

NORTH HERTFORDSHIRE DISTRICT COUNCIL



14 May 2021

Our Ref Planning Control – 27.05.2021
Contact. Committee Services
Direct Dial. (01462) 474655
Email. committee.services@north-herts.gov.uk

To: Membership of the Planning Control Committee will be confirmed at Annual Council and only those Members, and if required substitutes, on the Committee will be required to attend the meeting.

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE PLANNING CONTROL COMMITTEE

to be held in the

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

On

THURSDAY, 27TH MAY, 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

Item		Page
1. APOLOGIES FOR ABSENCE	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.	
2. MINUTES - 12 APRIL 2021 - 14 APRIL 2021	To take as read and approve as a true record the minutes of the meeting of the Committee held on the 12 April 2021 and 14 April 2021.	(Pages 5 - 36)
3. NOTIFICATION OF OTHER BUSINESS	Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chair will decide whether any item(s) raised will be considered.	
4. CHAIR'S ANNOUNCEMENTS	Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
5. PUBLIC PARTICIPATION	To receive petitions, comments and questions from the public.	
6. 19/00520/OP LAND BETWEEN CROFT LANE NORTON ROAD AND, CASHIO LANE, LETCHWORTH GARDEN CITY, HERTFORDSHIRE REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	Outline planning application for residential development of up to 42 dwellings, all matters reserved but access (as amended by plans and information received 09-06- 2020, 23-07-2020 and 10-12-2020).	(Pages 37 - 74)

7. **21/00290/FP KNEB WORTH ESTATE, KNEB WORTH PARK, OLD KNEB WORTH, KNEB WORTH, HERTFORDSHIRE, SG3 6PY** (Pages 75 - 90)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Temporary use of land for film making with associated temporary set and supporting facilities vehicles, access, parking and storage for 23 weeks alongside the removal of part of an existing bund.
8. **20/03072/S73 THE GABLES, HIGH STREET, BARLEY, ROYSTON, HERTFORDSHIRE, SG8 8HY** (Pages 91 - 186)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Relating to Application 18/03349/S73 granted on 15/03/2019 - Variation of Condition 2 (Approved Plans) to facilitate relocation of parking at plots 5 and 6, change of external material at plot 5 and variations to the dwelling type, scale and appearance of plots 3 and 8.
9. **20/03070/FP LAND DEVELOPMENT SITE OFF, STATION ROAD, ASHWELL, HERTFORDSHIRE** (Pages 187 - 220)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Residential development of 28 no. dwellings and landscaping including pond, wildflower meadow and woodland and associated infrastructure.
10. **PLANNING APPEALS** (Pages 221 - 230)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

This page is intentionally left blank

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

**MEETING HELD AS A VIRTUAL MEETING
ON MONDAY, 12TH APRIL, 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, Tom Tyson and George Davies (In place of Ian Moody)*

In Attendance: *Simon Ellis (Development and Conservation Manager), Nurainatta Katevu (Legal Regulatory Team Manager and Deputy Monitoring Officer), Melissa Tyler (Senior Planning Officer), Sam Dicocco (Senior Strategic Sites Officer) and Anna Gouveia (Committee, Member and Scrutiny Officer)*

Hertfordshire County Council Officers: Roger Taylor (Principal Engineer, Development Management), Ania Jakacka (Senior Highway Officer) Mark Youngman (Group Manager), Daniel Tancock (Strategy and Programmes Manager) and Dave Hill (Passenger Transport Unit)

Also Present: *At the commencement of the meeting approximately 9 members of the public, including registered speakers. Councillors Carol Stanier, Helen Oliver and Jim McNally were in attendance as Member Advocates. William Edwards was also present as IT Support.*

125 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY

Audio recording – 24 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; and
- Part 2 Items.

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

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

126 APOLOGIES FOR ABSENCE

Audio recording – 6 minutes 3 seconds

Apologies for absence were received from Councillor Ian Moody.

Having given due notice, Councillor George Davies advised that he was substituting for Councillor Ian Moody.

127 MINUTES - 18 MARCH 2021

Audio Recording – 6 minutes 13 seconds

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

RESOLVED:

- (1) That the Minutes of the Meeting of the Committee held on 18 March 2021 be approved as a true record of the proceedings and be signed by the Chair; and
- (2) That, with the authorisation of the Chair, her electronic signature and initials be attached to the Minutes approved in (1) above.

128 NOTIFICATION OF OTHER BUSINESS

Audio recording – 7 minutes 6 seconds

There was no other business notified.

129 CHAIR'S ANNOUNCEMENTS

Audio recording – 7 minutes 11 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;
- (5) The Chair advised that the time provided for speeches had been extended for Item 8 only by 5 minutes for each group of speakers i.e. 10 minutes for objectors and 10 minutes for supporters. This 10 minute time limit also applied to Member Advocates;
- (6) The Chair advised that a comfort break would be held at around 9pm or after Item 7.

In response to a comment by Councillor Hunter, the Chair advised that careful planning would go into the scheduling of applications on future Committee agendas to avoid meetings going past 11pm where possible.

130 PUBLIC PARTICIPATION

Audio recording – 10 minutes 43 seconds

The Chair confirmed that the registered speakers were in attendance.

131 20/00744/OP LAND OPPOSITE HEATH FARM, BRIARY LANE, ROYSTON, HERTFORDSHIRE

Audio recording – 10 minutes 54 seconds

Outline planning application for up to 99 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation, vehicular access point via the demolition of an existing property on Echo Hill (all matters to be reserved save access).

The Senior Planning Officer presented the report in respect of application 20/00744/OP supported by a visual presentation consisting of photographs and plans and provided the Committee with the following updates:

- Additional representations had been received since the publication of the report;
- Natural England had stated that following removal of the emergency access they had no objection subject to appropriate mitigation being secured by the Section 106;
- An email had been received from Therfield Heath Conservators regarding concerns about the report and recommendation being presented to the Committee this evening – this representation had been responded to and did not change the recommendation for approval or the details in the Heads of Terms in the Section 106;
- A letter from Buxton Solicitors on behalf of the action group 'Say No To Gladman' had been received and a response from the NHDC legal advisor had been sent covering the issues raised regarding access, the EIA, the tilted balance and the SSSI, and concluding that NHDC did not consider that there was a risk of judicial review should the Committee be minded to grant the application;
- A late representation had been received regarding land ownership and access. This issue had been raised numerous times and the applicant had responded stating that no third-party land has been included and this had been checked and confirmed on numerous occasions. Any dispute would be a civil matter and not a planning consideration.

Spelling mistakes and clarifications on the Report

- There was an error in the text of the Report at Section 1.4 – the text was out of date and should be in line with what was stated in Section 4.3.16 where the emerging Local Plan was now well advanced and the Local Plan Inspector had issued their proposed further modifications following the additional hearings earlier that year;
- 4.3.28 – there was a spelling mistake: ‘tiled balance’ should read ‘tilted balance’;
- 4.4.3 – ‘can be sustained at appeal’ should read ‘cannot be sustained at appeal’.

Conditions – changes to wording

- Condition 22 – Section E added ‘details of a phased landscaping scheme of all planting to be submitted with agreed triggers’;
- Condition 24 – ‘hedges’ had been added to trees in the wording where appropriate to ensure their protection;
- Informative 11, Design – Wording had been added so the first sentence would read: ‘Given the topography of the site and the general character of the area, as part of any reserve matter application, the inclusion of a single storey development on the more sensitive areas of the development should be considered and any development above two storeys needs to be carefully considered and adequately justified.’.

The following Member asked a question of clarification:

- Councillor David Levett.

The Senior Planning Officer responded as follows:

- The planners had given pre-application advice that means of access, layout and scale should be dealt with at outline stage, however the applicant had chosen not to go down that route and therefore the application as presented had been considered.

Ms Melanie Hill and Ms Clare Swarbrick thanked the Chair for the opportunity to address the Committee in objection to application 20/00744/OP.

Ms Hill gave a verbal presentation including:

- Ms Hill represented the group ‘Royston Says No to Gladman’ and over 450 residents and households who objected to the application;
- She also lived next to the property due to be demolished;
- This application was worse than the previous application in terms of access, planning balance and sustainability;
- There were safety concerns with regard to the demolition of the adjoining property. Gladman had offered to buy two further properties to demolish for access;
- Restrictive covenants existed on every property on Echo Hill which residents would enforce;
- Deeds showed that the applicant did not own all the land required for access;
- Several of Hertfordshire County Council Highways (HCCH) Planning Conditions (including No 5 and No 1) could not be achieved, in relation to achieving gradients and also reserved matters relating to access;
- The Demand Responsive Transport proposed to deal with the lack of a bus stop within 400 metres of the development was in her view flawed;
- The Conservators of Therfield Heath and Greens had refused permission for mitigation works on their land, and were very unhappy with the detail of S106 proposals;

- In her view HCCH had failed in their statutory duty to consult under point 3 of the Planning and Compulsory Purchase Act 2004 and NHDC should have made available to the public or other consultees the evidence used in accordance with The Town and Country Planning Order 2015;
- No time had been given for public consultation on Natural England's response;
- In her view there was no credible evidence of SSSI mitigation measures;
- No new EIA had been carried out;
- The NPPF specifically stated that local authorities could refuse such schemes, even if the five-year land supply had yet to be agreed, if the adverse impacts significantly and demonstrably outweighed the benefits as she considered they did in this case.

The following Members asked questions of clarification:

- Councillor Tom Tyson;
- Councillor Daniel Allen;
- Councillor Mike Rice.

Ms Clare Swarbrick responded to questions as follows:

- Residents on Echo Hill would be prepared to enforce the covenant which stated that the properties could not be demolished;
- Three documents had not been seen by residents;
- The applicant did not own all the land required for access – there was a boundaries dispute between numbers 23 and 24;
- It was noted that 350 viewers were currently watching the meeting via YouTube.

Councillor Carol Stanier, Member Advocate, thanked the Chair for the opportunity to address the Committee in objection to application 20/00744/OP.

Councillor Carol Stanier gave a verbal presentation including:

- Access to the site via Briary Lane/ Sun Hill was narrow and heavily parked up;
- The road was not suitable as the only access to a large estate and for the large amount of traffic this development would generate;
- Large vehicles already had problems accessing parts of Echo Hill;
- The development was too far from the centre to walk or cycle with Echo Hill being very steep;
- The development would be an obstacle to achieving the Sustainable Travel Town status as it would encourage car use over alternative more sustainable means of transport;
- The proposed development was not in the current or emerging local plan and it was a greenfield site;
- The proposed development threatened biodiversity and the SSSI;
- There would be a negative impact on the view of the landscape, particularly from the Heath;
- Royston Town Council strongly objected to the development;
- Concerns regarding NHDC's fulfilment of its statutory duties should be resolved before proceeding.

Ms Sian Gulliver thanked the Chair for the opportunity to address the Committee in support of application 20/00744/OP.

Ms Gulliver gave a verbal presentation including:

- Gladman had worked closely with officers and statutory consultees to address any concerns raised, and all of the reasons for refusal of the previous application had been overcome;
- The proposed number of dwellings had been reduced and measures including additional structural planting, landscape buffers and a reduction in the scale and density of development along the development edge had been incorporated, to ensure the development would be assimilated into the local landscape;
- The substantial on-site open space provision, including new walking routes, in combination with a financial contribution towards a warden as part of the heath management programme, would ensure that the development had no detrimental impact on the SSSI;
- Following the removal of a proposed emergency access off Briary Lane, which was not required to make a safe access, no part of the application site lay within the SSSI land;
- Access from Echo Hill was deemed safe and acceptable to County Council highways officers;
- The applicant had agreed to a financial contribution of £120,000 to enable their current Demand Responsive Transport Service coverage area to be extended to cater for this site. This would ensure that new residents had access to an affordable public transport service directly from and back to their homes;
- In the context of a five-year housing land supply of just 2.2 years, equating to a significant shortfall of more than 3,300 houses, the delivery of up to 99 dwellings on this site, including 40% affordable, would make an important contribution to the Council's future supply;
- The development would revert ecologically poor farmland to chalk heathland habitat, enhancing biodiversity;
- Footway improvements would be made along Sun Hill to improve pedestrian connectivity into the town centre;
- The proposals incorporated a range of measures to mitigate and adapt to climate change. For example, every home would be equipped with an electric vehicle charging point and cycle or mobility vehicle storage, and more than 50% would have south-facing habitable rooms, so would benefit from solar gain.
- As concluded by the case officer, conflict with policy would not in itself significantly and demonstrably outweigh the benefits of the proposals, and it had been established that there were no technical matters precluding planning permission being granted.

The following Members asked questions of clarification:

- Councillor David Levett;
- Councillor Ruth Brown.

Ms Gulliver responded to questions including:

- Following pre-application advice, Gladman produced a revised scheme and were satisfied that remaining matters could be dealt with at reserved matters stage;
- Detailed drawings had been prepared for the access proposals and it had been demonstrated that the gradients would allow the application site to be accessed suitably. This had also been agreed by Highways and no concerns had been raised about accessibility for wheelchair users.

Mr Roger Taylor, Hertfordshire County Council responded to points raised regarding highways as follows:

- The gradient was 1:15 which was less than the existing road which was 1:20 and a mobility scooter would be able to go up such a slope;
- Safety Audits were usually carried out on new developments and new roads, or roads with a history of accidents which this road did not have;

The Senior Planning Officer responded to a question regarding the ownership of land as follows:

- There was a disagreement concerning the ownership of land which was a civil matter and not a planning consideration.

In response to a Point of Order from Councillor David Levett, Councillor Ruth Brown confirmed that she did not have a declarable interest as she did not sit on the Royston Town Council Planning Committee.

The following Members took part in the debate:

- Councillor Tony Hunter;
- Councillor George Davies;
- Councillor David Levett;
- Councillor Ruth Brown;
- Councillor Daniel Allen.

Points raised in the debate included:

- A Safety Audit of Echo Hill was not present in the documentation and Safety Audits had been done in the past for other planning applications in the area;
- The site proposed was not included in the emerging Local Plan (which was close to being implemented) and did not comply with all the policies in it;
- The covenants on the Echo Hill houses and the fact that this was an application for Outline Planning Permission meant that the scheme would not be immediately deliverable therefore would not help with the housing delivery test;
- The application had only 8 units less than the previous one;
- The Demand Responsive Transport scheme would only last as long as the £120,000 provided for it was available unless it was a commercial operation;
- Any benefits did not clearly outweigh the demonstrable and significant impacts on the area, particularly Therfield Heath and the views from it;
- The development was in conflict with Saved Policy 6, CGB1, SP5 and NE1 of the emerging local plan;

The Development and Conservation Manager advised the Committee on possible grounds for refusal.

It was proposed by Councillor David Levett, seconded by Councillor Ruth Brown, and upon being put to the vote it was:

RESOLVED: That application 20/00744/OP be **REFUSED** planning permission for the following reasons:

- (1) By reason of its prominent position and the topography of the site and location outside the settlement boundary of Royston, the proposed development would be likely to result in significant localised adverse impacts on both the character of the area and visual receptors, particularly when viewed from certain locations on Royston Heath. While these impacts could be mitigated to a limited extent, the combination of residential built form on high ground and the associated urbanising infrastructure, and development breaking the skyline, would act to occasion a marked and adverse change in the character of the immediate and intermediate locality and wider valued landscape. This adverse impact would represent conflict with the aims of the NPPF and Policies CGB1, SP5, SP12c and NE1 of the emerging local plan and Policies 6 and 21 of the Saved local plan.
- (2) At the time of determination the planning application, the subject of this decision notice, has not been accompanied by a valid legal undertaking (in the form of a completed S106 Obligation) securing the provision of the requisite infrastructure and financial contributions towards off site infrastructure or on site affordable housing. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Saved Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations or proposed Local Plan Policy HS2 of the Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as a sustainable form of development contrary to the requirements of the National Planning Policy Framework (NPPF).

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

NB: The Committee took a comfort break at 20.56

The meeting resumed at 21.04 at which time the Committee, Member and Scrutiny Officer undertook a roll call.

132 19/00520/OP LAND BETWEEN CROFT LANE NORTON ROAD AND CASHIO LANE, LETCHWORTH GARDEN CITY, HERTFORDSHIRE

Audio recording – 1 hour 37 minutes 21 seconds

Outline planning application for residential development of up to 42 dwellings, all matters reserved but access (as amended by plans and information received 09-06-2020, 23-07-2020 and 10-12-2020).

It was confirmed that none of the Committee Members were Hertfordshire County Councillors and therefore did not have a declarable interest as Hertfordshire County Council owned the land.

Councillor Morgan Derbyshire declared that he was acting as Member Advocate on this item and would therefore not take part in the debate and vote.

The Senior Strategic Sites Officer presented the report in respect of application 19/00520/OP and provided the Committee with the following updates:

- There was a technical issue with the Planning Officer's report in that the Conditions requested had not been fully included in the report which had been published on the website;
- Condition 1: Reference to 'means of access' had been deleted and replaced with 'internal access', as means of access was unreserved within the application under consideration;
- Conditions 3 and 4: reference to 'demolition' had been removed, as no demolition was proposed at part of this development;
- Highways Conditions 16-21: All of the beginnings of these Conditions had been updated to include: 'The occupation of development authorised by this permission shall not begin...' and then continue to have exactly the same contents other than the following:
- Condition 17: Drawing number ST-2571-22 Swept Path Analysis Croft Lane Option 7b had been added;
- Condition 18 had been shortened and would now read as follows:

'The occupation of the development authorised by this permission shall not begin until the offsite highway improvement works as indicated on drawings numbered ST-2571-21-A Means of Access Croft Lane Option 7b, ST-2571-18-B Croft Lane Access Strategy and ST-2571-22 Swept Path Analysis Croft Lane Option 7b have been undertaken. The potential footway and crossing on Norton Road (contribution towards Highway Authority) presented on drawing Croft Lane Access Strategy, ST-2571-18-B should be changed to: Provision of footway and signalised pedestrian crossing on Norton Road (the works to be undertaken under s278 works). The works shall be completed to the satisfaction of the local planning authority and highway authority before occupation of the development.'

Reason: To ensure construction of satisfactory development that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policies 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

- Former Points a, b and c of Condition 18 had been removed as they were included in up-to-date drawings, so did not need to be included in the Condition. The Condition did not reduce the amount of s278 works required or the works required on the road to make the access safe;
- There were two additional prior to commencement Conditions: Condition 25 to ensure that the details of the offsite highway improvement works are submitted to and approved in writing by the local planning authority, the details to include surface materials, footpath surfaces, kerbs, grass verges, bollards, signage, street lighting within the site, road markings and paintings, and details of the speed tables and Sinusoidal ramps proposed offsite. This condition was to ensure that best efforts were made, in terms of fine detailing, to preserve the quality of the site surroundings as a heritage asset;
- Condition 26 which requires that the offsite highway improvement works shown on the proposed details and plans provide details of how the trees off the site are going to be protected whilst undertaking the s278 works to improve offsite highways provision, that includes the widening of Croft Lane at the access points and the widening of the footpaths to two metres as detailed in the officer's report and as detailed in the approved drawings.

Councillor Allen raised a Point of Order that with this level of change to the report, with the Committee not having had time to review it, and due to the fact that some objectors had employed highways consultants (and the changed Conditions related to highways and access), he did not think the Committee should be considering this application any further at this meeting.

The Legal Regulatory Team Manager and Deputy Monitoring Officer advised that deferral for the reason given by Councillor Allen was a matter for Members to decide upon. The Development and Conservation Manager confirmed that the earliest date which the Committee could consider the deferred application would be 27 May 2021.

The following Members commented on the proposed deferral:

- Councillor David Levett;
- Councillor Tony Hunter;
- Councillor Mike Rice.

It was proposed by Councillor Daniel Allen, seconded by Councillor Val Bryant, and upon being put to the vote it was:

RESOLVED: That application 19/00520/OP be **DEFERRED** for the following reason:

To allow the Committee sufficient time to consider updated information.

133 20/01098/FP THE BOOT, 73 HIGH STREET, BALDOCK, HERTFORDSHIRE, SG7 6BP

Audio recording – 1 hour 53 minutes 03 seconds

Two storey side extension, first floor rear and side extensions and change of use of building from Public House and three bedroom flat to C3 Residential to create 4no two bedroom flats and 2no one bedroom flats (as amended by plans received November 2020).

Councillor Sean Prendergast declared an interest in that his mother-in-law owned a property in Pinnocks Lane which was at the back of the proposed development and advised that he would not take part in the debate or vote on this item.

The Senior Planning Officer presented the report in respect of application 20/01098/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked questions of clarification:

- Councillor Daniel Allen;
- Councillor David Levett;
- Councillor Mike Rice.

Points raised included:

- The parking spaces provided would be challenging for larger vehicles to use due to the lack of space in the parking area shown in the plans.

In response to questions raised, the Senior Planning Officer advised that:

- Each car parking space had standard dimensions (approx. 4.8m x approx. 2.14m);
- The Parking SPD dictated that a two bedroomed property would require two spaces and a one bedroomed property would require one space, so to meet the policy, the development would require 10 parking spaces but it only had 4;
- As this was a sustainable location, a view could be taken on providing fewer spaces, in accordance with the Parking SPD;
- More spaces had originally been included but Highways had requested that spaces only be provided that would allow vehicles to enter and exit in a forward gear.

Mr Doug Neath thanked the Chair for the opportunity to address the Committee in objection to application 20/01098/FP.

Mr Neath gave a verbal presentation including:

- He was representing the residents who had complained;
- They had no objection to the change of use but they objected to a number of serious issues, particularly the extension intended to be built on the existing beer garden;
- There were insufficient parking spaces and new residents may try find alternative parking in Pinnocks Lane and Pinnocks Close, where parking was already very limited;
- If the County Council's proposal to introduce double yellow lines along part of these roads went ahead there would not be enough places for residents to park, and they too may have to resort to parking in the High Street causing even more congestion;
- There were concerns over the impact of the proposed extension on the residents in Pinnocks Lane - the height of the proposed extension would greatly diminish the outlook of the properties and would drastically cut down the amount of sunlight reaching them. Some of the residents were keen gardeners who grew flowers and vegetables all year round, and this would seriously affect their ability to continue to do so;
- The extension included three windows which were close to, and overlooked the neighbouring properties, therefore seriously affecting their right to privacy;
- The proposed balcony was extremely close and overlooked the gardens of numbers 3 and 5 Pinnocks Lane leading to a lack of privacy and there was concern over any increased noise levels which may arise from residents using the balcony;
- The site had no provision for any communal area for the occupants to sit outside, or for children to play, nor space to undertake any outside tasks such as drying clothes or washing cars;
- It was felt that the development had been designed to fit as many flats as possible onto the site without any thought for those living there or the surrounding neighbourhood;
- It was considered that the development did not make the best use of the existing building, there was little attempt to make it environmentally friendly, e.g. use of solar panels, and it will not provide a healthy and friendly environment in which to live.

The following Members asked questions of clarification:

- Councillor David Levett;
- Councillor Daniel Allen.

Mr Neath responded to questions including:

- Residents had received a letter in January from the County Council proposing double yellow lines in the area to ease the flow of traffic;
- The development would block the sun from neighbouring gardens in the afternoons.

Councillor Jim McNally, Member Advocate, thanked the Chair for the opportunity to address the Committee in objection to application 20/01098/FP.

Councillor Jim McNally gave a verbal presentation including:

- Residents and businesses were not against the change of use but there were serious concerns about the density of the development, its design in relation to waste bin provision, and the lack of parking which would seriously impact on the local area;
- There did not seem to be adequate space provided for refuse and recycling bins for each dwelling at the development;
- The development did not adhere to the parking policy set out in the Local Plan;
- The parking bays which were provided were small with little room for manoeuvre which could encourage neighbour disputes and anti-social behaviour;
- The on-street parking outside the development was already very busy;
- Parking in the Pinnocks Lane area was already over-subscribed and the situation critical.

Mr Tom Donovan thanked the Chair for the opportunity to address the Committee in support of application 20/01098/FP.

Mr Donovan gave a verbal presentation including:

- The applicant believed that the scheme proposed represented the most sensible use of the site in contributing housing to the shortfall in the district;
- The site was no longer viable as a public house;
- These units were deliverable in the short-term;
- Four parking spaces had been provided which represented a compromise between allocating some car parking and making the development appealing to those who did not have a private vehicle;
- The location was sustainable in proximity to shops and local businesses as well as bus and rail facilities – the SPD contained a mechanism to allow reduction in parking provision in such a situation;
- Other developments had been approved recently with no parking given their highly sustainable locations;
- The Highways Authority had confirmed that the four parking spaces met the necessary standards and were acceptable;
- The discouragement of car parking at the site supported the Council's aim to reduce carbon as alternative methods of transport were being encouraged;
- The balcony in the design had been removed following negotiations;
- Waste provision was intended to be compliant with the Council's waste standards using communal bins provided in the usual way.

The following Member asked a questions of clarification:

- Councillor Daniel Allen

The following Members took part in the debate:

- Councillor Daniel Allen;
- Councillor Tony Hunter;
- Councillor Sue Ngwala;
- Councillor David Levett;
- Councillor Mike Rice;
- Councillor Tom Tyson.

Comments from Members included:

- This was considered to be a good development but parking was a concern for several Members, particularly knowing how bad the parking was in that area;
- The loss of privacy and daylight had been dealt with in the report;
- Refusal on the grounds of lack of parking provision was unlikely to be successful at appeal due to Town Centre developments often being built without any parking;
- A smaller development (less flats) might be more suitable as less parking spaces would be required;
- The location was sustainable with a bus stop and being in the Town Centre;
- There were concerns over proposals to put in double yellow lines in the area which would further reduce the amount of parking available;
- Residents of recent developments which had been approved without parking were finding it a struggle.

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

RESOLVED: That application 20/01098/FP be **GRANTED** planning permission subject to the conditions and reasons contained in the report of the Development and Conservation Manager.

134 PLANNING APPEALS

Audio recording – 2 hours 40 minutes 6 seconds

There were no Planning Appeals to report on at the meeting.

The meeting closed at 10.11 pm

Chair

This page is intentionally left blank

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD AS A VIRTUAL MEETING ON WEDNESDAY, 14TH APRIL, 2021 AT 7.30 PM

MINUTES

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

In Attendance: *Simon Ellis (Development and Conservation Manager) and Nurainatta Katevu (Legal Regulatory Team Manager and Deputy Monitoring Officer), Anne McDonald (Acting Principal Planning Officer), Mark Simmons (Conservation Officer), Andrew Hunter (Senior Planning Officer), William Edwards (Committee, Member and Scrutiny Officer), Matthew Hepburn (Committee, Member and Scrutiny Officer)*

Also Present: *At the commencement of the meeting approximately 15 members of the public, including registered speakers.*

135 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY

Audio Recording – 0 minutes.

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

136 APOLOGIES FOR ABSENCE

Audio recording – 4 minutes 40 seconds.

Apologies for absence were received from Councillors Sean Prendergast and Morgan Derbyshire.

Having given due notice Councillor Carol Stanier advised she would be substituting for Councillor Sean Prendergast.

Having given due notice Councillor Michael Muir advised he would be substituting for Councillor Morgan Derbyshire.

137 MINUTES - 24 MARCH 2021

Audio Recording – 4 minutes 57 seconds.

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

RESOLVED:

- (1) That the Minutes of the Meeting of the Committee held on 24 March 2021 be approved as a true record of the proceedings;
- (2) That the Committee, Member and Scrutiny Officer be authorised to apply the Chair's digital initials and signature to the approved minutes.

138 NOTIFICATION OF OTHER BUSINESS

Audio recording – 5 minutes 45 seconds.

There was no other business notified.

139 CHAIR'S ANNOUNCEMENTS

Audio recording – 5 minutes 46 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.
- (5) The Chair advised that items 10 & 11 and 13 & 14 would be presented together and that the Committee would hear the reports for the paired items back to back then hear representations from registered speakers as usual.

- (6) The Chair advised that Item 14 would be presented before Item 13.
- (7) The Chair advised that a comfort break would be taken around 9pm at a suitable break between business.

140 PUBLIC PARTICIPATION

Audio recording – 7 minutes 58 seconds.

The Chair confirmed that the registered speakers were in attendance.

141 20/01638/FP LAND TO THE REAR OF Nos 61 AND 61A RADCLIFFE ROAD, HITCHIN, SG5 1QG

Audio Recording – 8 minutes 10 seconds.

The Senior Planning Officer presented the report in respect of application 20/01638/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked questions:

- Councillor Val Bryant

In response to questions the Senior Planning Officer advised that the proposed parking spaces would be 2.4 x 4.8 m and that a condition relating to bin storage could be considered.

The Chair invited Mr Duncan Leach and Ms Lisa Montague to address the Committee.

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

- He objected to the application.
- The officer's recommendation was made on the basis of policy documents not relevant to the NPPF and was therefore flawed.
- The 2019 Parking Strategy referred to was not part of the local development plan and should not be considered.
- There was a vehicle parking Supplementary Planning Document from 2011 which should have been considered.
- The vehicle parking SPD stated that there should be no unacceptable residual parking from new developments in a controlled parking zone.
- The norm of parking provision for new developments was 2 spaces per dwelling which should be met in all cases unless a strong evidence case was presented and no such evidence had been provided.
- Paragraph 5.2 of the officer's report stated no alternative options were considered where there were alternative proposals put forward during the consultation phase which would not have the same parking access problems;
- Policy 24 of the NHDC car parking strategy included in the SPD stated the Council will consider the need to include new residents in controlled parking zone permit schemes on a case by case basis taking into consideration planning conditions; the TRO would not need amendment as the Officer claimed;
- This development did not meet the requirements of the local plan and constituted the privatisation of public land for private development at the expense of the local community.

Ms Lisa Montague thanked the Chair for the opportunity to address the Committee and gave a presentation including the following:

- It had been argued that the CPZ had not been altered because the dashed lines remained unchanged and an H-bar had been installed; this was a disingenuous interpretation;
- On this basis no public consultation was required which set a precedent that planning officers be able to drop curbs and make alterations to the street under delegated authority;
- The functionality of the CPZ could be continuously eroded by developers at the expense of residents provided the dashed lines did not change;
- Residents' ability to park was going to be affected;
- The application was not materially different to the proposal put forward in December with residents losing parking, putting more cars on the street, with inadequate parking provision within the development;
- The site could be developed with an alternative scheme with adequate parking without a second drive way.

The Chair invited Councillor Ian Albert to address the Committee.

Councillor Ian Albert thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- Public consultation on the removal of parking spaces from the road was necessary;
- There had been no consultation on the TRO;
- The logical end point of the scheme in the report was that no public consultation would ever be necessary;
- The scheme of consultation on planning applications was different from wider consultation on parking matters for the whole road;
- 226 parking permits were issued for Radcliffe Road where there were around 70 residences;
- A reduction in parking spaces with an increase in residences would have a negative impact on an already congested site;
- The fact the site had been deemed a sustainable location where car parking was not necessary was inaccurate;
- Proposed bin storage solutions were not adequate and the bin collection location was too far away from the development and would negatively impact the narrow pavements;
- The developer had alternative proposals to consider and this application should be rejected.

The following Members asked questions:

- Councillor Daniel Allen
- Councillor Sue Ngwala

In response to questions Councillor Ian Albert advised:

- In his view conditions restricting the sale of further parking permits and requiring bin storage to be an adequate distance from the road were necessary;
- He believed the application should be rejected and the applicant should re-apply with an alternative proposal.

The Chair invited Mr Tom Donovan to address the Committee.

Mr Tom Donovan thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- He was an agent of the applicant speaking in support of the application.
- The question for the Committee was whether planning policy could support the imposition of conditions or requirements on a development and they should not be permitted unless they meet the relevant legal tests.
- There was no requirement to amend the TRO and as such no monetary implications to consider; though residents could apply for permits the development was small and the highways authority concluded the effect of new residents would be minimal.
- There was no justification for requiring conditions on parking in this case.
- This development would require a relaxation of parking space provision standards but such a relaxation was permitted under the SPD because of the developments sustainable location.
- The committee had to be mindful of the shortfall of housing in the District and the presumption in favour of sustainable development.
- There was no evidence to suggest the development would have a severe residual impact on the highway and the relevant statutory consultees had not objected on that basis.

The following Members asked questions:

- Councillor Daniel Allen
- Councillor Val Bryant
- Councillor Sue Ngwala

In response to questions Mr Tom Donovan advised:

- The NPPF was supportive of the reuse of vacant buildings and underutilised land.
- The provision of residential dwellings was the most significant benefit of the proposal and there was no evidence that any residual impact on parking conditions would be severe.
- The committee had to determine the application before it and could not consider it against an alternative scheme of design that had not been submitted.

The Chair invited the Senior Planning Officer to respond to issues raised during the presentations.

The Senior Planning officer advised on matters including:

- The 2011 Parking SPD was a planning document which was taken in to consideration but the Parking Strategy document was a parking services document which does not form part of the development plan and was therefore not considered.
- The location was sustainable and the development was small-scale and officers considered there was justification for a reduced level of parking for the dwellings.
- An additional parking space was proposed for N. 61A.
- The length of the parking bay removed by the development would be 5.4 M in length which represents one on-street parking bay, not two.
- The impact on the CPZ and TRO was considered by the Strategic Infrastructure and Development Manager and the report takes their professional advice.

The following Members asked questions and participated in the debate:

- Councillor David Levett
- Councillor Carol Stanier
- Councillor Tony Hunter
- Councillor Sue Ngwala

Points raised included:

- The removal of permitted development rights;
- Bin storage;
- The failure to comply with the standards of the Emerging Local Plan and the SPD on Parking in new developments;
- The provisions of the NPPF superseding the requirements of a supplementary planning document;
- Highways safety.

In response to questions the Development and Conservation Manager advised that if the Committee was minded to reject the application on highways grounds any appeal would require the Council to produce evidence demonstrating severe adverse impact.

Councillor David proposed, Councillor Sue Ngwala seconded and it was:

RESOLVED: That application 20/01638/FP be **REFUSED** planning permission for the following reason:

The proposal, by reason of the loss of on-street parking in a locality that experiences parking pressures, insufficient parking provision for the proposed development and the associated creation of additional parking demands, will result in a detrimental loss of parking provision that will adversely affect the locality. The proposal does not therefore comply with Policy 55 of the 1996 Adopted Local Plan; Policies SP6 and T2 of the Emerging Local Plan; Section 9 of the National Planning Policy Framework; and the Supplementary Planning Document 'Vehicle Parking at New Development' September 2011.

