

### **5.0 Alternative Options Considered**

- 5.1 There are no realistic alternatives in my view. To refuse planning permission now just when the Council has changed its position on the status of the site would require immediate formal enforcement action, with all the necessary preparatory work including on site welfare assessments to consider the personal circumstances of each occupier, a task that is not feasible during the period this period of covid restrictions. The option of a further brief temporary permission allows the Local Plan to run its course and provide officers and the applicant/occupiers to work constructively to achieve the permanent cessation of the use at the end of period in the now more likely outcome that this site remains as Green Belt designation in the new Local Plan rather than be allocated for gypsy and traveller accommodation.

### **6.0 Conclusion**

- 6.1 Officers anticipating that this site would be allocated for gypsy and traveller accommodation through the Local Plan process. The very recent about turn in strategy means that it is imperative that this planning application is determined now in order to enable the Council to retain control over the use of the site. To refuse planning permission could perversely mean that the current use become authorised through the four year rule (i.e. after 8 March 2021) as to organise a correct enforcement notice in such short notice during current covid restrictions would be logistically very difficult for officers to achieve with the risk that any enforcement notice is applied incorrectly and fails on a technicality.
- 6.2 Officers are also aware of other recent unauthorised activity in and around the site and these will be investigated separately but are outside the scope of this planning

application and not to be determined by Members in this case.

- 6.3 On this basis I recommend that a temporary planning permission be granted for the retrospective change of use of land to use as a residential caravan site for 18 months to allow the occupiers of the site to find alternative accommodation. I consider that a temporary permission is proportionate and justified in the circumstances. As I am not recommending a condition restricting occupancy to gypsy and travellers this is not a permission for gypsy and travellers and in my view therefore does not need to be referred to the Secretary of State.

## **7.0 Recommendation**

- 7.1 That temporary planning permission be **GRANTED** subject to the following condition:

1. The use of the land for up to 8 pitches (maximum 2 caravans per pitch) for caravans / mobile homes for residential purposes is hereby permitted for the period up until 31 October 2022. At the end of this period and by the expiry date of this permission the use shall cease, all caravans and associated facilities and infrastructure shall be removed from the site and the land reinstated to a satisfactory condition. For the avoidance of doubt the current hard standing on the site shall also be removed by the expiry date of this permission.

Reason: The need for the site for gypsy and traveller accommodation has not been demonstrated and the use of land is inappropriate and therefore must cease within an 18 month period in the long term interest of preserving the openness of the Green Belt within which the site is located.

### **Proactive Statement**

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

### **Appendices:**

Appendix 1: Appeal Decision relevant to the site from March 2017

Appendix 2: Matter 25 statement from Planning Policy Team to Local Plan Inspector outlining change of approach



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# Appeal Decision

Hearing held on 1 February 2012

Site visit made on 1 February 2012

**by James Ellis LLB (Hons) Solicitor**

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

**Decision date: 8 March 2012**

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**Appeal Ref: APP/X1925/C/11/2162956**

**Land at 1 Pulmore Water, St Alban's Road, Codicote, Hitchen,  
Hertfordshire SG4 8SP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Mr John Connors against an enforcement notice issued by North Hertfordshire District Council.
- The Council's reference is 11/00091/ENF.
- The notice was issued on 20 September 2011.
- The breach of planning control as alleged in the notice is without planning permission the material change in the use of the land to a mixed use as a residential mobile home (including static and park homes) and caravan site and the storage of vehicles, machinery and equipment including associated works such as hard surfacing, enclosures, containers, external lighting and other services.
- The requirements of the notice are:
  - (i) Cease the mixed use of the land edged in red for residential and business purposes, and cease the use of the land edged in red for the storage of vehicles, machinery and equipment.
  - (ii) Remove all the mobile homes and caravans (including static and park homes) located on the land edged in red, remove all hard standing on the land edged in red, remove all containers, external lighting, other services, other materials and equipment located on the land edged in red associated with the unauthorised development.
- The periods for compliance with the requirements are 28 days in respect of step (i), and 3 months in respect of step (ii).
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.

**Summary of decision: the appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice as corrected and varied is upheld as set out below in the Formal Decision**

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## The enforcement notice

1. To my mind, the alleged breach of control set out in paragraph 3 (a) of the enforcement notice lacks clarity. I therefore consider it appropriate that the paragraph should be reworded for the avoidance of doubt, as follows: 'Without planning permission the material change of the use of the land to mixed use as a residential caravan site, and for the storage of vehicles, containers, machinery and equipment (including associated works such as hard surfacing, enclosures, external lighting and other services).' Such a change would also have a knock on effect on the requirements of the notice, as set out in paragraph 5 of the notice, leading to consequential amendments. After discussing this point with the parties at the hearing, I believe that the required

correction and variations can be made without causing injustice to the parties. I shall therefore use my powers under section 176(1) of the Act to correct and vary the notice accordingly.

### **Procedural matter**

2. In his Enforcement Notice Appeal Form, the appellant appealed under grounds (a) and (g) of section 174(2) of the Act. However, at the hearing I was asked if I would also consider an appeal on ground (f). The appellant considered that the requirements of the enforcement notice were excessive in that they required the removal of hard standing which he contended has been in place for more than four years before the enforcement notice was issued. The Council raised no objection to me considering an appeal on ground (f). I shall therefore do so.

### **Background**

3. The appeal site lies on the western side of St Albans Road beyond a caravan park (No 1 Pulmore Water) owned by the appellant, and two residential properties. To the north of the site is Codicote Quarry and to its west and south is open agricultural land. The site is outside a settlement boundary for the purposes of planning policies and is within the Hertfordshire Green Belt. The site is accessed through the appellant's caravan park. It has high hedges along its western and southern boundaries, and also that part of its eastern boundary where it abuts the neighbouring residential properties. There is a high earth embankment along its northern boundary with the quarry. The site cannot be seen from public vantage points, and it is effectively screened by planting in terms of views from the neighbouring residential properties.
4. To the north of No 1 Pulmore Water are No 3 Pulmore Water (owned by the appellant's son, John junior) and Wexford Park, formerly No 2 Pulmore Water, owned by the appellant's mother and sister. Part of No 1 Pulmore Water, together with No 3 Pulmore Water and part of Wexford Park, is the only authorised gypsy/traveller site in North Hertfordshire with six permitted pitches. However, both Wexford Park and No 1 Pulmore Water have been extended westwards. At Wexford Park, there are six unauthorised pitches. A planning application to regularise the situation is due to be determined by the Council. I was advised that the application is likely to receive an officer recommendation for approval.
5. The extended site at No 1 Pulmore Water (but not including the appeal site) now contains the appellant's bungalow, a day room, and 19 mobile homes. I was advised that the mobile homes are generally occupied by persons other than gypsies/travellers as defined in paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Sites. At the time of my site visit, a number of the mobile homes were vacant.
6. The appeal site was formerly part of the adjacent quarry but has, apparently, never been used for the extraction of minerals. On my site visit, I saw that the northern half of the site has largely been hard surfaced, whereas the southern half of the site, which is separated from the northern half by a conifer hedge, is part hard surfaced and part laid to grass. The northern half of the site had one large twin-unit mobile home and four other static caravans stationed upon it. There was also a stand available for an additional static caravan. No touring caravans were on the site at the time of my visit, although there is evidence



before me that there had been on previous occasions. Various vehicles, a container, items of machinery and equipment, and materials used in connection with the appellant's business were stored on the southern half of the site.

7. The appellant has 'given' the appeal site to his son Larry who occupies the twin-unit mobile home on the site with his wife, Kathleen, and their children Bridget (aged 7 years), John (5) and Kathleen (2). Larry has lived at Pulmore Water all his life, although in recent years the family has travelled extensively so that Larry can find work as a ground worker. The family have returned to Pulmore Water in winter months. The Council accept that Larry and Kathleen fall within the definition of 'gypsies and travellers' for the purposes of paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Sites. I concur with that view. It is intended that the appeal site will be a settled base where Larry and Kathleen can bring up their children. Another mobile home would be occupied by the Appellant's son Patrick and his family. I understand that Patrick and his wife also have school age children. Patrick was also brought up at Pulmore Water and has subsequently travelled. Two further mobile homes would be occupied by nephews of the appellant who are due to get married this year and currently live on a site in Harlow where there are no vacancies.
8. The Council and the appellant are agreed that the proposal is inappropriate development within the Green Belt for the purposes of Planning Policy Guidance Note 2: Green Belts ("PPG2"), which is followed by Environmental Policy 2 of the North Hertfordshire District Local Plan No 2 with Alterations, adopted in 1996. By definition, such development is harmful to the Green Belt. In view of the presumption against inappropriate development (referred to in paragraph 3.2 of PPG2), I must give substantial weight to the harm to the Green Belt arising from the inappropriateness of the development.
9. At the hearing, I sought the view of the parties on the draft National Planning Policy Framework ("the NPPF"). After noting those views, I give little weight to the NPPF because it is in draft form, and its policies may be subject to change.

## **The ground (a) appeal**

### **Main issues**

10. This ground of appeal is that planning permission should be granted for those matters referred to in the enforcement notice. The main issues are: the effect of the development on the openness of the Green Belt; and whether the harm by reason of the development being inappropriate development in the Green Belt, and any other harm, if found, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### **Reasons**

#### *Green Belt - openness*

11. Openness of the Green Belt is referred to in paragraph 1.4 of PPG2 as its most important attribute. The appellant explained that he had placed hard surfacing on the appeal site prior to 2006 in order to store vehicles and machinery etc. used in connection with his business. Reference was made to an aerial photograph said to be taken on 1 January 2006. To my eyes, the photograph does suggest that some of the appeal site was covered with hard surfacing at

the time the photograph was taken. However, the Council questioned the date of the photograph because of the greenness of vegetation shown on it. Given the nature of the vegetation, I think that it is at least arguable that the photograph was taken at a different time. Given a lack of detailed evidence, such as statutory declarations, to support the appellant's claim, I am not satisfied from the information before me that hard surfacing of the appeal site had taken place prior to four years before the enforcement notice was served.

12. I note that some topsoil has been placed over hard surfacing at the southern end of the appeal site and that this has, in part, been grassed over. However, the laying of the hard surfacing and the stationing of some five/six static caravans on the appeal site, together with associated touring caravans, and the storage of vehicles, a container, machinery and equipment has led to a reduction in the openness of the Green Belt. In my opinion, the reduction of openness has resulted in material harm to the Green Belt, in addition to the substantial weight which I must give to the harm arising from inappropriateness.
13. I must now give consideration as to whether the harm that has been identified would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. Here, the appellant has sought reliance on a number of considerations in support of the use of the appeal site as a residential caravan site, but these do not extend to the storage element of the mixed use identified in the alleged breach of control.

*Other considerations- the need for, and provision of, gypsy and traveller sites*

14. Circular 01/2006 refers to the national need for further provision of sites for gypsies and travellers and seeks to address under-provision. Following an earlier announcement that he intends to revoke the Circular, the Secretary of State has published a consultation document in which he explains that the current planning policy for traveller sites does not work and that a new approach is needed. Whilst the current Circular is yet to be revoked, the consultation document gives a clear indication as to the Government's intended direction and is thus a material consideration. That said, because the consultation document may prompt amendment to the draft guidance and because the Circular remains in place, the Circular is an important consideration in my determination of this appeal.
15. A Gypsy and Traveller Accommodation Assessment for North Hertfordshire together with the neighbouring districts of Broxbourne, East Hertfordshire, Stevenage and Welwyn Hatfield ("the GTAA") was published in 2006. The Council suggested that the GTAA benchmarked 3 additional pitches for the North Hertfordshire District based on growth of the existing site at Pulmore Waters. However, the GTAA concluded that 35 additional residential pitches, as well as 10 transit pitches, would be required to be provided across the various districts in the 5 year period 2006 -2011, without stating where the sites should be provided.
16. Policy H3 of the East of England Plan ("the RSS") states that the Council should make a provision for an additional 15 pitches by 2011. The Secretary of State revoked the provisions for Regional Spatial Strategies in 2010. However, the revocation has been quashed by the High Court in the case of *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and*

*Winchester City Council* [2010] EWHC 2866. The Secretary of State intends to abolish the Regional Spatial Strategies through the Localism Act. I give some weight to this. Nevertheless, for the time being, the RSS is still part of the Development Plan and I accord due weight to it.