142 20/02599/S73 LAND AT THE JUNCTION OF ASHWELL STREET AND, STATION ROAD, ASHWELL, HERTFORDSHIRE

Audio Recording – 1 hour 1 minute.

Councillor Tom Tyson advised he would be acting as Member Advocate on this item and would take no part in the debate or vote.

The Senior Planning Officer presented the report of the Development and Conservation Manager in respect of application 20/02599/S73 supported by a visual presentation consisting of photographs and plans including the following updates to the report:

- A new condition to read “22. The garage hereby approved for plot 6 shall be retained for car parking purposes and for no other purpose incidental to the enjoyment of the dwellinghouse unless otherwise agreed in writing by the Local Planning Authority.

Reason: As this garage is larger than others associated with this development to ensure its use is maintained for the stated purpose” was recommended.

The following Members asked questions:

- Councillor David Levett
- Councillor Michael Muir
- Councillor Mike Rice

In response to questions the Senior Planning Officer advised:

- The housing mix resulting from this permission would have been less acceptable if it had been proposed with the initial application but not enough to have resulted in a recommendation for refusal;

- The buildings were the same height as originally approved;
- Residents of these properties would not require planning permission to convert loft spaces into bedrooms;
- An applicant seeking alterations to original planning permission was not unusual and at while the timeline of this application was not ideal at this time there was no relevant enforcement issue .

The Chair invited Mr Norton Mahy to address the Committee.

Mr Norton Mahy thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- Section 73 was not an appropriate mechanism for this application;
- Policy HS3 required that a range of house types be considered which was not undertaken for this report;
- The original planning application passed the policy test on the basis of a mixture of 3 and 4 bedroom houses; if the policy were applied here it would find the housing mix unacceptable;
- Acceptable housing mix was an important aspect of the Ashwell neighbourhood development plan;
- That future residents of the development would be able to convert loft spaces into bedrooms was a spurious argument in favour of developers being permitted to do so;
- Marketing from the developers indicated their intention was always to sell these dwellings with additional rooms.

The following Members asked questions:

- Councillor Sue Ngwala

In response to questions Mr Norton Mahy advised that the Ashwell neighbourhood plan outlined the housing mix requirements of the area clearly and there was a need for development of 2-4 bedroom dwellings.

The Chair invited Councillor Tom Tyson to address the Committee in his capacity as a Member Advocate.

Councillor Tom Tyson thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- It appeared that the houses in the development had been built and marketed as 4-5 bedroom dwellings as envisioned by this application, not the earlier application which had been approved;
- This process appeared to circumnavigate the planning permission procedure;
- The assessment of need of housing mix in the Ashwell area suggested there was only a 1% need for 5 bedroom dwellings;
- The Section 73 procedure allowed for minor amendments or variations to conditions, not for the developer to change the nature of the development;
- This application rendered the development approved self-contradictory and Section 73 was not the correct mechanism for seeking approval.

The Chair thanked Councillor Tom Tyson for his presentation.

The Senior Planning Officer responded to issues raised in the presentations including:

- The Ashwell Neighbourhood Plan was not at a stage where its requirements could be considered to have full weight in regards to making a decision on this application;

- The availability of permitted development rights of future residents was given significant weight;

The Development and Conservation Manager advised that the description of the development had not changed and this application was to vary condition 2 of the approved application, as allowed by the Section 73 mechanism.

Councillor Tom Tyson was removed to the waiting room before the debate commenced.

Councillor David Levett asked for clarificatory advice on the Section 73 mechanism and the prospect of deferral.

The Development and Conservation Manager advised that policy HS3 had been considered in the report, that the existence of permitted development rights was considered significant, and that Section 73 gave room for the Committee to consider all planning considerations they felt relevant.

The following Members asked questions and participated in the debate:

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

Issues raised in the debate included:

- Sales price of the dwellings with additional bedrooms;
- Removal of permitted development rights;
- Housing mixture in Ashwell.

Councillor Tony Hunter proposed, Councillor Mike Rice seconded and it was:

RESOLVED: That Application 20/02599/S73 be **GRANTED** planning permission subject to the conditions and reasons contained in the report of the Development and Conservation Manager and the following additional conditions:

“22. The garage hereby approved for plot 6 shall be retained for car parking purposes and for no other purpose incidental to the enjoyment of the dwellinghouse unless otherwise agreed in writing by the Local Planning Authority.

Reason: As this garage is larger than others associated with this development to ensure its use is maintained for the stated purpose.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, B and C of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

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

N.B The Chair called for a comfort break and the meeting adjourned at 9:15.

The meeting resumed at 9:24 PM. The Committee, Member and Scrutiny Officer conducted a roll-call to confirm all Members, Officers and registered speakers were in attendance.

143 20/03073/FP LAND AT NORTON COMMON, ICKNIELD WAY, LETCHWORTH GARDEN CITY, HERTFORDSHIRE

Audio Recording – 1 hour 56 minutes.

The Acting Principal Planning Officer presented the report of the Development and Conservation Manager in respect of application 20/03075/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked questions:

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

In response to questions the Acting Principal Planning Officer advised:

- No trees would be removed but some bushes/shrubs would be, with their loss mitigated by the condition requiring planting and landscaping;
- The space occupied would be smaller than a standard car parking space;
- Cladding around the container had not been considered as a dark green colour combined with planting was considered sufficient;
- A wooden shed or similar would still require planning permission as the site had no permitted development rights.

The Chair invited Councillor Ian Mantle to address the Committee.

Councillor Ian Mantle thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- Visual amenity was the central issue at hand;
- Norton Common was a precious community asset and the location for this development was poorly chosen;
- It was situated at the highest point on the road and overlooked the Common;
- A shipping container was not attractive and should not be visually prominent anywhere;
- An air raid shelter and other structures had been situated on the Common without damaging its visual amenity.

The Chair thanked Councillor Ian Mantle for his presentation.

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

- Councillor David Levett
- Councillor Sue Ngwala
- Councillor Daniel Allen
- Councillor Tony Hunter
- Councillor Michael Muir
- Councillor Mike Hughson

Issues considered during the debate included:

- Security of the shipping container;
- Cladding and visual amenity;
- Location;

Councillor Tony Hunter proposed, Councillor Michael Muir seconded and it was:

RESOLVED: That application 20/03073/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager.

144 20/03038/FP 103 BANCROFT, HITCHIN, HERTFORDSHIRE, SG5 1NB

Audio Recording – 2 hours 16 minutes.

The Chair advised that Items 10 & 11 would be presented and considered together.

N.B The debate and consideration of both items is recorded here at Minute 144.

Councillor Ian Moody declared an interest in that he knew the applicant from their previous work as a business in Codicote and therefore he would take no part in the debate or vote on this item.

Councillor Daniel Allen called for a recorded vote.

The Acting Principal Planning Officer presented the reports of the Development and Conservation Manager in respect of Applications 20/03038/FP and 20/03039/LBC supported by a visual presentation consisting of photographs and plans.

The Chair invited Mr Liam Jordan and Ms Cath Cole to address the Committee.

Mr Liam Jordan and Ms Catch Cole both thanked the Chair for the opportunity to address the Committee.

Mr Liam Jordan gave a presentation including:

- Residents were in regular discussions with the local council about issues surrounding the influx of dining and take-away establishments into the area;
- An additional business of this type in the conservation area would compound the negative impact;
- Parking for take-aways in the area was unsustainable and unsafe;
- Pedestrian queuing along Bancroft was causing access issues for residents;
- Antisocial behaviour was an increasing problem in the area due to the proliferation of take-away establishments;
- There was not sufficient chimney extraction for the premises;
- There was no rear parking for the premises.

Ms Cath Cole gave a presentation including:

- The conversion of restaurants in to café/takeaway establishments in the area had caused problems with parking, antisocial behaviour, smell, litter and crowding, and demonstrated the negative impact of inundating an area with café/takeaway businesses;
- The conversion of a further unit to café/takeaway use would further exacerbate these problems which harm residents and would cause further highways issues;
- Residents are impacted by antisocial behaviour from customers.

The following Members asked questions of the speakers:

- Councillor David Levett

In response to questions Mr Liam Jordan advised that the alleyways on the side of the shop provided access to business premises.

The Chair invited Councillor Ian Albert to address the Committee.

Councillor Ian Albert thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- He endorsed the points raised by the public speakers in objection;
- Hitchin had a thriving night-time economy and Bancroft had a number of popular establishments which drew people to the area;
- Business owners in the area were cognisant of the issues including parking which impacted local residents;
- There can be one too many café/restaurant/takeaway premises in one area and this could be the tipping point;
- There were now significant parking problems in the area which was causing problems for residents;
- The application should be rejected on the basis that there were too many similar establishments in the area already and the customers attracted would exacerbate parking problems;
- There were considerable environmental health issues from extraction systems in the area where the system was not adequate to handle the nature of the business and its capacity; the adequacy of the extractive system proposed for this development had to be demonstrated.

The following Members asked questions:

- Councillor Carol Stanier
- Councillor Daniel Allen
- Councillor Val Bryant

In response to questions Councillor Ian Albert advised:

- options for parking enforcement were being explored with parking enforcement officers and the police but the regularity of issues meant that daily monitoring was necessary and a further establishment would exacerbate the issue;
- Individual establishments could not by themselves resolve the parking issue;
- The area outside the premises were double yellow lined already and there was no parking available for guests, and customers were occupying spaces in the nearby taxi rank.

The Chair invited Mr Tom Donovan to address the Committee.

Mr Tom Donovan thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- The applicants had run a business in Codicote which became a key part of the local community and expanding in to Hitchin was a natural next step;
- The business intended to contribute to the Hitchin community and take part in projects such as the Business Improvement District;
- They were understanding and appreciative of the Hitchin area and the impact the business would have on the locale;
- The premises were a grade II listed building which was currently sitting empty;
- The premises were authorised under Use Class E and the application was for approval of a hot food takeaway component; the premises were already allowed to open as a restaurant;
- The application had already made concessions in the form of an internal flueless extraction system and a reduction in opening hours to mitigate the impact on the locale;
- The Conservation Officer was satisfied with the application;

- Other outlets in the area had led to inconsiderate parking by customers but it was unfair to assign responsibility to proprietors who had no responsibility for the public highway;
- There were other more appropriate mechanisms to control parking in the area;
- The applicant intended to show notices encouraging considerate parking;
- The application had been shown to be acceptable and there were no material reasons to justify refusal.

The following Members asked questions:

- Councillor Val Bryant

In response to questions Mr Tom Donovan advised that there were many viable options for parking in Hitchin and that it was unfair to couch the view that all customers parked inconsiderately.

The Acting Principal Planning Officer advised the following in response to issues raised:

- ETC5 supported these developments;
- The café use class was a deemed changeable use and did not require planning permission; this application was for the hot food takeaway component of the business;
- Parking was a matter for parking enforcement and the police to address.

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

- Councillor David Levett
- Councillor Michael Muir
- Councillor Sue Ngwala
- Councillor Tony Hunter

Issues raised included:

- Material planning considerations and the prospect of appeal;
- Legal responsibility for parking issues;
- Bins.

In response to questions the Acting Principal Planning Officer advised that an informative on the provision for an on-street bin to be placed at the start and removed at the end of opening hours could be added.

Councillor Michael Muir proposed, Councillor David Levett seconded and the result of the recorded vote was:

For: Councillors: Daniel Allen, Ruth Brown, Tony Hunter, David Levett, Mike Rice, Tom Tyson, Michael Muir, Carol Stanier

Total: 8

Against: Councillors: Val Bryant, Mike Hughson, Sue Ngwala

Total: 3

Abstain:

Total: Nil

Therefore it was:

RESOLVED: That application 20/03038/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager and the following additional informative:

“BIN INFORMATIVE:

A rubbish bin is to be placed on the pavement outside of the front window of the premises during trading hours only. It is the responsibility of the user of the unit to empty the bin and ensure that it is not left out during the hours the unit is closed.”

145 20/03039/LBC 103 BANCROFT, HITCHIN, HERTFORDSHIRE, SG5 1NB

Audio Recording – 2 hours 55 minutes.

N.B the report, consideration and debate of this item is recorded at Minute 144.

Councillor Daniel Allen proposed, Councillor Michael Muir seconded and it was:

RESOLVED: That application 20/03039/LBC be **GRANTED** Listed Building Consent subject to the reasons and conditions set out in the report of the Development and Conservation Manager.

146 20/02573/FP LAND ADJACENT, COACH DRIVE, HITCHIN, HERTFORDSHIRE

Audio Recording – 2 hours 57 minutes.

The Development and Conservation Manager presented the report in respect of Application 20/02573/FP supported by a visual presentation consisting of photographs and plans.

The Chair invited Mr Peter Hope to address the Committee.

Mr Peter Hope thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- He was opposed to the development;
- The proposal would result in development out of keeping with the general character of the area;
- The development was in-fill with significant visual impact on the surrounding area impairing its character and quality;
- The proposed plot was smaller than that of surrounding residences and a development of this size on a small plot would impact neighbouring buildings;
- Plans submitted indicated the north and south walls were 85 and 90 centimetres respectively from the border fences;
- The site was elevated and had rear windows that would overlook neighbouring gardens resulting in loss of light and invasion of privacy;
- The front aspect of the building was away from the main building line of the road and therefore out of keeping with the area;
- Vehicles emerging from the site would exit on to a blind section of Gosmore Road at increased risk and as such the development contravened NPPF highways requirements.

The Chair invited Councillor Simon Harwood to address the Committee.

Councillor Simon Harwood thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- The development would substantially alter the prevailing character of the area;
- The dwelling would grossly in-fill the land between existing properties;

- The proposal would impact both the built and environmental character of the area;
- Section 5.1.1 of the report states that the site was not development in the Green Belt which was not accurate where the access drive to the property sits on green belt land;
- Access to the property off Gosmore Road was problematic for the reasons outlined above;
- The front aspect of the property would form a new building line significant in front of existing properties;
- The proposed dwelling would be too close to neighbouring dwellings;
- The garden was not redundant before recent occupation;
- The application should be rejected on the basis that the development sets a precedent for infill of garden land between properties changing the character of the local area.

The following Members asked questions:

- Councillor Daniel Allen

In response to questions Councillor Simon Harwood advised that he lived around 1km from the proposed development and was not adversely affected by the proposals.

The Chair invited Mr Jerry Fiore to address the Committee.

Mr Jerry Fiore thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- The report of the Development and Conservation Manager was comprehensive and he endorsed its contents and recommendation;
- The proposal was a high quality design in keeping with the surrounding area and acceptable on planning grounds;
- The architect was keen to incorporate design elements that made the development sympathetic to the area including matching materials, a similar scale of property, with a reduced ridge height and set at an acute angle to avoid overlooking;
- Shadow diagrams were not called for by the Planning department and the report did not consider loss of light to be an issue;
- There were no trees removed as part of this proposal; mature trees had been removed from neighbouring properties on professional advice;
- If it was necessary a landscaping scheme including planting of screening or hedges could be considered;
- The development was to be a family home built to a high standard and incorporating energy saving measures.

The Development and Conservation Manager addressed points raised by the speakers including:

- The plans clearly demonstrated that the development site was not situated in the green belt; a very small portion of the access drive crossed the boundary in to green belt land; none of the built portion would be in the green belt;
- The site was situated at a transition point on a corner between two building lines and therefore its deviation was not relevant;
- The proposal was well designed for a tighter plot of land compared to the large plots in the surrounding residences;
- Its impact would not constitute gross infill in particular as the site was situated in a built residential area in Hitchin.

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

- Councillor Daniel Allen

- Councillor Mike Hughson
- Councillor Carol Stanier

Issues raised during the debate included:

- Material planning considerations;
- Boundary distances;
- Screening and landscaping.

In response to questions the Development and Conservation Manager advised:

- The issues of boundary distance and the 30 meter rule were policy guidance rather than hard legal limits and in view of the whole scheme the distances proposed were acceptable;
- A condition requiring a landscaping scheme to be submitted for approval by the planning authority could be added.

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

RESOLVED: That application 20/02573/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager and the following additional condition:

“Prior to the commencement of the development hereby permitted, full details of additional soft landscaping/planting within the site shall be submitted to and approved in writing by the Local Planning Authority. Such planting shall thereafter be carried out in accordance with the approved details within the first planting season following the first occupation of the development. The additional trees and planting shall thereafter be retained for five years following planting and should any trees die or are damaged within the first five years they shall be replaced by trees of a similar size and species and thereafter retained for the remainder of the five year period.

Reason: To achieve a high quality soft landscaping scheme associated with this development in the interests of amenity and biodiversity.”

147 20/00643/LBC RYE END FARM, GREEN LANE, CODICOTE, HITCHIN, HERTFORDSHIRE, SG4 8SU

Audio Recording – 3 hours 20 minutes.

N.B The presentations, debate and consideration of Items 13 and 14 are recorded here at Minute 147.

The Conservation Officer presented the report in respect of application 20/00643/LBC supported by a visual presentation consisting of photographs and plans along with the following update:

- The description of the proposal should be amended to omit reference to the single storey extension to front (east side) of West Stables.
- The application has been amended by drawing nos. 11F, 12F, 13E, 14F, 15D, 16D, 17B, 18G, 19E, 20D and 22B received on 16 December 2020 and amplified by drawing nos. REF-MNP-WSC-SK-S-4011 Rev P1 and MBS-280 East Stables and MBS-280 West Stables received on 21 January 2021.

The following Members asked questions:

- Councillor David Levett

In response to questions the Conservation Officer advised that the buildings at risk register categorised sites according to their condition and state of occupancy; if a property was vacant and in fair condition it would be considered vulnerable; if vacant and in poor condition it is 'at risk.' According to structural assessments this was in fair condition and as are considered 'vulnerable' and if left unoccupied and unmaintained could fall in to a higher 'at risk' category.

The Development and Conservation Manager presented the report in respect of application 20/00642/FP supported by a visual presentation consisting of photographs and plans.

The Chair invited Mr Hunter Peace to address the Committee.

Mr Hunter Peace thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- He objected to the proposals;
- He had no objection to the conversion of existing buildings on the plot and the conversion of all existing buildings would triple the available floor space on the site;
- The locale was uniquely unspoilt by modern building development and was one of the few truly rural locations in Hertfordshire;
- The site was of high heritage value;
- The owners had already erected two stable buildings in front of the listed barn house and further applications were expected;
- Demolition work had been carried out and no enforcement action by the Council had been taken; the buildings were not at imminent risk of collapse as had been claimed;
- There was a statutory duty to protect heritage assets and to avoid harm but there was no evidence these properties would fall in to the at risk category without this development;
- The proposed cladding of the property and the link buildings between existing structures were out of keeping with the area;
- No landscaping recommendations had been made.

The Chair invited Councillor John Bishop to address the Committee:

- There was a statutory duty to protect heritage assets;
- This proposal represented overdevelopment of the site;
- It was not returning the site to its optimal use;
- There were grounds to refuse these applications on the basis that there was no public benefit to compensate for the harm caused to a listed building; the officer had identified one benefit based on an unfounded assumption only.

The Chair invited Mr Perry Jones to address the Committee.

Mr Perry Jones thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- He was an agent of the applicant speaking in support of the applications;
- This item had been called in to the Committee earlier in the year by Councillor John Bishop prior to any of the works undertaken to prevent the building from collapsing;
- The site had been purchased two years ago and the applicants had worked very closely with planning and conservation officers to present these applications;
- The Grade-II listed buildings had been unoccupied and fallen in to disrepair and required restoration;
- The proposal would turn them in to a functional family home and preserve their heritage value;
- The proposals were fully funded by the applicants;

- Works that had been undertaken on site were done so under guidance and recently checked by NHDC enforcement officers;
- The applicants were conservationists and wanted to work to safeguard the environment and habitats on the site and were working with Herts Ecology on a rewilding project.

In response to issues raised by speakers the Conservation Officer advised:

- Historic England was not a statutory consultee for Grade-II listed buildings such as these and had expressed no view on the proposals;
- With regard to Paragraph 196 of the NPPF, if there is less than substantial harm to the heritage asset then this is not just weighed against public benefits but also against seeking an optimum viable use. While residential development may not have been the absolute optimal use it was the optimal viable use and the use for which an application had been made;
- Photographic evidence demonstrated that while the condition of the building is fair there were elements which were a cause for concern;
- To refer to works undertaken on the site as 'extensive demolition' would be incorrect. Works to two areas of floor and the removal of tiles from the main barn roof to facilitate repairs to the roof, are not regarded as 'demolition';
- Although CPRE referred to Rye End Farmhouse as a C15 yeoman farmhouse, the barn/stable range is much later and could not be described as yeomanry outbuildings;
- Whilst the original use of the buildings may be their optimal use, these uses were not viable.

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

- Councillor David Levett
- Councillor Sue Ngwala
- Councillor Michael Muir

Issues raised during the debate included:

- Conservation vs Preservation
- Method of heating

Councillor David Levett proposed, Councillor Sue Ngwala seconded and it was:

RESOLVED: That application 20/00643/LBC be **GRANTED** Listed Building Consent subject to the reasons and conditions set out in the report of the Development and Conservation Manager.

148 20/00642/FP RYE END FARM, GREEN LANE, CODICOTE, HITCHIN, HERTFORDSHIRE, SG4 8SU

Audio Recording: 3 hours 42 minutes.

N.B The report in respect of this application was presented in conjunction with Item 14. The debate and consideration of these items is recorded at Minute 147.

Councillor David Levett proposed, Councillor Sue Ngwala seconded and it was:

RESOLVED: That application 20/00642/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager.

The meeting closed at 11.32 pm

Chair

<u>Location:</u>	Land Between Croft Lane Norton Road And Cashio Lane Letchworth Garden City Hertfordshire
<u>Applicant:</u>	Ms Ailsa Davies
<u>Proposal:</u>	Outline planning application for residential development of up to 42 dwellings, all matters reserved but access (as amended by plans and information received 09-06-2020, 23-07-2020 and 10-12-2020).
<u>Ref. No:</u>	19/00520/OP
<u>Officer:</u>	Sam Dicocco

Date of expiry of statutory period : 05.06.2019

Submitted Plan Nos

5182-001A; 5182-002A; TCP 9363 04 01A ST-2571-18B ST-2571-20 ST-2571-21A
ST-2571-22

1.0 Relevant History

- 1.1 17/00933/1PRE - Pre-app advice for Outline Planning Application: Residential development of up to 39 dwellings – Advice given.

2.0 Representations

- 2.1 **Site Notices:** 15/03/2019 Expiry: 14/04/2019
15/06/2020 15/07/2020
Press Notice: 21/03/2019 Expiry: 13/04/2019
25/06/2020 18/07/2020

Consultee responses

Anglian Water – No objection subject to drainage works pre-commencement condition – 15/04/2019 – No objection subject to inclusion of Flood Risk Assessment document being included in the list of approved plans/documents – 14/01/2021.

Archaeology – No objection subject to conditions 10/04/2019 – No change in comments 06/07/2020

Area Highways – Interim comments on Travel Plan 05/04/2019 - Objection based on insufficient width of carriageway; poor pedestrian access across the site; incorrect information on the visibility splay – 24/06/2019 - No objection subject to conditions and obligations 21/08/2020 – Further no objection subject to conditions and obligations 26/03/2021

Countryside and Rights of Way – No comments 20/03/2019

Environmental Health Contaminated Land – No objection subject to conditions - 19/03/2019

Environmental Health Noise – No objection or comments 19/06/2020 – No objections or comments 04/02/2021.

Growth and Infrastructure – No objection subject to obligations 21/05/2019 – No objection subject to obligations 03/07/2020 – No objection subject to contributions 29/01/2021

Hertfordshire Ecology – No objection subject to informatives and conditions – 07/07/2019 – No objection subject to informatives and conditions 17/08/2020.

Hertfordshire Fire and Rescue Services – No objection subject to obligation - 03/04/2019

Herts and Middlesex Wildlife Trust – Objection does not demonstrate measurable net gain to biodiversity 25/04/2019.

Historic England – No comments 03/04/2019 – No comments 19/06/2020

Housing Supply Officer - Suggested affordable housing mix of 6 x 2 bed houses; 4 x 3 bed houses and 1 x 4 bed house for rent and 2 x 2 bed houses; 3 x 3 bed houses and 1 x 4 bed house for intermediate affordable housing tenure, to meet housing need 02/04/2019 – Same response 23/06/2020 – Same response 28/01/2021.

Landscape and Urban Design Officer – Detailed comments provided, more relevant to future reserved matters 02/04/2019 – Further details required for impact on Trees 25/06/2020

Lead Local Flood Authority – No objection subject to planning conditions 02/04/2019 – Objection based on insufficient information 06/07/2020 - Objection based on insufficient information 12/02/2021 – No objection subject to conditions 22/03/2021.

Letchworth Garden City Heritage Foundation – Objections raised in respect to access, construction traffic, residential amenity, layout and community engagement 17/04/2019 – No change in objection 14/07/2020 – Would further object to loss of trees along Croft Lane 04/11/2020 - No change in objection 20/01/2021

Minerals and Waste Authority – No objection subject to conditions

Senior Conservation Officer – No written comments provided. The Senior Conservation Officer has been present and involved in the negotiation of the access details following the issuing of written comments in respect to the pre-application advice previously issued by the Council. A surgery was held with the Senior Conservation Officer on 07/05/2021 in which the view that the proposed access and wider development would result in less than substantial harm to the significance of heritage assets was agreed.

Sport England – Objection based on lack of financial contribution towards playing field mitigation 29/03/2019 – No change 16/06/2020 – No change 19/01/2021

Waste and Recycling – Comments on waste and suggested conditions 29/03/2019 – Further comments on accessibility for waste 25/06/2020 – Full details of waste collection required in future applications 09/02/2021.

Neighbour representations

129 neighbour representations have been received from premises adjoining and surrounding the site. All are objections. The representations are summarised, cumulatively, below. It is noted that the below is a brief summary. All responses have been read in full multiple times, and members are encouraged to review the neighbour responses in full at their leisure.

Green space should be preserved for the original use
Access issues around health and safety inc. construction traffic, RSA insufficiencies, Croft Lane road widths
Character impact of the development on the original garden city plan and street scene of Croft Lane as a Conservation Area
Local plan says 37 units, application up to 42 units, Transport Assessment up to 50 units
Issues with the application form
Issues with the Transport Assessment (inc. conflict between access and construction access)
Comparisons in Herts Highways approach between this site and Echo Hill, Royston and Netherfield Lane, Stanstead Abbots
Displeasure at Herts Highways “U-turn”
Restrictive covenant
Compulsory purchase of a Norton Road house for alternative access
All members should visit Croft Lane prior to making the decision
Scale at up to 42 units too large to fit surrounding context
Structural damage to listed buildings adjoining the access
Too many executive homes
Ecological and wildlife habitat issues inc. newts, foxes, a heron, red kites, muntjack deer, newts, sparrowhawks, common toads, bats
Pedestrian and cyclist access onto Cashio Lane will exacerbate parking issues on the Lane and other off-site parking concerns
Impact of the Croft Lane localised widening on trees (especially the Horse Chestnut opposite)
Revised plans still dated 2017
Cashio Lane access could be used for vehicular access and egress as it is 8.2m wide
Insufficient capacity of local schools and GPs

Privacy and overlooking

Norton Action Group (NAG) have provided independent technical notes on transport from Transport Planning Associates and Arboricultural Impact Assessments. Furthermore, NAG have provided independent objections on Air Quality and Disability Discrimination, as well as general objections which tend to follow the summary of other neighbour responses above.

Late representations received in advance of the previous planning committee in April from which this item was deferred have been reviewed. They follow the above summary of previous objections.

3.0 **Planning Considerations**

3.1 **Site and Surroundings**

- 3.1.1 The site lies within the settlement of Letchworth Garden City and an area of Landscape and Open Space Pattern as specified in the Saved Local Plan. The part of the site containing the proposed vehicular access lies within Croft Lane Conservation Area. The site forming the playing field, in which the proposed dwellings would be located, is immediately on the south boundary of Croft Lane Conservation Area. There are Listed Buildings nearby and adjoining the site, including (Norton Grange Farmhouse - Grade II, The Three Gables - Grade II, Treetops – Grade II, Thatches – Grade II, Norton Edge – Grade II, Paynes Farmhouse – Grade II, Croft Corner – Grade II, The White Cottage – Grade II and 5 and 7 Croft Lane – Grade II). The site contains two buildings formally utilised in association with the vacant former playing field. The site is largely flat in terms of topography.
- 3.1.2 The sites surroundings are residential in nature. The surrounding buildings are large, detached dwellings set on spacious plots with large rear gardens. The surrounding area is mixed in character, with some notably important buildings including those listed above.

Heritage Appraisal

- 3.1.3 Wood Environment & Infrastructure Solutions UK Limited were instructed by North Hertfordshire District Council to undertake a Conservation Area Character Statement for Croft Lane Conservation Area. Relevant parts of the Character Statement are quoted below (paragraphs 4.1.4 to 4.1.7) to frame an assessment of the contribution of the site to the significance of, and setting of, the Conservation Area.
- 3.1.4 Croft Lane is historically part of the village of Norton and its two large farm buildings remain as evidence of the area's rural past. Croft Lane was developed as a residential street from around 1905 onwards, though is notably occupied by larger villa type houses than are seen in the surrounding residential streets. Since the principal phase of development between around 1905 and 1911, other plots have been filled with houses of a similar scale and the east end of Croft Lane appears to have been developed more recently, towards the end of the 20th century.

- 3.1.5 Norton Grange Farmhouse (NHLE 1102027), Paynes Farmhouse (NHLE 1174144) and Thatches (NHLE 1347675), of the 17th, 18th and 18th centuries respectively, are the three timber buildings within the Conservation Area, the former two being set opposite each other on Croft Lane as part of U-shaped farm complexes, each with farmland behind. The Three Gables (1907) (NHLE 1295871) and Croft Corner (1911) (NHLE 1102026) were both designed by Cecil Hignett, famously the architect of The Spirella Building in Letchworth, the former for his own occupation. The former is in roughcast brick with thatched roof with eyebrow dormers and casement windows throughout.
- 3.1.6 All of the buildings in the Conservation Area are set back from the road behind gardens which are themselves separated from the road by tall hedges and other planting, creating a secluded feel from the roadside and presumably also within individual properties.
- 3.1.7 There are noticeably more street trees west of Paynes and Norton Grange farmhouses and this locates the more enclosed-feeling part of the Conservation Area to this part of it, i.e. around the earlier 20th century buildings. There is a pavement on the south side of Croft Lane which has, for the most part, a grass verge between it and the road. The kerbs here are stone.
- 3.1.8 The special interest of Croft Lane Conservation Area lies in its connection to the foundation of Letchworth Garden City and it hosting a series of significant buildings by key Letchworth Garden City architects, Parker & Unwin, Cecil Hignett and Geoffrey Lucas. Due to planting in front of almost all properties in the Conservation Area, long views are almost entirely absent and it retains something of a rural feel, despite being almost entirely surrounded by suburban residential streets of Letchworth Garden City.
- 3.1.9 Croft Lanes significance is considered to lie within its historical development. The Lane served few farm buildings and a single dwelling on the edge of Norton prior to the development of Letchworth Garden City. Parts of the Lane were filled in the early part of the development of Letchworth Garden City, and later infilled with more modern dwellings. All dwellings detached, of similar sizes, and set back from the land with verdant frontages, maintaining a relatively rural feel considering the sites edge of settlement wider context.
- 3.1.10 The setting of the Conservation Area is mixed, with agrarian feel to the north, and recently (in built form context) developed residential land to the south. Historically, the area hosted two farm buildings in a U formation either side of the Lane. Part of the significance of the Conservation Area lies in how it has been developed to form the edge of Letchworth Garden City. Given the later development of the area, the significance of the Conservation Area partially lies within the very confined interrelation of houses and the streets lack of long views either through or out of it. The setting of the Conservation Area, by reason of the Lanes confined nature, has a limited contribution to the significance of the heritage asset.

Sites contribution to significance of the heritage assets

- 3.1.11 The site subject to this application contains some buildings which fall within the Conservation Area. The smaller building on the west edge of the site has no architectural merit and does not contribute to the significance of the Conservation Area. The larger building, to the east edge of the site, hosts some architectural merit and seemingly has some historic association with Norton Grange Farmhouse. These buildings are set back from Croft Lane, do not address Croft Lane, and are screened to some extent by the verdant frontage of the site to Croft Lane. These buildings are currently marked as being retained, and in respect to the larger building to the east of the site, this retention is of merit. There is one small access point wide enough for vehicular access, with a small dropped kerb and hard surfacing leading to the site's boundary. Beyond this, the site is green and open, laid to grass, with some trees growing within the part of the site within the Conservation Area.
- 3.1.12 The wider site, outside of the Conservation Area, is laid to grass, with no current functional use. The site is bounded by the rear boundary treatments of dwellings which encompass the site. The site boundaries are largely verdant, with mature trees and hedging.
- 3.1.13 It is considered that the part of the site which lies within the Conservation Area does contribute to the heritage assets significance. This significance is formed from the site's openness, and its exception from historic infill development between historic buildings on the Lane. Further contribution to significance is derived from the sites open and verdant presentation to the street, with hedging and trees.
- 3.1.14 The wider site is open in its nature. Notwithstanding this, by reason of the confined nature of the Conservation Area, alongside the site positioning to the south and surrounding residential development, the site openness only has a limited contribution to the significance of the heritage asset.
- 3.1.15 It is noted that the site is bounded by some Listed Buildings, as described above. These Listed Buildings have varying significances and historic and architectural interest.
- 3.1.16 The farm buildings and Thatches reveal the history of Croft Lane before the development of Letchworth Garden City. Paynes Farmhouse retains some of its historic agricultural setting on the north side of Croft Lane. Given the separation distance and agrarian setting derived from the north side of Paynes Farmhouse, it is not considered that the site contributes to the setting of Paynes Farmhouse.
- 3.1.17 Whilst historically, the site would have formed part of the setting of Norton Grange Farmhouse, the openness of the surroundings have been significantly degraded over time. The sites current contribution to the significance of Norton Grange Farmhouse as part of its setting is considered limited by the changes in character and function of the listed building itself and its surroundings over time. It is not considered that the site contributes to the significance of Thatches as the other pre-Garden City listed building adjacent to the site.

3.1.18 The other listed buildings which directly adjoin the site are Treetops and The Three Gables. These buildings are self-evidently architecturally significant, and historically significant in that they were designed by prominent Garden City architects, and form part of the history of Letchworth Garden City. Pursuant to this, it is not considered that the open, playing field, nature of the area to the rear of these properties contributes to the historic significance of these heritage assets.

3.1.19 In addition to the listed buildings, the following adjoining premises are registered as Buildings of Local Interest –

46 Norton Road.

1906. Designed by Parker and Unwin. A simple square house with large steeply pitched roof with weatherboarded infill. The front elevation has a broad veranda with hipped roof. The building is designed by notable architects and is of particular local and historic interest.

54 and 56 Norton Road.

1906. Geoffrey Lucas. The building has a complex multi-gabled roof and is well designed with high quality chimney detailing. The building is designed by notable architects and is of particular local and historic interest.

68 Norton Road.

1911. Designed by Bennett and Bidwell to a high architectural standard, in the vernacular style characteristic of Letchworth. The building is designed by notable architects and is of particular local and historic interest.

3.1.20 Furthermore, the Letchworth Garden City Heritage Foundation has prepared a list of 'Homes of Special Interest' (hereafter referred to as HSI's). Of pertinence to properties adjacent to the site, and not already a designated heritage asset (i.e. part of the Conservation Area, are –

Norton Road

52, 54, 56, 66, and 68.

3.1.21 These adjacent non-designated heritage assets, are of notable architectural interest, historical value, retained original features or forming part of the town and country ethos of the Garden City. Notwithstanding this, it is not considered that these notable features are materially influenced by the sites currently open nature. The development of the site will not impinge upon the features from which these non-designated heritage assets derive their value.

4.0 Proposal

4.1 The application seeks outline planning permission for the erection of up to 42 residential dwellings within the site with all matters reserved save means of access. All plans are indicative save those which depict means of access.

4.2 Key Issues

Preliminary matters

- 4.2.1 The application is for outline planning permission with all matters reserved save means of access. The matters reserved for future consideration are internal access, appearance, scale, landscaping and layout. Whilst these matters are reserved for later consideration, some indicative details have been received to assist in deciding this application. The considerations of internal access, appearance, scale, landscaping and layout remain relevant, however, only to the extent that the site may be capable of accommodating the proposed development in the context of these considerations.

Principle

- 4.2.2 The site lies within a Landscape and Open Space Pattern area as allocated by the Saved Local Plan (SLP). In accordance with policy 21 of the Saved Local Plan, the Council would normally refuse development proposals which would have a significant impact on the character, form, extent and structure of the pattern. Further to this, and only where the development achieves the initial test, the policy requires development to retain the pattern through appropriate landscape and open space provision and quality of design; manage appropriate land for open spaces; encourage positive use and management of formal and informal recreation; and encourage small scale environmental improvements.
- 4.2.3 Whilst some flexibility is built into this policy, through the word ‘normally’, it cannot be said that the proposed development would not have an impact on the character, form, extent and structure of the pattern of the site as a designated landscape and open space. The proposal thereby conflicts with the aims of policy 21 of the SLP.
- 4.2.4 The proposed development of the site is supported by policy 8 of the SLP by being positioned within the settlement of Letchworth, where development needs of the District are directed. The site is within a Residential Area and thereby supported by policy 26 of the SLP, subject to an assessment on the impact on the environment and character of the existing area. An assessment of this part of policy 26, as well as policy 57, proportionate to the outline nature of this proposal, is set out later within this report. The proposal would provide affordable housing in excess of that required by policy 29A of the SLP.
- 4.2.5 The 2011-2031 Local Plan Proposed Submission (Emerging Local Plan (ELP)) has been submitted to the Secretary of State and is progressed as described in paragraph 2.4 of this report.
- 4.2.6 The site is identified as a proposed Local Housing Allocation under the provisions draft Policy HS1 as LG10. Paragraph 48 of the National Planning Policy Framework (NPPF) provides advice on weight which might be given to emerging policy having regard to:
- a. The stage of preparation the plan has reached;*
 - b. The extent of unresolved objections; and*
 - c. The extent to which the proposed new policies are consistent with the NPPF.*

- 4.2.7 The plan is well advanced, with the issuing of modifications and subsequent multiple hearings. No further hearings or unresolved objections are considered outstanding on those matters, issues and questions would not impact the sites allocation. The issued modifications considered representations made against the plan and resolve such issues. Allocation LG10 has been modified to remove the requirement for re-provision of the loss of open space as the site is not open to the public. The modification has not been raised as an issue beyond written representations. The modification is subject to an objection from Sports England. It is considered that the policies within the ELP which the site would rely upon for any support are consistent with the NPPF.
- 4.2.8 The site is allocated in policy HS1 as LG10, for the provision of an estimated 37 homes. The policy stipulates that the development hosts appropriate access arrangements to minimise impact upon heritage assets; sensitive design and lower density development to minimise harm to the Croft Lane Conservation Area and setting of the Grade II Listed Buildings along Cashio Lane, Croft Lane and Norton Road; and to provide an archaeological survey prior to development. These matters are considered later within this report, in line with specific professional advice sought from consultees, however, the principle of residential development of the site draws support from the ELP.

Access

- 4.2.9 Means of access to and from the site is unreserved within this application. That is to state that the means of access into and from the site would be fully satisfied if this application were to be approved (subject to conditions if necessary). The Council must be satisfied that the means of access is capable of accommodating up to 42 dwellings. Internal access is reserved by this application. It is also necessary, in establishing the principle of the development of the site, that the indicative internal access shown is capable of accommodating the scale of the proposal. Access is defined within the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) ("DMPO") as *"the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network"*.
- 4.2.10 Further interpretation of this consideration can be found within policy T1 of the ELP. Policy T1 is considered consistent with the NPPF, and states that permission will be granted provided that the development would not lead to highway safety problems or cause unacceptable impact on the highway network. The policy continues to state that sustainable transport infrastructure measures and improvements will be sought. The proposal does not meet the policy threshold for a transport statement, however the applicant must demonstrate how, as far as practicable, the proposed scheme would be served by public transport; provide safe, direct and convenient routes for pedestrians and cyclists, and be comprehensively integrated into the existing pedestrian and cycle, public transport and road networks.

- 4.2.11 Means of vehicular access has been raised multiple times within neighbour representations made through the duration of the consideration of this application.
- 4.2.12 The site allocation requires appropriate access arrangements to minimise impact upon heritage assets. The proposed vehicular access and egress is proposed on Croft Lane to the north of the site and through Croft Lane Conservation Area. The means of access accommodates two-way traffic with a road width of 5.5m. The access would taper where it meets Croft Lane to allow for manoeuvres involving large vehicles. A mood board has been provided (5182-012) which indicates the type of detailing which can be achieved for the access to best preserve the character of the Lane.
- 4.2.13 It is noted that the sites open nature, as an example of a plot which has not been filled by later development, and its verdant boundary treatment to Croft Lane does contribute to the significance of the Conservation Area. Whilst no buildings are proposed or indicated as being provided for within the part of the site which is within the Conservation Area, the access street itself would be within the Conservation Area. The width of the access, alongside its form as hard surfacing and reduction in screening and soft enclosure of the site would diminish the sites contribution to the significance of the Conservation Area. The access would reduce the largely linear nature of development along of Croft Lane and Cashio Lane. Given the amount of space around the access which would be left open, it is considered that a good level of compensatory landscaping could be achieved to diminish this impact.
- 4.2.14 Further to the on-site works, off-site works are required to accommodate the development. These details can be seen on plan referenced ST-2571-18-B, including localised widening of footpaths, a speed table at the entrance to Croft Lane at Norton Road, surface material change at the proposed access to the site, and a speed table at the junction of Croft Lane, Cashio Lane and Paynes Close. The tables are at the extreme ends of Croft Lane Conservation Area, and consequently, would not cause harm to the significance of the Conservation Area as identified in the assessment earlier in this report. The change in materials at the junction of the access is required to overcome a requirement for a speed table in the middle of the Conservation Area, which was considered inappropriate. The change in materials will be conditioned to be undertaken in appropriate materials to a high-quality finish to ensure the impact is minimal.
- 4.2.15 Cumulatively, the access would cause less than substantial harm to the contribution of the site to the significance of the Conservation Area. In this sense, I disagree with the applicants' submission that no harm would result from the development to the sites contribution to the significance of the Conservation Area.
- 4.2.16 Less than substantial harm to heritage assets must be weighed against public benefits. This test is laid out within paragraph 196 of the NPPF, as well as policy HE1 of the ELP. The public benefits of the proposed development include the social and economic benefits of the delivery of housing, including affordable housing, economic benefits of employment during construction, as well as the social and economic benefits of the enhanced use of local services and facilities.

Notwithstanding this, the policy requirement of the allocation to minimise harm on Croft Lane Conservation Area through access details must be satisfied before these public benefits can be applied to the proposal. If an alternative means of access which causes less harm to the heritage asset can be achieved, the public benefits could, and should, be delivered that way.

- 4.2.17 The vehicular access has been negotiated and tested against alternative options which has caused significant delays in the progression of this application. North Hertfordshire District Council (represented by the case officer and Senior Conservation Officer), Hertfordshire County Council (represented as land owners and applicants (Estates) and as Local Highways Authority) and the agents (planning and highways experts) representing the applicants have participated in lengthy discussion and tested several options of access in attempts to minimise impact on Croft Lane Conservation Area.
- 4.2.18 Following these discussions, by reasons of viability, reasonableness as well as harm resultant from alternative options, it has been concluded that the access proposed herein is the least harmful means of achieving the development proposed in heritage terms. Options included use of the existing Cashio Lane access point, use of both Cashio Lane and Croft Lane access points in a one-way system, purchase of nearby dwellings for demolition and provision of access, as well as alternative options for two-way vehicular access and egress onto Croft Lane. The options were ruled out by reason of viability, availability and reasonableness (purchase of neighbouring dwelling) (the site allocation is as shown in the maps supporting the ELP); lack of space within the access to meet technical standards and promote use of alternative modes of transport (Cashio Lane); or requirement for overly engineered accesses and additional 24 hour illuminated signage and bollard requirements (one-way vehicular access using both Croft Lane and Cashio Lane accesses).
- 4.2.19 It is noted that options including the compulsory purchase of a dwelling on Norton Road as well as use of Cashio Lane for vehicular access have been mooted in neighbour representations. Site allocation LG10 does not include any land or dwellings addressing Norton Road. The site allocation in the ELP has not been tested in terms of financial viability against any requirement to purchase additional land to accommodate an access onto Norton Road. Therefore use of Norton Road as a means of access is unreasonable, and the assessment should be against other potential means of access within the site allocation boundary, not outside of it.
- 4.2.20 The use of a Cashio Lane as exclusive, two way, vehicular access and egress has been ruled out as the width of the access, particularly at the point closest to Cashio Lane whereby the bellmouth of the access would begin, is insufficient to meet the technical standards set by Local Transport Plan 4. Cashio Lane represents the most direct desire lane to access a wider cycle network and a cycleway could not be provided alongside a 5.5m wide carriageway and 1.8m footpath.
- 4.2.21 Whilst option 7 (of 8) was selected by deduction of alternative options, it has subsequently been amended to reduce harm to the site's contribution as a heritage asset and to the setting of nearby heritage assets (hence option 7b now proposed). Accordingly, the public benefits of the development can be reasonably applied against the harm, and the proposal is considered compliant with the site-specific requirement of minimising impact on Croft Lane Conservation Area.

- 4.2.22 Whilst the proposed two-way vehicular access onto and from Croft Lane will cause less than substantial harm to the contribution of the site as a heritage asset and the setting of heritage assets, the public benefits of the proposal would outweigh this harm. Conditions will be required to ensure a good level of compensatory landscaping is established by way of future reserved matter application, and that the surface finish details minimise harm.
- 4.2.23 The application has been supplemented by a Transport Assessment which has revealed, without contestation from Hertfordshire County Council as Local Highways Authority, that the means of vehicular access could accommodate associated transport movements with up to 42 dwellings without harm to the safe use of the highway subject to mitigation.
- 4.2.24 Hertfordshire County Council as Highways Authority consider that, subject to conditions and legally secured contributions, that the transport impact could be sufficiently mitigated. The mitigation would be borne through the following improvements, provided by way of S278 and S106 agreements:

S278 works:

All access works identified on the drawings ST-2571-21 Rev A Means of Access Croft Lane Option 7b, ST-2571-18 Rev B Croft Lane Access Strategy and ST-2571-22 Swept Path Analysis – Croft Lane – Option 7B, and the following:

- 1/. access works and closure of redundant sections of vehicular access;
- 2/. localised widening of Croft Lane, Sinusoidal ramps on speed tables, Re-align kerb, Proposed speed table, proposed uncontrolled crossing point to existing footway to the west of Cashio Lane, No footway for 220 yards sign, Localised widening of footway to achieve 2.0m widths where appropriate, etc.,
- 3/.in Cashio Lane: provision of uncontrolled pedestrian crossing;
- 4/. the “Potential footway and crossing on Norton Road (contribution towards Highway Authority)” presented on the drawing Croft Lane Access Strategy, ST-2571-18-A, Appendix H of the TA) should be changed to: Provision of footway and signalised pedestrian crossing on Norton Road (the works to be undertaken under s278 works). This is due to the works are essential for the development to be acceptable in highway terms to provide safe access to the nearest bus stop and the school.

S106 contributions towards:

Package 06 of the North Central Hertfordshire Growth and Transport Plan: To form a sustainable corridor between Stevenage and Letchworth Garden City by upgrading existing cycling infrastructure, improving the public realm in villages on B197 as well as ensuring bus priority or/and

Package 10 of the North Central Hertfordshire Growth and Transport Plan: To enhance cycling infrastructure between Hitchin, Letchworth Garden City and Baldock; and make it a safe and attractive option for sustainable trips. Or/and

Package 11 of the North Central Hertfordshire Growth and Transport Plan To increase active transport provision between the centre of Letchworth Garden City and the Industrial Estate by providing a signposted and connected active transport network.

- 4.2.25 Other than the vehicular means of access concentrated on above, the site would provide a wide and attractive secondary means of pedestrian and cyclist access onto Cashio Lane to the west of the site. This additional access shows permeability, and makes best efforts to connect the site sufficiently to local facilities including schools by alternative modes of transport than private motorised vehicles.
- 4.2.26 Neighbour representations have been received with concerns as to the original objection from Hertfordshire County Council as Local Highways Authority being subsequently overturned to a recommendation for approval subject to conditions. This is not an uncommon occurrence. The reasons for objection provided in the original response from the LHA related to technical design details of the width of the carriageway, pedestrian access across the site, and incorrect information on visibility to and from the access from Croft Lane. All these technical issues had regard to access proposed within the site itself. Pursuant to changes in the access proposals, these technical detail issues were overcome.
- 4.2.27 It is also noted that neighbour representations had regard to the LHAs responses to other similar applications. Each proposal is considered on its own merits, and there are never two sites and proposals which have identical circumstances and context in terms of sustainable transport.
- 4.2.28 The means of access would, subject to mitigating conditions and planning obligations, be able to accommodate the development proposed without harm to the safe use of the highway and successfully connect the proposed dwellings to essential facilities without the requirement for independent vehicles. Internal access is reserved for future reserved matters applications, however, the indicative plans provide comfort that safe access can be provided internally for all modes of transport. Whilst the means of access would cause less than substantial harm to the contribution of the site to the significance of heritage assets, including the setting of Listed Buildings as well as Croft Lane Conservation Area, this harm would be partially mitigated by conditions and is the minimum to deliver public benefits which outweigh that harm. On behalf of the Local Planning Authority, I consider a pre-commencement condition requiring the final finish detailing of both the on and off-site works required to accommodate the access would meet the tests of conditions set out in paragraph 55 of the NPPF. It is considered that, subject to conditions and obligations, the means of access proposed is capable of accommodating up to 42 dwellings in a sustainable fashion.

Appearance

- 4.2.29 Appearance *“means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture”* (DMPO). The most relevant site-specific criterion to this matter is that the development be sensitively designed and/or lower density housing to minimise harm to the Croft Lane Conservation Area and setting of the Grade II Listed Buildings along Cashio Lane, Croft Lane and Norton Road.

4.2.30 Appearance is clarified within policy 57 and 58 of the SLP, policy D1 of the ELP and the Design Supplementary Planning Document. Generally, the policies aim for the design of buildings or places to reflect the character of the sites surroundings. The SPD and Policy 58 of the SLP goes into more detailing as to the materials used in the development of Letchworth Garden City and their rational (particularly paragraph 196 of the SPD). Notwithstanding this, the details within these policies are not particularly relevant to this application, as this detail is a reserved matter. The policy basis is only important in that it would be possible to achieve the desired appearance on the site with the proposed development.

4.2.31 Given the amount of good quality design buildings in the immediate surroundings of the site, it is considered that the proposal would be more than capable of accommodating buildings of an appropriate appearance in any future reserved matters application. No further information is considered to be required at this outline stage in respect to appearance. No parameters have been proposed in any of the documents submitted, and consequently, the Council will have freedom to assess a reserved matters application in respect to appearance with a free reign, and seek the highest architectural quality. The proposed development could thereby provide a high quality appearance which would preserve the significance of the heritage asset and meet the relevant design based criteria of the SLP, ELP and NPPF.

Landscaping

4.2.32 Landscaping is defined as *“the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes -*

(a) screening by fences, walls or other means;

(b) the planting of trees, hedges, shrubs or grass;

(c) the formation of banks, terraces or other earthworks;

(d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and

(e) the provision of other amenity features.”

4.2.33 Policy NE1 of the ELP advises that proposals would be granted so long as they do not cause unacceptable harm to the character and appearance of the surrounding area taking account of any suitable mitigation measures necessary to achieve this, are designed and located to ensure the health and future retention of important landscape features and have considered the long term management and maintenance of any existing and proposed landscaping. Policy 57 of the SLP guides that the layout of proposals should be designed to keep landscape features where possible, and proposals should take opportunities to improve the landscape of the site and its surroundings.

- 4.2.34 Some landscaping details have been provided within an indicative plan. Further landscaping details can be found within the Tree Survey and Tree Constraints Plan. The site contains some trees along the boundary as well as two class C trees towards the east of the site which are not on the boundary. The indicative site plan shows the majority of those trees to be retained.
- 4.2.35 The indicative retention of category B and a large proportion of category C trees is welcomed. The indicative site plan does not position any dwellings such that any trees are clearly threatened by proximity, daylight issues, or root protection concern. The proposed means of access to the north onto and from Croft Lane does have potential implications for existing trees.
- 4.2.36 The principle and most notable removal is that of a classification C Ailanthus tree adjacent to Croft Lane. The Tree Report suggests that tree is the weaker within the row and is suppressed by adjoining Norway Maple trees. That report aligns to my understanding and result of my site visit. I do not consider the tree to have a significant contribution to the significance of the Conservation Area for these reasons and am thereby not objectionable to its removal to accommodate the means of access. The means of access will also encroach upon the root protection area of a Pear tree (classified U) and a Norway Spruce (classified C). Again, I have no particular concerns regarding these removals, by reason of their classification alongside their limited contribution to the significance of the Conservation Area. A condition will be required to ensure that the trees identified above as being under threat from the proposed access will be replaced in part of the site within the Conservation Area in the next planting season after the means of access is completed.
- 4.2.37 The landscaping shown in the indicative details, in terms of the planting of trees along the outer and inner side of the circular access road shows that a good level of tree planting could be achieved. Further consideration of perimeter screening planting should be considered in future landscaping reserved matters applications where that planting would benefit the amenity of the occupiers of future and that of adjoining premises.
- 4.2.38 As a result, it is considered that the indicative layout shows that the site could accommodate the proposed development while maintaining a high-quality landscape. The proposed removal of trees would not impact the contribution of the site to the significance of the Conservation Area, subject to later reserved matters application to improve landscaping to the entrance of the site along Croft Lane, which is clearly achievable. It is noted that the tracking proposed indicates a widening of Croft Lane opposite the entrance and in close proximity to an existing Horse Chestnut tree. A condition will be added to ensure details of the surfacing proposed around the tree and methods to best protect the tree are submitted and approved by the Local Planning Authority prior to commencement of the works to accommodate the proposed access.

Layout

- 4.2.39 Layout *“means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development”.*

- 4.2.40 Layout is considered to be an important aspect of Letchworth Garden City Design Principles (policy 58 of the SLP and policy D1 of the ELP). Creating vistas, closure and accents within group design breaks the monotony of built form. Stepping of building lines with differing block designs with similar materials allows for the creation of accents. Vistas are best formed by tree lined streets and closure represented by feature buildings at key points.
- 4.2.41 The indicative layout is considered acceptable in-so-much as it provides some evidence that the amount of development proposed could be accommodated on the site in respect to layout. There is evidence of some stepping of building lines.
- 4.2.42 Work is needed in respect to the creation of vistas and accents. Work is also required in respect to buildings addressing corners and orientation of the built form to make best use of natural light and solar gain. In terms of open spaces, it is considered that the grouping of open space around the edges of the site is not a particularly attractive or inclusive strategy, albeit, it does allow for some spacing from sensitive adjoining premises in terms of heritage value and residential amenity (along Norton Road where landscape screening is less prevalent). It is not considered that the occupiers of any proposed building would suffer poor living conditions by reason of the relationship with other proposed buildings based on the indicative plan.
- 4.2.43 Care will need to be taken in any reserved matters application in respect to layout (and landscaping) to ensure that harm to adjoining premises in terms of overlooking and outlook is not harmed. Particular care should be taken around plots 25, 28-32 in terms of distance to existing rear boundaries and supplementary planting as potential mitigation. Further consideration must be had to any particular views into the site or views into or from any adjoining heritage assets as a starting point for any layout supplementing future reserved matters applications.
- 4.2.44 In terms of reflecting the character of the sites surroundings, it is noted that the buildings are separated some distance from the street or driveway which they address. Shared driveways should be minimised in future reserved matters applications as it is unreflective of the linear pattern of development of the surrounding area. Notwithstanding the above suggestions, with some configuration, it is considered that an acceptable layout, not unlike the indicative plan, would award sufficient spacing to accommodate the proposed development without harm to the significance of nearby heritage assets and living conditions of the occupiers of adjoining premises, while representing high-quality design.

Scale

- 4.2.45 *"The height, width and length of each building proposed within the development in relation to its surroundings"* is how scale is defined in the GPDO. Again, this consideration is only covered in-so-far as to whether the site would likely be capable of accommodating the development proposed.
- 4.2.46 Scale is not directly addressed in the development plan beyond policy D1 of the ELP and policy 57 of the SLP. The scale of the proposed development should respect the character of the sites surroundings.

- 4.2.47 The indicative plans and elevations show two storey buildings. The planning, design and access statement confirms an envisaged height of 2 storeys, with maximum eaves heights of 5m and ridge heights 9m. It is not considered that the ridge height is appropriate to the site's context. Notwithstanding this, this matter is reserved, and my suggestion that 9m is inappropriate is just that. Evidence will need to support any reserved matters application that the height of the buildings has been informed by its context. 2 storeys as a maximum height is considered appropriate to the site's context. The indicative layout shows the site perfectly capable of accommodating the dwelling mix and floor space required for those dwellings over two storeys.
- 4.2.48 The proposed development is not going to be capable of directly reflecting the surrounding area in respect to the width and length of each building and separation distances without having a severe impact on deliverability and failing to maximise the use of the site. Here we have conflicting policy considerations. Considering the proposed access details (representing a cul-de-sac with good pedestrian and cyclist permeability), and spacing between the proposed built form and those dwellings on Cashio Lane, Croft Lane and Norton Road, it is considered that, with some amendments, the proposed development could provide the density and scale indicated without harming the character of the surrounding area. The information supporting this application demonstrates that the site could accommodate the scale of development proposed without harm.

Ecology

- 4.2.49 The site is not considered to be of high ecological value. That being said, policy NEx of the ELP suggests that all proposals should seek to deliver net gains for biodiversity and geodiversity, contribute to ecological networks and the water environments, and/or restore degraded or isolated habitats where possible. Hertfordshire County Council Ecology have not suggested or progressed any requirements for planning conditions or obligations in this case. Informatives have been requested and duly added. Consequent to Hertfordshire Ecology response to consultation, it is considered that the development accords with the development plan in regard ecology.

Flood risk

- 4.2.50 A flood risk assessment was originally provided with this outline planning application dated 06 March 2019. The assessment has been supplemented with an addendum dated 05 March 2021, pursuant to negotiations in respect to access.
- 4.2.51 Following re-consultation with the Lead Local Flood Authority, no objection has been raised to the original flood risk assessment and addendum, subject to conditions which have been duly recommended.

Housing mix

4.2.52 The indicative plans show the following housing mix –

House type	Number	Total large/small split (%)
1 bed flats	0	+
2 bed flats	0	+
2 bed houses	6	14
3 bed houses	11	+
4+ bed houses	25	86
Total	42	100

Table 1

4.2.53 Policy HS3 requires that new home sites achieve the overall targets of the plan; the findings of the most up-to-date evidence including the most recent strategic housing market assessment, the Council's self-build register and other relevant evidence of housing need; the location and accessibility of the site; and recent completions, existing permissions and sites in the five year supply. Further to this, policy HS3 requires that the scheme would provide a density, scale and character of development appropriate to its location and surroundings.

4.2.54 Following this guidance, the policy requirement for housing mix is, broadly, shown below, based on up-to-date evidence –

House type	Number	Total large/small split (%)
1 bed flats	3	+
2 bed flats	5	+
2 bed houses	9	40
3 bed houses	17	+
4 bed houses	8	60
Total	42	100

Table 2

4.2.55 Whilst it is acknowledged that the sites context is very low density large detached dwellings, no evidence has been provided which satisfies me that any mix otherwise than that required by the evidence supporting the ELP shown in Table 2 is acceptable. The housing mix proposed on the indicative plans is not agreed. It is of note that this is only indicative at this stage. At reserved matters stages, evidence will be required to be submitted to evidence a requirement to vary so drastically from the housing mix suggested in table 2. Some, limited, variance may be accepted if the housing mix cannot be reasonable accommodated without causing unacceptable harm in terms of layout, appearance or scale for instance. As these are indicative, and a matter reserved, the indicative housing mix does not give rise to any reason for refusal at this stage.

Affordable housing

4.2.56 Policy HS2 requires 40% affordable housing on sites providing 25 dwelling or more. This percentage has been agreed and built into the S106 agreement to be delivered on-site. The policy continues that the expectation is for 65% be rented and 35% other forms of affordable housing. This has again been agreed and built into the S106 agreement. As with policy HS3, the affordable housing provision needs to meet the needs of the area. The other policy requirements have been secured within the legal agreement in the form of the S106 agreement.

4.2.57 Following negotiation, the affordable housing splits in terms of type and size are shown in the tables below –

Social/affordable rented	Total (%)
1 bed flat	0
2 bed flats	0
2 bed houses	55
3 bed houses	36
4 bed houses	9
Total	100

Table 3

Intermediate	Total (%)
1 bed flat Intermediate	0
2 bed flats Intermediate	0
2 bed houses Intermediate	33
3 bed houses Intermediate	50
4 bed houses Intermediate	17
Total	100

Table 4

Legal agreements

4.2.58 Contributions have been secured by legal agreement for the following –

Category (Authority)	Figure (£)	Infrastructure Project(s)
Primary Education (HCC)	Based on final delivery	towards the expansion of the Garden City Academy school by one form of entry to two forms of entry
Secondary Education (HCC)	Based on final delivery	towards the expansion of Fearnhill School from eight forms of entry to nine forms of entry
Library (HCC)	Based on final delivery	towards Letchworth library to develop the adult fiction area within the library, reconfiguring the space and installing new flexible and accessible shelving
Youth Services (HCC)	Based on final delivery	towards providing additional capacity within the large group work room at the Hitchin Young People's Centre
Sustainable Transport (HCC)	Based on final delivery	towards: Package 06 of the North Central Hertfordshire

		<p>Growth and Transport Plan: To form a sustainable corridor between Stevenage and Letchworth Garden City by upgrading existing cycling infrastructure, improving the public realm in villages on B197 as well as ensuring bus priority; and / or</p> <p>Package 10 of the North Central Hertfordshire Growth and Transport Plan: To enhance cycling infrastructure between Hitchin, Letchworth Garden City and Baldock to make it a safe and attractive option for sustainable trips; and / or</p> <p>Package 11 of the North Central Hertfordshire Growth and Transport Plan To increase active transport provision between the centre of Letchworth Garden City and the Industrial Estate by providing a signposted and connected active transport network.</p>
Leisure (NHDC)	29,852 (subject to indexation)	towards refurbishment of gymnasium and changing facilities to provide the dual use of the facilities within Fearnhill School
Open Space (NHDC)	15,348.80 (subject to indexation)	towards repairs to footpaths, formalisation of BMX trails and improved interpretation/signage at Norton Common
Community Centre (NHDC)	18,035 (subject to indexation)	towards the community hall improvements at Norton Methodist Church, including improving the internal environment of the church
Play Space (NHDC)	28,395 (subject to indexation)	towards play space provision at Howard Park play area to refurbish and replace equipment in Letchworth
Sports Pitch (NHDC)	14,005 (subject to indexation)	towards the on-going maintenance of sports pitch provision at Baldock Road sports pitches, Letchworth
Waste and Recycling	2,622 (subject to indexation)	towards the cost of providing waste collection and recycling facilities serving the Development

Table 5

4.2.59 These contributions have been agreed to compensate additional stress on existing facilities based on the use by new residents. The amounts are considered proportionate to the scale of the development, directly related to the planning proposal and required to make the development acceptable in planning terms. The schemes to which the contributions will fund have been identified and meet the relevant criteria of the CIL Regulations 2012 (as amended).

Archaeology

- 4.2.60 Following a thorough review of all available information for the site, Hertfordshire County Councils Historic Environment team consider the archaeological potential of the site falls just below the threshold for requiring further intrusive evaluation predetermination. Consequently, three progressive conditions have been recommended and accepted to ensure the archaeological value of the site is preserved.

The planning balance

- 4.2.61 The starting point for the determination of any planning application is the development plan. In this case, the development plan is considered out-of-date by reason of footnote 7 of paragraph 11 of the NPPF. The Council acknowledge a shortfall of the minimum target five-year housing land supply, and the application is for the delivery of housing.
- 4.2.62 Progressing the application of paragraph 11(d) of the NPPF, limb i. states that planning permission should be granted unless *“the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed”*. Designated heritage assets are listed as areas or assets of particular importance. Consequently, these policies must be applied to determine whether they provide a clear reason for refusing the development.
- 4.2.63 In line with my assessment above, the development would cause less than substantial harm to the contribution of the site as a designated heritage asset, and its contribution to the setting of heritage assets. This is not, in itself, a clear reason for refusal. Paragraph 196 of the NPPF sets out the balance to be taken to appraise whether this less than substantial harm will provide a clear reason for refusal.
- 4.2.64 Less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal. In this case, the public benefits of the development include the social and economic benefits of the provision of market and affordable housing in the context of the sharp housing requirement in the District, as well as the other economic and social benefits of the increased use of local facilities and amenities, and employment during construction. Given the detail provided that the access shown, as the principal concern in respect to harm to significance, cannot be alternatively provided, it is considered that these public benefits outweigh the less than substantial harm.
- 4.2.65 Consequently, the application of policies in the Framework which protect areas or assets of particular importance do not provide a clear reason for refusal. Limb ii. of paragraph 11(d) of the NPPF is thereby engaged, whereby planning permission should be granted unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*. This is commonly referred to as the tilted balance.
- 4.2.66 The proposal conflicts with the SLP, in that the plan intends to develop and build upon an area of designated open space, whereby policy 21 restricts significant effect on the character, form, extent and structure of open space patterns in towns.

4.2.67 The Council are well advanced with the ELP. This means that significant weight can be afforded to policies in the ELP. The proposal complies with the ELP. Given the progress of the ELP, this allocation carries significant weight in the planning balance.

4.2.68 The site represents a sustainable location for residential development. The residential use proposed would be near to facilities, amenities and services in a specified settlement. The information submitted to supplement the application, indicative though they may be, satisfy that the site could accommodate the proposed development of up to 42 dwellings, subject to later reserved matters applications. The S106 agreement would provide 40% affordable housing units of an agreeable mix of tenure and size. These social benefits carry significant weight in favour of the proposed development. Further economic and social benefits include employment during construction, as well as the continued and improved use of local services and facilities.

4.2.69 Any harm identified through conflict with policy 21 of the SLP and loss of designated open space would not significantly and demonstrably outweigh the benefits of the proposed development in the context of the allocation of the land for development in the ELP.

4.3 **Conclusion**

4.3.1 Whilst there is a conflict with policy 21 of the SLP, the proposal is compliant with the ELP and NPPF, including the impact on heritage assets. It is considered that the harm resultant from the conflict with policy 21 is not so significant and demonstrable as to overcome the benefits of the development, including affordable housing provision, contribution to an identified housing need, employment during construction and increased use and viability of local facilities. As such, the proposed development of outline permission for up to 42 dwellings should be **GRANTED**.

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 completion of a satisfactory S106 agreement delivering the infrastructure requirements detailed within this report and the following conditions:

1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting, approved documents and plans, together with the reserved matters approved by the Local Planning Authority, or with minor modifications of those details or reserved matters which previously have been agreed in writing by the Local Planning Authority as being not materially different from those initially approved.

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

2. Before the development hereby permitted is commenced, approval of the details of the internal access, appearance, scale, layout and landscaping (hereinafter called "the reserved matters") shall be obtained in writing from the Local Planning Authority.

Reason: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 2015 as amended.

3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission, and the development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. No development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme and methodology of site investigation and recording as suggested by the evaluation
3. The programme for post investigation assessment
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the site investigation
7. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

Reason: To ensure the satisfactory preservation of any subterranean heritage assets which may exist within the site, in line with section 15 of the NPPF and policy HE4 of the Emerging Local Plan.

5. The development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition 4.

Reason: To ensure the satisfactory preservation of any subterranean heritage assets which may exist within the site, in line with section 15 of the NPPF and policy HE4 of the ELP.

6. The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 4 and the provision made for analysis and publication where appropriate.

Reason: To ensure the satisfactory preservation of any subterranean heritage assets which may exist within the site, in line with section 15 of the NPPF and policy HE4 of the ELP.

7. Prior to the commencement of the permission hereby approved, a Site Waste Management Plan must be submitted to and approved in writing by the Local Planning Authority in conjunction with the Spatial and Land Planning Team at Hertfordshire County Council. The Site Waste Management Plan approved pursuant to this condition shall thereby be followed and implemented throughout the construction of the development hereby approved.

Reason: To promote the sustainable management of waste in the county and minimise waste generated by development.