17. To my mind, an estimation of need based solely on growth of the existing site at Pulmore Waters is not particularly robust and I am not persuaded that it should outweigh Policy H3 of the RSS which, after all, is part of the Development Plan. I appreciate that the RSS figure of 15 pitches took into account regional as well as local need, but it nevertheless forms the most reliable evidence before me on need.
18. Since 2006, the Council has not approved any gypsy/traveller sites, although permission for 6 pitches on the unauthorised site at Wexford Park would reduce the RSS requirement down to 9.
19. At the hearing, the Council submitted its Local Development Scheme Timetable for producing policy documents. This indicates that the Council's Core Strategy will be formally submitted to the Secretary of State in July 2013, with a view to adoption in July 2014. In terms of land allocations, including gypsy/traveller sites, it is intended that a Development Plan Document will be submitted to the Secretary of State in February 2015, leading to adoption in December 2015. In my experience the provision of sites, following adoption of an allocations DPD, is likely to take some 12 to 18 months. I therefore consider it unlikely that sites will come on stream until the end of 2016 or some time in 2017. The Council accepted that sites were likely to be in the Green Belt and reference was made to the possibility of sites being allocated, along with other new development, in that part of the Green Belt adjoining the built up area of Stevenage, with the boundary of the Green Belt being redrawn to exclude allocated land.
20. In terms of alternative sites, there are no authorised gypsy/traveller sites in North Hertfordshire apart from Pulmore Water. The Council suggested that the appellant's existing caravan site at 1 Pulmore Water could be used to provide for the needs of Larry and Patrick Connors and their families, and other gypsies/travellers. Here, the appellant contends that westward extension of the existing caravan site has been in existence for more than 10 years and has a lawful use, with occupation of the caravans open to persons other than gypsies and travellers. This is disputed by the Council. I find the limited evidence before me concerning a possible lawful use to be inconclusive. However, if the use of the existing site was to be rationalised leading to the creation of further gypsy/ traveller pitches, this would necessarily involve redevelopment to allow for the possible stationing of larger static caravans, touring caravans and vehicles etc. There would also inevitably have to be the displacement of at least some of the occupiers of the existing caravans.
21. Against this background, I believe that there is no guarantee that the existing site could be used for the provision of further pitches and, even if it could, I consider it unlikely that pitches would come forward in the immediate future. I therefore give limited weight to the provision of further pitches on the existing caravan site as a means of meeting need, at least in the short term. It will be some time before sites come on stream following adoption by the Council of its DPD. From all the evidence before me, I can only conclude that there remains a need at the present time for gypsy and traveller sites in the

district which is not likely to be met in the near future. This weighs heavily in favour of the proposed use of the appeal site as a residential caravan site.

*Other considerations – failure of policy*

22. At the present time, the Council does not have an adopted policy concerning the provision of gypsy/traveller sites. It has failed to address need in the district within the 3-5 year time frame set down by Circular 01/2006 and has not complied with the requirement to maintain a 5 year supply of sites as required by Planning Policy Statement 3: Housing. Whilst the Council is making some progress on the likely provision of sites through an allocations DPD, it is likely to be some time before the DPD is adopted. This failure of policy carries considerable weight in favour of the proposed residential caravan site.

*Other considerations - accommodation needs and personal circumstances*

23. Members of the appellant's family need a settled base where their accommodation needs can be met in order that they can have a traditional gypsy/traveller lifestyle and culture. The appeal proposal would provide them with this. Also, the proposal would enable children from the family to benefit from regular education when they were not travelling. In my view, it is unlikely that a decision to dismiss the appeal would result in persons becoming homeless. This is because there are vacant units on the appellant's existing caravan site, albeit that they are not ideal in terms of family accommodation. Nevertheless, I conclude that there are personal circumstances which weigh in favour of the proposed caravan site.

*Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.*

The storage use

24. As I have indicated, I must attach substantial weight to the harm to the Green Belt by reason of the development's inappropriateness. I have also found that the development has resulted in material harm to the openness of the Green Belt. No other considerations have been submitted in support of the storage element of the proposed mixed use so very special circumstances to justify that element do not exist, and I find that it is contrary to saved Environmental Policy 2 of the Local Plan and guidance contained in PPG2.

Residential caravan site - permanent planning permission

25. Here, there are a number of considerations in favour of this element of the proposal to be weighed against harm to the Green Belt. These are: the need for gypsy/traveller sites in the district and wider area; the failure of policy relating to gypsy/traveller sites; and the personal circumstances of members of the appellant's family.
26. In my judgement, however, the material considerations in favour of the development, even when added together, would not clearly outweigh the substantial harm caused by the proposal to the Green Belt. Very special circumstances to justify the development do not therefore exist. The proposal is therefore contrary to Environmental Policy 2 of the Local Plan and guidance contained in PPG2.

### Residential caravan site - temporary planning permission

27. Circular 11/95: The Use of Conditions in Planning Permissions states that a temporary permission may be justified when it is expected that the planning circumstances will change in a particular way at the end of the temporary period. Circular 01/2006 indicates that, where there is an unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, decision makers should give consideration to granting temporary permission. Paragraph 46 of the Circular states that such circumstances may arise in a case where a local planning authority is preparing its sites allocation DPD, and that in such circumstances, authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified.
28. On the basis of the information available to me, I am satisfied that the planning circumstances are likely to change within the Council's area within the next four to five years as work on the Council's allocations DPD progresses and sites are subsequently brought forward following its adoption. I am also mindful that there are no alternative sites available. I therefore give substantial weight to unmet need in the context of a temporary permission. Personal circumstances also carry weight.
29. Even so, the harm caused by the residential caravan site to the Green Belt in the short to medium term must be taken into account. Although this element of the development is inappropriate within the Green Belt and has resulted in material harm to the Green Belt, the appeal site is 'contained'. It lies next to an existing caravan site and a quarry. I am mindful that the caravan site does not result in harm to the character and appearance of the area. In my judgement, the harm in this particular case would be clearly outweighed by the considerations weighing in favour of allowing the caravan site for a temporary period, pending the provision of sites following adoption of the allocations DPD. I am particularly mindful of outstanding need in this context.
30. After taking all matters into account, I consider that, in this particular case, it would be appropriate to grant temporary planning permission for the residential caravan site for five years. I have chosen the period of five years to reflect the time that it will take for sites to come forward following the adoption of the allocations DPD.

### *Human Rights*

31. I appreciate that my decision results in an interference with the rights of members of the appellant's family in respect of private and family life and their home, and that Article 8 of the European Convention on Human Rights is engaged. However, I consider that my response is proportionate after taking into account the conflicting matters of public and private interests so that there is no violation of those rights.

### *Third party issues*

32. Other issues raised by third parties include highway safety, the effect of the development on local services, possible pollution, and future restoration of the quarry. The local highway authority has not objected to the development. As I saw on my site visit, St Alban's Road is a busy road and carries heavy goods vehicles associated with Codicote Quarry. However, traffic was travelling at

speeds commensurate with road conditions and drivers were proceeding with appropriate caution. The visibility splays at the entrance to 1 Pulmore Water are acceptable. Having regard to this and the likely number of vehicle movements which would be generated by the development, I therefore find that the development should not have a material adverse impact on highway safety.

33. In the past, children from families at Pulmore Water have had an effect on allocations at the local primary school. However, evidence was given that it was likely that many of the children of occupiers of the appeal site would attend Catholic schools. I therefore find that the use of the site as a caravan site should not have a material impact on the allocation of places at the primary school. There was no detailed information before me concerning the effect of the proposal on health facilities. The site is in an elevated position but there was no detailed evidence before me to demonstrate that the likelihood of drainage from the site leading to pollution. In any event, drainage can be dealt with by way of planning condition. In my experience, it is likely that the quarry will be the subject of a restoration scheme once its operations have ceased. However, I was not provided with any material about a restoration scheme and I am unable to ascertain how the development might affect this. I can, therefore, only give limited weight to the points raised by third parties.

### **Conditions**

34. I have already referred to the issue of temporary permission and will impose an appropriate condition to deal with this and the restoration of the site at the end of the permission. The evidence before me is that at least some of the hard surfacing may have taken place in order to facilitate the storage use before the use as a caravan site commenced. However, as I have previously indicated, I am not satisfied that the hard surfacing took place more than four years before the enforcement notice was issued. Nevertheless, I think it reasonable for all the hard surfacing to remain whilst the appeal site is being used as a caravan site but that it should be removed once the caravan site use has ceased. I have worded the restoration condition to reflect this.
35. The Council suggested a number of other conditions and I have given due consideration to these. The appellant's case in connection with the caravan site use has been predicated upon occupation of the site by gypsies/travellers as defined in paragraph 15 of Circular 01/2006. I shall therefore impose a condition restricting occupancy of the site to such persons.
36. Other suggested conditions seek to prohibit commercial activities on the site, restrict the numbers of caravans on the site, and restrict the size of vehicles which may be brought onto the site. I consider all these conditions to be reasonable and necessary in order to minimise the impact of the proposal on the openness of the Green Belt. Further conditions would require the submission and implementation of a site development scheme (including reference to landscaping) and the submission of a maintenance schedule. I consider these conditions to be reasonable and necessary in the interests of good planning and to protect the residential amenity of the occupiers of the site. I consider the reference to landscaping in the site development condition and the maintenance condition to be appropriate even though the permission is temporary. This is because of the length of the temporary permission.

37. Lastly, the Council suggested a condition to bring external lighting under its control. I consider the condition to be reasonable and necessary in order to prevent light pollution. However, I believe it appropriate to include reference to lighting in the site development condition, rather than it being the subject of a separate condition.

### **Conclusion**

38. For the reasons given above, I conclude that the appeal on ground (a) should be allowed in part, insofar as it relates to the use of the appeal site as a caravan site, and dismissed in part, insofar as it relates to the use of the site for storage purposes.

### **The ground (f) appeal**

39. This ground of appeal is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. The appellant's argument here was that the requirement to remove the hard surfacing is excessive. I have already dealt with this when considering the ground (a) appeal, which succeeds in part. I have found it reasonable for the hard surfacing to remain in place whilst the appeal site is used as a residential caravan site for a temporary period, but have imposed a condition requiring the removal of the hard surfacing at the end of the period. Accordingly, it is not necessary for me to give further consideration to the ground (f) appeal.

### **The ground (g) appeal**

40. The ground of appeal under section 174 (2) (g) of the Act is that the time period given to comply with the notice is too short. Although I have concluded that the ground (a) appeal should succeed insofar as it relates to the residential caravan site use, I need to consider this ground of appeal in relation to the storage use. The periods for compliance set out in the notice are 28 days and 3 months for steps (i) and (ii) respectively. The appellant suggested a compliance period of two years but this was in respect of the use of the site as a residential caravan site. In my view, the compliance periods set out in the notice are reasonable for the steps (insofar as they relate to the storage use) to be carried out. The appeal on ground (g) therefore fails.