8. The development permitted by this planning permission shall be carried out in accordance with the principles of the approved drainage strategy indicated on Drawing ST-2571-05-B revision B dated 5 March 2021 and the information submitted in support of this application and the following mitigation measures;

1. Limiting the surface water runoff rates to maximum of 5l/s for all rainfall events up to and including the 1 in 100 year plus 40% allowance for climate change event with discharge into the surface water sewer.
2. Provide attenuation to ensure no increase in surface water runoff volumes for all rainfall events up to and including the 1 in 100 year including 40% for climate change event.
3. Implement drainage strategy as indicated on the proposed drainage strategy drawing utilising lined permeable paving, swales and basins.

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

Reason: To reduce the risk of flooding to the proposed development and future occupants

9. No development shall take place until a detailed surface water drainage scheme for the site based on the principles of the approved drainage strategy and sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

1. An assessment with an appropriate evidence to discharge surface water runoff from the development site into the ground via infiltration or into a public surface water sewer. If discharge into the sewer will be considered, an evidence will have to be provided why infiltration into the ground cannot be achieved.
2. If the drainage proposals for the access road are to infiltrate, then evidence of permeability should be provided, and test must be conducted in accordance with BRE Digest 365. Tests will have to be undertaken at the exact locations and depth of the proposed infiltration features.
3. If a pumped discharge into a wider drainage on site will be considered, any potential to promote more sustainable design and to limit the pumped network length should be considered. An appropriate evidence should be provided.
4. Final, detailed drainage layout plan showing all piped networks and SuDS features, identified invert levels, as well as a final discharge point into a public sewer.
5. Details in relation to the proposed conveyance swales.
6. Full assessment of the final proposed treatment train for any proposed access roads or driveways.
7. Final network modelling based on an appropriate discharge mechanism for all rainfall events up to and including the 1 in 100 year rainfall including 40% for climate change allowance. As the final discharge into a public sewer rate of 5 l/s should be considered.
8. Detailed engineered drawings of the proposed SuDS (lined permeable paving, swales, basins) and drainage features including cross and long section drawings, size, volume, depth and any inlet and outlet features details including any connecting pipe runs. For the proposed attenuation basins cross section drawings identifying ground levels of the neighbourhood properties should also be provided. This is to minimise any negative impact on the existing neighbourhood residential properties.
9. Details regarding any areas of informal flooding to be shown on a plan with estimated extent areas, flooding volumes and depths based on the proposed layout and topography of the site.
10. An assessment of any surface water runoff flows exceeding the designed 1 in 100 year event including 40% for climate change allowance.
11. Maintenance and management plan to include the final land ownership plan, arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To reduce the risk of flooding to the proposed development and future occupants

10. Upon completion of the drainage works a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall also include:
 1. Final confirmation of management and maintenance requirements
 2. Provision of complete set of as built drawings for the site drainage

Reason: To reduce the risk of flooding to the proposed development and future occupants

11. Prior to occupation of any of the dwellings hereby approved, a scheme identifying a substantial number, as well as the distribution of, EV charging points shall be submitted and agreed in writing by the Local Planning Authority. The EV charging points agreed by way of this condition shall be implemented prior to the occupation of any dwelling hereby approved.

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.

12. Prior to the commencement of the development details of a residential travel plan shall be submitted to and approved in writing by the Local Planning Authority. Measures within the approved travel plan shall be implemented in full within an agreed timetable set out in the plan, unless otherwise agreed in writing by the Local Planning Authority.

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

13. 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:

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

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. 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 13, above; has been submitted to and approved by the Local Planning Authority.

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.

15. 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 14 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.

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.

16. Any contamination, other than that reported by virtue of condition 13 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.

17. The occupation of the development authorised by this permission shall not begin until full details (in the form of scaled plans and written specifications) have been submitted to and approved in writing by the Local Planning Authority to illustrate the following: internal housing layout, roads, footways; cycleways; foul and surface water drainage; visibility splays; parking provision in accordance with adopted standard; loading areas; turning areas.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

18. The occupation of the development authorised by this permission shall not begin until the main access to the development from Croft Lane has been completed in accordance with the approved in principle drawing number ST-2571-21 Rev A Means of Access Croft Lane Option 7b and ST-2571-22 Swept Path Analysis - Croft Lane - Option 7B and constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction.

Reason: To ensure the provision of an access appropriate for the development in the interests of highway safety and convenience.

19. The occupation of the development authorised by this permission shall not begin until the offsite highway improvement works, as indicated on the drawings numbered ST-2571-21 Rev A Means of Access Croft Lane Option 7b, ST-2571-18 Rev B Croft Lane Access Strategy and ST-2571-22 Swept Path Analysis - Croft Lane - Option 7B, have been undertaken. The "Potential footway and crossing on Norton Road (contribution towards Highway Authority)" presented on the drawing Croft Lane Access Strategy, ST-2571-18-B should be changed to: Provision of footway and signalised pedestrian crossing on Norton Road (the works to be undertaken under s278 works).

These works shall be completed to the satisfaction of the Local Planning Authority and Highway Authority before occupation of the development.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

20. The occupation of the development authorised by this permission shall not begin until the existing vehicular access to Cashio Lane and the existing access to Croft Lane, which would become redundant but have not been shown on the submitted plans, have been permanently closed and the footways reinstated where necessary to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018)

21. The occupation of the development authorised by this permission shall not begin until the access gradient does not exceed 1:20 for the first 10 meters metres into the site as measured from the near channel edge of the adjacent carriageway.

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 (adopted 2018).

22. The occupation of the development authorised by this permission shall not begin until a scheme for the parking of cycles including details of the design, level and siting of the proposed parking have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied and thereafter retained for this purpose.

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

23. No development shall commence until a Construction Management Plan (or Construction Method Statement) 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 / Statement shall include details of:
- a. Construction vehicle numbers, type, routing;
 - b. Access arrangements to the site;
 - c. Traffic management requirements
 - d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - e. Siting and details of wheel washing facilities;
 - f. Cleaning of site entrances, site tracks and the adjacent public highway;
 - g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
 - h. Provision of sufficient on-site parking prior to commencement of construction activities;

- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- j. 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 (adopted 2018).

24. The landscape details to be submitted as reserved matters 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.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, B, C, D, E and F of Part 1 and Class A of Part 2 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

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

26. Prior to the commencement of the development hereby approved in respect means of access, as well as the offsite highway improvement work as indicated on the drawings numbered ST-2571-21 Rev A Means of Access Croft Lane Option 7b, ST-2571-18 Rev B Croft Lane Access Strategy and ST-2571-22 Swept Path Analysis - Croft Lane - Option 7B, full details shall be submitted to and approved in writing by the Local Planning Authority in respect to final details of the works required. The package submitted pursuant to this condition shall include the location, material, section and elevation details where necessary in relation to;
- a) surface materials, with specific reference to the change in surface materials at the access to the site from Croft Lane;
 - b) footpath surface, both at Croft Lane and Cashio Lane;

- c) kerbs;
- d) grass verges;
- e) bollards;
- f) signage (traffic and street);
- g) street lighting within the site;
- h) road markings/painting; and
- i) speed tables and sinusoidal ramps.

The details should draw reference from the sites context and provide a high-quality finish in all instances. The details approved by way of this condition shall subsequently be implemented on and offsite.

Reason: To ensure best efforts are made in terms of fine detailing to preserve the quality of the sites surroundings as a heritage asset.

27. Prior to the commencement of the development hereby approved in respect to means of access, as well as the offsite highway improvement work as indicated on the drawings numbered ST-2571-21 Rev A Means of Access Croft Lane Option 7b, ST-2571-18 Rev B Croft Lane Access Strategy and ST-2571-22 Swept Path Analysis - Croft Lane - Option 7B, details shall be submitted to and approved in writing by the Local Planning Authority in relation to the protection of trees. The details to be submitted pursuant to this condition, in line with any future reserved matters application in relation to landscaping, shall include:

- a) Tree protection measures for those trees within the site to be retained aligned to the latest building standards;
- b) Tree protection measures for those trees outside of the site within Croft Lane Conservation Area aligned to the latest building standards; and
- c) Works methodology and monitoring in respect to both on and offsite trees where works are required within the root protection area of the tree.

The details approved by way of this condition must then be implemented and maintained during the works.

Reason: To ensure that measures are taken to ensure the protection of trees within Croft Lane Conservation Area from required on and offsite works required as a result of this permission.

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.

Informative/s:

1. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the highway works. The construction of highway works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.
2. The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
3. Within any future reserved matters applications detailing the layout and access details, further details of the circulation route for refuse collection vehicles need to be included. The required details shall include a full construction specification for the route, and a plan defining the extent of the area to which that specification will be applied. No dwelling forming part of the development shall be occupied until the refuse vehicle circulation route has been laid out and constructed in accordance with the details thus approved, and thereafter the route shall be maintained in accordance with those details.
4. In the interests of clarity, please note that the freighter used for any analysis informing future reserved matters applications in respect to bin collections are -
 - o Width: 2,500mm (without mirrors)
 - o Height: 3,400mm (without hazard beacons)
 - o Turning circle: 22,800mm
 - o Overall length: 12,100mm (from front to rear of bin lift)
5. The applicant is hereby notified of the following informative to inform any future reserved matters applications in these respects -

Flats:

Doors to bin stores should be sufficient in widths to allow the movement of bins at their widest and prevent entrapment of limbs. This is likely to be a minimum of 20cm in addition to the widest bin contained in the bin store.

Walls and doors should have protection strips to prevent damage and a mechanism for holding doors open should be available.

Doors should ideally be keypad entry or standard fire brigade keys. We do not support the use of electronic key fobs.

Roller shutters on bin stores can be considered to save space however the additional noise impacts should be considered.

Dropped kerbs should be provided to allow for ease of movement of bins to the collection vehicle and the pathway should be 1.5m in width taking the most direct route avoiding passing parked cars.

We do not advise the use of bin compactors, as they often cause excessive damage to bins or cause waste to get stuck inside bins. If bin compactors are used on site you should advise your waste collection contractor.

Bins in communal bin stores should be manoeuvrable to the refuse collection vehicle without the need to move other bins.

The surface to the collection point should be uninterrupted, level with no gravel or similar covering, and have a width to enable the easy passage of wheeled bins. For two-wheeled bins this should be 1 metre for four-wheeled bins this should be 1.5 metres wide (including doorways), with a maximum gradient of 1:12.

Consideration should be given to parking arrangements alongside or opposite the access to individual streets. If car parking is likely in the vicinity of junctions then parking restrictions may be required to ensure access is not inhibited.

For flats, bins should be ordered direct from the Council's contractor 10 weeks in advance of first occupation to ensure they arrive in time for the first residents moving in.

General:

Separate internal storage provision for waste should be provided in kitchen areas to support the recycling of different waste streams to support the National Planning Policy for Waste's requirements to support driving waste up the waste hierarchy.

Storage areas should be conveniently located with easy access for residents -residents should not have to take their waste and recycling more than 30metres to a bin storage area, or take their waste receptacles more than 25metres to a collection point, (usually kerbside) in accordance with Building Regulations Approved Document H Guidance.

Consideration should be given to parking arrangements alongside or opposite the access to individual streets. If car parking is likely in the vicinity of junctions then parking restrictions may be required to ensure access is not inhibited.

For infill applications consideration should be given to parking arrangements alongside or opposite the access to the site. If car parking is currently permitted the consideration of parking restrictions may be required to ensure access is not inhibited.

For houses, bins should be ordered direct from the Council's contractor 2 weeks in advance of first occupation to ensure they arrive in time for the first residents moving in.

Pull distances from the storage point to the collection point should not be within close proximity to parked cars.

The gravel drive makes pulling bins difficult and consideration should be given to whether this surface is the most suitable or whether bins stored closer to the collection point would be more preferable.

The applicant should note that collections occur from the kerbside and residents will be required to present their bins in this location on collection day.

Further advice on waste provision for developments is available on our website. <http://www.north-herts.gov.uk/home/planning/waste-and-recycling-provision>

6. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047.
7. It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
8. The applicant is advised that all new highway associated with this development will remain unadopted and the developer should put in place a permanent arrangement for long term maintenance. At the entrance of the new estate the road name plate should indicate that it is a private road to inform purchasers of their future maintenance liabilities. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

9. Any external lighting scheme should be designed to minimise light spill, in particular directing light away from the boundary vegetation to ensure dark corridors remain for use by wildlife as well as directing lighting away from potential roost sites. It should follow guidance from the Bat Conservation Trust and CIE 150:2003. Warm-white (long wavelength) lights with UV filters should be fitted as close to the ground as possible. Lighting units should be angled below 70° and equipped with movement sensors, baffles, hoods, louvres and horizontal cut off units at 90°
10. Any excavations left open overnight should be covered or have mammal ramps (reinforced plywood board >60cm wide set at an angle of no greater than 30 degrees to the base of the pit) to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120mm must be covered at the end of each working day to prevent animals entering / becoming trapped.
11. To avoid killing or injuring of hedgehogs it is best practice for any brash piles to be cleared by hand. It is also possible to provide enhancements for hedgehogs by making small holes (13cm x 13cm) within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site but will be too small for most pets.
12. Keep any areas of grass as short as possible up to, and including, the time when the works take place so that it remains unsuitable for amphibians (including Great Crested Newts) to cross

Cleared areas should be maintained to prevent re-colonisation prior to works commencing; and potential hibernacula or refugia such as loose stones or dead wood should be removed by hand.

Stored building materials (that might act as temporary resting places) are raised off the ground e.g. on pallets or batons away from hedgerows on site. Caution should be taken when moving debris piles or building materials as any sheltering animals could be impacted on and if an amphibian (with exception of a Great crested newt) is found, then it should be moved carefully out of harm's way.

Any excavations are backfilled before nightfall or a ramp left to allow trapped animals to escape easily / provided with a means of escape for any animals that may have become trapped - this is particularly important if holes fill with water.

In the unlikely event that a Great crested newt is encountered during works, works must stop immediately and ecological advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist.



13. Any vegetation clearance should be undertaken outside the nesting bird season (March to August inclusive) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than two days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.

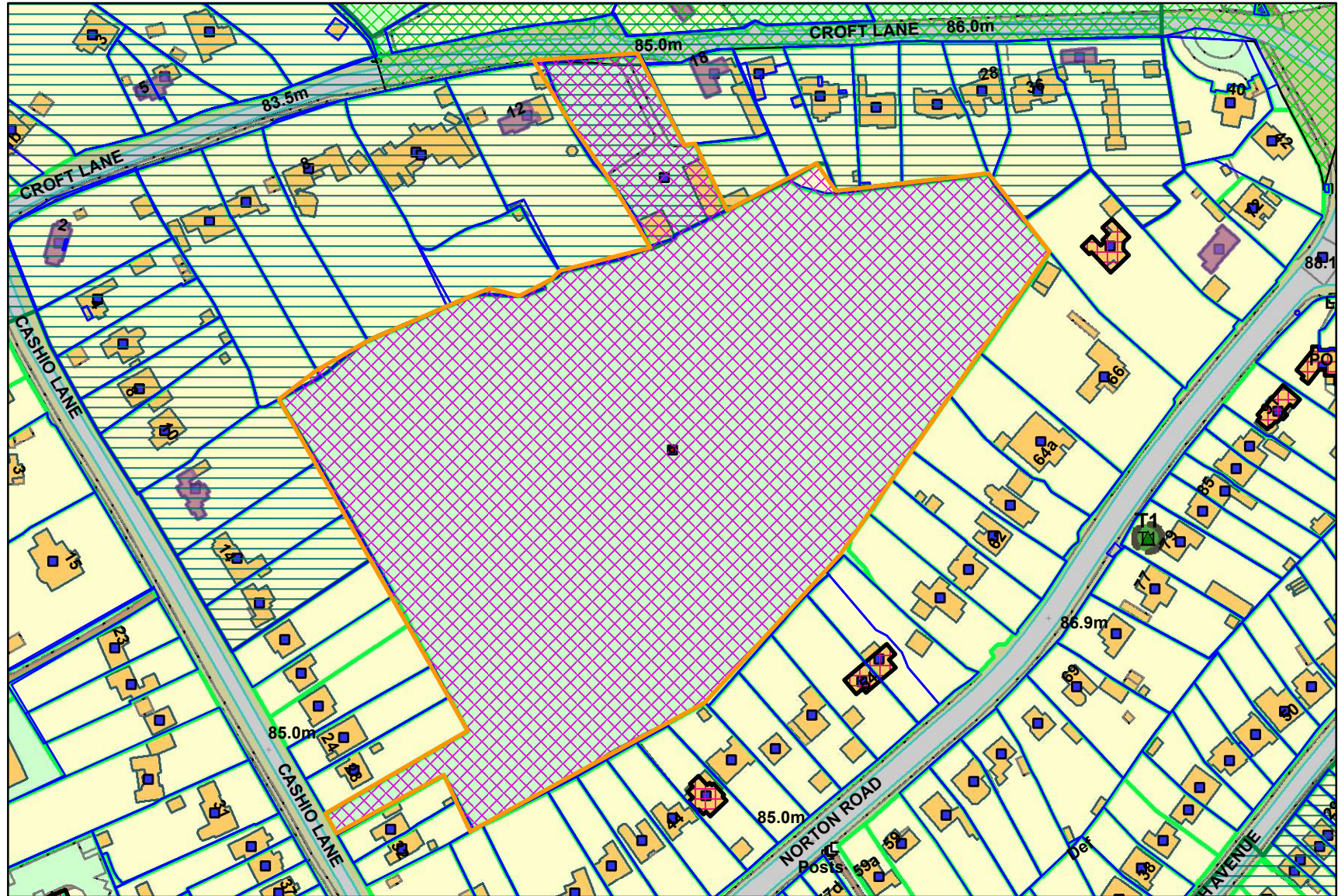
14. Sustainable Design, Construction and Demolition requires all relevant construction projects to be supported by a Site Waste Management Plan (SWMP). This aims to reduce the amount of waste produced on site and should contain information including types of waste removed from the site and where that waste is being taken to. Good practice templates for producing SWMPs can be found at: <http://www.smartwaste.co.uk/> or <http://www.wrap.org.uk/category/sector/waste-management>.
15. It is expected that the scheme to be submitted in line with condition 10 of this permission will provide a significant number of EV charging points. The Council will consider any details submitted on its merits, however, are of the mind that at least one EV charging point should be provided for each dwelling.
16. EV Charging Point Specification:
- Each charging point shall be installed by an appropriately certified electrician/electrical contractor in accordance with the following specification. The necessary certification of electrical installation should be submitted as evidence of appropriate installation to meet the requirements of Part P of the most current Building Regulations.
- Cable and circuitry ratings should be of adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A (which is recommended for Eco developments).
- A separate dedicated circuit protected by an RBCO should be provided from the main distribution board, to a suitably enclosed termination point within a garage or an accessible enclosed termination point for future connection to an external charge point.
 - 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).
 - 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.
 - A list of authorised installers (for the Government's Electric Vehicle Homecharge Scheme) can be found at <https://www.gov.uk/government/organisations/office-for-low-emission-vehicles>

This page is intentionally left blank

Application Validation Sheet

19/00520/OP Land Between Croft Lane Norton Road and Cashio Lane, Letchworth Garden City, Herts

-  Acolaid Land Parcel
Property.shp
-  Acolaid Address Point
ap.shp
-  Planning Application (1999)
Prapps99.shp
-  Area of Outstanding Natural Beauty
Pranob.shp
-  Listed Buildings
Prlistld.shp
-  Tree Preservation Order (Single)
ORACLE
-  Tree Preservation Order (Group)
ORACLE
-  Parish Boundary
Prparish.shp
-  Conservation Area
Prcrea.shp
-  District Local Plan Boundary
Prdlp2.shp
-  Green Belt
Prgrnblt.shp
-  Health & Safety Consultation Zone
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: 10/03/2021

© Crown copyright and database rights 2017 Ordnance Survey 100018622



This page is intentionally left blank

<u>Location:</u>	Knebworth Estate Knebworth Park Old Knebworth Knebworth Hertfordshire SG3 6PY
<u>Applicant:</u>	Mr R George
<u>Proposal:</u>	Temporary use of land for film making with associated temporary set and supporting facilities vehicles, access, parking and storage for 23 weeks alongside the temporary removal of part of an existing bund
<u>Ref. No:</u>	21/00290/FP
<u>Officer:</u>	Sam Dicocco

Date of expiry of statutory period : 25.03.2021

Submitted Plan Nos

PL-010 rec 18/01/2021; Block plan rec 18/01/2021; Block plan - Set rec 18/01/2021; Site Servicing Plan and Acoustics rec 16/03/2021; Email setting out additional noise and light nuisance information and mitigation rec 16/03/2021; Bund Excavation Detail rec 23/02/2021; Detail Survey 070221/topo rec 23/02/2021; Arboricultural Report S495-J2-IA-1 by John Cromar's rec 23/02/2021; Ecological Overview and Guidance by Calluna Location Services rec 11/03/2021; and Addendum to Ecological Overview and Guidance rec 12/04/2021.

1.0 Site History

- 1.1 4/00132/1 - Relocation of cricket club facilities with two pitches, club house, access road and car parking with associated works. As amended by plan nos. S-01D, S-02A, S-03A, P-10, P-11A, P-12A, P-13A, P-14A, P-15 H9537 01A, 03, 04 and 02C, 0735 1-3 Rev 3 and 0735 1-2 Rev 3 received 22/8/14 and 14/10/14 and 26/11/14 – Conditional Permission 19/12/2014 – Not implemented

2.0 Representations

- 2.1 **Site Notices: 10.02.2021 Expiry: 05.03.2021**
Press Notice: 11.02.2021 Expiry: 06.03.2021

Consultee responses

Hertfordshire County Council as Local Highways Authority – No objection

Historic England – No objection in principle, subject to details of works and restoration

Knebworth Parish Council – No objection

Environmental Health – Further information request 17.02.2021 – No objection subject to conditioning mitigation against noise and light emission, and inclusion of an informative 23.04.2021

Neighbour representations

A neighbour representations have been received from premises adjoining and surrounding the site. Below is a brief summary. All responses have been read in full.

No objection in principle, However, concerns in regard noise impacts from delivery and construction works and long on-site working day proposed. Support the suggestion of a later start in mitigation. Further concerns in respect impact of the works on wildlife, with particular regard to night-time lighting disrupting bats.

3.0 Planning Considerations

3.1 Site and Surroundings

3.1.1 The site lies as shown in the site location plan includes the access road running from the A1(M) junction 7 to the sites of substance including a crew base and a set. Consequently, the site is partially within Stevenage Borough Council, but largely within North Hertfordshire District Councils jurisdiction. The crew base covers approximately 3420sqm (60mx57m) and it located to the south east of an avenue of trees within Knebworth Country Park orienting important views towards Knebworth House. The set would be contained within around 13,056sqm (128mx102m) within the south drive, within Knebworth Country Park.

3.1.2 The site lies within Knebworth Grade II* Registered Park and Garden, the curtilage of Knebworth House Grade II* listed building and its associated curtilage and individually listed buildings within its vicinity, the Green Belt, and the set part of the site lies within Old Knebworth Conservation Area. The sites are currently vacant of any structure or built form of any note. The site contains and is in close proximity to important tree planting within Knebworth Park and Garden. The set and the crew base are located to the south west of Knebworth House. The access identified within the site location plan would run to the north of the Church of St Mary and St Thomas (Grade I) as well as The Barns Restaurant (Grade II).

4.0 Proposal

4.1 The application seeks planning permission for the temporary use of the of land for film making with associated temporary set and supporting facilities vehicles, access, parking and storage for 23 weeks, as well as the temporary, partial removal of an existing bund.

- 4.1.2 The access would run from junction 7 of the A1(M), following an established track south and west running alongside several listed buildings and through the registered park and garden.
- 4.1.3 The crew base would require the laying of aluminium panels, alongside a marquee measuring approximately 40m x 12m x 4.5m, as well as 4 x containers and ancillary equipment.
- 4.1.4 The set would contain hard surfacing and temporary structures presenting as dwellings set in between the trees on the south drive. The set would contain an avenue of hard surfacing running in a south east – south west direction (aligned to the direction of trees planted on the south drive) and a relatively central T junction hosting hard surfacing running in a north east direction. The set would contain 5 structures presenting as dwellings, as well as 4 structures presenting as detached garages and associated driveway surfacing. The set structures and surfacing would be laid out to complement and fit within and around the existing planting.

4.2 Key Issues

Preliminary Matters

- 4.2.1 The application is primarily for the use of the land, however, the structures, while temporary, represent operational development for which planning permission is required. Furthermore, the removal of the bund, while temporary, is an engineering operation for which planning permission is required. The following assessment must be framed by the temporary nature of the use and structures, and the steps which could be secured to remediate any potential impact.

Principle and policy context

- 4.2.2 Policy 19 of the Saved Local Plan restricts development proposals which would destroy or result in any loss of value of Historic Parks and Gardens. Policy 2 of the SLP aims to keep Green Belt land open in character, and states that, with the exception of very special circumstances, permission will only be granted for appropriate development in the Green Belt. These policies, while ‘time-expired’, are consistent with the aims of the NPPF, and therefore are not considered out-of-date.
- 4.2.3 The aims of policy 2 of the SLP are followed through in policy SP5 of the Emerging Local Plan. Policies SP13, HE1 and HE4 of the ELP protect heritage assets including those of archaeological interest. Registered Parks and Gardens, Listed Buildings and Conservation Areas are covered under the Heritage Assets umbrella. Policy NE1 and NEX aim to protect landscapes and biodiversity/ecological value respectively. These policies are not time-expired, however, are also not formally adopted to the local development framework by reason of the ongoing examination (see section 2.4 of this report).

The plan is considered at an advanced stage of preparation, and the policies have a high degree of consistency with the NPPF. The policies quoted, in the context of this site, are not subject to significant unresolved objections. It is noted that policy SP5 of the ELP is subject to unresolved objections in respect to release of Green Belt for development purposes, but these objections are not relevant to the context of this application. Consequently, in line with paragraph 48 of the NPPF, significant weight is afforded to these policies in the context of this application.

- 4.2.4 Perhaps unsurprisingly, there is no specific policy within the local plans documents which promote the use of land as temporary film sets and their associated operational development.
- 4.2.5 As stated above in paragraph 4.3.3, the local plan policies regarding heritage assets and the Green Belt share a high degree of consistency with sections 16 and 13 of the National Planning Policy Framework respectively. The NPPF supports prosperous the building of strong, competitive economies within section 6.
- 4.2.6 Overall, taking the basket of policies identified above as most important in the determination of this application, the development plan is considered present and up-to-date in the context of this application. Consequently, the framework for decision making in this case is that the development should be approved without delay if it accords with the basket of policies described above in line with paragraph 11c) of the NPPF. Even if this were not the case, the most important policies in the assessment of this proposal protect areas or assets of particular importance, so even if paragraph 11d) were triggered, where the application of Green Belt or heritage asset policies provide a clear reason for refusal, the development should be refused (limb i.).

Heritage

- 4.2.7 The site lies within, and in the curtilage and setting of, several important heritage assets. Those of greatest importance in the context of this application are –

Knebworth Registered Park and Garden
Knebworth House (Grade II*)
Old Knebworth Conservation Area
Jubilee Lodges, Walls and Gate Posts (Grade II)
Knebworth War Memorial (Grade II)
Church of St Mary and St Thomas (Grade I) (transport impacts (noise and vibration) only)
The Barns Restaurant (Grade II)

- 4.2.8 The applicant has provided an assessment of the significance of the site as a heritage asset through selective extracts of the listing of the Knebworth Park and Garden. Given the temporary nature of the proposed development, this is considered, on balance, proportionate.

- 4.2.9 The south drive, and lane of trees planted in a southwest to northeast direction towards Knebworth House are important aspects of Knebworth Park and Garden, the Conservation Area, as well as the setting of several listed buildings. The absence of built form and formal surfacing along the south drive, or Jubilee Avenue, positively contributes to the significance of the combined heritage assets. The south drive is noted within the Old Knebworth Conservation Area Character Appraisal as a key view.
- 4.2.10 It is clear that, for the period the works are underway and in location, the contribution of the site as a designated heritage asset will be diminished. To consider otherwise would be tantamount to agreeing the extent of the external structures and formal surfacing would be appropriate and preserve heritage assets if permanent.
- 4.2.11 There is potential for permanent harm to the site's significance as a heritage asset. The formal planting of the trees along the south drive, as well as the formal planting of trees framing views from the south west of Knebworth House towards it, contribute highly in terms of historic significance to the site as a heritage asset. Harm to these trees as a result of the physical works required in the establishing of the temporary use as well as the decommissioning of the works would result in permanent harm.
- 4.2.12 A report has been submitted assessing the potential impact of the proposed temporary structures and works on the trees within the south drive. The report includes a detailed arboricultural method statement has been provided which includes the preparation, construction, and restoration phases. The method statement has been read and absorbed, and includes monthly site visits by the arboriculturist as well as unannounced site visits. Reports will be provided to the Local Planning Authority within 5 days of the site visit. I am confident that the arboriculturist will provide full and accurate reports which will be reviewed and questioned if necessary by the relevant officer appointed by the Council.
- 4.2.13 The bund for temporary removal is a relatively modern feature. There is no planning record, however, this is not surprising given the ambiguity around engineering operations and planning permission at the time it was established. It was created as an outdoor fencing area. Consequently, the temporary removal of the modern bund material to the natural ground level will not harm any features of archaeological interest. The partial removal of this modern landscape feature will cause minor harm through its partial nature.
- 4.2.14 It is considered that the proposed development would have some short-term impact on the significance of the site as a heritage asset. Whilst no long-term harm would result, as a consequence of conditioning the implementation of the arboricultural method statement which supplements this application, the short-term harm cannot be ignored as a result of its temporary nature. The harm can be weighed in light of the absence of long-term harm, and as such, the harm is considered at the lower end of less than substantial.

- 4.2.15 The benefits of the proposed development are laid out within the *Scheme benefits*: section paragraph 5.13-5.16 and *Very special circumstances* section paragraphs 7.5-7.22. In sum, the proposed use will have significant economic benefits, immediately for the Knebworth House Education and Preservation Trust (KHEPT) which funds repairs and preservation of Knebworth House and the designated park and garden which surrounds it, as well as associated economic benefits for the surrounding area. The use will necessitate the use of local services and facilities, including hotels, transport/taxi firms, shops, cafes and restaurants due to the number of employees and works involved in the temporary use. There will be some local employment of runners, cleaners, security, on-site support, etc. Further benefits involved include increased publicity for the site, and some weight to be attached to sections of the NPPF involving promoting competitive economies, including rural diversification, and government publications supporting the film industry.
- 4.2.16 It is considered that the less than substantial, short term, harm likely resultant from this proposal would be outweighed by the public benefits including the economic benefits of use of local services and facilities and employment, as well as increased publicity for Knebworth House, and direct funding resultant to be put towards the continued preservation of Knebworth House and Knebworth Park and Gardens.

Green Belt

- 4.2.17 Much with the above assessment of heritage matters, it must be acknowledged that the proposal involves the construction and erection of structures, engineering operations and uncommon uses, albeit, temporally short-term.
- 4.2.18 The proposed works would not in any part be considered as an exemption under paragraph 145 of the NPPF. The material change of use of the land may be considered appropriate so long as it preserves the openness and purposes of the Green Belt designation.
- 4.2.19 The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open, with its essential characteristics being its openness and permanence.
- 4.2.20 The land is currently open, in that it is absent any built form or any material use. The proposal would introduce built form, and an operational, material use, with associated traffic, parking, equipment and movements/action within the site. Consequently, it cannot be said that the temporary works and use would preserve the openness of the Green Belt. The proposal would also conflict with purpose c) and d) of paragraph 134 of the NPPF, in that it would encroach on open countryside and not preserve the setting of Old Knebworth.

- 4.2.21 Even though the impacts on spatial (activity) and visual (built form) openness of the Green Belt and purposes c) and d) of paragraph 134 would be temporary, and not permanent, it must be concluded that the proposal represents an inappropriate form of development in the Green Belt. The harm to the openness and purposes of the Green Belt, alongside any other harm, must be clearly outweighed by other material considerations to benefit from the 'very special circumstances' set out in paragraphs 143 and 144 of the NPPF. Other harm can be identified in the short term less than substantial harm to the setting of heritage assets.
- 4.2.22 The first other consideration is the absence of permanence of harm. Following decommissioning of the works and engineering operations, no harm to the openness or purposes of the Green Belt would persist. The decommissioning can be reasonably conditioned to ensure land is restored to its previous condition.
- 4.2.23 Other material considerations include the economic and environmental benefits of the proposed development, including and most importantly, the historic environment benefit of providing funding for the maintenance and preservation of heritage assets. It is acknowledged that these benefits replicate those used in the public benefits tests in the heritage section of this report. Those benefits now must clearly outweigh the harm from inappropriate development in the Green Belt, as well as harm to the openness and purposes of the Green Belt and the less than substantial harm to heritage assets.
- 4.2.24 Paragraph 144 of the NPPF makes clear that any harm to the Green Belt must be afforded substantial weight. Consequently, I assign significant weight to harm to the Green Belt as identified above, through inappropriateness, as well as harm to openness and specified purposes. Equally, I afford substantial weight to the remediation strategy to be agreed by condition to return the site to its original condition following the cessation of the temporary use. I further afford substantial weight to the economic and environmental long-term benefits explored earlier within this report. These long-term benefits are afforded substantial weight by reason of the absence of long-term harm resultant from the development. These benefits, combined, clearly outweigh the harm identified through inappropriate development in the Green Belt and any other harm.

Amenity

- 4.2.25 The principle concern in respect to neighbouring amenity is noise and disturbance. It is considered that the access strategy provided sufficiently mitigates potential harm or nuisance to the occupiers of adjoining premises in respect to traffic. Following a response to a request for further information, the Environmental Health Officer is satisfied that, subject to a condition and informative, the proposal will not result in material harm to the living conditions of the occupiers of adjoining premises. Mitigation includes acoustic barriers, no use of loudhailer during filming at night, community engagement and offers of hotel rooms or black-outs to those residents most likely to be affected by lighting on the one night of filming.

Flooding

- 4.2.26 There are no concerns in respect to flooding. No additional flood risk would result from the proposed works, and there would be no flood risk to the proposed temporary use.