### **Formal Decision**

41. Following on from paragraph 1 above, I direct that the enforcement notice be corrected by the deletion of all the words after the word "residential" in the second sentence of paragraph 3 (a) of the notice (which refers to the alleged breach of control) and their substitution with the words "caravan site, and for the storage of vehicles, containers, machinery and equipment (including associated works such as hard surfacing, enclosures, lighting and other services)".
42. The appeal is allowed insofar as it relates to the use of the appeal site as a residential caravan site and planning permission is granted on the application deemed to have been made under section 177(5) of Act for the use of land at 1 Pulmore Water St Alban's Road, Codicote, Hitchin, Hertfordshire SG4 8SP, as shown on the plan attached to the notice, as a residential caravan site (including associated works such as hard surfacing, enclosures, lighting and services), subject to the following conditions:

- 1) The use hereby permitted shall be for a limited period being the period of five years from the date of this decision. At the end of this period the use hereby permitted shall cease; all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed; and the land restored to its condition before the development took place. For the avoidance of doubt, the existing hard surfacing on the land shall be removed at the end of the five year period.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) There shall be no more than 6 pitches on the site and on each of the 6 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 as amended and the Caravan Sites Act 1968 as amended, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use (including, for the avoidance of doubt, the existing hard surfacing on the land) shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
  - i) within 3 months of the date of this decision a scheme for: (1) the internal layout of the site, including the siting of caravans, pitches, hardstandings, means of pitch division, parking and amenity areas together with details of the proposed occupants for the 6 pitches hereby permitted; (2) the landscaping of the site providing details of any additional hedge and shrub planting including numbers and densities; (3) the means of disposal of foul and surface water and the provision of any amenity blocks or similar facilities; and (4) the provision of external lighting to include the position, height and type of lights (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
  - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
  - iv) the approved site development scheme shall have been carried out and completed in accordance with the approved timetable.



- 7) At the same time as the site development scheme required by condition 6 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 2 years of the proposed planting commencing at the final phase of implementation as required by that condition; the schedule to make provision for the replacement of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or becomes seriously damaged or defective with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
43. Given that I have corrected the wording of the breach of control set out in paragraph 3 (a) of the notice, I now need to vary the requirements of the notice, as set out in paragraph 5 to reflect this. I therefore direct that that the notice be varied as follows:
- (a) that all the words after the word "red" in the first line of the first requirement as set out in paragraph 5 (i) of the notice be deleted and substituted with the words "as a residential caravan site, and for the storage of vehicles, containers, machinery and equipment"; and
- (b) that all the wording of the second requirement as set out in paragraph 5 (ii) of the notice be deleted and substituted with the following words: "Remove from the land edged in red all residential caravans (including static and park homes) and all other caravans associated with the residential use of the land; all vehicles, containers, equipment and machinery stored on the land; and all hard surfacing, enclosures, lighting and other services associated with the unauthorised development.
44. The appeal is dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to the use of the appeal site for the storage of vehicles, containers, machinery and equipment, and planning permission is refused in respect of the use of land at 1 Pulmore Water St Alban's Road, Codicote, Hitchin, Hertfordshire SG4 8SP for the storage of vehicles, containers, machinery and equipment on the application deemed to have been made under section 177(5) of the Act.
45. I have not sought to vary the requirements of the notice to exclude that part of the development, namely use a residential caravan site, in respect of which a conditional permission is being granted as this could give rise to two inconsistent permissions, the conditional one being granted, and an unconditional one deemed to have been granted under section 173 (11) of the Act as a result of the variation cutting down the requirements. Reliance can be placed on section 180 of the Act to mitigate the effect of the notice so far as it is inconsistent with the permission.

*James Ellis*

Inspector

## **APPEARANCES**

### **FOR THE APPELLANT:**

Philip Brown BA (Hons), MRTPI	Managing Director, Philip Brown Associates
John Connors	Appellant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mary Caldwell	Planning and Conservation Manager, North Hertfordshire District Council
Chris Braybrooke	Senior Planning Compliance Officer, North Hertfordshire District Council
David Hill	Planning Policy and Projects Officer, North Hertfordshire District Council
Geraldine Goodwin	Revenues Section, North Hertfordshire District Council

### **INTERESTED PERSONS:**

Cllr Tom Brindley	Ward Member, North Hertfordshire District Council
Cllr Jacque Grant	Codicote Parish Council
Lorraine Ellis	Clerk to Codicote Parish Council

## **DOCUMENTS**

- 1 North Hertfordshire District Council Local Development Scheme Timetable – published February 2012
- 2 Caravan Count Information for North Hertfordshire

## **Matter 25: New land proposed for allocation – Gypsy and Traveller site at Danesbury Park Road**

1. Following the Matter 25 hearing session on 3 December 2020, the Inspector has requested additional information t on the assessment of needs for Gypsy and Traveller provision, as presently set out in ED60 and why the Council considers that *exceptional circumstances* exist to support both proposed Gypsy and Traveller allocations, site CD4 at Pulmer Water and site CD6 at Danesbury Park Road.
2. Upon review of the evidence in light of the Matter 25 hearing, the Council now does not consider that *exceptional circumstances* exist to justify the proposed CD4 allocation at Pulmer Water. For reasons set out below it now considers that the existing permissions provide sufficient pitches and flexibility to accommodate current and future demand. The area covered by these implemented permissions does not form part of the proposed allocation CD4 and any issues of control over this area are a matter for the Council's planning control function and not the Local Plan.
3. In contrast to the position at Pulmer Water, the Council remains of the view that the proposed allocation site CD6 Danesbury Park Road is supported by robust evidence of need and is further justified having regard to the personal circumstances of the inhabitants thereby creating the necessary *exceptional circumstances* to support a limited insetting of the site from the wider Green Belt.

### **Site CD4, land at Pulmer Water, St Albans Road**

4. As previously set out to the examination, this site has a complex planning history (ED149, Appendix 2) involving a number of overlapping permissions on parts of the site. In its earlier analysis, the Council has also made reference to Areas A to F (HOU11, pp.4-5) and this is the notation that was used by ORS in gathering their site observations to inform the 2017 update to the needs assessment (ED60). Areas A to F are shown below in the map reproduced from HOU11. A table showing the relationship between Areas A to F, the permissions and the analysis in the Gypsy and Traveller Accommodation Assessment Update (GTAA) (particularly Figure 6, p.25) is contained in Appendix 1.



5. There are extant permissions for 12 pitches on the site. These pitches lie within areas A, C and E. None of these areas are proposed for allocation in the Local Plan. Their use and regulation are matters for the Council's planning control functions and not the Local Plan examination.
6. Area F corresponds to the proposed allocation CD4 contained in the submitted Plan (LP1, p.154) and shown on the Policies Map. As previously set out, this area benefited from a temporary permission on appeal for six pitches in 2012 which expired in 2017. The GTAA states that 6 pitches were needed here to 'make good' the expiration of the temporary permission (ED60, Para 6.18). However, there is no particular record in the Council's evidence of occupation of this area by households meeting the 2015 PPTS definition of Gypsies and Travellers.
7. The Council's 2015 analysis in HOU11 states

*This is the area granted temporary permission on appeal for 6 pitches in 2012. It wasn't clear who was living on this area, although the only known Traveller had moved off the site to live in Hemel Hempstead*

8. Figure 6 of the GTAA concurs (ED60, p.25). This is the area identified under the fourth sub-heading of "unauthorised pitches" which identifies the presence of six pitches but that no interviews were completed as they were occupied by 6x non-travellers. Following the hearing session, and in light of the request by the Inspector for more information ORS contacted one of the family members resident at Pulmer Water (December 2020) who reconfirmed that 'Area F' is not used by Gypsies and Travellers.
9. At the point of assessment ORS appear to have been told, and it was therefore reasonable to assume, that these pitches were being held 'in abeyance' for other Gypsy and Traveller households not present at the time of the GTAA. However, absent any evidence of occupation of Area F by households meeting the PPTS definition over what is now a five-year period, it is evident there cannot be *exceptional circumstances* supporting the release of Site CD4 from the Green Belt. The Council therefore considers this element of the identified need should now be discounted from further consideration.
10. The analysis presented to the examination already shows there are two vacant pitches within 'Area A' benefitting from planning permission for Gypsy and Traveller use that can accommodate the future natural growth forecast from this site (ED60, Figure 6 / p.25 & paragraph 6.18 / p.29; supporting the position identified two years earlier in HOU11, p.4).
11. There are also two further Gypsy and Traveller households currently accommodated within the adjoining Caravan Park that benefits from a Lawful Development Certificate. This area provides the opportunity to accommodate any further, currently anticipated need, that might arise from new household formation from those families presently resident.

#### **Site CD6, land at Danesbury Park Road**

12. In contrast to the situation at Pulmer Water, and consequential to the Council's proposed approach to Site CD4, there remains a demonstrable current and future need generated by the residents of the Danesbury Park Road site. This consists of a current need for two pitches and a future need for an additional two pitches (NDHC Matter 12 statement, p.5, Table 1). This is derived directly from the needs assessment:

*Analysis of the housing interviews completed at the [then] unauthorised site indicated that there is a current need for the 2 pitches that are unauthorised, and a future need for 2 additional pitches as a result of new household formation (based on the demographics of the pitch residents) over the 15 year GTAA period to 2032.*

13. It has been established in evidence to the examination that the family have been and remain resident upon the site as of November 2020 notwithstanding any assertions to the contrary. Interviews were completed with family members of the travelling community that reside on the site by ORS in 2017 and those family members have been confirmed as remaining on it. The need has been further demonstrated through the planning history of the site and the granting of temporary permission in August 2020. The need for two current and two future pitches arising from this site is robustly evidenced and up-to-date.

14. The identification of this site through the Plan is consistent with the site selection approach identified in the Council's original Matter 12 statement (Paragraphs 27 to 29 and Appendix 1). The Council has been quite clear this method involves an element of pragmatism which recognises that:

*...a site owned by a travelling family will always be preferable to public or third party ownership and that to seek an alternative site...would require the purchase of another site when the family are already suitably accommodated. The site selection process therefore focussed primarily on the sustainability of the site to meet the aims of the plan and the suitability of the site to meet the needs of the family to the end of the plan period. (NHDC Matter 12 statement, p.6, paragraph 24)*

15. At the time of the original hearing the Council proposed that the same approach and methodology be used for the families at Danesbury Park Road and that, if the site were found to be suitable, it should be promoted as an allocation through a main modification. At the Inspector's request, the additional work to support this position, including a sustainability appraisal of the site, was completed through the Council's Matter 12 'homework' (ED149) and relevant modifications consulted upon (MM139 and MM385). The proposed modifications place the allocation within Policy HS7 which sets out a number of detailed Development Management criteria to be considered when determining whether to grant permission for accommodation for Gypsies and Travellers.

16. The Council's Matter 12 'homework' demonstrates that both the existing and future need arising from this site can be accommodated within the allocation (ED149, pp.68-69 and Appendix 1 / p.75) and identifies the *exceptional circumstances* as being:

- The identified need;
- The lack of a five-year supply for the travelling community;
- The personal circumstances of the families;
- The protection of the characteristics of the Gypsy way of life; and
- The best interests of the children (ED149, p.63)

17. These *exceptional circumstances* coincide with the matters considered by the Council in its Development Management function as providing *very special circumstances*:

- The identified need for two pitches and two future pitches arising from this site remains a robust and up-to-date analysis following reconfirmation by the Council's expert witness that the site remains occupied by the families as at November 2020;
- A five-year supply to meet the immediate need for two pitches arising from this site only exists in temporary form by virtue of the subsequent granting of planning permission in August 2020 for a period of three-years pending the consideration of this proposed allocation through the Local Plan examination;
- The personal circumstances including but not limited to provision of a settled base to enable children to benefit from local education and healthcare, local employment and that the families have no alternative housing accommodation has been

established through the consideration of the planning applications for this site and the granting of temporary permission in August 2020;

- Making plan-led provision to meet identified needs protects the characteristics of the Gypsy way of life; and
- The best interests of the children living on the site would not be well served by failing to allocate this site, providing a plan-led policy context for any future application.

18. The Council's Matter 25 statement reinforces the availability and deliverability of the site. It identifies relevant planning constraints consistent with the approach taken to the assessment of mainstream housing sites considered through the Strategic Housing Land Availability Assessment.
19. The recent granting of a temporary planning permission for the site has demonstrably proven that Development Management criteria of Policy HS7, particularly in relation to the issues of highways, contamination and noise raised by Codicote Parish Council in their hearing statement can be and have been satisfactorily addressed.
20. The Council has already resolved, in its Development Management function and based upon the site's present Green Belt status, that it would not be able to sustain a refusal of planning permission for the current occupants at appeal (NHDC Matter 25 statement, p.4, paragraph 19) and has granted temporary planning permission under the more stringent test of '*very special circumstances*'.
21. Notwithstanding any findings the Inspector may make in relation to Site CD4 and the site at Pulmer Water, there is no reasonable prospect that the needs of the Danesbury Park residents might alternately be met upon that site or in another location. The needs of the family and their children requires a security of tenancy that cannot be achieved by renting pitches on a site owned by another party. The need and justification for this site should therefore be considered on its own merits.

**Relationship between permissions, areas of site and site observations in HOU11 and ED60 in relation to Pulmer Water**

	<b>Permission(s) (ED149, Appendix 2)</b>	<b>Assessment in HOU11</b>	<b>Assessment in ED60</b>
Area A	Within area covered by 1983 and 1986 applications for a total of six pitches with occupation linked to definition of Gypsies in 1968 Caravan Sites Act	3 pitches, 1 in use, 2 vacant (HOU11, paragraph 12)	Site notes record 3 pitches, 1 in use, 2 vacant consistent with HOU11. These are the “2 x vacant, 1 x no contact possible” in Figure 6
Area B	1990 application for ablution block / family room with subsequent permission in 1995 for use as a self-contained dwelling subject to it only being occupied by Gypsies.	Occupied by Traveller household but a permanent structure and not counted as a pitch (HOU11, paragraph 13)	Site notes record two residents who no longer travel living in a permanent structure. Not recorded in Figure 6 as not a pitch. Notes also record two households in adjoining caravan site as per Figs. 5 & 6.
Area C	As Area A	3 pitches, all in use (HOU11, paragraph 14)	Site notes record three pitches containing 4 occupied park homes by non-travellers. This is 3 of the “non-travellers” pitches recorded in Figure 6.
Area D	Overlapped by the 1983, 1986, 2011 and 2017 permissions. However, occupied by permanent structure now exempt from enforcement action.	Occupied by two Travellers but a permanent structure so not counted as a pitch (HOU11, paragraph 15)	Sites notes record two residents living in a permanent structure. Not recorded in Figure 6 as not a pitch.
Area E	Within area covered by 2011 application for six pitches. Variation of condition granted in 2017 allowed for a total of seven caravans and imposed occupation condition linked to 2015 PPTS definition of Gypsies and Travellers	Six pitches in use but capacity for seven in total as one pitch was not in use (HOU11, paragraph 16)  <i>n.b. reference to a 7<sup>th</sup> pitch appears erroneous relative to the permission and may refer to caravans</i>	Site notes record 6 pitches containing 7 occupied park homes by non-travellers. This is the remaining 6 “non-travellers” pitches recorded in Figure 6 which (together with Area C) provides a total of 9.
Area F	Five-year temporary permission for six pitches following enforcement appeal expired March 2017	Only known Traveller had moved off site. Site area suggested capacity for more than 6 pitches (HOU11, paragraph 17)	Eight occupied pitches, none occupied by travellers. This is recorded as six unauthorised pitches in ED60, Figure 6 corresponding with the (then) recently expired temporary permission
<b>Total / conclusions</b>	At December 2020 there are permissions for 12 pitches, half of which are conditioned to meet the 2015 PPTS definition of Gypsies and Travellers	Total of 18 pitches at time of writing (Areas A, C, E and F). Permission for Area F subsequently lapsed. Observed twelve pitches on areas A, C and E correspond to extant permissions.	Total of 12 pitches for Pulmore [sic] Water / Wexford Park (Areas A, C and E) and 6 unauthorised pitches (Area F) as shown in Figure 6 and aerial photo on p.23 corresponding to analysis in HOU11 and ED149.

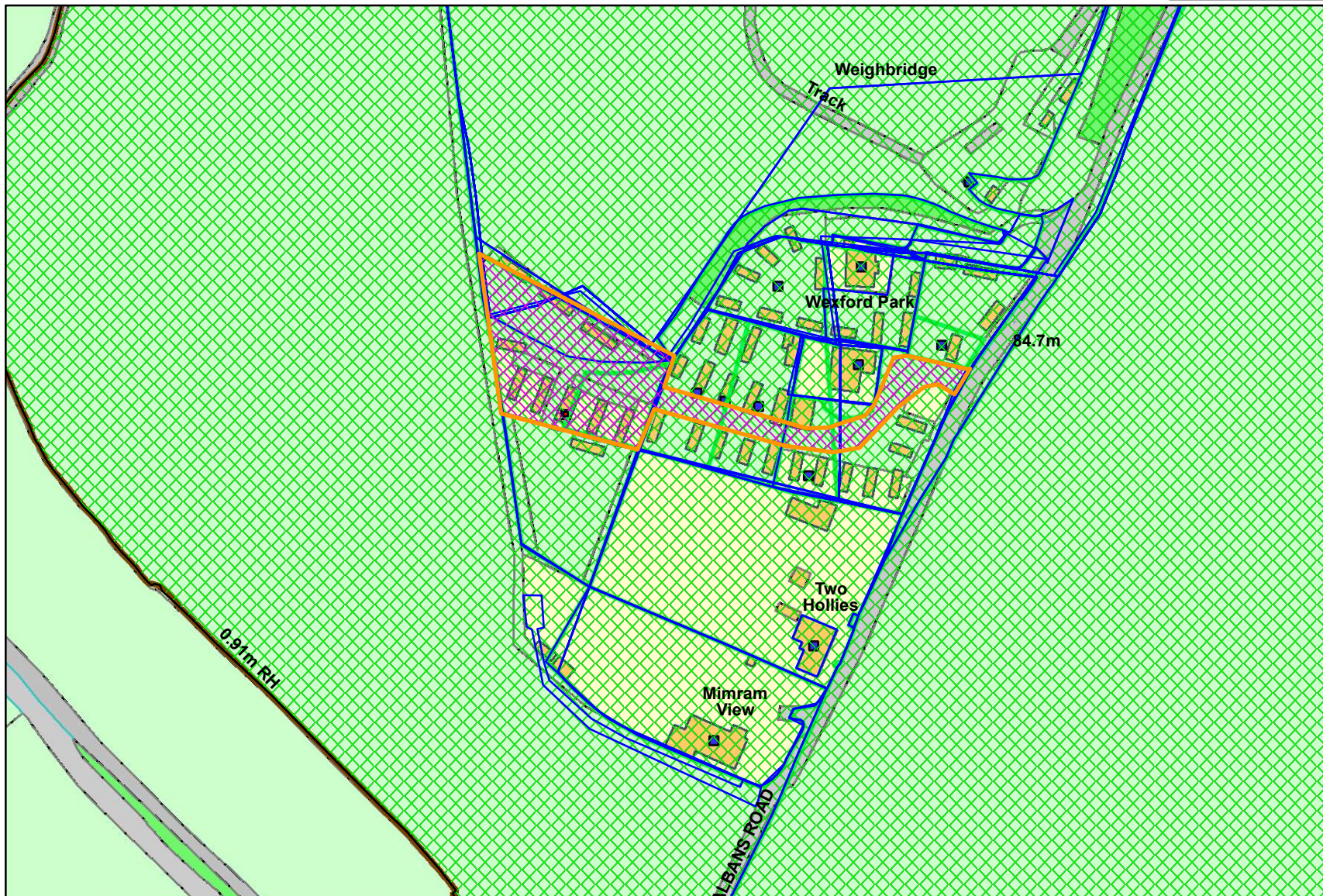




## Application Validation Sheet

18/00794/FP Land to the West of St Albans Road, Codicote, Hertfordshire

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



Scale 1:2,104

Date: 12/02/2021

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<u>Location:</u>	<b>Land to the West of Lucas Lane and East of Headlands, Grays Lane, Hitchin, Herts, SG5 2HR</b>
<u>Ref. No:</u>	<b>TPO 199 (2020)</b>
<u>Officer:</u>	<b>Tom Rea</b>

**Date of expiry provisional TPO:** 10.09.2020

**Extension of statutory period:** N/A

**Reason for referral to Committee:** The provisional TPO has been objected to by the applicant, and in line with paragraph 8.4.5 (l) of the Constitution, the considerations as to whether or not to confirm, amend or not confirm the TPO must be made by committee.

## 1.0 **Relevant History**

- 1.1 TPO 199 (2020) was served on 10<sup>th</sup> September 2020. It is an 'Area' TPO and it involves the temporary protection of trees and vegetation on a former orchard comprising 0.1371 hectares of land located in the north west corner of a field off Lucas Lane, Hitchin. An objection on behalf of the landowner was received 14/10/2020.
- 1.2 TPO 199 (2020) is provisional on it being confirmed, not confirmed or amended by the Local Planning Authority within 6 months of its being served.
- 1.3 A copy of the provisional TPO 199 (2020), including TPO plan, is attached at **Appendix A** to this report

## 2.0 **Policies**

- 2.1 None relevant

## 3.0 **Representations**

- 3.1 An objection has been received to the provisional TPO from the agent acting on behalf of the landowner. The main points of objection are as follows:
  - Question the procedural validity and legitimacy of the TPO having regard to Government guidance.
  - No assessment was made prior to TPO being served
  - The trees within Area A1 provide very little visual amenity
  - None of the trees are of high quality
  - The area has low potential for protected species to be present on site
  - Not made in the interests of amenity in accordance with the Town and Country Planning Act

The landowners objection is supported by a visual and landscape assessment and a scrub assessment survey.

#### 4.0 **Planning Considerations**

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

4.1.1 The site the subject of the provisional TPO relates to land at the north western corner of a field to the west of Lucas Lane, south of Lavender Fields care home and north of a public bridleway (PRoW 004). A detached property known as 'Headlands' is located immediately to the west / south west . To the east of the site and beyond an open field are residential properties which front the eastern side of Lucas Lane. All of the land west of Lucas Lane in this area is located within the Green Belt. In the Emerging Local Plan (2011 – 2031) the proposal is to allocate two housing sites (HT5 and HT6) to the west of Lucas Lane and Crow Furlong as well as incorporating other land into the urban area removing its green belt designation. This release of land from the Green Belt would include the TPO 199 site itself as well as 'Headlands' and the Lavender Fields care home.

4.1.2 The area covered by the provisional TPO comprises approximately 0.1371 hectares (1,176 sqm) and is rectangular in shape being bounded to the east and south by a small grassed field.

#### 4.2 **Key Issues**

##### 4.2.1 **General procedural matters**

4.2.2 Local planning authorities can make a Tree Preservation Order if it appears to them to be '*expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area*' (Paragraph 3.1. 'TPO's : A Guide to the Law and Good Practice'). There is no statutory definition of 'Amenity' therefore authorities need to exercise judgment when deciding whether it is within their powers to make an Order. It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area.

4.2.3 Paragraph 3.17 of the above mentioned guidance makes it clear that there are drawbacks to the making of Area TPO's for example trees may be included that do not warrant protection. However paragraph 3.18 states that '*the area classification should only be used in emergencies and then as a temporary measure until the trees in the area can be assessed properly and reclassified*' This is relevant to this case where the area of trees in question was under immediate threat of removal as notice had been given by the landowner of the intention to commence clearance of the area.