Biodiversity and ecology

- 4.2.27 Some minor works are proposed to the trees on site, and the development will result in some disturbance during construction and filming. An ecological survey and guidance document has been provided by the applicant in support of the application. Within it are a set of recommendations to follow to best protect existing ecological value within the site. It is noted within the document that some trees (No.1, 22 and 26) have the potential for bat roosting, and that further assessment is required. This can be conditioned on any approval. A part of this condition will require considered set construction procedure and method to ensure minimal disturbance of the functionality of the linear trees as a navigating aid for commuting and transiting bats to foraging areas. Whilst some removal of deadwood and trimming is required on tree No.1, no works are required which would disturb trees 22 and 26, which are not part of the avenue on the south drive.
- 4.2.28 Subject to several conditions to secure the recommendations within the ecological survey and guidance, the proposed development would not harm biodiversity or ecology present within the site.

Contamination

- 4.2.29 The Environmental Health team at North Hertfordshire District Council have noted the potential for asbestos within the bund to be temporarily removed. That being said, it is within the remit of the Health and Safety Executive to enforce against any inappropriate or unqualified removal of such substances. In line with paragraph 183 of the NPPF *"The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes)"*. The land use is considered acceptable, and the control of this potential issue is already regulated for outside of the planning system.

The planning balance

- 4.2.30 Pursuant to the above discussion, subject to conditions, it is considered that the proposed development accords with the provisions of the development plan. The economic and environmental benefits of the proposed development would outweigh the temporary harm to the environment (historic and Green Belt).

4.3 **Conclusion**

- 4.3.1 The proposed development would accord with the policy provisions of the local development plan. The harm to the historic environment and Green Belt would be temporary, and outweighed by the benefits attributed to the proposal. Consequently, the proposed development should be **GRANTED** subject to conditions.

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. Written notification of the commencement of the works and temporary use shall be submitted to and approved in writing by the Local Planning Authority.

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, unless otherwise agreed in writing by the Local Planning Authority.

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

3. The building(s) hereby permitted shall be removed from the site and the land restored to its former condition on or before the cessation of 23-weeks from the written notification of commencement submitted in line with Condition 1 of this permission, unless otherwise agreed in writing with the Local Planning Authority.

Reason: The building(s) does/do not represent an appropriate form of permanent development and permission has been granted for a temporary period solely because of the special circumstances advanced in support of the application.

4. The use hereby permitted shall be discontinued and the land restored to its former condition on or before the cessation of a 23-week period starting with the written notification of commencement submitted in line with Condition 1 of this permission unless otherwise agreed in writing by the Local Planning Authority.

Reason: The use does not represent an appropriate form of permanent development and permission has been granted for a temporary period solely because of the special circumstances advanced in support of the application.

5. Only one temporary permission for a period of 23-weeks from the date of notification in line with Condition 1 of this decision notice is approved by way of this notice. No further notification under Condition 1 can be submitted following the submission of the commencement of any further temporary works or use of the land for film making.

Reason: To ensure the permission for temporary use is, as applied, a one-shot permission, and cannot be used in perpetuity for different temporary film-making use on the site.

6. Prior to the strike phase of the temporary sets and facilities, a scheme and/or method of remediation shall be submitted to and approved in writing by the Local Planning Authority. The scheme/method submitted shall provide details of method and time required for de-construction, remediation seeding, include imagery of the site pre-construction, and any other details which may be considered required by the applicant or Local Planning Authority based on the circumstances at the time. The scheme/method of remediation agreed pursuant to this condition shall be followed on site.

Reason: To ensure a satisfactory method of remediation is agreed and no long-term heritage impacts are sustained.

7. Upon completion of the strike works agreed within the scheme/method of remediation submitted and approved in writing by the Local Planning Authority pursuant to Condition 6 of this permission, imagery of the site shall be submitted to and approved in writing by the Local Planning Authority. If the Local Planning Authority are not satisfied with the remediation, a further scheme/method of remediation shall be submitted in line with Condition 6 of this permission.

Reason: To ensure no long-term impacts are resultant from the proposed development.

8. The development hereby approved shall be carried out in line with the contents of the 'Report regarding the impact on trees of proposals for development at Knebworth Park, Old Knebworth, Knebworth, SG3 6PY' by John Cromar's Arboricultural Company Ltd referenced S495-J2-IA-1. Section 7 - Arboricultural method statement shall be followed in its entirety with reference to 8 - Plans, and inspection reports shall be sent to planning.control@north-herts.gov.uk with the referencing this condition and application reference number, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection and preservation of important trees.

9. Prior to any works required to trees No.1, 22 and 26 as identified within the 'Ecological Overview and Guidance: Proposed Filming, Knebworth House Estate' by Calluna Location Services, a further assessment report as to the potential of bat roosting taking place within these species shall be undertaken and a report submitted to and approved in writing by the Local Planning Authority. Mitigation measures should be submitted with the further assessment report if required. The works to these trees shall only commence upon approval of the results of the report and/or mitigation measures is received in writing from the Local Planning Authority.

Reason: To ensure the no harm is resultant from the works on protected species.

10. The temporary use and associated works hereby approved shall be carried out in accordance with the protocols recommended within the Addendum to Ecological Overview submitted to and received by the Local Planning Authority on 12 April 2021 unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure best efforts are undertaken to conserve the navigational aid of the linear trees for a protected species during the temporary works and use.

11. Routes to and around the site from existing hard surfaced tracks, as well as the Tech Pad, should be established through the deployment of interlocking ground protection panels. Panels should be cleaned before transport to site to guard against the introduction of unwanted seed sources or potential plant disease.

Reason: To prevent sward damage, surface rutting and soil compaction effects in the interests of preserving ecological value of existing open fields.

12. Pop up bins will be used on Set and at Tech Pad for the storage of refuse and removed for off-site disposal on a daily basis. To deter casual littering, smokers should have access to on Set sand buckets for disposal of cigarette butts. The area of filming activity should be litter picked on a daily basis to prevent detritus becoming lost amongst soil or vegetation. An additional forensic litter pick should also be undertaken on completion of site occupancy.

Reason: To ensure the site remains clean throughout the temporary works and use and is left tidy following the temporary permission is implemented in the interest of preserving the ecological interest of the site.

13. All fuel consuming equipment will have bunded tanks to prevent leakage. Emergency spills kits should travel with all equipment. Any required refuelling should be strictly controlled and undertaken by competent individuals only. Delegation of refuelling responsibilities to a limited number of named personnel and the availability of appropriate spills kits has shown itself to be an effective system for ensuring that site contamination is avoided. Spills kits should consist of absorbent pads and sheets, gloves, disposal bags and shovel.

Reason: To prevent any potential spillages/contamination through the temporary works and use in order to conserve ecological value in the site.

14. The Production will have access to the services of an experienced ecologist through all phases of site occupancy to provide guidance on the implementation of the above controls and protocols and to advise on best practise regarding avoiding or minimising any unforeseen negative impacts. The details of the appointed ecologist will be provided to the Local Planning Authority within 15 working days of the commencement of the development hereby approved, and regular monthly reports shall be provided in writing to planning.control@north-herts.gov.uk referencing this condition and application reference number.

On completion of work the location should be left in good order to the satisfaction of the landowner following a post filming site inspection 'walk through', with a final report provided to the Local Planning Authority.

Reason: To ensure ecological measures are undertaken on-site throughout the development in the interest or preserving the ecological value of the site.

15. The temporary use and works hereby approved must be undertaken in accordance with the information and mitigation measures provided within email dated 16 March 2021 and in accordance with the Site Servicing Plan + Acoustics block plan appended to that email and received on the same date unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure best mitigation measures are taken to prevent any material harm to the living conditions of the occupiers of adjoining premises.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Informative/s:

1. Cut material produced as a result of necessary tree management works should be reserved until completion of Production site occupancy. Material should then be positioned close to the base of trees from which material originated. This will contribute to wider ecological continuity by maintaining an association between the living tree and allied (fallen) deadwood elements. This need only apply to significant branch elements: small twigs etc can be considered outside the scope of this recommendation and can be disposed of at point of cutting.
2. Vehicles and plant should avoid traversing ground close to relic hedge features other than via temporary roadways constructed from ground protection panels. Crew should be made aware of any nesting activity and proximity of footfall adjusted accordingly.

3. Should there be a requirement to create a mist effect for camera, this will be achieved using lay-flat hoses or handheld Artems, subject to the following protocols.

Lay-flat perforated plastic hoses are used to deliver middle distance mist effects. A mineral oil is heated in a generation unit via a coil, resulting in the creation of a 'mist' vapour. The vapour is blown via a fan down a manually perforated tube allowing the 'mist' to escape at a number of points. All generation units feeding the lay-flat tubes should be homed on drip drays containing absorbent wadding to prevent ground spillage of the vapour producing liquid. Drip trays should also be deployed underneath lay flats where they cross significant local topography depressions: where there is a natural sump, the generated vapour can occasionally condense and leak from the perforations as a liquid. Use of spill mat lined drip trays are effective in preventing any spillage under these circumstances. The liquid itself is mineral based and non-toxic. Its use has previously been consented for film work on a number of SSSIs. In line with established Environment Agency guidance, no mist generators or hoses will be deployed within 5m of wetland habitat. This definition will encompass the drainage ditch and Juncus stand.

















Close up mist effects will be achieved through the use of hand held Artems (canister fuelled smoke generator units) allowing fine tuning of required coverage, responding to changes in wind direction and strength. These self-contained units are carried by SFX technicians within the filming area as required.

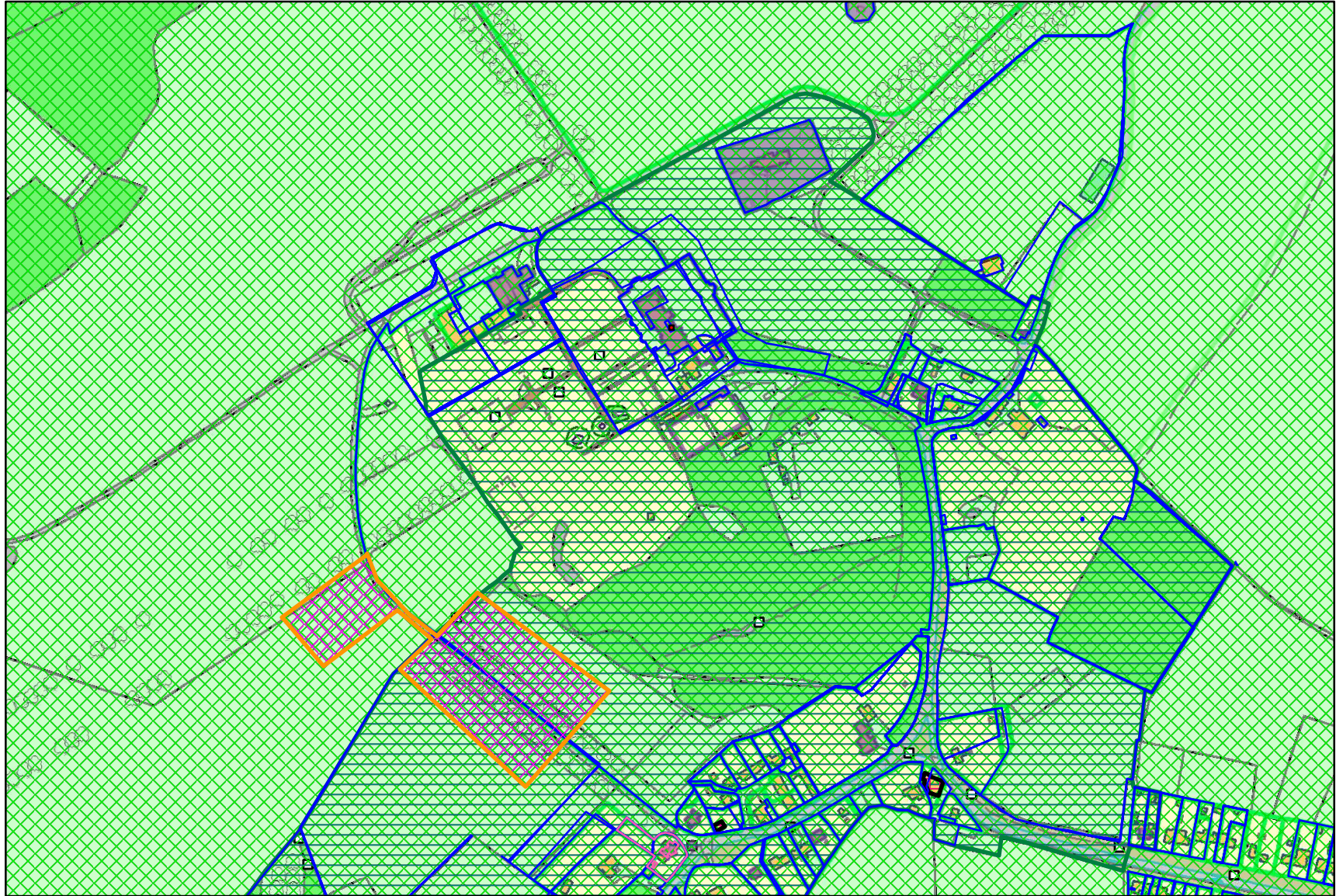
4. During the construction phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.

This page is intentionally left blank

Application Validation Sheet

21/00290/FP Knebworth Estate, Knebworth Park, Old Knebworth, Knebworth, Herts, SG3 6PY

-  **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**
Prhjszone.shp
-  **Landscape Conservation**
Prlandca.shp
-  **Ward Boundary**
Prwardcd.shp
-  **Noise Nuisance Indicators**
Prnnis.shp
-  **Indicative Flood Plain**
Prifpm.shp



Scale 1:5,000

Date: 04/05/2021

© Crown copyright and database rights 2017 Ordnance Survey 100018622



This page is intentionally left blank

Location: **The Gables
High Street
Barley
Royston
Hertfordshire
SG8 8HY**

Applicant: **Mr & Mrs J Winstanley**

Proposal: **Relating to Application 18/03349/S73 granted on
15/03/2019 - Variation of Condition 2 (Approved Plans)
to facilitate relocation of parking at plots 5 and 6,
change of external material at plot 5 and variations to
the dwelling type, scale and appearance of plots 3 and
8.**

Ref. No: 20/03072/S73

Officer: **Tom Allington**

Date of expiry of Statutory period

18th February 2019

Reason for delay

An extension to the statutory period for determining this application expired on 26th February 2021. This application is now the subject of an appeal against a non-determination, to be dealt with via the written representations procedure.

1.0 Background to report and Reason for referral to Planning Control Committee

- 1.1 The case officer informed the applicant, via an email dated 26th February 2021, that *'I have now discussed this s73 application with my manager and I have also discussed it with the Council's Senior Conservation Officer. We are all of the view that the current application is not acceptable and I will therefore be recommending it for refusal'*. The applicant was also informed that the earliest the application could go to Committee was in April 2021.
- 1.2 On 16th March 2021 the Council was notified by the Planning Inspectorate that an appeal against non-determination had been received and the start date of the appeal was confirmed on 6th April 2021. The appeal reference is APP/X1925/W/21/3271157 and the appeal will be determined through the written representations procedure

- 1.3 As part of the appeal procedure the Planning Inspectorate requires the LPA to provide a Statement of Case which must include what decision it would have taken on planning application ref: 20/03072/S73.
- 1.4 The purposes of this report is therefore to seek the Committee's views on what decision the LPA would have arrived at on application 20/03072/S73 and to make a recommendation in respect of the submitted appeal. For clarity, the Committee is informed that it is the Planning Inspectorate who will now determine planning application ref: 20/03072/S73, rather than the LPA

2.0 **Site History**

- 2.1 16/02760/1 - Residential development of nine dwellings, garages, parking and landscaping. New access road, car park for existing surgery, relocation of existing electricity substation and double garage and store attached to existing garage for 'Chadwick'. Withdrawn prior to determination.
- 2.2 17/00638/1PRE – Pre-application for 9 residential units. No formal/ written advice provided.
- 2.3 17/02316/1 - Residential development of eight dwellings, garages, parking and landscaping. New access road, car park for existing surgery, relocation of existing electricity substation and double garage and store attached to existing garage for 'Chadwick' (as amended by drawings received 7th November 2017, 11th January 2018, 9th February 2018 and 19th March 2018). Approved by Planning Control Committee 24th May 2018 (Decision notice issued/ dated 30th May 2018).

This is the 'original approval' for this site and the approved site plan is provided at **Appendix A**, along with the plans and elevations for plots 3 and 8.

- 2.4 18/02299/FP - Erection of 10no. residential dwellings and provision of car parking area with all associated landscaping and ancillary works (as a revision to application 17/02316/1 approved on 30/05/18) (as amended by drawings received 8th November 2018). Refused by Planning Control Committee 13th December 2018 for the following reason:

1. The principle of residential development on this site would harm the character and appearance of the Barley Conservation Area as it would result in the loss of the existing open land which represents a transitional area from the village fringe to the rural countryside and which commands an important role in providing the rural setting of the Barley Conservation Area.

The proposal would therefore harm the special character of the Barley Conservation Area and to a lesser extent, the setting of 'White Posts' a grade II listed building. The in-principle harm would be further exacerbated by the poor standard of design included as part of this proposal, which would be at odds with the semi-rural, edge-of- village context and which would fail to provide a cohesive appearance and form of development. Although the degree of harm is considered to be less than substantial, the public benefits of the proposal do not outweigh the harm that has been identified and which has been afforded significant weight. As a consequence the proposed development is contrary to Policies 6 and 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations, Policies SP5, SP9, SP13, D1, CGB1 and HE1 of the Emerging North Hertfordshire Local Plan 2011-2031 as Modified and Sections 12 and 16 of the National Planning Policy Framework 2018.

The subsequent appeal was dismissed on 24th September 2019, owing to the harm to the Barley Conservation Area. A copy of the Appeal decision is attached at **Appendix C** of this committee report.

- 2.5 19/00003/S73 – Section 73 Application: Relating to Application 17/02316/1 granted on 30/05/2018 - Variation of Condition 2 (Approved Plans) to facilitate a change of design and appearance of plot 7 and variations to the dwelling type, scale and appearance of Plots 1, 2, 3 and 8 (as amended by drawings received 22/02/2019). Approved by Planning Control Committee 14th March 2019 (Decision notice issued/ dated 15th March 2019).
- 2.6 18/03349/S73 - Section 73 Application: Relating to Application 17/02316/1 granted on 30/05/2018 - Variation of Condition 2 (Approved Plans) to facilitate a relocation and change of appearance of plot 7, switching it with the location of approved plots 4-6 and variations to the dwelling type, scale and appearance of Plots 1, 2, 3 and 8 (as amended by drawings received 22/02/2019). Approved by Planning Control Committee 14th March 2019 (Decision notice issued/ dated 15th March 2019).

It is this previously 'Approved s73 amendment' (amendment to 17/02316/1) which this current application is now seeking to further amend/ vary. The plans previously approved are provided at **Appendix B** of this report.

- 2.7 21/01376/NMA - Amendment to Plots 1-3 internal layout (as non-material amendment to planning permission 18/03349/S73 granted on 15.03.2019). Ongoing/ remains under consideration.

3.0 **Policies**

3.1 **North Hertfordshire District Local Plan No.2 with alterations**

Policy 6 – Rural Areas beyond the Green Belt

Policy 7 – Selected Villages beyond the Green Belt

Policy 16 – Areas of Archaeological Significance and other Archaeological Areas

Policy 55 - Car Parking Standards

Policy 57 - Residential Guidelines and Standards

3.2 National Planning Policy Framework (2019)

In general and with regard to:

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 6: Building a strong, competitive economy

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 12: Achieving well-designed places

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

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

Specifically paragraphs 11, 77 and 78 ('Rural Housing'), 127 and 130 ('Achieving well designed places'), 163 ('Planning and Flood Risk'), 192 and 193 and 194 and 196 ('Conserving and enhancing the historic environment')

3.3 North Hertfordshire Draft Local Plan 2011-2031

The Emerging Local Plan (ELP) has now been through the re-scheduled examination hearings in November and December 2020 and further additional hearings were held on 1st and 2nd February 2021. The Inspector has stated that the hearings are now closed and he does not intend to hold any further hearings. The inspectors Schedule of Further Main Modifications was received by the Council on 10th March 2021 and these were published on the Council's website on 11th March 2021. The main modifications were presented to the Council's Cabinet meeting on 16th March 2021 and approval was granted to proceed with the consultation on the modifications, due to commence the week after the Local Elections due to take place on 6th May 2021. As such, the public consultation on the latest modifications to the ELP are likely to be taking place at the time this item is presented to committee on 27th May 2021. The policies of relevance in this instance are as follows:

Strategic Policies

SP1: Sustainable development in North Hertfordshire

SP2: Settlement Hierarchy

SP5: Countryside and Green Belt

SP8: Housing

SP9: Design and sustainability

SP10: Healthy Communities

SP12: Green infrastructure, biodiversity and landscape

SP13: Historic environment

Development Management Policies

T2: Parking

D1: Sustainable design

D3: Protecting living conditions

CGB1: Rural Areas beyond the Green Belt

CGB2: Exception sites in rural areas

HS2: Affordable Housing
HS3: Housing Mix
NE1: Landscape
NE8: Sustainable drainage systems
NE11: Contaminated land
HE1: Designated heritage assets
HE4: Archaeology

4.0 **Representations**

4.1 As part of the appeal process all representations received as a result of consultation on the planning application ref. 20/03072/S73 will be sent to the Planning Inspectorate and all interested parties will be provided with an opportunity to make further comments to PINs.

4.2 **Barley Parish Council** – No objection.

4.3 **Members of the public** – Two letters in support of the proposals have been received, from those who wish to purchase the amended plots 3 and 8. These are summarised as follows:

- Mr Robert and Mrs Sue Prosser (of 55 Melton Gardens, Edwalton, Nottingham) – the location in Barley would enable us to be closer to our daughters (one of which whilst lives independently in rented accommodation, does has a medical condition) and to be able to better support my parents, who are elderly and one who suffers from arthritis.. The design of Plot 3 allows us to use one bedroom or the ground floor as an office space, for working from home, leaving 3 bedrooms for us, our daughter and any visitors. The office could be converted to accommodation for elderly parents.
- Claire Cattermole (no address provided) – The site is ideally located being near my husbands family and being located between my work in Stevenage and his in Clavering and being close to family – my husband suffers from Hydrocephalus, which means he sometimes needs family support and cannot drive. We are also expecting our first child and we wish to build a property that will accommodate us for the foreseeable future. We have sought to create a home that has provision for home working and space to raise our children. We have also included a downstairs shower for three reasons: washing our dog Oscar, my brother is a quadriplegic so it provides. We have also included a downstairs shower to meet our personal and family needs.

4.4 **NHDC Conservation Officer** – Objection. Whilst formal written comment have not been provided, discussions have been held with the Council's Senior Conservation Officer who has made it clear to the case officer that they maintain their objections to the development of this site, within the Barley Conservation Area. The proposed amendments to that previously approved, most notably the increase in scale to Plots 3 and 8, would diminish the loose-knit character of the proposals as previously approved, to the detriment and increased harm to the Conservation area.

- 4.5 **HCC Highways** – No objections.
- 4.6 **HCC Herts Ecology** – No objection
- 4.7 **HCC Growth and infrastructure** – No objection
- 4.8 **HCC Historic Environment (Archaeology)** – No objection
- 4.9 **HCC Lead Local Flood Authority** – Objection. We note in the proposed site plan submitted alongside this application doesn't show the surface water balancing pond shown in the previous proposed site plan submitted with the 18/03349/S73 application. If there has been changes in the Surface Water Drainage Strategy these amendments should be submitted for review. We therefore advise the LPA that we object to the proposed Section 73 application until the clarification required above has been submitted

5.0 **Planning Considerations**

5.1 **Site and Surroundings**

- 5.1.1 The site is located towards the north-western edge of the village of Barley. The main portion of the site is made up of the large rear garden of the residential property 'The Gables' and the adjoining paddock land immediately to the north of this. This land sits behind properties along the west side of the High Street (B1368), including the Barley GP Surgery and the 'White Posts' Grade II Listed Building. The application site area shown within the red edge also includes the access road which leads from the High Street to the Surgery car park, around the northern side of the GP Surgery and leads to the paddock land and provides access to two further properties on the High Street, Chadwick and Barley Croft. The application site also includes the car park to the front of the surgery and the land immediately to the rear of the surgery building (however, the application site does not include the surgery building itself).
- 5.1.2 Under the saved policies of the North Hertfordshire Local Plan 1996 the main portion of the site (The Gables garden and the paddock) is located outside of the Barley village boundary (the access road and land at the surgery is within the village boundary). However, the village boundary is proposed to be altered under the Emerging NH Local Plan 2011-2031, which is currently under consideration by the Planning Inspectorate as part of the Examination in Public (this has not been altered/ amended under the Main Modifications). The Emerging Local Plan shows that the land within the curtilage of The Gables would be included within the village boundary, which accounts for approximately one half of the main part of the site, with only the paddock land remaining outside of the village boundary. The site is also located within the Barley Conservation Area, which also extends over the fields/ paddocks to the west of the site.

5.2 **Proposal subject of appeal**

- 5.2.1 This is an application under Section 73 of the Town and Country Planning Act 1990, seeking to amend Condition 2 of planning approval reference 18/03349/S73 (approved by committee on 14th March 2019). Condition 2 required that:

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

5.2.2 Hence, this application, now subject of an appeal, seeks to make amendments to the previously approved amended scheme and alter the approved plans. The proposed amendments are listed as follows:

- Garage serving 'Chadwick' – surveys have found that the existing garage has a lower roof-line than that shown on previously approved plans and so plans now show a lower roof to reflect this
- Parking layout – parking spaces for Plots 5 and 6 are now shown 'on-plot', replacing those at the central green area of the site, in order to provide on-plot charging points for electric vehicles
- Plots 5-7 – the row of all three terraced plots was shown on previous plans to be finished in render. It is now proposed that Plot 5 be finished in brick
- Plot 3 – Originally approved as a modest detached two-bedroom dwelling under reference 17/02316/1 (see appendix A). Previously approved amendment changed this to a three-bedroom property, of a different design (see appendix B). This application now seeks to amend this to a substantial four-bedroom property with a realigned driveway and the addition of a detached single garage.
- Plot 8 – Again, originally approved as a modest detached two-bedroom dwelling under reference 17/02316/1 (see appendix A). Previously approved amendment changed this to a three-bedroom property, of a different design (see appendix B). This application now seeks to amend this to a substantial four-bedroom property with a realigned double-driveway, requiring a widening of the plot. The floor plans show 4 large double bedrooms, however given the size of the property, this could easily accommodate 5 bedrooms (for example, Bedroom 1 would be served by a large 'dressing-room' which, with some minor re-alignment of bedroom 2, could become a 5th bedroom).

5.2.3 The only other change not listed above would be that Plot 4 would be served by a larger double driveway with decreased landscaping. All other aspects of the proposal would remain as previously approved.

5.3 Key Issues

5.3.1 Firstly, it should be made clear to members that Planning Control Committee cannot determine this application, as it is now subject of an appeal against non-determination.

Owing to the size of the site (more than 0.5ha), under the Council's constitution and scheme of delegation the proposals must be considered by Planning Control Committee. As such, this report is being presented to gain the committee's position/ stance on the proposals and the appeal. This report will therefore outline the officer's recommendations with regard to the proposals but will also serve as the Council's appeal 'Statement of Case' (subject to the agreement of Committee) to be submitted to the appeal inspector and so this report will also address the matters raised in the Appellants Statement of Case, which is provided at **Appendix D** of this report.

- 5.3.2 The key planning consideration of the development relates to the principle of the development, taking account of the location of the proposed development on the edge of/ partially within the Barley village boundary, the impact on the character, appearance and setting of both the Barley Conservation Area and the White Posts Listed Building and any public benefits arising from the proposed development.

5.3.3 **Principle of the proposed development, impacts on the Barley Conservation Area and wider public benefits**

- 5.3.4 It is noted that this application, now subject of an appeal, is a re-submission of application reference 18/03349/S73 (which was a re-submission/ amendment in itself, to approval ref. 17/02316/1), which was for 8 dwellings and which was approved by planning committee, following a recommendation of approval by the officer. The previous recommendation was on the basis that in the officers view, whilst it was finely balanced, the various public benefits outweighed the identified harm to the setting of the conservation area and to the Grade II Listed White Posts. Therefore, a tilted balance was applied in favour of the development, in accordance with former paragraph 14 of the older NPPF (now paragraph 11 of the revised NPPF 2019). The tilted balance was applied as the Council at that time could not demonstrate a 5 year supply of housing land and that therefore the provision of 8 dwellings was considered to carry significant weight, in addressing the Council's shortfall of housing.

- 5.3.5 This current application/appeal now needs to be considered on the basis of its own merits and circumstances, and taking into consideration the current, up-to-date policy situation but also with reference to the previously approved scheme.

- 5.3.6 Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development for decision makers on planning applications as follows:

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

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

- 5.3.7 The key test in this instance is where paragraph 11 refers to 'the application of policies in this framework that protect areas of particular importance', namely in this instance paragraph 196 of the NPPF which refers to development affecting a heritage asset.
- 5.3.8 Paragraph 196 of the NPPF states that *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use"*.

Impact on heritage assets

- 5.3.9 Firstly, with regard to the harm caused, it is noted that the Council's Senior Conservation Officer raised objections to both the original approval and the previously approved amended scheme, as the loss of this land to residential development would result in 'less than substantial harm' to the Barley Conservation Area and to a lesser extent, harm to the setting of the Grade II Listed White Posts property, which is located on the eastern edge of the application site. The main part of the application/ appeal site currently provides a transitional aspect of the conservation area, between the village core and the open rural countryside to the west and north. The open, rural nature of the site would be lost as a result of the proposed development and in turn this would have an adverse impact on the setting of the conservation area and the setting of White Posts.
- 5.3.10 When a scheme for 10 dwellings on this site was dismissed at appeal (see Appendix C), the inspector noted that *'The appeal site provides a largely undeveloped buffer to the adjacent rural land. I find the BCA (Barley Conservation Area) to display and open and loose knit character that is reinforced by the open layout of development along High Street which is complemented and softened by the presence of mature landscaping....I find the openness to be a defining part of the significance of the BCA'*.
- 5.3.11 It is worth noting at this stage that the originally approved scheme for 8 dwellings (see appendix A) was redesigned and amended under the instruction of the Council's Conservation Officer, to achieve what was considered to be the best scenario and to therefore reduce the harm as much as possible (despite his continued objection to the principle of the proposals given the loss of the rural setting of the conservation area and listed building). The previously approved amended scheme (see Appendix B) under reference 18/03349/S73 did allow for some variations to the original scheme and it was noted in the officers committee report that although the amendments were not preferable (compared to the original approval), these were not so harmful so as to warrant a reason for refusal, however it represented changes which would diminish the design quality of what was already a marginal, on-balance decision.
- 5.3.12 It is the officers view that the less significant amendments now proposed, such as the changes to the garage at Chadwick, are not contentious and the re-location of some of the parking spaces away from the central green area would provide some marginal benefits to the scheme. However, the substantial changes in terms of the increased scale and bulk of the dwellings at Plots 3 and 8 would further diminish the design quality of the scheme and therefore increase the level of harm to the BCA.

- 5.3.13 As noted above, the as originally approved scheme included plots 3 and 8 as matching modest detached two-bedroom properties (the design lead by the Council's Conservation Officer). As part of the previously approved amended scheme under 18/03349/S73, these were both altered to three-bedroom properties of differing designs, but remaining of a suitable scale and design, within their respective plots and in keeping with the overall, loose-knit character of the site as a whole. However, both plot 3 and plot 8 are now proposed as particularly substantial four-bedroom properties and in the case of Plot 8, this is of a scale more akin to a five-bedroom property. Together with Plot 4, this part of the site would become overly dominated by large, imposing properties which would dominate and fill the frontages of their plots to the increased detriment of the character and appearance of the site and which would be out of keeping with the open, rural and transitional character of this part of the BCA.
- 5.3.14 Referring to Plot 3 in the first instance, the appellants have sought to justify the change in scale and design in their submitted Statement of Case (SoC) (See Appendix D) by providing plans showing the outline of the frontage of the previously approved Plot 3 compared to that now proposed. This shows that the dwelling now proposed would be of a reduced height. However, officers contend that this is only one aspect of the property and it is the overall scale, bulk and in particular the overall depth of the property which would be increased under the current proposals. Referring to the site plan now proposed, it can be seen that the larger dwelling, together with the proposed garage outbuilding would now overly dominate the relatively small plot, leaving a relatively small garden to the rear and resulting an overly cramped form of development which again, would be detrimental to the character of the development and which would result in increased harm to the character and setting of the BCA.
- 5.3.15 Plot 3 is also set along the northern boundary of the site, where it would back-onto the sunken footpath running along the north of the site. The increased scale and bulk of the property now proposed at Plot 3 would be readily visible from this footpath, thus increasing its prominence and the harm caused.
- 5.3.16 Turning now to the amended dwelling proposed at Plot 8, this is now proposed to be a substantial four/ five-bedroom detached dwelling, which would be significantly larger than that previously approved. Again, as part of the appellants SoC they have provided drawings showing a comparison of the front elevations of that previously approved and that now proposed and in this case, it is the officer's view that these only serve to highlight the significant increase in scale and bulk of that now proposed. The dwelling now proposed at Plot 8 would represent very large dwelling of an increased width and which would be within close proximity to the access road, with minimal set-back and thus would have an overly dominant and imposing impact on this part of the site and the street-scene at the entrance to the site.