- 4.2.4 Paragraph 3.7 of the guidance also advises that a Local Planning Authority ‘ *may consider that the risk of felling justifies the making of a TPO before they have been able to assess fully the amenity value of the tree. This should not, however, prevent them from making a preliminary judgment on whether a TPO would appear to be justified on amenity grounds, nor from making a more considered assessment before the TPO is confirmed.* In this case a preliminary judgement was made that the trees concerned had the potential to significantly contribute towards local amenity hence the decision to proceed with the serving of a precautionary Area TPO.
- 4.2.5 The guidance advises what Local Planning Authorities may take into account when considering amenity value. One of these guides is visibility, in that the extent to which the tree can be seen by the public can inform the assessment of amenity. Further considerations may be size and form; future potential as an amenity; rarity, cultural or historic value; contribution to the landscape; and contribution to the character and appearance of the conservation area.
- 4.2.6 Where objections have been made to a provisional TPO, such as in this case, the LPA has to consider the objections prior to confirming or otherwise the TPO. Such considerations are set out below.
- 4.2.7 Following the serving of the provisional TPO and in accordance with paragraph 3.7 of the guidance the LPA commissioned an independent arboricultural assessment of the TPO. This report has been used to assist the LPA in deciding whether to confirm or otherwise, the TPO. The document (by Sharon Hosegood Associates), is attached at **Appendix B** to this report
- 4.2.8 **Consideration of amenity and other matters**
- 4.2.9 The general setting and condition of the trees and vegetation
- 4.2.10 The covered by the provisional order is private land set back from Lucas lane and the right of way to the south (PRoW 004). The site contains a mix tree species and scrub including mature hawthorn, sycamore, walnut, willow and fruit trees. The site is a former orchard and is overgrown with ivy and other vegetation.
- 4.2.11 The SHA arboricultural report describes the location, size and character of the site as well as a general description of the TPO area and concludes on tree condition and suitability for inclusion in a Tree Preservation Order. Essentially the report advises that the although the area appears densely vegetated when viewed from public viewpoints with trees up to 12m in height the detailed inspection reveals that the area has been neglected and poorly managed and consequently the quality of vegetation and trees is generally low. The report advises that only three trees are worthy for protection within a TPO. These trees have been scored using the industry standard ‘Tree Evaluation Method for Preservation Orders (TEMPO).

4.2.12 The TEMPO used by SHA for the area TPO 199 (2020) includes an 'amenity assessment' that scores the general condition of trees, their retention span in years, their relative public visibility and other factors such as specific arboricultural values, rarity and habitat importance. Three trees were identified as scoring sufficiently high to merit inclusion in an amended TPO.

4.2.13 Visibility

The field immediately to the south and east of the area of trees / scrub is private land however the area can be seen in views from Lucas Lane and from gaps along the public bridleway PRoW 004. Views from the west are obstructed by Headlands and its garden and from the north by the Lavender Fields development. Overall, views from public rights of way are somewhat limited by existing vegetation. Should the adjoining field (site HT5) be developed for housing it is likely, as the HT5 site wraps around the southern and eastern boundary of the site that the trees / scrub would become less visible from public views although there would be some benefit to occupiers of the new dwellings in the western part of the new development given the close proximity to the area.

4.2.14 Ecology

An ecological assessment of the site was carried out by MKA Ecology in January 2020 and concluded that :

*'The scrub represents a mature habitat of some biodiversity value. Whilst there is some very low potential for protected species to be present the removal of the scrub will not cause harm to these species groups provided the recommendations within the report are adhered to.'*

The report makes several recommendations in respect of newt/reptile hibernation, a watching brief during scrub clearance works and works to be carried out outside of the breeding bird season (unless checked by an ecologist prior to works). All of the above represent best practice. The Council's ecological consultants advise that the intrinsic habitat interest of the site is likely to be low and that best practice procedures should be followed via an ecological appraisal (which has been undertaken by the owners via the MKA report). In short, the ecological value of the site has been assessed as not a priority habitat and not a constraint on tree / scrub removal subject to appropriate best practice being followed and any licences being obtained.

4.2.15 Conservation / cultural considerations

The site is not within a conservation area and there are no nearby listed buildings the setting of which may be affected. The area does not contain any trees which are of rare value and the site has no historic value. The SHA report advises that because of the nature of the trees / scrub and its setting the site cannot be considered a woodland.

4.2.16 Expediency

At the time the provisional TPO was served there was a clear risk of the area being cleared which may have not been in the public interest. The LPA has now reviewed the TPO having had regard to the applicants representations and its own arboricultural and ecological advisors advice and it is concluded that the Order should be amended as per the recommendation below.

#### 4.2.17 Objections to the provisional TPO by the landowners agents

The main grounds of objection are as follows:

- The trees are only of moderate quality
- Visual amenity is restricted by topography and other vegetation, surrounding buildings and the location of the trees on private land
- Future development of the adjoining land undermines any future visual amenity
- The Order contains an error
- The area type Order is contrary to Government guidance

4.2.18 Officers agree that the area trees / scrub are of limited quality save the three trees identified. Visual amenity is also restricted. Future development will limit public amenity but still offer some amenity to occupiers of the development. Any error on the Order is minor and does not prevent clarity of the Order. The Order is not contrary to Government advice and good practice.

4.2.19 Officers agree with the landowners that, should the Order be varied, it is limited to comprising individual trees and/or defined groups.

#### 4.4 **Conclusion**

4.4.1 Following a more detailed assessment of the trees and general vegetation area covered by TPO 199 (2020) and having regard to the landowners representations, it has been concluded that there is no justification in visual amenity terms for the Area TPO to be confirmed. Furthermore, there are no historic, cultural or ecological grounds for the whole of the TPO area to be retained. However, three specific trees within the area have been identified as having the potential to contribute towards the visual amenity of the area especially if new housing is developed nearby. Therefore, it is recommended that the Order is amended to an individual order to protect three trees (T1 (Walnut and T2 & T3 Sycamore) as illustrated on the proposed amended Order attached at **Appendix C** to this report (Tree Preservation Order Plan SHA 1300 TP) .

#### 5.0 **Legal Implications**

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

#### 6.0 **Recommendation**

6.1 That the provisional Tree Preservation Order TPO 199 (2020) is modified to a Tree Preservation Order covering three specific trees as identified on Plan No. SHA 1300 TP

Appendices:

Appendix A: TPO 199 (2020) Plan (Provisional)

Appendix B: Sharon Hosegood Associates TPO assessment report

Appendix C: Proposed Amended TPO 199 (2020) Plan (Confirmed)



**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 2012  
TREE PRESERVATION ORDER**

---

**Town and Country Planning Act 1990  
North Hertfordshire District Council**

**Land to the West of Lucas Lane and East of 'Headlands' Grays Lane, Hitchin,  
Hertfordshire, SG5 2HR TPO/00199 (2020)**

The North Hertfordshire District Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order—

**Citation**

**1.**—This Order may be cited as North Hertfordshire District Council Land to the West of Lucas Lane and East of 'Headlands' Grays Lane, Hitchin SG5 2HR TPO/00199 (2020)

**Interpretation**

**2.**—(1) In this Order “the authority” means the North Hertfordshire District Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

**Effect**

**3.**—(1) This Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Dated this 10<sup>th</sup> September 2020

The Common Seal of the North Hertfordshire District Council  
was hereunto affixed in the presence of –

*Ian Fullstone*

Ian Fullstone  
Service Director - Regulatory

*[Signature]*

Signed on behalf of the  
North Hertfordshire District Council  
Authorised by the Council to sign in that behalf



## SCHEDULE

### SPECIFICATION OF TREES

**Trees specified individually**  
(encircled in black on the map)  
NONE

**Trees specified by reference to an area**  
(within a dotted black line on the map)

A1 – Area of Trees – all trees of various species

**Trees specified by reference to a group**  
(within a broken black line on the map)  
NONE

**Trees specified by reference to a woodland**  
(within a continuous black line on the map)  
NONE

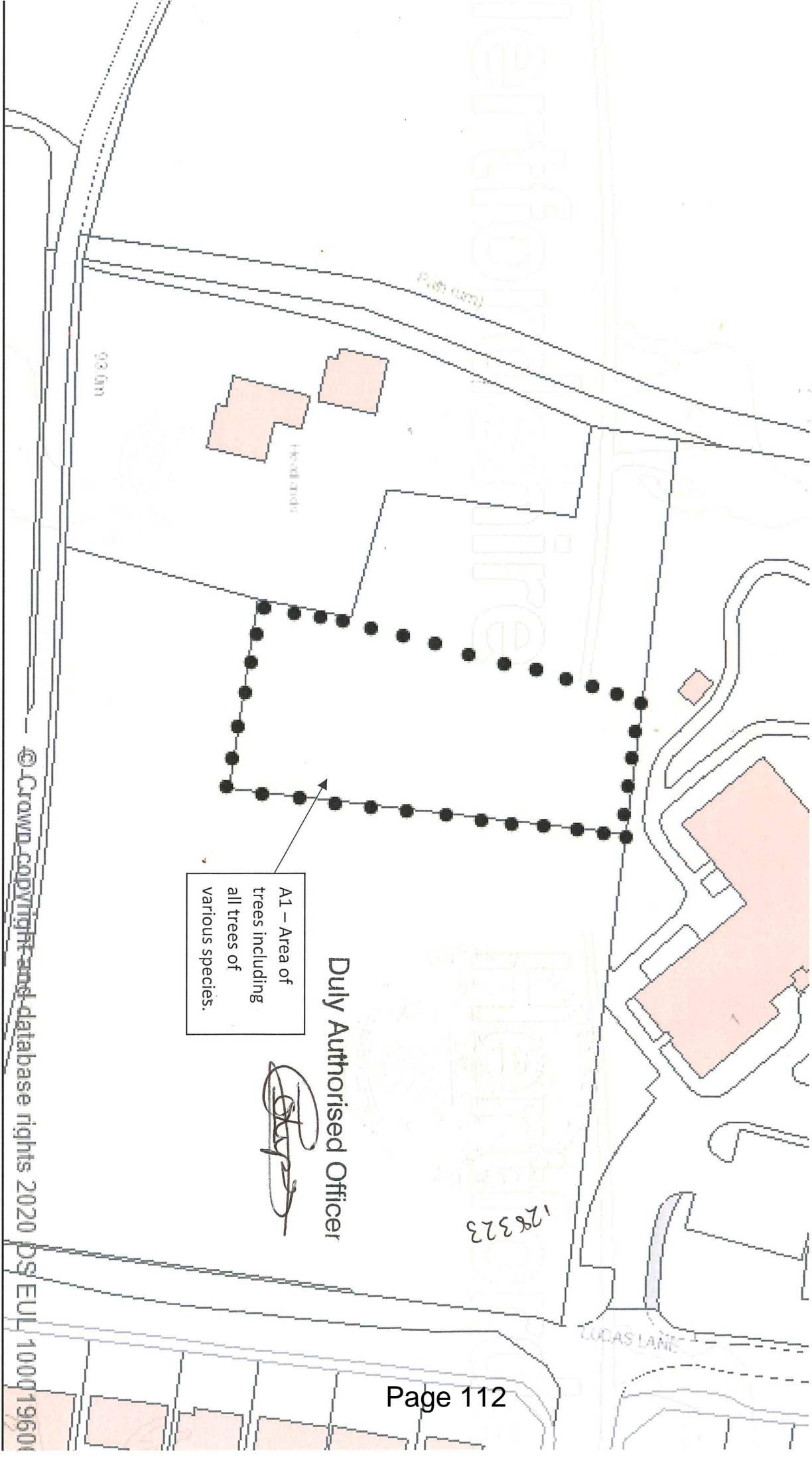
**Reference on Map :** A1

**Description :** Area of Trees – all trees of various species

**Situation:** Land to the West of Lucas Lane and North of 'Headlands' Lucas Lane,  
Hitchin, Hertfordshire, SG5 2HR

1000 10/11/20

TPO 199 (2020) Land to the West of Lucas Lane and East of 'Headlands' Grays Lane, Hitchin SG5 2HR



Duly Authorised Officer

*[Signature]*

A1 - Area of trees including all trees of various species.

Path (unp)

Headlands

93.0m

A1 – Area of  
trees including  
all trees of  
various species.

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## Tree Preservation Order 199 (2020)

Land to the West of Lucas Lane and East of 'Headlands'

Grays Lane, Hitchin,

Hertfordshire SG5 2HR

On behalf of:

North Hertfordshire District Council

Sharon Durdant-Hollamby

FICFor FArborA BSc (Hons) Tech Cert (ArborA)

t:- 01245 608362

**DATE: 19 November 2020**

**OUR REF: SHA 1300**

OUR CONTACT DETAILS: 01245 210420  
sharon@sharonhosegoodassociates.co.uk

---

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2	The issues addressed and a statement of instructions	3
3	The setting	3
4	The trees	4
5	Visual amenity	6
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7	Conclusions and recommendations	8

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### *Appendices*

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2	Proposed Tree Preservation Order plan SHA 1300 TP	11
3	TEMPO assessment	12
4	Methodology and documents reviewed	13
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## 1.0 Introduction and summary

- 1.1 This report assesses the provisional Tree Preservation Order reference TPO/00199 (2020) on 'Land to the West of Lucas Lane and East of 'Headlands', Grays Lane, Hitchin, Hertfordshire, SG5 2HR which was served on 10<sup>th</sup> September 2020.
- 1.2 Objections have been received from the landowner, Hill Residential Ltd and their consultant team: Guarda Landscapes (Landscape Architect), TEP (Arboricultural Consultant) and MKA ecology (Ecologist).
- 1.3 In order to prepare for this report, I visited the site on 17 November 2020 and reviewed documentation.
- 1.4 **I recommend that the Order is varied to include three trees: T1 walnut, T2 and T3 sycamores.** This report provides details on how the recommendations has been reached.

## 2.0 Statement of instructions and the issues addressed

- 2.1 I was instructed by North Hertfordshire District Council to form an independent professional opinion on the suitability of the tree for a Tree Preservation Order (TPO) and, if considered appropriate, make recommendations for confirmation/variation or allow to lapse.
- 2.2 The issues addressed are expediency, visual amenity and accuracy, referencing the landowner's and their client teams' objections where appropriate.
- 2.3 Section 198(1) of the Town and Country Planning Act 1990 places a general duty upon Local Planning Authorities to make provision for the protection of trees by way of the serving of Tree Preservation Orders where it appears (to the Authority) ' that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area' .

## 3.0 The setting

- 3.1 *Location:* The area is the north-western corner of a field to the west of Lucas Lane, south of Lavender Fields (a care home) and north of a public bridleway (reference (PRoW 004). To the west is the property know as Headlands which is detached, with a large mature garden.

- 3.2 *Size and character:* The area protected is a narrow rectangular scrub and individual trees (a former orchard) which is 21m x 56m (approximately 0.1371Ha). It is approximately level and is fronted to the east and west by a small field laid to grass. A hedgerow forms the southern boundary of the field, and continues along the southern half of the eastern boundary with Lucas Lane. There is a small group of early mature horse chestnut trees on the north-eastern corner, and the northern boundary is flanked with informal shrubbery along the car park service Lavender Fields.



Plan 1 – extract from SHA 130 TP. Do not scale. North is vertical. The dotted line is the area of the TPO.

#### 4.0 The trees

- 4.1 *Generally:* The area appears to be densely vegetated when viewed from outside (looking west and north), but it is possible to walk through. The mix of species are predominantly hawthorns with occasional apple, sycamore, 1 walnut, 1 goat willow, cherry, spindle, elder, plum and pear. It has the appearance of a former orchard with garden trees which has been neglected for some time and is overgrown with ivy. The trees range from 6 – 12m in height.

#### 4.2 *Tree condition and suitability for inclusion in a Tree Preservation Order*

The hawthorns range from semi-mature to overmature with the latter multi-stemmed above 0.5m and swamped with ivy. The younger trees have been planted in rows. The individual fruit trees are sporadically planted and most are mature. Due to lack of management and overcrowding (mostly by hawthorn), the trees have heavily asymmetric crowns and are weighted with ivy. The lilac near the southern boundary is a large, multi-stemmed, over mature specimen that is starting to collapse. The best trees are an early mature walnut (SHA reference T1) and sycamore (T3). A younger sycamore (T2) has potential to become an important amenity tree as it matures, especially if the vegetation around the tree is removed.



*Photo 1 of general view of interior of area, showing semi-mature hawthorn*





*Photo 2 of general view showing one of the mature hawthorns internal to the site*



*Photo 3 general view looking south along the western boundary*



*Photo 4 of view of the southern boundary looking north. The cherry tree is spindly and too overgrown with bramble to be significant or suitable for inclusion in a Tree Preservation Order.*

4.3 *Suitability for inclusion based on condition:* the only trees worthy of protection are T1 walnut, a goat willow and T2 and T3 sycamore. The goat willow has not been recommended for inclusion in the



order in that this is a short-lived species, and this particular tree is reaching the end of its safe useful life expectancy. It is very close to the boundary with Headlands and is visually subservient to the mature trees in the garden.

## 5.0 Visual amenity

5.1 *Current visual amenity:* The trees can be clearly seen in the mid distance from Lucas Lane and between gaps in the hedgerow along the southern boundary (public bridleway PRoW 004). Views from the west (looking east) of trees and hedges in Headlands obscure the subject area. Whilst there may be some glimpses of the trees protected by the Order along the southern boundary from the PRoW 004 – 006), their visual impact is negligible. I agree with the assessment of Guarda Landscape on visibility for the public right of ways.



*Photo 5 of the view looking west*



*Photo 6 of the view looking east from towards the corner of PRow 004 and 005. The trees are scarcely discernable from the mature trees in the garden of Headlands, which are in the foreground of the skyline*



*Photo 7 of the view looking east from towards the corner of PRow 005 and 006. The trees are scarcely discernable from the mature trees in the garden of Headlands, which are in the foreground of the skyline*

5.2 *Future visual amenity:* The land to the immediate east and south is allocated as HT5 for residential development. I take a different view from the consultant team who state that the visual amenity of the trees will be lost once the site is developed. The trees will be more visible, albeit to fewer people, and will provide a sense of maturity and immediate greenery next to a new housing development.



*Plan 2 – extract from Local Plan allocation with the TPO area shown blue. Do not scale. North is vertical.*

## 6.0 Other matters

### 6.1 Ecology

The report from MKA ecology (reference 93920 dated 7 February 2020) states that 'In summary the scrub represents a mature habitat of some biodiversity value. There is some very low potential for

*protected species to be present but this does not preclude the removal of the scrub, although the risks should be managed with an Ecological Clerk of Works’.*

- 6.2 The trees do not have cultural, rarity or historic value, therefore these special circumstances cannot be applied. Nor do they contribute to the character of a conservation area. The area does not constitute a woodland.

## 7.0 Conclusions

- 7.1 I conclude that only three trees should be protected by the Tree Preservation Order and that the order should be varied accordingly before it lapses. The reasons for the removal of the majority of the vegetation from the Order is that it has low structural value (mostly due to over-crowding and inherent species characteristics). It could not reasonably be described as woodland and is not botanically scarce or of great ecological or cultural value.
- 7.2 The three trees will provide a greater visual amenity once the surrounding vegetation is cleared and increase in prominence when viewed from Lucas Lane and the PRow 004 from the south. Their future visual amenity will become more pertinent once the allocated land is occupied, and provide immediate mature greenery next to a new development.
- 7.3 The trees have been assessed by TEMPO (a widely used assessment method for Tree Preservation Orders) as follows:
- T1 walnut – 19
  - T2 sycamore – 18
  - T3 sycamore - 16
- 7.4 Given the allocation of HT5 for residential development, and the ownership of the land by a housing developer, I consider that the order is expedient.

Sharon Durdant-Hollamby FICFor FArborA BSc (Hons) Tech. Cert. (Arbor A)

Director  
Sharon Hosegood Associates Ltd

---

## Appendix 1

### The Tree Preservation Order

---



Ian Fullstone.

**TPO 199 (2020) Land to the West of Lucas Lane and East of 'Headlands' Grays Lane, Hitchin SG5 2HR**

Page 125

Path (unp)

Headlands

93.0m

A1 – Area of  
trees including  
all trees of  
various species.

---

## Appendix 2

### SHA 1300 TP plan

---



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• • • Outline of Area Order TPO 199 (2020)

● Potential tree for inclusion in Tree Preservation Order

T1 Walnut

T2 Sycamore

T3 Sycamore

Please note this is not based on a topographical drawing, and therefore tree locations need to be checked on site

Notes

1. Contractors to check all dimensions on site
2. Discrepancies must be reported to the Arboricultural Consultant before proceeding
3. The original of this drawing was produced in colour, a monochrome copy should not be relied upon.
4. It is the responsibility of the contractor to ensure necessary consents for tree works are in place
5. This drawing is copyright © Sharon Hosegood Associates Ltd

Rev :	Description :	Authorized :
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Sharon Hosegood ASSOCIATES t: 01245 210420 www.sharonhosegoodassociates.co.uk

Client  
North Hertfordshire District Council

Site Address  
Land to the West of Lucas Lane and East of 'Headlands' Grays Lane, Hitchin, Hertfordshire SG5 2HR

Drawing Title	Orientation	Drawn	Authorized
Tree Preservation Order Plan		ND-H	SMD-H

Date 19.11.20 Drawing Number SHA 1300 TP Scale 1:750@A3 Drawing Status For Issue

Revision  
-

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## Appendix 3

### TEMPO

---

# TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

## SURVEY DATA SHEET & DECISION GUIDE

Date: 17.11.20

Surveyor: Sharon Durdant-Hollanby

### Tree details

TPO Ref (if applicable): 199 (2020)

Tree/Group No:

Species:

Owner (if known): Hui Residential

Location: West of Lucas Lane

T1, T2 + T3  
1x Wahut, 2x Sycamore

### REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

#### Part 1: Amenity assessment

##### a) Condition & suitability for TPO

- |                          |                         |
|--------------------------|-------------------------|
| 5) Good                  | Highly suitable         |
| 3) Fair/satisfactory     | Suitable                |
| 1) Poor                  | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable              |

\* Relates to existing context and is intended to apply to severe irremediable defects only

#### Score & Notes

T1 - 5  
T2 - 5

T3 - 3 (potential 5)

##### b) Retention span (in years) & suitability for TPO

- |           |                 |
|-----------|-----------------|
| 5) 100+   | Highly suitable |
| 4) 40-100 | Very suitable   |
| 2) 20-40  | Suitable        |
| 1) 10-20  | Just suitable   |
| 0) <10*   | Unsuitable      |

\* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

#### Score & Notes

T1 - 4  
T2 - 4  
T3 - 4

##### c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 4) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

#### Score & Notes

T1 - 4  
T2 - 3  
T3 - 3

##### d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

#### Score & Notes

1 (all trees)

#### Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

#### Score & Notes

5 (all trees)

#### Part 3: Decision guide

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-11  | Does not merit TPO    |
| 12-15 | TPO defensible        |
| 16+   | Definitely merits TPO |

#### Add Scores for Total:

T1 = 19  
T2 = 18  
T3 = 16

#### Decision:

Make variation to include T1, T2 & T3

---

## Appendix 4

### Methodology and documents reviewed

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## Methodology

Initial email and phone conversations with the client

Site visit on 17 November 2020 in fair weather. The TPO area was assessed, photos taken and the best trees plotted as far as was possible. Note this does not have the accuracy of a topographical survey but is sufficient for a Tree Preservation Order plan.

The visibility of the TPO area was assessed from public right of ways:

- PRoW 004 Bridleway
- PRoW 005 Bridleway
- PRoW 006 Footpath
- PRoW 007 BOAT.