- 5.3.17 A key aspect of the proposed scheme, in seeking to achieve a loose-knit development in keeping with the character of the BCA is the central green area. Under the current proposals, this would become surrounded (on three sides) and dominated by three large four-five bedroom properties at plots 3, 4 and 8. The amended dwelling previously approved at plot 8 under 18/03349/S73 would have had a relatively minimal depth of 8.3m for the main two storey aspect (including the forward projecting front gable element which would only be to the north side of the house and away from the green space) with an additional single storey rear element of an additional 4.4m in depth. The substantial dwelling now proposed would have a significantly increased depth (as well as an increased width) of 11.8m for the main two storey element, which would be full width with a double gable rear projection, with an additional single storey rear element adding a further 3.65m to the depth. This increased depth and bulk of the dwelling at plot 8 would be in full view from the central green space, to the detriment of the loose-knit character of the site.
- 5.3.18 The increase in depth of Plot 8 would also result in the dwelling beginning to encroach into the rear outlook from White Posts, to the east of the site, which is a Grade II listed property. As such, the impact the current proposals would have on this heritage asset would also be increased compared to that previously approved.
- 5.3.19 With reference to the appellants SoC, at page 8 under paragraph 4.9 they have included plans which show the extensions they consider to be possible under permitted development rights to both the previously approved Plot3 and Plot 8. Indeed, PD rights have not been removed as part of the previous permissions and in this instance, the appellants are seeking to use PD rights as a 'fall-back' position as justification for the increased scale and bulk of the dwellings now proposed. However, members and the planning inspector should be made aware that although the plans in the SoC are not to scale, having compared these to the approved plans these appear to show single storey extensions at a depth of 8m, under Class A (g) of the General Permitted Development Rights. However, extensions of a depth of 8m under (g) are not permitted for properties in 'Article 2(3) land', which includes conservation areas. As such, because these properties would be located within the BCA, PD rights would be limited to single storey rear extensions not exceeding 4m in depth and so the plans put forward by the appellants are not a true and accurate reflection of what would be possible under PD rights. In any case, the eventual occupants of plots 3 and 8 may not wish to maximise PD rights and PD rights would not take effect until the properties had been occupied. In light of this, it is the officers view that only very limited wight can be attributed to this argument.
- 5.3.20 In summary and for reasons outlined above, it is considered that the dwellings now proposed at Plot 3 and Plot 8, would not be in keeping with the loose-knit character and appearance of the site as originally approved and would result in increased harm to the character and setting of the BCA and the Grade II listed building at White Posts, due to the significantly increased scale and bulk of these dwellings compared to that originally approved and previously amended.

- 5.3.21 Section 72 (1) of the Act requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. In this instance, as outlined above, the proposals subject of this application/ appeal would result in increased harm to the Barley Conservation Area, but which remains of a 'less than substantial' nature. In any case, great weight is afforded to this harm in the overall planning balance.

Public Benefits

- 5.3.22 The original approval and the subsequent amended schemes were approved on the basis that under paragraph 196 of the NPPF, the public benefits were considered to outweigh the identified harm to heritage assets. As already outlined above, it is considered that the current proposal would result in increased harm.
- 5.3.23 In terms of the public benefits, it is noted that two of the 8 proposed dwellings would remain affordable units and the same benefits would still be afforded to the Doctors surgery; namely the provision of a new car park and the re-location of an existing electrical substation, which would then allow for the potential future expansion of the surgery, if required. At paragraph 11 of the previous appeal decision on this site (see Appendix C), relating to the proposed 10 dwellings, the inspector notes that:

'In this case the development would make a modest contribution to housing provision. The surgery would also benefit from the relocation of the electricity sub-station to assist in its potential expansion, along with the provision of additional parking for customers. However, none of these amount to more than moderate weight either individually or collectively. I attach significant weight to the provision of affordable dwellings which would result in social and economic benefits from the proposal'.

- 5.3.24 It is officers view that, for the most part, these benefits remain as previously considered. However, at paragraph 12 of the appeal decision, the inspector goes on to state that:
'Nevertheless, given the harm I have identified to the setting of the BCA as a designated heritage asset, the benefits do not outweigh the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets'

- 5.3.25 In terms of housing supply, it is the officers view that this benefit has decreased since the previous approvals were granted for this site. At the time of reporting this matter, the Council's submission plan (ELP) is due to go out for public consultation on the second round of main modifications and the ELP is therefore well advanced.

- 5.3.26 In addition, it is noted that at the time the previous permissions were granted, the provision of 8 dwellings was 'new' and could be added to the Council's housing supply, to address the housing deficit. However, at the time of considering this current application/ appeal, there are already three extant permissions for the site (the original approval and two subsequent s73 amendments). As such, whereas 'significant weight' was attributed to the provision of 8 dwellings as part of the previous decisions at this site, windfall housing such as that now proposed, which already benefits from permission, can only be afforded limited weight in this instance.

- 5.3.27 The appellants state that in their view the public benefits of the current proposals are increased compared to the previous approvals, as they suggest that Plot 3 and Plot 8 now constitute 'Self build' units, as these have been designed to meet the requirements and specifications of the potential buyers. In the officers view, this is considered to be somewhat disingenuous and not in the spirit of self-build legislation. These are not new plots and these make up part of a previously designed scheme, designed to be in keeping with the Barley CA. As mentioned previously in this report, these plots were originally approved as modest two-bedroom properties and then amended to suitable three-bedroom dwellings. The appellants are now seeking to change both plots to two very large, substantial four or five-bedroom homes, on the basis that they have been designed by prospective buyers.
- 5.3.28 Firstly, it is the officers view that the priority in this instance is the BCA and it is suggested that a sensitive location within a conservation area is not a suitable site for self-build properties. Any dwellings to be located within a CA should be designed sensitively and in keeping with the character, appearance and setting of the CA and should not be of a design which is lead by the wishes-and-wants of a prospective buyer. As outlined in detail above, it is the officers view that the dwellings proposed at Plots 3 and 8 are not in keeping with the rural, loose-knit character of the site as a whole and the BCA, thus causing increased harm to the heritage asset.
- 5.3.29 In addition, it is noted that whilst letters of support have been received from the prospective buyers of these plots, it is not explained or outlined why the dwellings as already approved would not be suitable for their needs or why dwellings of a similar scale to that approved could not meet their needs. As such, this does provide sufficient justification or reasoning to allow two such substantial dwellings, particularly when it is found that by way of the increased scale and bulk, these would result in increased harm to the BCA.
- 5.3.30 Lastly, the appellants have not provided a draft s106 legal agreement, required to ensure that these plots would be restricted to self-build units and that they would be for the specific prospective buyers who had an input into the design of these plots. In light of this and the reasoning above, it is the officers view that little additional weight is afforded to the public benefits by way of these units potentially being considered self-build units. Should the Inspector be minded to disagree and consider that the provision of two self-build units carried increased weight, it is officers view that even if this were the case, this would not be sufficient to outweigh the harm which has been identified to the BCA and to a lesser extent harm to the Grade II Listed White Posts.

Summary on planning balance

- 5.3.31 In weighing the harm to the heritage assets, as identified above, it is noted that paragraph 193 of the NPPF states *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'*. Modified Policy SP13: Historic Environment states that *'The Council will balance the need for growth with the proper protection and enhancement of the historic environment.... We will pursue a positive strategy for the conservation and enjoyment of the historic environment through: a. Maintaining a strong presumption in favour of the retention, preservation and enhancement of heritage assets and their setting according to their significance.* Lastly, I note that modified Policy HE1 of the ELP states that *'Where substantial harm to, or loss of significance, of a designated heritage asset is proposed the Council shall refuse consent unless it can be demonstrated that the scheme is necessary to deliver considerable public benefits that outweigh the harm or loss'*.
- 5.3.32 Paragraph 130 of the NPPF states that *'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, taking into account any local design standards or style guides in plans or supplementary planning documents.... Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)'* (emphasis added). This proposal now before planning committee is now the 4th variation for a residential scheme on this site since the original permission was granted (and is the 6th scheme submitted to the council overall, including the approved scheme and the proposals for 9 houses which was withdrawn). This proposal seeks a variation to an existing variation to the original approval. As mentioned previously, the original approval was already considered to be very much on balance and a marginal decision. The previously approved variation was not preferable (compared to the original) and would have seen the design quality diminish, however it was considered that it was not so detrimental so as to justify a refusal of permission. However, this application seeks to yet further depart from that original permission, resulting in a poorer quality of design and therefore increased harm to the BCA. The proposals are therefore also considered to be contrary to 130 of the NPPF.
- 5.3.33 As outlined above, the previously approved schemes were, in the officer opinion, finely balanced in favour of these schemes, when weighing the harm against the public benefits. However, in comparison, the current proposal would result in increased harm, owing to the poorer quality of the design the subsequent increased impact on the conservation area.

In addition, the benefits are also decreased, owing to the change in the policy situation, as only limited weight can now be afforded to the provision of 8 new dwellings, bearing in mind permission already exists for this site. In light of this, it is my view and my recommendation that on balance the harm to the Barley Conservation Area and to a lesser extent to the setting of the neighbouring listed building outweigh the public benefits. Therefore, the proposal is not acceptable in principle, and is contrary to paragraphs 11, 130 and 196 of the NPPF and contrary to Saved Policy 6 of the existing Local Plan and contrary to Policies SP5, SP13, CGB1 and HE1 of the Emerging Local Plan as Modified.

5.3.34 Further considerations

5.3.35 The living conditions of adjoining and future occupiers

As the layout of the site is to remain largely as originally approved, the impact on the amenity of existing and future residents would not be materially changed. Each of the proposed plots would still benefit from a suitable level of amenity and there would not be any adverse impacts on the amenity of existing properties which are in close proximity to the site.

5.3.36 Access and Highway safety

As clarified by the HCC Highway Officer, the number of units would remain at eight, as originally approved and so there would be no material impact on the highway safety and no material impact on the local and wider highway network.

Environmental Impacts

5.3.37 As above, given that the number of units is not being altered, the general form and layout of the site is remaining as approved, there would be no material alteration to the impact on the remaining areas of consideration, such as Archaeology, Ecology, Surface Water Drainage and Land contamination.

5.3.38 Conditions

5.3.39 The previously approved s73 amendment, reference 18/03329/S73, included 21 conditions. Standard Condition 1 would no longer be relevant (requiring a commencement of works within 3 years of the original permission), as works have commenced on site in implementing permission reference 18/03349/S73. In addition, all of the 'pre-commencement conditions' have been satisfied and have been discharged via separate applications. However, all of these conditions remain relevant. As such, should the Appeal Inspector be minded to allow the appeal, it is respectfully requested that the 20 conditions still relevant to the proposals be included, as amended to reflect the details as approved in the case of the pre-commencement conditions. If the inspector is minded to allow the appeal and is of the view that a condition would be sufficient in order to secure the two 'self-build' units (rather than requiring a s106 legal agreement), this should also be added to the conditions. Lastly, given the increased scale of the dwellings currently proposed, in order to protect the Conservation Area from further increases in built form, it is considered reasonable to include an additional condition which would remove permitted development rights from the 8 dwellings. The list of recommended updated conditions is provided at **Appendix E**.

5.4 Conclusion

- 5.4.1 The proposed development would be sited wholly within the Barley Conservation Area and by way of the inappropriate scale, bulk and massing of Plots 3 and Plots 8 of the proposed amended development, the proposals would result in increased harm to the conservation area and to a less extent to the setting of the Grade II Listed White Posts which is immediately to the east of the site. Whilst the proposals would result in various public benefits, it is the officer's view that this would not outweigh the harm as identified to the heritage assets. In addition, when comparing the current scheme with that previously approved at this same site, not only is the harm increased by way of the poor design, the public benefits are also decreased, as the Emerging Local Plan has now advanced to modifications stage and the site already benefits from permission for 8 dwellings. Subsequently, the benefits of providing 8 houses as part of this windfall site can now only be afford limited weight.
- 5.4.2 In applying the key planning balance in this instance, it is the officers view that the identified harm outweighs the public benefits and so the proposal represents an inappropriate form of development.

5.5 Alternative Options

- 5.5.1 The scheme presented is affectively a re-submission of two alternative schemes which were found to be acceptable. As such, the applicable alternatives are considered to be those which have already been granted has permission under reference 17/02316/1, 18/03349/S73 and 19/00003/S73.

6.0 Legal Implications

- 6.1 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.

7.0 Recommendation

- 7.1 That the Planning Control Committee resolve the following in relation to the submitted appeal against non-determination of application ref: 20/03072/S73:
- 7.2 **A) That North Hertfordshire District Council advise the Planning Inspectorate that had it determined planning application ref: 18/01622/FP it would have resolved to refuse planning permission for the following reason and therefore wishes to contest the appeal ref. APP/X1925/W/21/3271157:**

The principle of residential development on this site would harm the character and appearance of the Barley Conservation Area as it would result in the loss of the existing open land which represents a transitional area from the village fringe to the rural countryside and which commands an important role in providing the rural setting of the Barley Conservation Area. The proposal would therefore harm the special character of the Barley Conservation Area and to a lesser extent, the setting of 'White Posts' a grade II listed building. The in-principle harm would be further exacerbated by the excessive scale, bulk and massing of both Plot 3 and Plot 8 hereby proposed, which would be at odds with the semi-rural, edge-of- village context and which would fail to provide a cohesive appearance and form of development. Although the degree of harm is considered to be less than substantial, the public benefits of the proposal do not outweigh the harm that has been identified and which has been afforded significant weight. As a consequence the proposed development is contrary to Policies 6 and 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations, Policies SP5, SP9, SP13, D1, CGB1 and HE1 of the Emerging North Hertfordshire Local Plan 2011-2031 as Modified and Sections 12 and 16 and paragraph 130 of the National Planning Policy Framework 2018.

8.0 **Appendices**

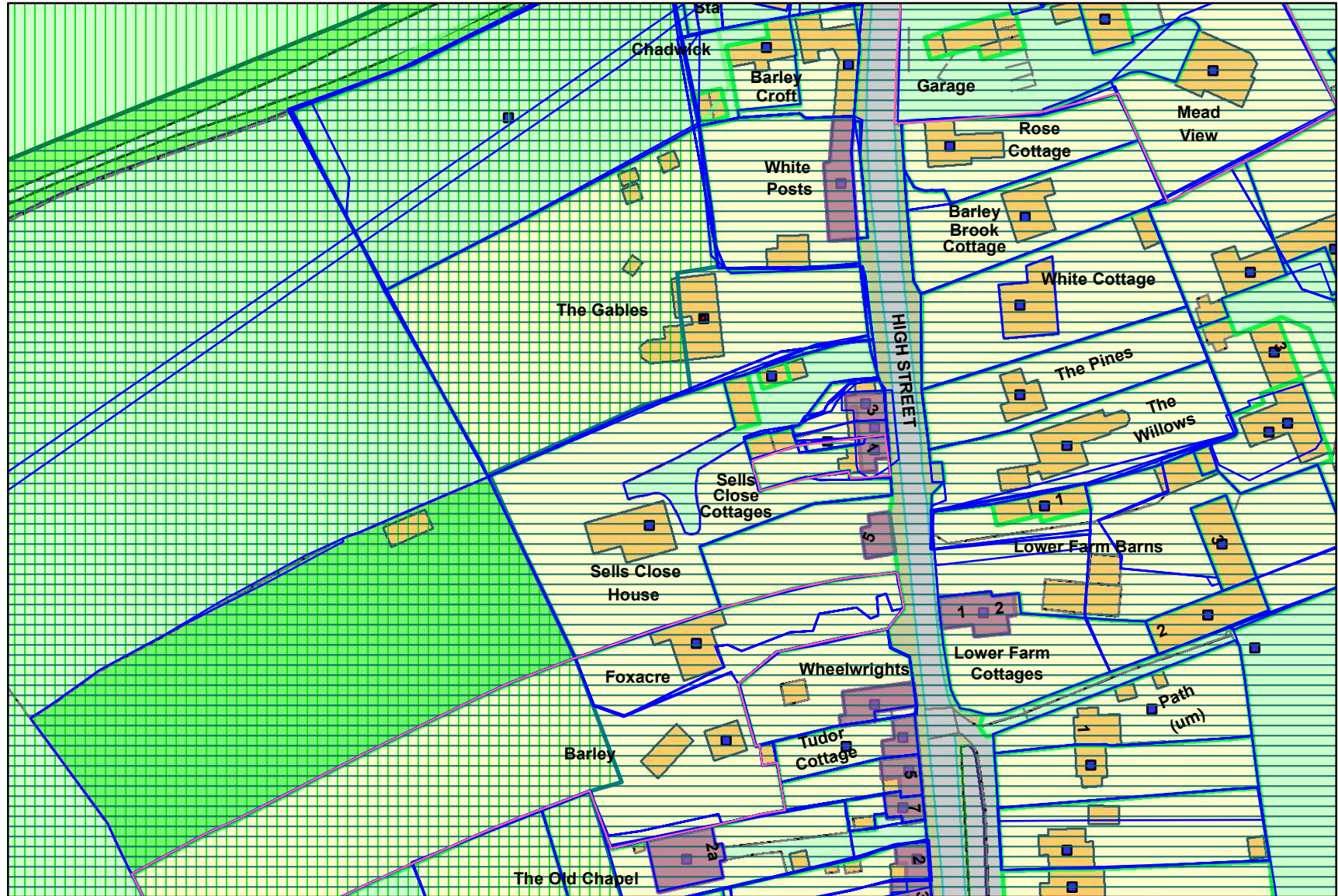
- 8.1 Appendix A i) – 'Original approval' 17/02316/1 - Site Plan
Appendix A ii) – 'Original approval' 17/02316/1 - Plots 3 and 8
- 8.2 Appendix B i) - 'Approved s73 amendment' 18/03349/S73 - Site Plan
Appendix B ii) - 'Approved s73 amendment' 18/03349/S73 - Plot 3
Appendix B iii) - 'Approved s73 amendment' 18/03349/S73 - Plot 8
- 8.3 Appendix C – Appeal Decision (Dismissed) ref. APP/X1925/W/19/3228265 (18/02299/FP)
- 8.4 Appendix D – Appellants Statement of Case ref. APP/X1925/W/21/3271157 (current appeal subject of this committee item).
- 8.5 Appendix E – List of suggested Conditions

This page is intentionally left blank

Application Validation Sheet

20/03072/S73 The Gables, High Street, Barley, Royston, SG8 8HY

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



Scale 1:1,250

Date: 05/05/2021

© Crown copyright and database rights 2017 Ordnance Survey 100018622



This page is intentionally left blank



Revision
A, 2.4m x 43m visibility splays from access and lorry turning added, 25.10.2017
B, Turning head and access roadway width revised, 08.12.2017



Project name: Land to west of "The Gables", High Street, Barley, Herts, SG8 8HY		
Drawing title: Proposed Site Plan		
Scale: 1:1250, 1:500, 1:200	Date: 11.10.2016	Drawing no: 396.30b
Paper: A1 Paper	Drawn: JJO	
Dimensions are in millimeters unless otherwise stated. Do not scale from this drawing. If in doubt, ask.		

Land to West of "The Gables", High Street, Barley, Herts, SG8 8HY

This page is intentionally left blank



Front Elevation
0 0.5 1 2 3 4 5m

Plot 3 & 8

Plot 2

Plot 1



Plot 1
Flank Elevation

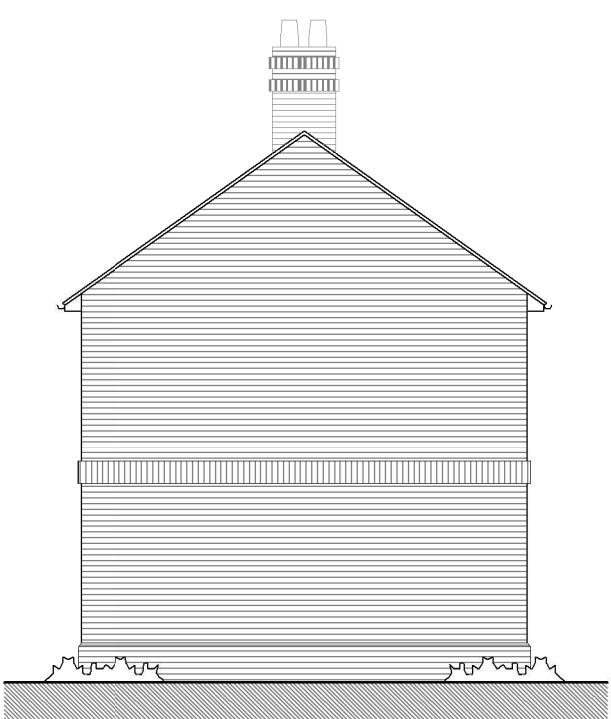


Rear Elevation
0 0.5 1 2 3 4 5m

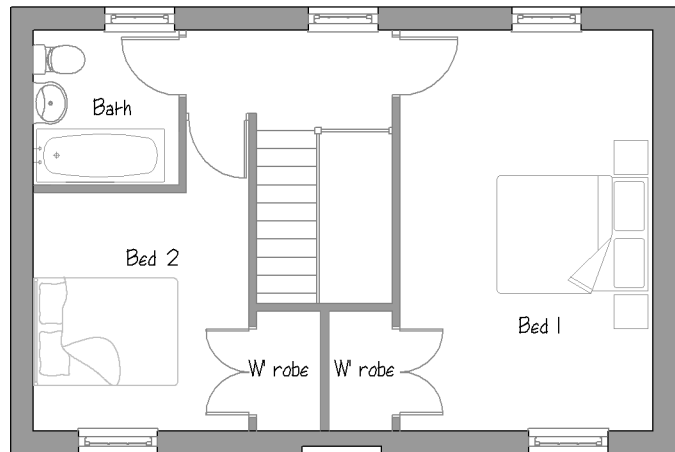
Plot 1

Plot 2

Plot 3 & 8

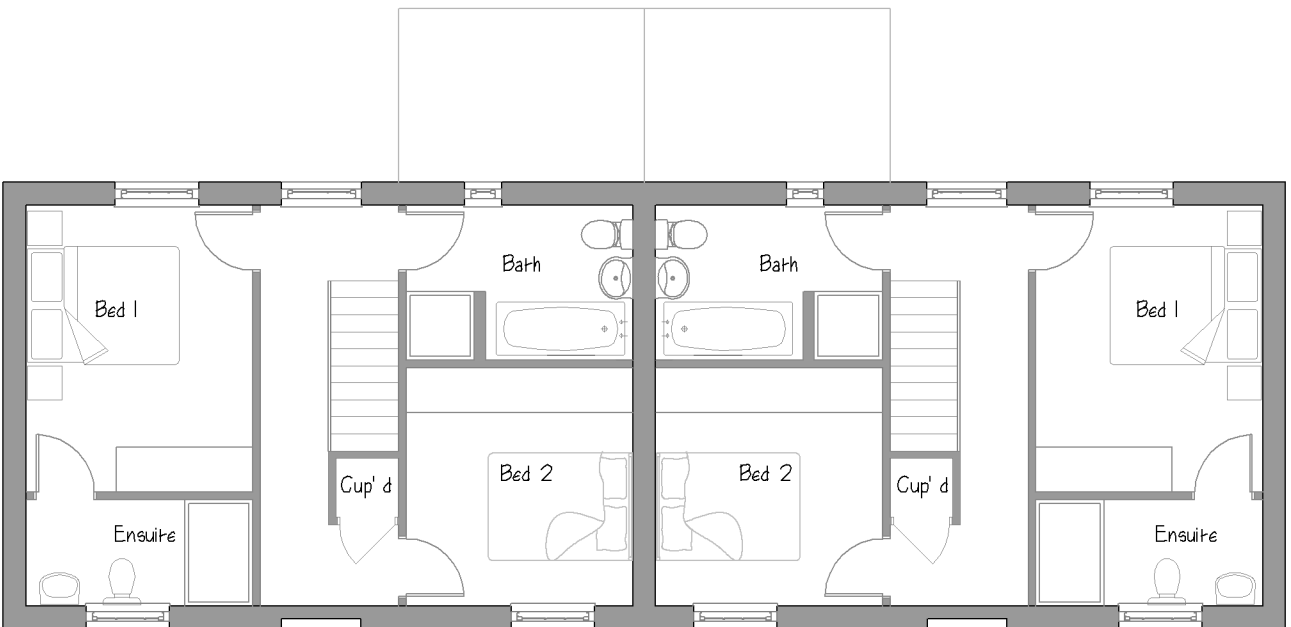


Plot 3
Flank Elevation



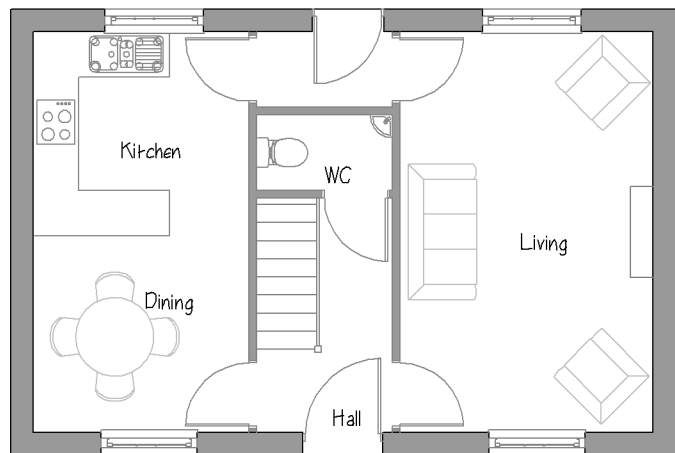
First Floor Plan

Plot 3 & 8



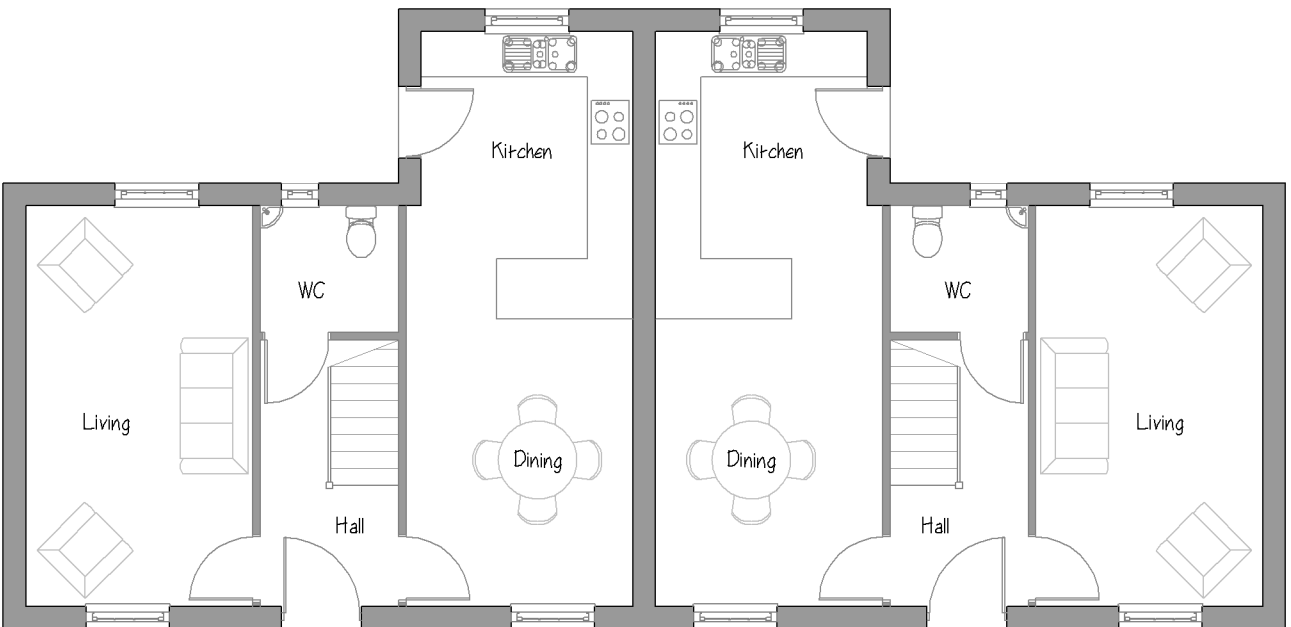
Plot 2

Plot 1



Ground Floor Plan

Plot 3 & 8



Plot 2

Plot 1

- LIFETIME HOMES:-
1. Car parking spaces adjacent to the dwellings are not less than 3.3m wide.
 2. Parking within each site is in close proximity to the dwellings.
 3. Slopes to the front doors will not exceed gradient of 1:12.
 4. Accessible thresholds, level and lit to each dwelling.
 5. Width of doors and hallways to allow wheelchair access.
 6. Turning circle for wheelchairs is illustrated on the plans and shows compliance.
 7. Living rooms are on entrance level.
 8. Living room space on ground floor can be changed to a bedroom.
 9. The ground floor w.c's are wheelchair accessible with opportunity for a shower later.
 10. Walls in bathrooms and toilets capable of taking adaptations.
 11. Stairs will have a clear width of 900mm between wall and handrails.
 12. The timber in the ceiling and roof will be able to support a hoist.
 13. All switches, sockets, ventilation and service controls are positioned between 450mm & 1200mm from FFL.



PLOT 1-3 & 8

ISSUE	DESCRIPTION	DATE	BY



Project name:		Barley	
Drawing title:		Proposed Floor Plans and Elevation	
Scale:	1:100	Date:	17/06/2017
Paper:	A2	Drawn:	CJH
		Drawing no:	
		396 x 31A	
Dimensions are in millimeters unless otherwise stated. Do not scale from this drawing. If in doubt, ask.			

Land to West of "The Gables", High Street, Barley, Herts, SG8 8HY

This page is intentionally left blank



Page 115

1:200 Proposed Site Plan

Land to West of "The Gables", High Street, Barley, Herts, SG8 8HY



1:500 Proposed Block Plan



1:1250 Proposed Location Plan



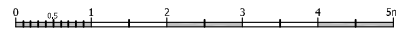
Project name: Land to west of "The Gables", High Street, Barley, Herts, SG8 8HY		
Drawing title: Proposed Site Plan		
Scale: 1:1250, 1:500, 1:200	Date: 11.10.2016	Drawing no: 396.700
Paper: A1 Paper	Drawn: JJO	
Dimensions are in millimeters unless otherwise stated. Do not scale from this drawing. If in doubt, ask.		

This page is intentionally left blank



PLOT 3 FRONT ELEVATION

1:100 ELEVATIONS



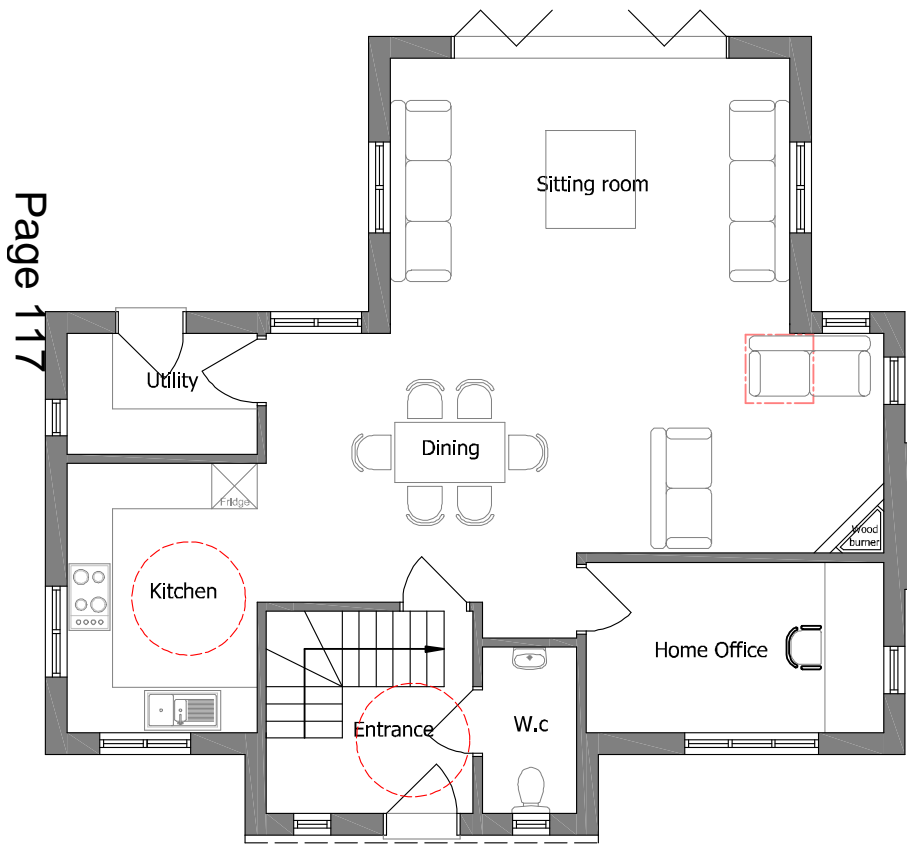
FLANK ELEVATION



REAR ELEVATION

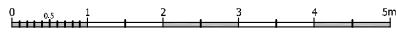


SIDE ELEVATION



GROUND FLOOR PLAN - PLOT 3

1:100 FLOOR PLANS



FIRST FLOOR PLAN

LIFETIME HOMES:-

1. Car parking spaces adjacent to the dwellings are not less than 3.3m wide.
2. Parking within each site is in close proximity to the dwellings.
3. Slopes to the front doors will not exceed gradient of 1:12.
4. Accessible thresholds, level and lift to each dwelling.
5. Width of doors and hallways to allow wheelchair access.
6. Turning circle for wheelchairs is illustrated on the plans and shows compliance.
7. Living rooms are on entrance level.
8. Living room space on ground floor can be changed to a bedroom.
9. The ground floor w.c's are wheelchair accessible with opportunity for a shower later.
10. Walls in bathrooms and toilets capable of taking adaptations.
11. Stairs will have a clear width of 900mm between wall and handrails.
12. The timber in the ceiling and roof will be able to support a hoist.
13. All switches, sockets, ventilation and service controls are positioned between 450mm & 1200mm from FFL.

Square indicates possible position of through floor lift.