## Documents reviewed

19-56 Tree Preservation Order Objection-P02 by Guarda Landscape October 2020

19-56- Appendix A-Tree Preservation Order Objection-P02 by Guarda Landscape October 2020

8459.001 Objection to Tree Preservation Order No. 00199 2020 by TEP October 2020

Site HT5 plan and description

TPO 199 (2020)

Title Copy (register and plan)

Objection from Hill Partnership 13 October 2020.

## Caveats

This is not a full health and safety inspection of the trees

Only the trees relevant to the case were examined

This is not based on a topographical survey.

---

## Appendix 5

### My experience and qualifications

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## Sharon Durdant-Hollamby

FICFor FARbor A BSc (Hons) Tech Cert Arbor A



### Profile

Sharon is an Expert Witness, chartered arboriculturist and Director of Sharon Hosegood Associates Ltd. Sharon had eleven years' experience as a local government tree and landscape officer before joining DF Clark Contractors as a tree consultant in 2005. In 2007 she formed an environmental practice in Essex with the owner. As managing director, she built up the ecological and arboricultural consultancy to a team of 20. She is a regular presenter and an occasional trainer for Trevor Roberts Associates. She appeared on BBC1 in July 2015 and September 2015, in 'Britain Beneath Your Feet' demonstrating tree radar at the Burghley Country Park, Lincs, with Dallas Campbell, the consumer programme 'Rip Off Britain', and latterly, again with tree radar equipment, Springwatch, investigating the rooting of the Major Oak at Sherwood Forest in June 2018. Sharon was the technical coordinator and chair of the Institute of Chartered Foresters national study tour 2016 'The streets of London'. In November 2018 Sharon presented at the Annual International Arboricultural Summit in Hong Kong. She became Vice President of the Institute of Chartered Foresters in April 2019.

<b>Specialties:</b>	<p>Trees in relation to development, including appeals and planning hearings</p> <p>Tree root investigations, including TreeRadar</p> <p>Tree hazard evaluation</p> <p>Tree preservation orders</p> <p>Trees and well-being with community engagement</p>
<b>Professional bodies:</b>	<p>Vice President of the Institute of Chartered Foresters</p> <p>Fellow of the Institute of Chartered Foresters (ICF)</p> <p>Assessor for the ICF examination board</p> <p>Fellow of the Arboricultural Association</p>
<b>Qualifications:</b>	<p>Cardiff University Law School Bond Solon Civil Expert Certificate</p> <p>Arboricultural Associations Technicians Certificate</p> <p>BSc (Hons) Geography and Landscape Studies</p> <p>Managing Safely IOSH (2017)</p>
<b>Awards:</b>	<p>Top student award for the Technician's certificate in 2005</p> <p>The Broomfield Hospital Woodland Management project she has managed since 2009 has won the following awards:</p> <p>The Essex Biodiversity Awards (nomination)</p> <p>The Excellent Community Engagement Award (NHS Forest)</p> <p>Green Flag and Green Apple Award</p> <p>Highly commended for the Health Sector Journal Award 2013</p>



## Tree Preservation Order 199 (2020)

Land to the West of Lucas Lane and East of 'Headlands'  
Grays Lane, Hitchin,  
Hertfordshire SG5 2HR

On behalf of:  
North Hertfordshire District Council

Sharon Durdant-Hollamby  
FICFor FARborA BSc (Hons) Tech Cert (ArborA)

t:- 01245 608362

**5DATE: 19 November 2020**  
**OUR REF: SHA 1300**

Sharon Hosegood Associates  
T: 01245 210420 [www.sharonhosegoodassociates.co.uk](http://www.sharonhosegoodassociates.co.uk)  
Registered Office: Fisher Michael Chartered Accountants, The Old Grange, Warren Estate,  
Lordship Rd, Writtle, Chelmsford, Essex CM1 3WT  
Company Registration Number: 9361038 Director: Sharon M.Hosegood



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• • • Outline of Area Order TPO 199 (2020)

● Potential tree for inclusion in Tree Preservation Order

T1 Walnut

T2 Sycamore

T3 Sycamore

Please note this is not based on a topographical drawing, and therefore tree locations need to be checked on site

Notes

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- 2. Discrepancies must be reported to the Arboricultural Consultant before proceeding
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- 5. This drawing is copyright © Sharon Hosegood Associates Ltd

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Sharon Hosegood ASSOCIATES t: 01245 210420 www.sharonhosegoodassociates.co.uk

Client  
North Hertfordshire District Council

Site Address  
Land to the West of Lucas Lane and East of 'Headlands' Grays Lane, Hitchin, Hertfordshire SG5 2HR

Drawing Title	Orientation	Drawn	Authorized
Tree Preservation Order Plan		ND-H	SMD-H














Date 19.11.20 Drawing Number SHA 1300 TP Scale 1:750@A3 Drawing Status For Issue

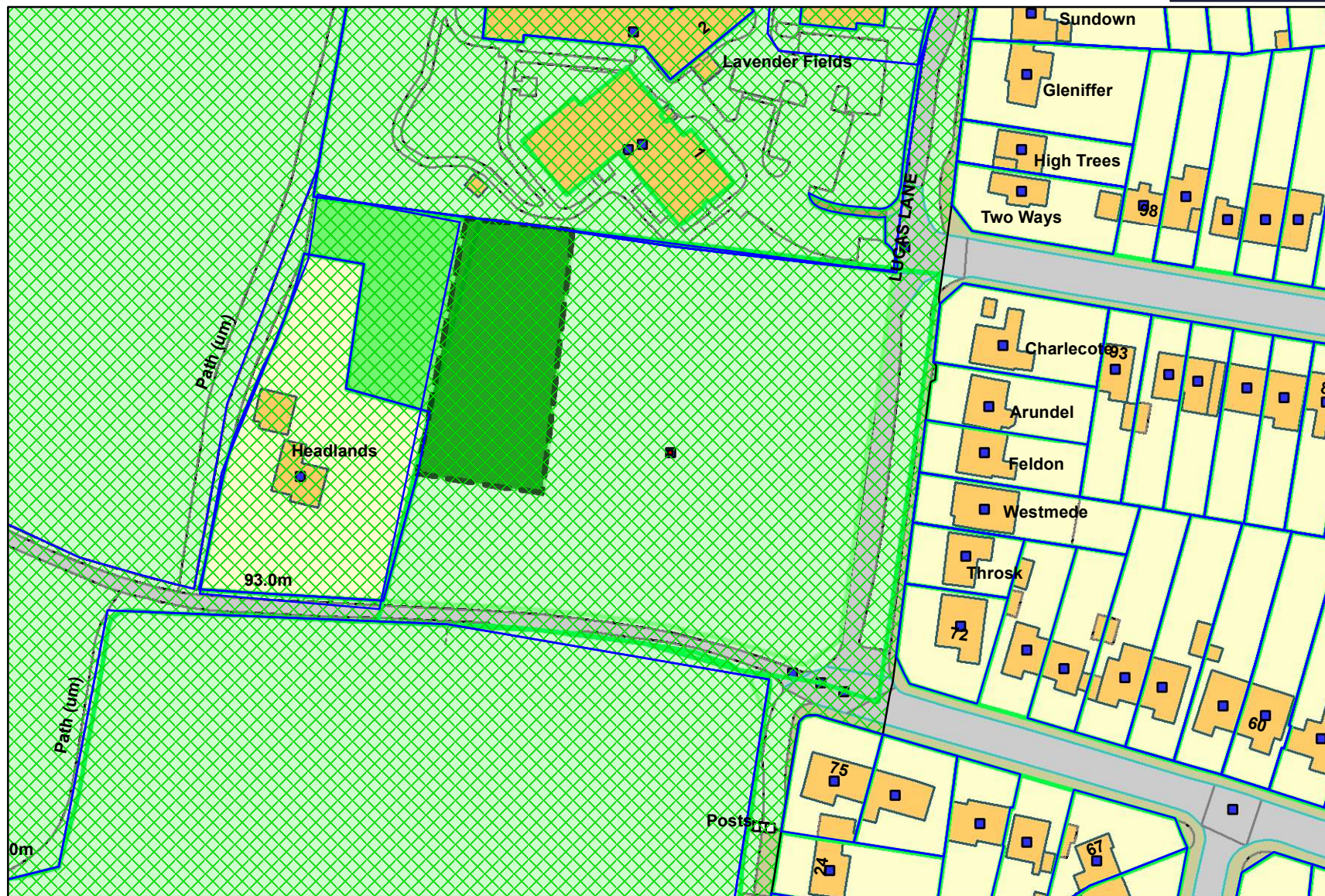
Revision  
-

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## Application Validation Sheet

TPO 199 Land to the West of Lucas Lane and East of Headlands, Grays Lane, Hitchin, Herts, SG5 2HR

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



Scale 1:1,250

Date: 05/01/2021

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**PLANNING CONTROL COMMITTEE**

**DATE: 24 February 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>
Mr J Sapsed	Agricultural Determination: Agricultural building for housing cattle, storage of machinery and feed. (Amended plan showing extent of yard area received 16/06/20).	Land At Mill End Sandon SG9 0RN	20/01078/AG	Appeal Dismissed On 08 February 2021	Delegated	The Inspector stated that the appeal scheme would not comply with the description of permitted development as it is set out by Schedule 2, Part 6, Class A of the GPDO.
MBNL (EE UK LTD & H3G UK LTD)	Installation of 20m high slimline tower supporting 12 no antenna apertures with the installation of 7 no ground-based equipment cabinets and ancillary development	Telecommunication Mast On Stotfold Road Letchworth Garden City SG6 4JR	20/00932/TD	Appeal Dismissed On 08 February 2021	Delegated	The Inspector included the appeal scheme be inappropriate in terms of its siting and design. This would render the scheme unacceptable under the prior approval requirements of Schedule 2, Part 16, Class A of the GPDO1.
R Marvell	Erection of one 2-bed bungalow including parking, landscaping and amenity space	Land Adjacent To Driveway To Amberley And Everglades Maiden Street Weston Hertfordshire	20/00790/FP	Appeal Allowed On 09 February 2021	Delegated	The Inspector concluded that the proposed development would not be inappropriate development in the Green Belt and that the character and appearance of the Weston Conservation Area would be preserved.



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## Appeal Decision

Site visit made on 27 January 2021

**by John Morrison BA (Hons) MSc MRTPI**

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

**Decision date: 9 February 2021**

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**Appeal Ref: APP/X1925/W/20/3261445**

**Land off private driveway serving Amberley and Everglades and garden of No 1 Mill Ground, Maiden Street, Weston, Hitchin SG4 7AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by R Marvell against the decision of North Hertfordshire District Council.
  - The application Ref 20/00790/FP, dated 3 April 2020, was refused by notice dated 18 August 2020.
  - The development proposed is a new bungalow together with parking, landscaping and amenity space.
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### Decision

1. The appeal is allowed and planning permission is granted for a new bungalow together with parking, landscaping and amenity space at land off private driveway serving Amberley and Everglades and garden of No 1 Mill Ground, Maiden Street, Weston, Hitchin SG4 7AA in accordance with the terms of the application, Ref 20/00790/FP, dated 3 April 2020, subject to the conditions set out in the attached schedule.

### Main Issues

2. There are two main issues. These are a) whether the appeal scheme would be inappropriate development in the Green Belt; and b) whether or not the proposed development would preserve or enhance the character or appearance of the Weston Conservation Area (WCA).

### Reasons

#### *Inappropriate Development*

3. Weston is washed over by the Green Belt. Paragraph 143 of the Framework<sup>1</sup> explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 goes on to say that the construction of new buildings should be regarded as inappropriate development in the Green Belt. The closed list of exceptions to this general presumption includes limited infilling in villages.
4. The appeal site is a small parcel of land well contained within the built up area of Weston. There seems little doubt therefore that the appeal site is within the

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<sup>1</sup> The National Planning Policy Framework 2019

village. Moreover, as a proposal for a single dwelling amongst and surrounded by other such buildings, I would be content in defining the appeal scheme as being infill development that is limited.

5. The proposed development would not therefore be inappropriate development in the Green Belt. It would subsequently comply with the Framework in that regard. Saved Policy 3 of the Local Plan<sup>2</sup> suggests that development in settlements within the Green Belt may be acceptable where, amongst other things, it is for a single dwelling on a small plot located within the built core of the settlement, which will not result in the outward expansion of the settlement. For the purposes of this main issue and taking into account my earlier findings, I do not see any conflict with saved Policy 3.

#### *The Weston Conservation Area*

6. The appeal site is an area of land currently laid to grass. It is in shared ownership and appears to be used for vehicular parking, a number of ancillary outbuildings and access to rear gardens. The private driveway running north west from Maiden Street gives access to the appeal site, as well as to two other dwellings. These backland plots give some depth to the development pattern in the immediate area and are far from anomalous in themselves. There is a tightness and clustered feel to built form in the village, particularly as it sits between Fore Street and Maiden Street.
7. The proposed development would site a detached bungalow on the plot and whilst it would consolidate backland development in the area, I do not find, with the above in mind, that would give rise to harm to the WCA. The plot would be small and certainly less spacious than the ones immediately around it. That said, the bungalow itself would be modest and thus sit suitably within its plot. In addition, plot sizes, both frontage and backland ones, vary noticeably as they surround the appeal site with no obvious uniformity of garden size, shape or siting of the main building within them. Whilst it seems evident that some of the spacious feel of the WCA in terms of plots and large gardens may have been lost over time I genuinely feel, about the area immediately around the appeal site at least, that the proverbial horse bolted some time ago. This has resulted in an evolution of the character of the immediate area to the point that the erection of a modest single bungalow would not, in itself, give rise to harm to the WCA.
8. In regard to this main issue therefore, the character and appearance of the WCA would be preserved. There would thus be no conflict with either the aims of section 16 of the Framework or the design criteria of saved Policy 57 of the Local Plan which states, amongst other things, that the design and layout of new houses should be acceptable in visual terms and achieve the highest standards of design.

#### **Other Matters**

9. Some concerns have been expressed by third parties. On the matter of a mature oak tree, this appears to be within the boundary of an adjoining garden and, when comparing that to the proposed siting of the bungalow, it does not strike me that it would be adversely affected. The privacy of neighbours would be protected by the single storey nature of the proposed development and

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<sup>2</sup> North Hertfordshire District Local Plan No. 2 with Alterations Saved Policies – September 2007

modest size of the dwelling ensuring good distance from shared boundaries. The proposed dwelling would be much newer than those around it but there is a noticeable diversity in building design in the small cluster around the appeal site. Such that the relatively simple design and shape of the proposed development would sit appropriately and largely unobtrusively within it.

### **Conditions**

10. I have had regard to the conditions suggested by the Council. I have imposed the following for the reasons I have given, having made some changes to wording in the interests of clarity and enforceability.
11. For certainty, I have imposed conditions pertaining to the approved plans and the timescale for the commencement of works. A condition requiring the agreement of the external materials is necessary in the interests of a good quality appearance for the WCA. Given what this condition seeks to achieve, the details will need to be agreed prior to the commencement of development. I have not required a formal landscaping scheme to be submitted. It seems a touch overkill for what is a modest plot with a small dwelling in a residential area. That said, and in the interests of good design, I have required details of boundary treatments to be submitted albeit it will be sufficient for them to be agreed prior to the first occupation of the dwelling.
12. I do not see that there is sufficient justification to remove rights under permitted development. The location and type of the dwelling and the space between it and its boundaries should be largely self-governing in that regard. Similarly, I do not feel that requiring an electrical vehicle charging point can be justified nor indeed would the proposed development be unacceptable without one.
13. I have imposed a condition requiring the parking areas as shown on the approved plans to be laid out prior to the first occupation of the dwelling in the interests of ensuring that vehicles are parked clear of the highway and the shared access driveway. I have also required, prior to occupation of the dwelling and in the interests of its effective operation, details of facilities for the storage of waste and recycling.
14. I acknowledge the comments of the Council's Environmental Health team on the matter of contaminated land and the conditions as such suggested. I am mindful that, as a vacant and previously undeveloped garden type site there is very limited chance of there being any land contamination and as such I do not see it necessary or justified to include the suite of actions suggested. I feel it would be sufficient to impose a condition requiring action in the event contamination is discovered during works. This would only bite if any contamination was discovered. I have also imposed conditions responding to the potential archaeological interest of the site, requiring proportionate action and timing therefore.

### **Conclusion**

15. For the reasons and subject to the conditions below, the appeal is allowed.

*John Morrison*

INSPECTOR

## **CONDITIONS SCHEDULE**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with approved plan reference 20201-01, dated Jan 20.
- 3) No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) Prior to the first occupation of the dwelling hereby permitted, details of the boundary treatments to be used shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The vehicle parking and circulation areas as they are shown on the plan hereby approved shall be laid out on site prior to the first occupation of the dwelling hereby permitted.
- 6) Prior to the first occupation of the dwelling hereby permitted, details of a scheme for the storage of waste and recycling shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 8) No demolition/development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) the provision to be made for analysis of the site investigation and recording;
  - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

- 9) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 8.
- 10) The development hereby permitted shall not be first occupied 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 8 and the provision made for analysis and publication where appropriate.

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## Appeal Decision

Site visit made on 27 January 2021

**by John Morrison BA (Hons) MSc MRTPI**

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

**Decision date: 8 February 2021**

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**Appeal Ref: APP/X1925/W/20/3258590**

**Stotfold Road, Letchworth Garden City SG6 4JS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
  - The appeal is made by MBNL (EE UK LTD & H3G UK LTD) against the decision of North Hertfordshire District Council.
  - The application Ref 20/00932/TD, dated 4 May 2020, was refused by notice dated 12 June 2020.
  - The development proposed is the installation of a 20m high slimline tower supporting 12 no antenna apertures with the installation of 7 no ground-based equipment cabinets and ancillary development.
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### Decision

1. The appeal is dismissed.

### Main Issue

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

### Reasons

3. The appeal site is the corner of a flat grass field adjacent to a double roundabout road junction. A cemetery lies on the opposite side of Stotfold Road (to the west). To the south east is the edge of the built up area of Letchworth. There is a small amenity area which includes two wooden benches to the front of the appeal site, surrounded by trees and hedges. Stotfold Road is the main route into the western side of Letchworth. There is an existing telecommunications mast on Stotfold Road, directly outside the access point for the cemetery. Stotfold Road is lit by street lampstands in the vicinity of the appeal site.
4. The proposed pole would be substantial in height. At 20 metres, it would be twice the height of the lampstands that line the local roads and thus noticeably out of scale with any other slim profile local feature. It would become a focal point in its own right and therefore something of an overly obvious industrial type structure set in a predominantly rural context on the edge of a residential area. Its visual influence would be very wide given the general flatness of the local landscape, an effect exacerbated by the noticeably wider profile sections at the top. The tree cover around the road junction would offer some screening

and natural backdrop but their effect would be very localised and seasonal and their stature in any event would not sufficiently compete with the pole to acceptably reduce its visual impact.

5. The evidence suggests that the scheme before me is for replacement apparatus but no indication that the existing pole on Stotfold Road will be removed. In any case, the proposed pole would be noticeably taller even than that and with a more bulky, open profile and substantially less sleek top than the existing which itself is also sat in amongst a row of street lampstands. The appeal site is the edge of a green field, largely bereft of built form or other infrastructure. In addition, the area to the front of the appeal site is currently used as a small seating and amenity area. The appeal of which would be significantly reduced by this overbearing structure.
6. The ancillary cabinets, in terms of their intended finish, number and size, would be able to sit closer to ground level and thus be largely unobtrusive. I also note that the pole would be finished in a neutral colour, similar to existing street furniture. Be these matters as they may, they would not be sufficient to reduce the harm the height and design of the pole as a whole would cause, for the reasons I have set out.
7. The appeal scheme would therefore, with the above in mind, be inappropriate in terms of its siting and design. This would render the scheme unacceptable under the prior approval requirements of Schedule 2, Part 16, Class A of the GPDO<sup>1</sup>.

### **Other Matters**

8. I see from the evidence that the appellant does undertake a careful site selection process albeit their assessment seems to be more geared towards optimising coverage than considering the visual context. In addition, I have not seen a sufficiently comprehensive assessment that dismisses other sites in favour of this one. In any case, the dismissal of alternative locations does not mean the erection of the pole at the appeal site would be acceptable and not give rise to harm. I am also mindful that the establishment of a support network for the roll out of 5G is an important priority for improving telecommunications in the UK. That said, I remain unconvinced, for the above reasons, that the appeal site is the right location for the pole proposed. I am not therefore led to allowing the appeal for this reason.

### **Conclusion**

9. For the reasons I have explained above, the appeal is dismissed.

*John Morrison*

INSEPECTOR

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<sup>1</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)



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## Appeal Decision

Site visit made on 27 January 2021

**by John Morrison BA (Hons) MSc MRTPI**

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

**Decision date: 8 February 2021**

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**Appeal Ref: APP/X1925/W/20/3256050**

**Millbury Farm, Mill End, Sandon, Buntingford SG9 0RN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr J Sapsed against the decision of North Hertfordshire District Council.
  - The application Ref 20/01078/AG, dated 22 May 2020, was refused by notice dated 18 June 2020.
  - The development proposed is an agricultural building for housing cattle, storage of machinery and feed.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposed development would comply with the provisions of Schedule 2, Part 6, Class A of the GPDO with specific regard to the amount of new development.

### Reasons

3. The appeal scheme proposes the erection of a new agricultural building, a hardstanding apron in front of it and a three metre wide access track running to it from and existing access adjacent to Mill End.
4. Part 6 of the GPDO defines permitted development under its provisions as the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more (as is the unit subject of the appeal) in area of a) works for the erection, extension or alteration of a building; or b) any excavation or engineering operations. It seems sufficiently clear from this that such works could be either a building or excavation or engineering operations. It could also conceivably be both as there is nothing explicit in the provision of Part 6 that says it could not be.
5. Indeed, Part 6 goes on to say that development is not permitted if the ground area which would be covered by (i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or (ii) any building erected or extended or altered by virtue of Class A, would exceed 1000 square metres, calculated as described in

paragraph D.1(2)(a). Paragraph D.1(2)(a) defines ground area as that which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks within the same unit which are being provided or have been provided within the preceding 2 years and any part of which would be within 90 metres of the proposed development.

6. For me, this is explicit that permitted development can be both a building and works and sufficiently implicit, based on the fact it is defined as to what can make up the 1000 square metres, that it should be concerned with a sum total of a given proposal. Or indeed any such that has been carried out within the preceding two years and be within 90 metres of the given proposal. By fault or design, I feel this is sufficiently clear by a common sense understanding of the wording of Part 6.
7. The ground area of the building proposed as part of this submission for prior approval would fall well below the 1000 square metre allowance. However, the scheme also includes the provision of a three metre wide access track of substantial length. Such that it would take the combined total over the permitted 1000 square metres. The provision of an access track could be described as works for the purposes of paragraph D.1(2)(a) and indeed an engineering operation for the purposes of Class A.
8. I note the appellant's comments regarding the allowances for works and engineering operations (hardstanding in this case) in the relevant section of Part 6 concerning units under 5 hectares. However, the submission before me concerns Class A. It has been accordingly considered under its specific provisions.

### **Conclusion**

9. Taking the above into account, it seems sufficiently clear to me that the appeal scheme would not comply with the description of permitted development as it is set out by Schedule 2, Part 6, Class A of the GPDO. The appeal is therefore dismissed.

*John Morrison*

INSPECTOR