Land to West of 'The Gables', High Street, Barley, Herts. SG8 8HY

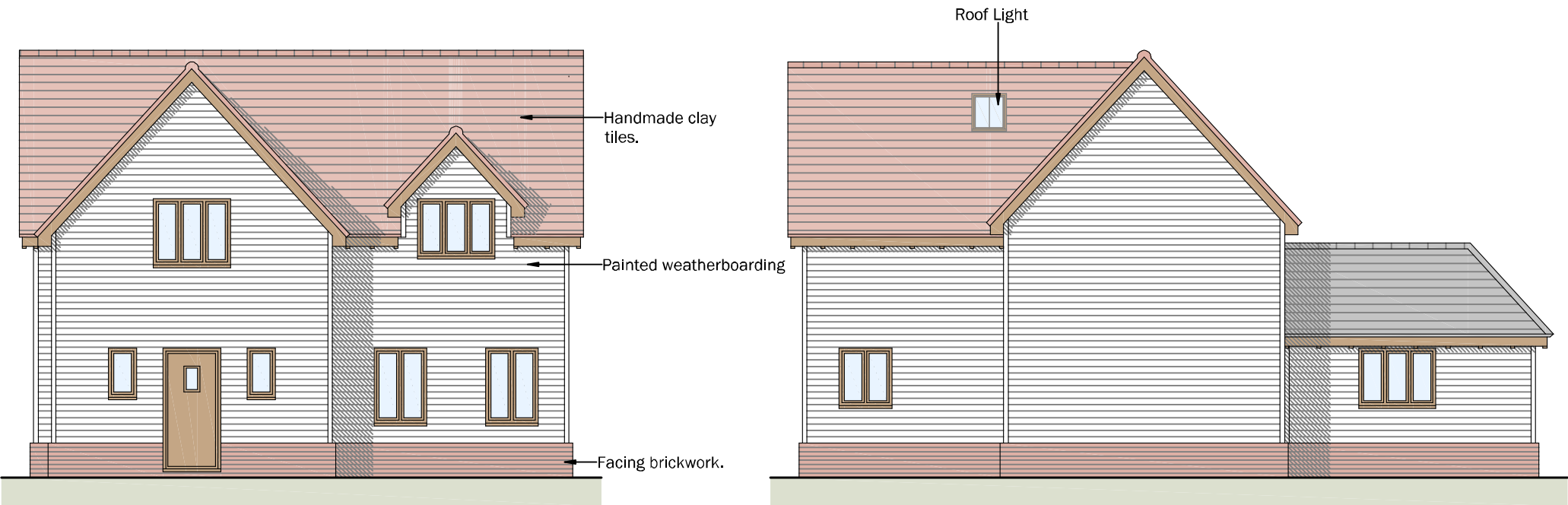
PRELIMINARY ISSUE

ISSUE	DESCRIPTION	DATE	BY
A	Upper floor external finish changed to boarding	22.02.2019	JJO



Project name:	Land to West of 'The Gables', High Street, Barley, Herts. SG8 8HY		
Drawing title:	Plot 3 - plans and elevations		
Scale:	1:100	Date:	July 2018
Paper:	A2	Drawn:	GRF
		Drawing no:	396.703A
Dimensions are in millimeters unless otherwise stated. Do not scale from this drawing. If in doubt, ask.			

This page is intentionally left blank

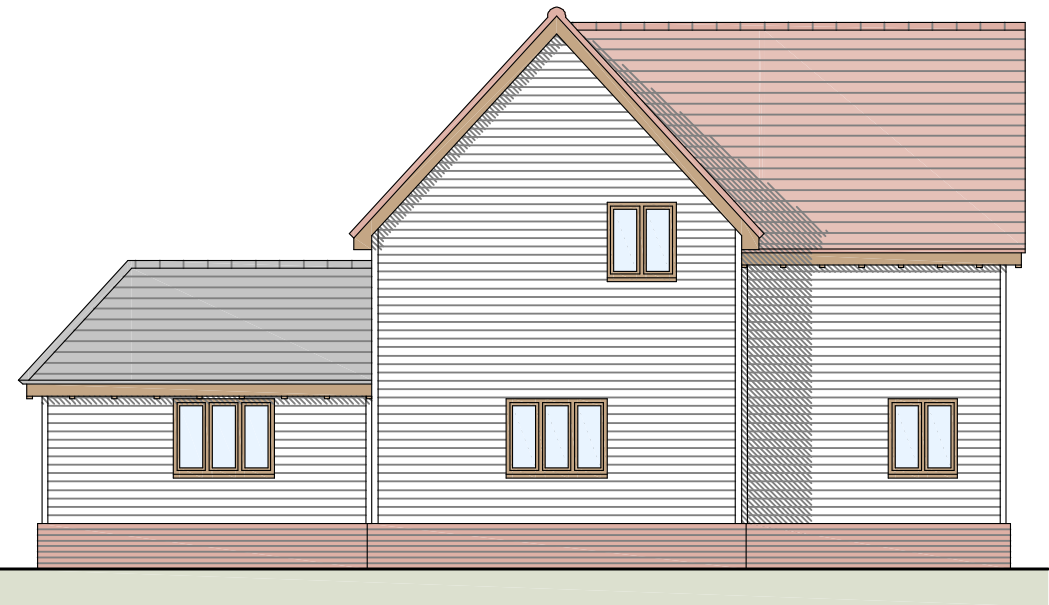


PLOT 8 FRONT ELEVATION

PLOT 8 SIDE ELEVATION



PLOT 8 REAR ELEVATION

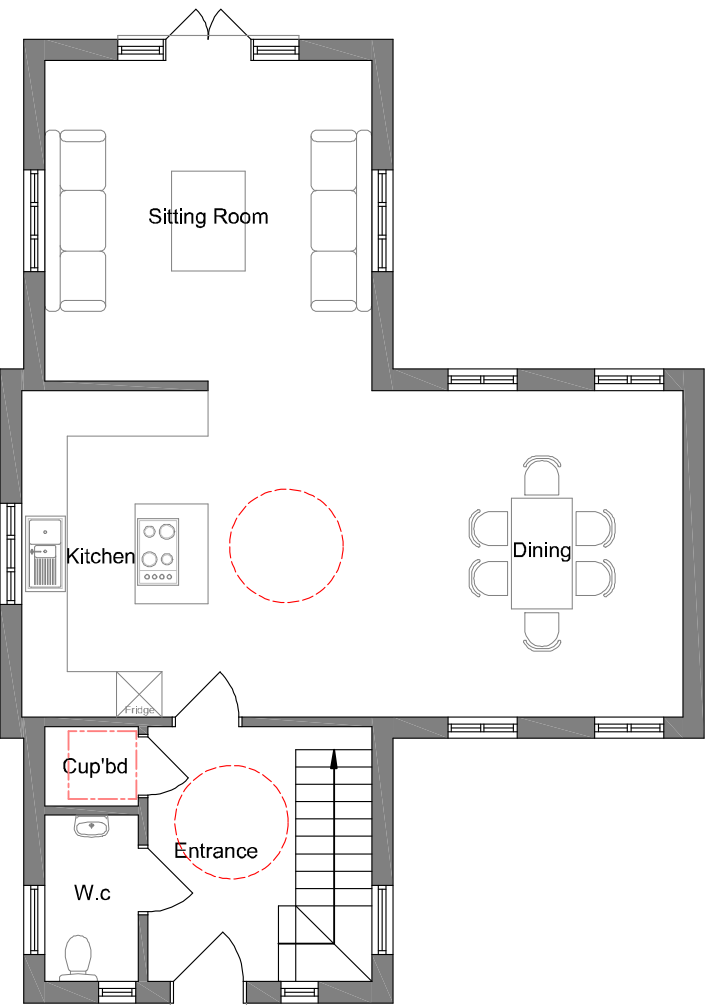


PLOT 8 SIDE ELEVATION

1:100 ELEVATIONS

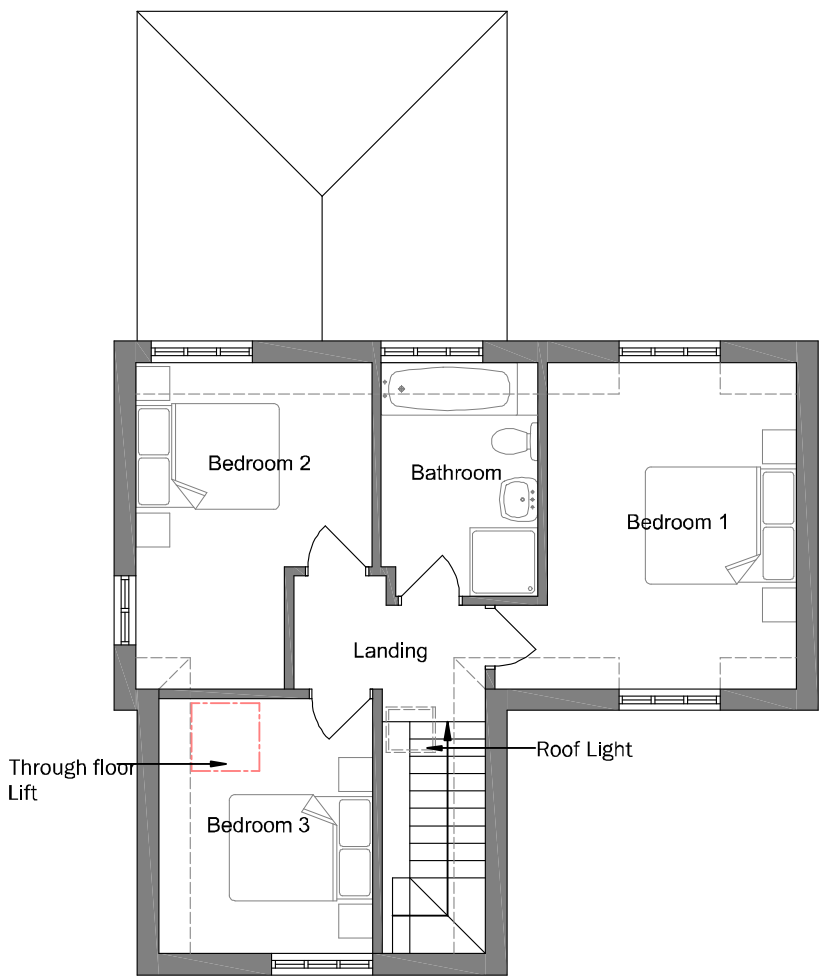


Page 119





PLOT 8 GROUND FLOOR PLAN

1:100 FLOOR PLANS



PLOT 8 FIRST FLOOR PLAN

LIFETIME HOMES:-

1. Car parking spaces adjacent to the dwellings are not less than 3.3m wide.
2. Parking within each site is in close proximity to the dwellings.
3. Slopes to the front doors will not exceed gradient of 1:12.
4. Accessible thresholds, level and lit to each dwelling.
5. Width of doors and hallways to allow wheelchair access.
6.  Turning circle for wheelchairs is illustrated on the plans and shows compliance.
7. Living rooms are on entrance level.
8. Living room space on ground floor can be changed to a bedroom.
9. The ground floor w.c's are wheelchair accessible with opportunity for a shower later.
10. Walls in bathrooms and toilets capable of taking adaptations.
11. Stairs will have a clear width of 900mm between wall and handrails.
12.  Square indicates possible position of through floor lift.
13. The timber in the ceiling and roof will be able to support a hoist.
13. All switches, sockets, ventilation and service controls are positioned between 450mm & 1200mm from FFL.

Land to west of "The Gables", High Street, Barley, Herts, SG8 8HY

ISSUE	DESCRIPTION	DATE	BY
A	External materials - Changed render to weatherboarding.	22.02.2019	JJO



Project name: Land to west of "The Gables", High Street, Barley, Herts, SG8 8HY			
Drawing title: Plot 8 Plans & Elevations			
Scale: 1:100		Date: 11.10.2016	Drawing no: 396x706A
Paper: A2 Paper		Drawn: JJO	
Dimensions are in millimeters unless otherwise stated. Do not scale from this drawing. If in doubt, ask.			

This page is intentionally left blank



Appeal Decision

Site visit made on 4 September 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2019

Appeal Ref: APP/X1925/W/19/3228265

The Gables, High Street, Barley, Hertfordshire SG8 8HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs J Winstanley against the decision of North Hertfordshire District Council.
 - The application Ref 18/02299/FP, dated 22 August 2018, was refused by notice dated 14 December 2018.
 - The development proposed is described as the "construction of 10 no. residential units within existing paddock/garden".
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice refers to Policies from the emerging North Hertfordshire Local Plan Proposed Submission Document 2016. However, as this plan may be the subject of future amendment, I have attributed the Policies within the plan limited weight in my determination of this appeal.

Main Issue

3. The main issue is whether the development would conserve or enhance the character or appearance of the Barley Conservation Area (BCA) and the setting, and therefore the significance, of the listed building known as White Posts.

Reasons

4. The appeal site forms the rear garden and paddock land associated with the property known as The Gables. The site lies within the BCA which extends to agricultural land to the west. The area is rural in character and contains a variety in style and size of dwellings, along with other buildings such as a garage and petrol filling station opposite the site and the doctor's surgery (the surgery) to the north of The Gables.
5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to pay special attention to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses. In addition, Section 72 (1) of the Act requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability

of preserving or enhancing the character and appearance of the area. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.

6. The appeal site provides a largely undeveloped buffer to the adjacent rural land. I find the BCA to display an open and loose knit character that is reinforced by the open layout of development along High Street which is complemented and softened by the presence of mature landscaping. Although development towards the centre of the village is more closely knit, it nonetheless displays a degree of openness as a result of spacing about and between dwellings. I find the openness to be a defining part of the significance of the BCA.
7. The proposal would introduce built development to the rear of The Gables and other properties that face onto High Street. The development would be served through the access to the north of the surgery with additional land and an extended garage gifted to the property known as Chadwick. Additional parking spaces for the surgery would also be provided within the appeal site. Properties within the proposed development would be provided with parking areas and/or garages and private garden areas to the rear. Five of the properties would be detached dwellings with the remaining five properties set as a pair of semi-detached dwellings and a further terrace of three dwellings. The semi-detached dwellings would be designated as affordable homes.
8. The level of built development proposed would suburbanise the site resulting in an enclave of dwellings that would fail to provide a sense of openness that would enable the development to assimilate into the wider context of the BCA. The majority of the site would be given over to built development, which would include the proposed dwellings, parking areas and access roads. Furthermore, the proposed shared green space to be located behind plots 9 and 10 appears constrained, rather than an area that would be of any beneficial use for the occupiers of the proposed dwellings. Thus, the level of development at the site would seek to compete with, rather than complement, the open and spacious character of this part of the village which in turn would fail to preserve or enhance the BCA. Although this harm would not be readily visible from the sunken footpath to the north of the appeal site, it would nonetheless be clearly visible from the proposed surgery car park and to some degree, from surrounding properties.
9. Having regard to the design of the proposed dwellings, the Council argue that the development would be at odds with the semi-rural edge of the village. While I do not find the layout and the level of development proposed to be in keeping with this part of the village, I nonetheless do not find that the particular design of the dwellings would in themselves be harmful to the character or appearance of the BCA. Furthermore, turning to the setting of White Posts, which is a Grade II Listed building and lies to the east of the appeal site, given the separation distance and the intervening landscaping that would be retained, I am satisfied that the development would have a neutral impact on the setting of the designated heritage asset.
10. As the proposed development would only result in harm to part of the significance of the heritage asset, I find it to be less than substantial. Accordingly, the National Planning Policy Framework (the Framework) requires

at paragraph 196 that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

11. In this case the development would make a modest contribution to housing provision. The surgery would also benefit from the relocation of the electricity sub-station to assist in its potential expansion, along with the provision of additional parking for customers. However, none of these amount to more than moderate weight either individually or collectively. I attach significant weight to the provision of affordable dwellings which would result in social and economic benefits from the proposal.
12. Nevertheless, given the harm I have identified to the setting of the BCA as a designated heritage asset, the benefits do not outweigh the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets. Thus, the proposal would be in conflict with Policies 6 and 57 of the North Hertfordshire District Council Local Plan No. 2 with Alterations 2007 and the Framework which seek, amongst other things, to ensure that special account is taken of a site's location within conservation areas and that the siting of a development should enhance the character of an area.

Other Matters

13. I am aware that the site benefits from an extant permission¹ for eight dwellings. In the absence of any substantive evidence that this permission would not be implemented should this appeal fail, it is a fallback position to which I afford significant weight. Nevertheless, I find the level and layout of the development that is the subject of this appeal to be markedly different to that approved in 2018, where a greater area of open space, as well as distances between properties, was afforded the development. Thus, I do not consider that the extant permission sets an irresistible precedent to find in favour of the development before me.
14. I also acknowledge that paragraph 122 of the Framework states that decisions should support development that makes efficient use of land. Nevertheless, this should take into account the desirability of maintaining an area's prevailing character and setting.
15. I accept that the development would assist in supporting the existing facilities and services that are provided within the village. I also accept that no technical objections were received regarding the development and that the living conditions of adjoining occupiers would not be harmed. However, neither this nor any other material consideration that has been raised outweighs the harm that I have identified.
16. Both parties have referred to a decision at Barkway², with the appellant citing paragraph 40 whereby the Inspector attributed moderate weight to the benefits of housing provision. I have also attributed moderate weight to the housing provision proposed as part of this appeal. Nevertheless, I have found that the harm to the BCA outweighs the benefits of the development for the reasons as set out.

¹ 17/02316/1 dated 30 May 2018 (and subsequent variations)

² APP/X1925/W/18/3194048

17. Furthermore, having regard to footnote 6 of the Framework, as the development would affect the setting of a designated heritage asset and I have found that the policies within the Framework provide a clear reason to dismiss the appeal, even if the Council is unable to demonstrate a five year supply of deliverable housing sites and the policies which are the most important for determining the appeal are out-of-date, the 'tilted balance' would not be engaged and the presumption in favour of sustainable development anticipated in paragraph 11 of the Framework does not apply.

Conclusion

18. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR



Appeal Statement of Case

Appeal against Non- determination of Planning Application 20/03072/S73

Relating to Application 18/03349/S73 granted on 15/03/2019 - Variation of Condition 2 (Approved Plans) to facilitate relocation of parking at plots 5 and 6, change of external material at plot 5 and variations to the dwelling type, scale and appearance of plots 3 and 8.

The Gables High Street Barley Royston Hertfordshire SG8 8HY

Local Planning Authority: North Herts District Council

Local Planning Authority Reference: 20/03072/S73

March 2021

Contents

Section 1: Introduction	3
Section 2: Site and Surrounding	4
Section 3: Planning History	4
Section 4: The Proposals	6
Section 5: The Councils Position	10
Section 6: Policy Context	13
Section 7: Heritage Impact.....	15
Section 8: The Planning Balance.....	15
Appendix A: Map of the Conservation Area	18
Appendix B: Emails 16th Feb 2021	19
Appendix C: Emails 26th Feb 2021.....	23
Appendix D: Email Chain with Officer 26th Feb- 02nd March 2021	25
Appendix E: Wicken Bonhunt Appeal Decision (APP/C1570/W/19/324193)	34
Appendix F: Doritwich appeal Decision (APP/H1840/W/19/3241879)	35

Section 1: Introduction

- 1.1 This Appeal Statement of Case is prepared by Pelham Structures on behalf of Mr and Mrs Winstanley (the appellant) in relation to an appeal against non-determination of North Hertfordshire District Council (NHDC) in accordance with Section 78 (2) of the Town & Country Planning Act 1990.
- 1.2 This appeal has been prepared in accordance with the PINS procedural guidance February 2021.
- 1.3 As an application under section 73 of the Town and Country Planning Act the Principle of development on the site has already been established and the application was therefore only submitted with a short covering letter, as such additional detail is provided within this Statement of Case. The application can be summarised as changes to Plots 3 and 8 to bespoke designs for individuals wishing to build their own homes, a correction of an inaccurate plan of an existing garage, and the relocation of parking so that all plots have on plot parking so that EV charging points can be provided accordingly.
- 1.4 The application was validated 24th December 2020 the validation letter confirmed that the determination deadline for the application was 18th February 2021, which has now passed without the Council making a decision.
- 1.5 An email was received from the Case Officer, 16th February 2021, stating that he didn't support the application and that it would need to go to planning committee and therefore suggested that the application should be withdrawn or an extension of time granted. The Appellant has subsequently approached the Officer for clarification of the principal issues but no clarification has been provided and the Council remain entrenched in their position, and this has left the Appellant with no choice but to appeal for non-determination.
- 1.6 It should also be noted that no public letters of objection have been lodged against this application and *"Barley Parish Council has no objections to this application"*¹

¹ Consultation response 05 Feb 2021

Section 2: Site and Surrounding

- 2.1 The application site is located towards the north-western edge of the village of Barley. The main portion of the site is made up of the large rear garden of the residential property 'The Gables' and the adjoining paddock land immediately to the north of this. This land sits behind properties along the west side of the High Street (B1368), including the Barley GP Surgery and the 'White Posts' Grade II Listed Building. Under the currently adopted plan North Hertfordshire District Local Plan No.2 with alterations 1996, the site is located just outside, on the edge the selected village boundary (Policy 7) and so lies within the rural area beyond the Green Belt (Policy 6). The Emerging Local Plan 2011-2031 shows that the land within the curtilage of The Gables would be included within the village boundary, which accounts for approximately one half of the main part of the site.
- 2.2 The site is within the Barley Conservation Area, which was designated in 1969 with revisions to the boundaries being made in 1979 and 1980. A map showing the extent of the Conservation Area is in Appendix A. There are no listed buildings within the defined boundary of the application site.

Section 3: Planning History

- 3.1 The principle of residential development was established on 30 May 2018 when Committee resolved to grant approval of application 17/02316/1 for eight dwellings on the site. Since this approval further variations have been granted to this number of units, including 18/03349/S73, which this application seeks to amend. The approvals and how they differ from the appeal proposals are set out later in this document.
- 3.2 Amendment A) 18/03349/S73 Approval was granted by Committee on 15 March 2019. The overall number of units remains as eight dwellings. In summary the approved amendment A is for
- Reduction in the size of the two proposed affordable houses (Plots 1 and 2) in line with discussions with a Housing Association;
 - Amendment to the design and layout of Plot 3;
 - Addition of a single storey rear extension to Plot 8;
 - To transpose the scheme so that instead of one single detached unit (Plot 7 of approved scheme) being to the rear of The Gables, this is relocated to Plot 4 and a group of three terraced units are located here (New plots 4-7). In the approved scheme there were a similar group of three units to Plots 4-6; and
 - To amend the design of Plot 4 from a barn style dwelling to a traditional house design.
- 3.3 Amendment B) 19/00003/S73 was also granted consent at Committee held on 15 March 2019. In summary this variation was again to retain the number of units as eight:

- Reduce the size of the two proposed affordable houses (Plots 1 and 2) in line with discussions with a Housing Association;
- Amend the design and layout of Plot 3;
- To add a single storey rear extension to Plot 8; and
- To amend the design of Plot 7 from a barn style of dwelling to a traditional house design.

3.4 Amendment's A and B were submitted as alternatives for each other as the Appellant wished to build one of the properties for themselves to move into, however, the Council suggested the location the Appellant desired was not acceptable. The Appellant therefore submitted two amendments; one for what the Council suggested would be acceptable and one for what they wanted, the Council subsequently approved both and the appellant therefore intends to build out the scheme approved under 18/03349/S73, which this proposal seeks to amend.

3.5 It is also important to understand the site constraints that have to date delayed the development of the site but that are now resolved but will affect the phasing of development. There is an existing high voltage power line over the site that means plots 1-3 cannot be constructed until after it is relocated. UKPN have quoted that this will take 12 months. These relocation works also include the sub-station, which is a condition of the extant planning permission:

"No more than 4 of the 8 dwellings hereby approved shall be occupied until all of the car parking at the Doctors surgery has been properly formed and laid out and is available for use and the electricity sub-station has been relocated in accordance with drawing 396.700."

3.6 As stated in the condition above only four houses can be occupied prior to the substation relocation. It is, therefore, the appellants intention to commence work on the construction of Plot 4 early April, at the same time Pelham Structures will be constructing the infrastructure and Plots 5-7. Meaning the other four plots will not be constructed until the substation is relocated. Plots 1 and 2 are affordable housing and are in the process of being sold to a housing association. Plots 3 and 8 are now intended to be built by self-builders and the redesign of these plots is the principal reason for this variation to the original permission.

Section 4: The Proposals

- 4.1 As set out on in the Covering Letter that supported the planning application, there are a number of minor material changes proposed to the scheme. The approved site plan and proposed are provided below:



Approved Site Plan 18/03349/S73



Proposed Site Plan 20/03072/S73

- 4.2 The changes proposed are as follows:

Chadwick Garage

- 4.3 A survey of the existing garage shows that it has a lower ridge than shown on the approved plan 396 x 30b. The plan has therefore been updated to reflect the existing garage; the scale of the approved extension is unchanged.

Parking Layout

- 4.4 Condition 21 of the planning permission states that *“Prior to occupation, each of the 8 residential properties shall incorporate an Electric Vehicle (EV) ready domestic charging point.”* However, plots 5 & 6 as approved do not have on plot parking, which means that this would be challenging to achieve. The revised plans therefore propose to create on plot parking for both of these, on the ample verge between the properties and the access road. This also has the added benefit that the three parking spaces on the open space can be removed, which will enhance the openness of this area.

Plots 5-7

- 4.5 On the approved drawings plots 5-7 are shown as being render. It is now proposed to construct plot 5 in brick, which is also a vernacular material appropriate to its context.

Plots 3 & 8

- 4.6 As referenced above the amendments proposed to plots 3 and 8 are to the design requirements of the self-builders who are buying the plots.

Plot 3:

- 4.7 The approved plot 3 was proposed to be a rendered property with a central gable, and a clay peg tile roof. The revised house has a similar material treatment, but the gable has been moved to one side. The internal layout has also been designed to the client's brief, particularly their requirement for a home office, an open plan kitchen diner and four bedrooms.
- 4.8 As the street scene below shows the bulk of the house is reduced from that previously approved, with the width marginal increased.



4.9 An overlay of the site plan is also provided below, which shows dotted in red the outline of the proposed house, and in blue the size of single storey extension that could be constructed under Permitted Development Rights once the dwelling is complete. As shown the footprint of the proposed is fairly similar to the approved, with the exception of the north west corner, which is an area that is barely visible from any viewpoints outside of the plot.



Plot 8:

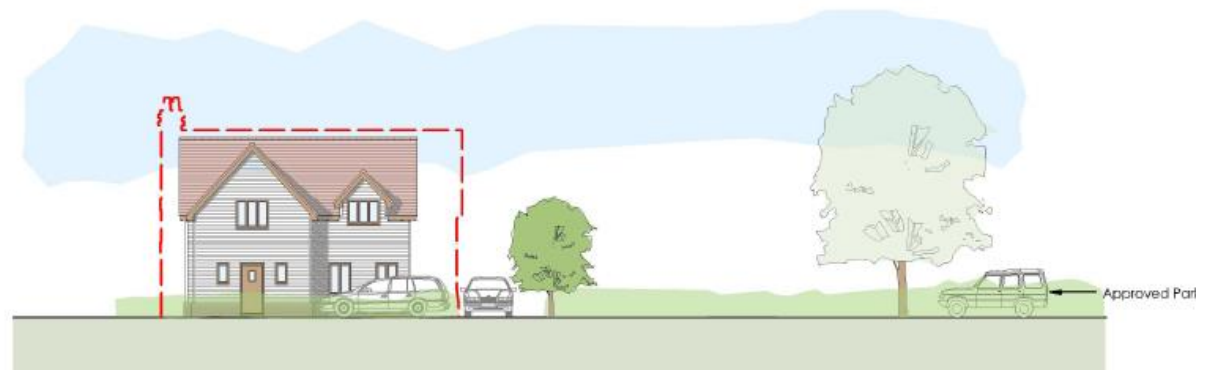
4.10 Like with plot 3, the external materials proposed are similar, with the only change that the future occupier has specifically requested the addition of external boarding. This is considered to still be a vernacular material and doesn't materially affect the

character of the property. The approved has an off-centre gable, whereas the revised proposes to centralise it. Again, this isn't considered to materially affect the character.

- 4.11 A chimney has also been added as it was considered that the lack of one on the approved detracted from the vernacular style of the property. The street scene below shows at the top the proposed plot 8, with the redline of the approved over it, and with the bottom shows the approved with the proposed outlined in red.
- 4.12 As the street scene below shows the approved house is of limited architectural merit and although vernacular in style, it isn't as traditional in appearance as the proposed, which has proportions that are more in line with historic construction methods. Most notably the gable on the approved is a width that could not have historically been spanned by available timbers, whereas the propose proportions of the gable and dormers are in keeping with historic buildings. Further it is considered that the addition of a chimney reinforces the traditional vernacular style the self-builder aspires for.



Plot 8 Proposed Elevation



Plot 8 Approved Elevation

- 4.13 Re floor plans: again, the future occupier specifically requested a home office and open plan kitchen dinner. They have also requested a downstairs shower room as they have a disabled relative who often stays with them and they therefore want to be able to accommodate them.

Section 5: The Councils Position

- 5.1 Although no formal response has been provided by the Councils Conservation Officer and email from the planning officer dated 16th February 2021, provided at appendix b, included the following paragraph:

“Plots 3 and 8 under the original scheme included two modest 2-bedroom detached dwellings. These were increased in size under the previous variation to two 3-bed houses. Under the current proposal, you are now proposing two large four bedroom properties, with the addition of a single garage to Plot 3 and a large double garage to Plot 8 (although it is not indicated where this would be located on the proposed site plan?). In addition, Plot 8 would be increased in area, reducing the central open space and would include a larger driveway (several plots would include larger driveways, increasing hardstanding and reducing green space and landscaping).”

- 5.2 The appellant’s agent, being particular surprised by the Council’s position responded, full email provided at appendix C, with the following comments:

- *““Two large four bedroom properties”, as you are probably aware the majority of demand for custom build housing is ‘four bedrooms’ the two properties subject of this application have been designed for individuals who intend to occupy them. Paragraph 61 of the NPPF supports the provision of plots for “people wishing to commission or build their own homes, and the Self Build and Custom Build Act requires LPA to grant permission for sufficient plots. We would be happy to accept a condition that both these plots are sold to the purchasers prior to the construction of their foundations? Further, as set out in the CL the houses are vernacular in design and sensitively design to their surroundings. Specifically I would note that the revised design of plot 8, its proportions and detailing are more vernacular than that previously approved. I would appreciate as part of any further discussion clarity as to what your specific concerns with these properties is?*
- *Plot 3 Garage: We’d put this in the location shown, as we felt it would have no impact given its location between plot 4 garage and the house means that it would be practically invisible from most directions. However, I am happy to discuss further if you feel an alternative would be preferable.*
- *Plot 8 Garage: Apologies for this we were at one point exploring a garage on plot 8 but the client decided against it, so this drawing needs revising and reissuing with the garage removed.*
- *Plot 8 Increased width. The plot at the rear is the same width as before, plot at the front 13m is 3m wider than approved, e.g. the width of a parking space. However, the removal of the 3 visitor parking spaces has increases it by 6m for the same length on the western side, which means the green space is larger than it was before.*

- *Larger drive ways: the driveway for plot 3 (excluding the garage) is 2m2 larger than approved. The driveway for Plot 8 is actually 1m2 smaller than approved. Plot 4s driveway is increase but if this is an issue we can reduce it to what was approved? In terms of the spaces in front of plots 5-7 these are the 3 visitor spaces relocated. So there is no net increase in hardstanding resulting from these. These also provide on plot parking which enables the provision of EV charging points and will reduce the likelihood that people park on the road. This then frees up the spaces to the east of plot 7 to be visitor spaces.”*

5.3 This email was followed up by a call with the officer, who subsequently responded to both, see email 26th February appendix D, with the following comments:

“As mentioned, I have now discussed this s73 application with my manager and I have also discussed it with the Council’s Senior Conservation Officer. We are all of the view that the current application is not acceptable and I will therefore be recommending it for refusal. As I have mentioned previously, the original approval was on balance/ marginal and the previous variation was certainly not preferable but it was decided it did not quite justify a refusal. However, in this instance, the significant increase in scale to that which was originally approved would tip the balance, when weighing the harm to the heritage assets against the public benefits (the public benefits would not be increased and yet the harm would be increased). The built mass would be significantly increased, reducing the open, loose-knit nature of the proposals, which we had worked hard on to achieve and thus the proposals would not be in keeping with the context and character of the Barley CA.”

5.4 The appellant’s agent responded again to this in detail, setting out the clear policy support for self-build at national level. However, the Officer has chosen to ignore this and sent the following unhelpful and obstructive email:

“I am afraid I must be short and rather blunt (please understand that this is more out of necessity at this time). We at NHDC Planning department have found ourselves rather suddenly and unexpectedly short on staff and caseloads (which were already high) and now very high. I have already taken the time to discuss this application with my manager and the Councils Conservation Officer and I have provided you with our view and our stance on this matter. Given the amount of officer time and effort already spent on this site (particularly with regard to previous applications) I cannot spend any further time on this going back-and-forth with you debating the various matters/ merits.”

5.5 Although the appellant has the utmost sympathy with the Council’s resourcing issues, it doesn’t justify the Officers uncooperative position, which has ultimately created additional work for all parties involved.

- 5.6 The response received from the Officer would be a clear justification for costs, should the appellant wish to submit an application. As it clearly demonstrates a lack of co-operation from the council, which is an example of unreasonable behaviour that may result in an award of costs, see PPG Paragraph 047 Reference ID: 16-047-20140306. However, given the financial pressure currently on Local Authorities the appellant has elected not to submit an application for costs.

Section 6: Policy Context

National Policy

- 6.1 Since the application was refused a new NPPF has been issued in February 2019 and therefore this appeal statement has been prepared using the update policy guidance. There are no significant changes to the heritage provisions of Section 16 of the NPPF. Measures have been added to try and resolve the challenges in negotiating the number of affordable homes through the viability process. There is a stronger emphasis in Section 12 on place making, design and digital technology, as well as renewed recognition of the role of planning in creating healthy and safe communities.
- 6.2 The National Design Guide (2019) is the most recent piece of design guidance and is more up to date than the Councils adopted policies. The proposal compliance with this is considered in more detail in section 8.
- 6.3 The provisions in Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended) requires the Council to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period.
- 6.4 The policy support for self-build is set out in the NPPF at Paragraph 61, is as follows:

“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, travellers²⁵, people who rent their homes and people wishing to commission or build their own homes²⁶). [emphasis added]”

Local Policy

- 6.5 At the time of writing this statement the adopted Local Plan remains North Hertfordshire District Local Plan No.2 with alterations (1996). The emerging Plan North Hertfordshire Draft Local Plan 2011-2031 has been subject of an Examination In Public Consultation took place between January 3rd – March 4th 2019 on the Main Modifications to the Plan and additional hearing sessions were held in February 2021. There are still unresolved objections to the policies in the plan relating to housing allocations and the Council have failed the housing delivery test for 2017- 2020 having delivered only 44% of their housing requirement, meaning that for the purpose of decision making NPPF Paragraph 11 d is invoked.
- 6.6 The extract from the Local Plan Main Modification document, at 4.109 sets out the councils proposed stance on Self Build:

“Self-build provides another route to home ownership. Small developments, often delivered by local builders and companies, have historically made a valuable contribution to housing land supply in North Hertfordshire. These include schemes designed by individuals for their own use. We will continue to support small windfall schemes where they are compatible with the policy framework of this plan. Government guidance also encourages us to facilitate further opportunities for people to self-build through Local Plan policies and other measures. On five of our strategic sites, 1% of plots will be reserved and marketed for those people with a local connection who wish to build their own home reflecting demand recorded on the Council’s Self-Build Register. No specific self-build targets have been set on Local Housing Allocation sites and local demand will be considered on a site-by-site basis having regards to the Council’s self-build register. Self build may additionally be an issue that local communities wish to explore through Neighbourhood Plans.”

Section 7: Heritage Impact

- 7.1 The Heritage Statement submitted with the original permission 17/02316/1, concluded that *“The proposals are considered to result in either no or less than substantial harm to the setting of the two listed buildings identified which are close to the site and thus the potential impact on their setting has been assessed.”* And *“The proposals have been assessed as resulting in less than substantial harm to the character and appearance of the conservation area in which the site is located. The Conservation Officer has concurred with the assessment of this level of harm. It is considered that the development will result in a level of harm to the lower end of the spectrum within this category. This level of harm, following the guidance of paragraph 134 of the NPPF should be weighed against the public benefits resulting from the proposed development. This balancing process is set out in the Planning Statement accompanying the application.”*
- 7.2 An addendum to the original statement has been prepared by the same author for this appeal, which concludes that “no additional harm will be caused to the identified heritage assets by the proposed amendments to the scheme”, the balancing process is considered in detail below.

Section 8: The Planning Balance

The Principle of Development

- 8.1 As set out above, planning permission has already been granted on the site under 17/02316/1, as amended under 18/03349/S73. The planning permission is extant and it's construction is due to commence shortly and will be advanced by the date of the inspectors site visit. The acceptability of this proposal therefore rests on whether additional harm is caused and whether there are additional benefits that way in favour of this applications approval.
- 8.2 The appellant's position is that the amendments cause no additional harm, to either the countryside or the conservation area. Further, it considered that the revised scheme is of a higher quality and performs well when considered against the National Design Guide.

The National Design Guide 2019

Context

- 8.3 The site is set within a semi-rural location on the edge of the village of Barley. The site does not from part of any important views into the conservation area. The approved scheme is a low density that is appropriate for its edge of settlement location and this is not changed from the approved.

Identity

- 8.4 The design of the approved scheme and particularly the amendments to plots 3 & 8 are designed in a way that follows the vernacular tradition of the area. The bulk and mass of plots 3 & 8 is broken down by the use of gables and dormer elements. This use of traditional domestic features which are common to the locality was supported in a recent appeal in Wicken Bonhunt (APP/C1570/W/19/324193) see Appendix E, In the decision letter dated 20 February 2020 attention is drawn to the emphasis the Inspector gives to good quality design in paragraph 9. It should be noted that the Wicken Bonhunt houses referenced were designed by the same architect.

Built Form

- 8.5 Similarly, to the comments above re vernacular the properties 1.5 storey design means that the bulk of the properties is minimal and their appearance is sensitive and appropriate for the area.

Nature

- 8.6 The original application was supported by an ecology survey that confirmed no protected species and a number of biodiversity enhancements were proposed, which remain part of this proposal.

Lifespan

- 8.7 All the properties are proposed to be built using modern methods of construction, formed by a panelised timber frame system. The quality of the structures will mean that they are likely to last several centuries provided they are maintained appropriately. The high insulation standards will minimise the energy consumption of the properties and it is anticipated that both will achieve Energy Performance Certificate A ratings.

Summary

- 8.8 This analysis above demonstrates that the proposed amendments accord with Section 12 of the NPPF. They are visually attractive because of good architecture, layout and appropriate and effective landscaping.

Additional Benefits resulting from the amendments.

- 8.9 As set out above Councils have an obligation to the provisions in Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended) requires the Council to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period.
- 8.10 The policy support for self-build is set out in the NPPF at Paragraph 61, which is provided below:

“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,

*travellers²⁵, people who rent their homes and **people wishing to commission or build their own homes²⁶**).* [emphasis added]

- 8.11 It should be noted that this paragraph categorises self-build in the same way as affordable housing, which means that that its provision should be treated as an additional benefit above conventional open market housing in the same way that affordable housing is.
- 8.12 This position is confirmed by the Inspector in the Doritwich appeal decision that confirms at paragraph 51, provided in full at appendix F:

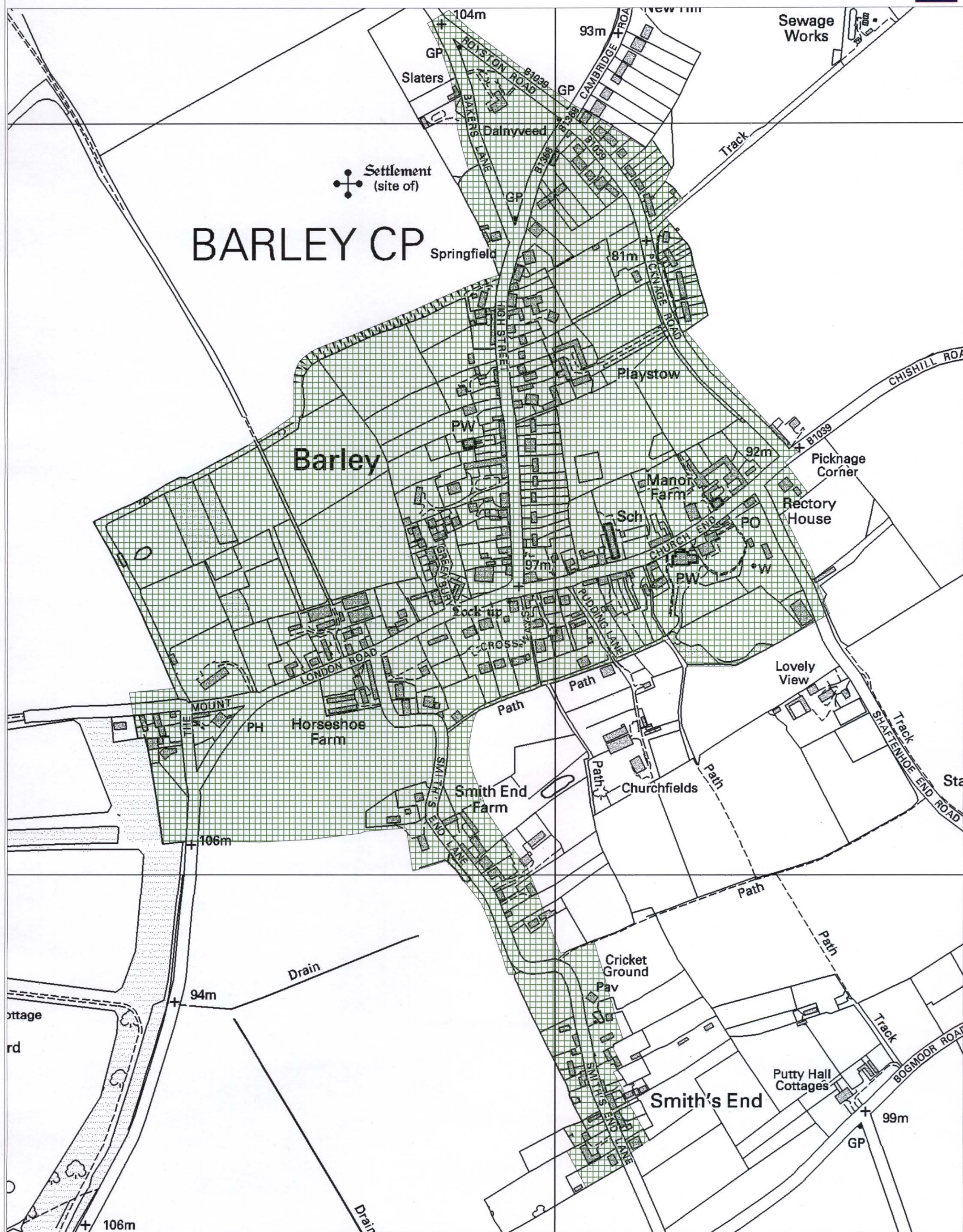
*“In view of the importance attached to provision for self-build housing in the NPPF and PPG, I **do not accept the Council’s view that it should be treated simply as a component of general market housing**. The tilted balance is therefore engaged in this case. The forthcoming review of the plan does address self-build housing but is at an early stage and carries very little weight at this time.”* [emphasis added]

- 8.13 As set at paragraph 6.6 above the Councils own draft policy acknowledges the benefit that self- build provides. The appellant therefore disputes that Officers statement that *“the public benefits would not be increased”*.
- 8.14 Both plots 3 and 8 are bespoke designs to fit the requirements of the respective self-builders. They are ‘forever homes’ where the self builders intend to reside for the foreseeable and are therefore more likely to invest in the community.

The Planning Balance

- 8.15 As set out above the principle of development has already been established on the site. The proposed amendments subject of this appeal are minor in nature, are appropriately designed to their context and as set out in the accompanying heritage assessment cause no additional harm to the Conservation Area or the nearest Listed Buildings. For this reason alone, there is no reason why planning permission should not be forthcoming for this section 73 planning application.
- 8.16 Notwithstanding this the application also provides additional benefits in the form of two self-build properties, which are a tangible and meaningful benefit that ways in favour of the proposal.
- 8.17 Therefore, the appellant contends that the benefits of these amendments and the lack of harm mean that planning permission should have been supported by the local authority and that this planning appeal should be allowed accordingly.

Appendix A: Map of the Conservation Area



Appendix B: Emails 16th Feb 2021

Hi Sam,

Sorry I missed your calls, however I have been in various meetings this afternoon and I am on leave tomorrow. I can call you on Thursday or Friday to discuss if you wish.

However, which ever way the application is recommended, it will still need to go to Planning Committee and as explained, this will likely be in April. As such, in the meantime I would be grateful if you could agree to extend the deadline to 16th April?

Regards,

Tom

Tom Allington
[Principal Planning Officer – Strategic Sites](#)
Direct Dial: 01462 474508

North Hertfordshire District Council
Council Offices, Gernon Road
Letchworth Garden City
Hertfordshire
SG6 3JF

[Follow us on Twitter](#)
[Like us on Facebook](#)
www.north-herts.gov.uk
[Privacy Statement](#)

From: Samuel Bampton <s.bampton@pelham-structures.co.uk>

Sent: 16 February 2021 15:20

To: Tom Allington <Tom.Allington@north-herts.gov.uk>

Subject: RE: 20/03072/S73 | Relating to Application 18/03349/S73 granted on 15/03/2019 - Variation of Condition 2 (Approved Plans) to facilitate relocation of parking at plots 5 and 6, change of external material at plot 5 and variations to the dwelling type, scal

Hi Tom,

Thanks for your email, please can you give me a call to discuss.

I fully appreciate and support the principle of paragraph 130, however, I do consider that the proposal submitted is in line with the principle. As the amendments proposed are high quality in design and seek to improve the scheme not decrease its quality.

In terms of your comments below and prior to any further discussion I thought it would be helpful to clarify the following:

- “Two large four bedroom properties”, as you are probably aware the majority of demand for custom build housing is ‘four bedrooms’ the two properties subject of this application have been designed for individuals who intend to occupy them. Paragraph 61 of the NPPF supports the provision of plots for “people wishing to commission or build their own homes, and the Self Build and Custom Build Act requires LPA to grant permission for sufficient plots. We would be happy to accept a condition that both these plots are sold to the purchasers prior to the construction of their foundations? Further, as set out in the CL the houses are vernacular in design and sensitively design to their surroundings. Specifically I would note that the revised design of plot 8, its proportions and detailing are more vernacular than that previously approved. I would appreciate as part of any further discussion clarity as to what your specific concerns with these properties is?
- Plot 3 Garage: We’d put this in the location shown, as we felt it would have no impact given its location between plot 4 garage and the house means that it would be practically invisible from most directions. However, I am happy to discuss further if you feel an alternative would be preferable.
- Plot 8 Garage: Apologies for this we were at one point exploring a garage on plot 8 but the client decided against it, so this drawing needs revising and reissuing with the garage removed.
- Plot 8 Increased width. The plot at the rear is the same width as before, plot at the front 13m is 3m wider than approved, e.g. the width of a parking space. However, the removal of the 3 visitor parking spaces has increases it by 6m for the same length on the western side, which means the green space is larger than it was before.
- Larger drive ways: the driveway for plot 3 (excluding the garage) is 2m² larger than approved. The driveway for Plot 8 is actually 1m² smaller than approved. Plot 4s driveway is increase but if this is an issue we can reduce it to what was approved? In terms of the spaces in front of plots 5-7 these are the 3 visitor spaces relocated. So there is no net increase in hardstanding resulting from these. These also provide on plot parking which enables the provision of EV charging points and will reduce the likelihood that people park on the road. This then frees up the spaces to the east of plot 7 to be visitor spaces.

Hopefully the above is helpful for further discussion and I would appreciate if you could give me a call when convenient.

Kind regards
Samuel Bampton



Unit 3 Brices Yard, Butts Green, Langley Upper Green, Saffron Walden, Essex. CB11 4RT
Tel: 01799 551 261 ext 215 Mobile: 07792 057 538 E-mail: s.bampton@pelham-structures.co.uk Website: www.pelham-structures.co.uk

From: Tom Allington <Tom.Allington@north-herts.gov.uk>

Sent: 16 February 2021 13:31

To: Samuel Bampton <s.bampton@pelham-structures.co.uk>

Subject: RE: 20/03072/S73 | Relating to Application 18/03349/S73 granted on 15/03/2019 - Variation of Condition 2 (Approved Plans) to facilitate relocation of parking at plots 5 and 6, change of external material at plot 5 and variations to the dwelling type, scal

Dear Sam,

Thank you for your email and my apologies for the delay of my reply (unfortunately it has been a difficult few weeks at NHDC).

As with all of the previous applications for this site, this application will need to go before our Planning Control Committee and I cannot determine it under delegated powers (our scheme of delegation/ constitution requires that housing sites of 0.5ha or more go before committee). Due to a high case load and a backlog of committee items (due to committees being via Zoom, these are shorter meetings with fewer cases per meeting), I am not likely to get this item before committee until the meeting on 14th April (the agendas for February and March are already full). As such, I would be grateful if you could please provide your written agreement to extend the deadline until Friday 16th April 2021?

With regard to the application itself, I note that paragraph 130 of the NPPF states the following:

'Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme'

I consider that the original approval under ref. 17/02316/1 was a marginal, on balance decision, whereby harm was identified to the Barley Conservation Area but public benefits outweighed this. The variation to this under application 18/03349/S73 reduced the quality of the design but not quite to the extent that it could be refused. You are now seeking to vary the existing variation, straying yet further from the original design, which I and the Council's Conservation Officer worked extensively on, together with Chris Hennem, to get a suitable scheme.

Plots 3 and 8 under the original scheme included two modest 2-bedroom detached dwellings. These were increased in size under the previous variation to two 3-bed houses. Under the current proposal, you are now proposing two large four bedroom properties, with the addition of a single garage to Plot 3 and a large double garage to Plot 8 (although it is not indicated where this would be located on the proposed site plan?). In addition, Plot 8 would be increased in area, reducing the central open space and would include a larger driveway (several plots would include larger driveways, increasing hardstanding and reducing green space and landscaping).

In light of the above, I do have concerns regarding the current proposals and in line with the para.130 of the NPPF, it is likely that I will be recommending it for refusal (although as

mentioned above, the decision would be made by Planning Committee). It is therefore my recommendation that you seek to implement the variation approved under ref. 18/03349/S73 and that this application be withdrawn.

If you do choose to withdraw this application, please confirm this in writing before 12pm on Thursday 18th February 2021?

I look forward to hearing from you as to how you wish to proceed with this application (either withdraw or extend to April?).

Regards,

Tom

Tom Allington
Principal Planning Officer – Strategic Sites
Direct Dial: 01462 474508

North Hertfordshire District Council
Council Offices, Gernon Road
Letchworth Garden City
Hertfordshire
SG6 3JF

[Follow us on Twitter](#)
[Like us on Facebook](#)
www.north-herts.gov.uk
[Privacy Statement](#)

Appendix C: Emails 26th Feb 2021

Hi Sam,

Thank you for the update regarding the affordable unit at Plot 1. Having discussed this site with my manager yesterday, we do not have a preference whether it is reverted to a 2 bed or you can make an NMA application to slightly extend it to accommodate a 3 bed unit (on the basis it would be just 0.2m additional depth?).

If you wish to revert it to a 2 bed, I think it would be best to re-submit details under Condition 4 (schedule of affordable housing) and to submit an NMA to this affect (in terms of the variation to the application and floorplan).

As mentioned, I have now discussed this s73 application with my manager and I have also discussed it with the Council's Senior Conservation Officer. We are all of the view that the current application is not acceptable and I will therefore be recommending it for refusal. As I have mentioned previously, the original approval was on balance/ marginal and the previous variation was certainly not preferable but it was decided it did not quite justify a refusal. However, in this instance, the significant increase in scale to that which was originally approved would tip the balance, when weighing the harm to the heritage assets against the public benefits (the public benefits would not be increased and yet the harm would be increased). The built mass would be significantly increased, reducing the open, loose-knit nature of the proposals, which we had worked hard on to achieve and thus the proposals would not be in keeping with the context and character of the Barley CA.

You have suggested that the dwelling proposed at plot 8 could be moved back within the plot. However, both myself and the Conservation Officer are of the view that this would likely result in further harm, y encroaching into the outlook from the Grade II listed White posts and so we can not support this amendment.

Having checked again with my manager, the earlier we could get this to committee is in April and so I would be grateful if you could please agree to an extension of time to 16th April 2021? Alternatively, I understand you may wish to appeal a non-determination.

Regards,

Tom

Tom Allington
Principal Planning Officer – Strategic Sites
Direct Dial: 01462 474508

North Hertfordshire District Council
Council Offices, Gernon Road
Letchworth Garden City
Hertfordshire
SG6 3JF

[Follow us on Twitter](#)

[Like us on Facebook](#)
www.north-herts.gov.uk
[Privacy Statement](#)

From: Samuel Bampton <s.bampton@pelham-structures.co.uk>
Sent: 26 February 2021 09:27
To: Tom Allington <Tom.Allington@north-herts.gov.uk>
Subject: S.73 18/03349/S73 Affordable Housing, Land at The Gables, Barley

Hi Tom,

Just to keep you updated I had a meeting with Hastoe yesterday, who are likely to take on the affordable units on this site, and they voiced a preference for them being a 1 x 2bed and 1 x 3bed, which suits the size of units granted. Would the Council be open to this? If so how would you like us to address the affordable housing statement and layout of unit 1?

If you'd like to discuss further please don't hesitate to contact me.

Kind regards
Samuel Bampton



Unit 3 Brices Yard, Butts Green, Langley Upper Green, Saffron Walden, Essex. CB11 4RT
Tel: 01799 551 261 ext 215 Mobile: 07792 057 538 E-mail: s.bampton@pelham-structures.co.uk Website: www.pelham-structures.co.uk

Appendix D: Email Chain with Officer 26th Feb- 02nd March 2021

Dear Sam,

Thank you for your lengthy email.

I am afraid I must be short and rather blunt (please understand that this is more out of necessity at this time). We at NHDC Planning department have found ourselves rather suddenly and unexpectedly short on staff and caseloads (which were already high) and now very high. I have already taken the time to discuss this application with my manager and the Councils Conservation Officer and I have provided you with our view and our stance on this matter. Given the amount of officer time and effort already spent on this site (particularly with regard to previous applications) I cannot spend any further time on this going back-and-forth with you debating the various matters/ merits.

I outlined previously, you can either extend the deadline until April, to take it to the April Committee meeting, or I understand that you may wish to appeal against a non-determination.

Regards,

Tom

Tom Allington
[Principal Planning Officer – Strategic Sites](#)
Direct Dial: 01462 474508

North Hertfordshire District Council
Council Offices, Gernon Road
Letchworth Garden City
Hertfordshire
SG6 3JF

[Follow us on Twitter](#)
[Like us on Facebook](#)
www.north-herts.gov.uk
[Privacy Statement](#)

From: Samuel Bampton <s.bampton@pelham-structures.co.uk>

Sent: 26 February 2021 13:25

To: Tom Allington <Tom.Allington@north-herts.gov.uk>

Cc: Chris Hennem <c.hennem@pelham-structures.co.uk>

Subject: RE: S.73 18/03349/S73 Affordable Housing, Land at The Gables, Barley

Hi Tom,

Thanks for your email, if you have five minutes please could you give me a call to discuss.

In summary I would like to discuss the following:

Affordable units:

On the basis that the Housing Association would prefer a 2 and a 3 bed, I think we will proceed on this basis. If we were to find an agreeable way forward on the s.73 would you be happy for us to provide the amended plans and affordable statement as part of this? If not we will put in a NMA as you have suggested.

Plots 3 and 8:

In regard your conversation with the Conservation Officer were you in possession of the street scenes I sent on Wednesday when you were discussing, as I think these are a very useful aid that I apologies for not providing previously?

I ask this because as mentioned before I think any perceived impact from plots 3 and 8 are very much different. In this regard, are you able to comment whether the changes to plot 3 are acceptable or not? If they are I would propose that subject to your agreement that we progress the current s.73 with amended plans for the changes excluding plot 8 but including layout change to plot 1. In this scenario we would look to submit a further application for the changes to plot 8, which we would appeal if refused.

Turning to specifics of Plot 8, in terms of your comment re shifting back plot 8, did you also consider the suggestion for tandem parking to the side? This would enable the amendments to plot 8, without widening the plot. Chris has prepared a quick birds eye overlay of the plot, which, show the proposed dotted in red over the approved. He has also shown the area in blue that the house could be extended under PDR once finished, which shows that both properties could be extended substantially to the rear once complete. As shown the widening of plot 8 is only required to achieve side by side parking and tandem parking would provide sufficient parking without eroding the green space.

In response to your comment, re harm: *"the significant increase in scale to that which was originally approved would tip the balance, when weighing the harm to the heritage assets against the public benefits (the public benefits would not be increased and yet the harm would be increased)."*

I would very much disagree with this statement, as set out previously I don't think that any additional harm will occur as a result of the proposed amendments, and consider that a robust defence to this can be made, due to the improved quality of unit design and relocation of the parking spaces. Putting this aside though, and focusing on the 'public benefits' point, it is not in my mind credible to suggest that there are no 'additional benefits'. We are proposing that both these dwellings are going to be constructed as self-build, which is a tangible benefit that should be weighed in favour of the proposal.

The provisions in Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended) requires the Council to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period.

The policy support for self-build is set out in the NPPF at Paragraph 61, which is provided below:

*“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, travellers²⁵, people who rent their homes and **people wishing to commission or build their own homes**²⁶). [emphasis added]*

It should be noted that this paragraph categorises self-build in the same way as affordable housing, which means that that its provision should be treated as an additional benefit in the same way as affordable housing is. For this reason I consider that this is a significant benefit that should be weighed in favour of the proposal. We are happy for it to be conditioned that the properties should be sold prior to construction of foundations. I can even provide a UU to this if it would please the Council.

It is recognised that self-builders generally build to a higher standard and are more likely to stay longer and invest more in the community, it is for this reason that the government have included support for it in the NPPF.

I have attached for your consideration the Doritwich appeal decision that confirms this position at Para 51:

“In view of the importance attached to provision for self-build housing in the NPPF and PPG, I do not accept the Council’s view that it should be treated simply as a component of general market housing. The tilted balance is therefore engaged in this case. The forthcoming review of the plan does address self-build housing but is at an early stage and carries very little weight at this time.” [emphasis added]

I have also provided below sections from a recent planning statement we prepared that refer to a number of different planning appeals, which provide similar support for the provision of Self Build. I should also note that we are currently the preferred contractor on the 22 self build scheme at St Edmunds Lane and I would be happy to show what is going on and how the process is working if you’d like to visit site at an appropriate time.

Once you’ve had a chance to assimilate all this information I would very much appreciate if you can give me a call to discuss the way forward, as I would prefer to agree a pragmatic that minimises additional work for both sides.

- 1.1 The matter of self- and custom-build housing has been the subject of a number of appeal decisions, as this is a relatively new concept in planning terms. These decisions aid in the assessment of subsequent self-build proposals, and relevant examples are cited below:

A planning appeal for the development of 22 self-build units St Edmunds Lane, Great Dunmow, was allowed in May 2015 (refs. UTT/14/0472/OP (14/00066/REF). In allowing the appeal, the Inspector noted that (Appendix B):

“83.....The Local Plan does not make any provision for meeting the needs of people wishing to build their own homes, contrary to the guidance in Paragraph 50 of The Framework. Indeed, the Council accepted at the Inquiry that the Local Plan is absent or silent on this issue. Furthermore, I note the Local Plan Inspector’s comments in his fuller conclusions relating to Major Modifications to address the need to encourage site availability for self-builders, amongst other things.”

85. From the evidence before me it is apparent that there has been little opportunity for self-builders in recent years within the District. The Government has made a commitment to the provision of 100,000 custom/self-build homes over the next 10 years. The appellants consider that this would equate to around 214 custom build homes per local authority in England, with around 107 dwellings to be constructed in the next 5 years. It was clear, from the views expressed by third parties at the Inquiry and the responses to the appellants’ public consultation exercise, that a latent demand exists for custom/self-build development opportunities within the District. Indeed, I acknowledge the responses already received to the custom/self-build housing register set up by the Council recently.”

86.....Although I acknowledge that some windfall sites may come forward for custom/self-build housing in the next 5 years, given the current local policy vacuum in relation to custom/self-build developments within the District, it is unlikely that such provision alone would be sufficient to satisfy the existing demand. The proposed development would provide the opportunity for 22 custom/self-builders in the District to build their own home, which would go some way towards meeting the needs of this sector within the area. I have therefore, afforded the provision of custom/self-build housing significant weight in my consideration of this appeal.”

APP/C1570/W/18/3205544 - Adare, Beaumont Hill, Great Dunmow - '4 new dwellings with parking and access road' – appeal allowed 7 June 2019 [Inherent in the proposal was that they would be custom/self-build dwellings] (Appendix C)

- 1.2 At paragraph 21, in weighing the planning merits, the Inspector noted that *“the proposal would also provide for people wishing to commission or build their own homes. This is a benefit of moderate weight given the number of people on the Council’s self-build register”*. In footnotes the Inspector noted that the submitted planning obligation to ensure that the units would be self-build was necessary given the weight that he had attached to this benefit in the planning balance.
- 1.3 It should be noted that UDC self-build plot shortfall isn’t as severe as South Cambridgeshire District council, as they only have a 215 plot shortfall, opposed to the 652 house shortfall that South Cambridge District Council.

Appeal Refs: APP/G2435/W/18/3214451 & APP/G2435/Q/18/3214498 - Land off Hepworth Road, Woodville DE11 7DW - self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline – access and layout included) – allowed 25 June 2019 (Appendix D)

- 1.4 This was described as undeveloped scrubland and grassland “outside the Limits to Development as defined in the adopted Local Plan”. Similar to this proposal, the position and size of each plot was to be fixed but the siting of the dwellings on each plot would be subject to separate reserved matters applications. These RMs would adhere to a Design Code which set out the broad parameters and design principles that would guide the development.
- 1.5 In its case, the Council referred to 133 permissions that it had granted for single dwellings, arguing that this met demand. However, the Inspector stated that:

“22....the Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended).”

- 1.6 This was described as undeveloped scrubland and grassland “outside the Limits to Development as defined in the adopted Local Plan”. Similar to this proposal, the position and size of each plot was to be fixed but the siting of the dwellings on each plot would be subject to separate reserved matters applications. These RMs would adhere to a Design Code which set out the broad parameters and design principles that would guide the development.
- 1.7 In its case, the Council referred to 133 permissions that it had granted for single dwellings, arguing that this met demand. However, the Inspector stated that:

“22....the Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended).

23. To my mind this raises considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District. Importantly, the S.106 Agreement submitted with the appeal proposal contains provisions to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. There is no evidence before me of a similar mechanism which would secure the delivery of self-build and custom housebuilding on the plots referred to in Appendix 3 of the Council’s Statement. I consider it would be unreasonable to include any of the single dwelling permissions within the calculation of self-build and custom housebuilding permissions granted in the District”.

- 1.8 The Inspector proceeded to reason that the Council had not granted planning permission for enough serviced plots to meet the demand arising for base period 1 (the deadline being 30 October 2019) let alone any of the subsequent base periods (2, 3 and 4), and the Inspector found that this “is a material consideration that weighs strongly in favour of the appeal proposal”.
- 1.9 Similar to this proposal, the site was on rural land, and the Inspector noted that, whilst the Council referred to the need for the planning system to protect and enhance valued landscapes, it had “*provided no evidence to demonstrate there are physical attributes associated with the appeal site and its immediate setting that elevate it above **ordinary countryside**.*” In that context, the Inspector found that the land did not represent a valued landscape in the context of paragraph 170 of the NPPF. The same would apply in this case.
- 1.10 In the planning balance, the Inspector found that “*the appeal proposal does not represent unnecessary development because it would greatly assist NWLDC to meet its statutory obligations with respect to providing serviced plots for self-build and custom-build housing*”, and this was found to be a social benefit of weight. Conflict with local plan policy was outweighed by the various benefits of sustainable development.

APP/W0530/W/19/3230103 - Green End / Heath Road, Gamlingay - self-build/custom build development for up to 9 dwellings – appeal allowed 23 September 2019 (Appendix E)

- 1.11 This appeal is particularly relevant to this site as it is in the same district and was of a similar scale in a comparable edge of settlement location.

1.12 At paragraph 11 of the decision, the Inspector noted that:

“The DP policies, whilst controlling the location of new housing, are silent on the matter of self-build housing strategy. Despite the LPA ability to demonstrate a five-year housing land supply, this must be recognised as a minimum figure in light of the National Planning Policy Framework (the Framework), which encourages significantly boosting the supply of new homes”.

1.13 In this context the Inspector also confirmed that:

“This shortfall is significant. The Parish Council confirm there is demand within the village for this type of development. I therefore give significant weight to this factor.”

Kind regards
Samuel Bampton



Unit 3 Brices Yard, Butts Green, Langley Upper Green, Saffron Walden, Essex. CB11 4RT
Tel: 01799 551 261 ext 215 Mobile: 07792 057 538 E-mail: s.bampton@pelham-structures.co.uk Website: www.pelham-structures.co.uk

From: Tom Allington <Tom.Allington@north-herts.gov.uk>
Sent: 26 February 2021 09:45
To: Samuel Bampton <s.bampton@pelham-structures.co.uk>
Subject: RE: S.73 18/03349/S73 Affordable Housing, Land at The Gables, Barley

Hi Sam,

Thank you for the update regarding the affordable unit at Plot 1. Having discussed this site with my manager yesterday, we do not have a preference whether it is reverted to a 2 bed or you can make an NMA application to slightly extend it to accommodate a 3 bed unit (on the basis it would be just 0.2m additional depth?).

If you wish to revert it to a 2 bed, I think it would be best to re-submit details under Condition 4 (schedule of affordable housing) and to submit an NMA to this affect (in terms of the variation to the application and floorplan).

As mentioned, I have now discussed this s73 application with my manager and I have also discussed it with the Council's Senior Conservation Officer. We are all of the view that the current application is not acceptable and I will therefore be recommending it for refusal. As I have mentioned previously, the original approval was on balance/ marginal and the previous variation was certainly not preferable but it was decided it did not quite justify a

refusal. However, in this instance, the significant increase in scale to that which was originally approved would tip the balance, when weighing the harm to the heritage assets against the public benefits (the public benefits would not be increased and yet the harm would be increased). The built mass would be significantly increased, reducing the open, loose-knit nature of the proposals, which we had worked hard on to achieve and thus the proposals would not be in keeping with the context and character of the Barley CA.

You have suggested that the dwelling proposed at plot 8 could be moved back within the plot. However, both myself and the Conservation Officer are of the view that this would likely result in further harm, y encroaching into the outlook from the Grade II listed White posts and so we can not support this amendment.

Having checked again with my manager, the earlier we could get this to committee is in April and so I would be grateful if you could please agree to an extension of time to 16th April 2021? Alternatively, I understand you may wish to appeal a non-determination.

Regards,

Tom

Tom Allington
[Principal Planning Officer – Strategic Sites](#)
Direct Dial: 01462 474508

North Hertfordshire District Council
Council Offices, Gernon Road
Letchworth Garden City
Hertfordshire
SG6 3JF

[Follow us on Twitter](#)
[Like us on Facebook](#)
www.north-herts.gov.uk
[Privacy Statement](#)

From: Samuel Bampton <s.bampton@pelham-structures.co.uk>
Sent: 26 February 2021 09:27
To: Tom Allington <Tom.Allington@north-herts.gov.uk>
Subject: S.73 18/03349/S73 Affordable Housing, Land at The Gables, Barley

Hi Tom,

Just to keep you updated I had a meeting with Hastoe yesterday, who are likely to take on the affordable units on this site, and they voiced a preference for them being a 1 x 2bed and 1 x 3bed, which suits the size of units granted. Would the Council be open to this? If so how would you like us to address the affordable housing statement and layout of unit 1?

If you'd like to discuss further please don't hesitate to contact me.

Kind regards
Samuel Bampton



Unit 3 Brices Yard, Butts Green, Langley Upper Green, Saffron Walden, Essex. CB11 4RT

Tel: 01799 551 261 ext 215 Mobile: 07792 057 538 E-mail: s.bampton@pelham-structures.co.uk Website: www.pelham-structures.co.uk

Appendix E: Wicken Bonhunt Appeal Decision (APP/C1570/W/19/324193)



Appeal Decision

Site visit made on 21 January 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State.

Decision date: Thursday, 20 February 2020

Appeal Ref: APP/C1570/W/19/3241983

Ashcroft, Wicken Road, Wicken Bonhunt, Essex, CB11 3UL

- 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 Ms Joan Bull against the decision of Uttlesford District Council.
 - The application Ref UTT/19/1381/FUL, dated 5 June 2019, was refused by notice dated 7 August 2019.
 - The development proposed is erection of 3no detached dwellings with associated landscaping and cartlodge parking and new vehicular access at Ashcroft, Wicken Bonhunt, Essex, CB11 3UL.
-

Decision

1. The appeal is allowed, and planning permission granted for the erection of 3no detached dwellings with associated landscaping and cartlodge parking and new vehicular access at Ashcroft, Wicken Bonhunt, Essex, CB11 3UL in accordance with planning application UTT/19/1381/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be completed in accordance with the details shown on plans numbered: 563x01(January 2019);563x02 (January 2019);563x03 (January 2019); 563x04(January 2019); 563x05(January 2019);563x06(January 2019).
 - 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
 - 4) Prior to the commencement of the development, full details of all the hard and soft landscaping (including planting, hard surfaces and boundary treatment) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 5) All planting, seeding or turfing and soil preparation approved by the local planning authority as complying with condition 3, shall be carried out in the first planting and seeding seasons following the completion of the dwellings and before the occupation of the final dwelling. Any plants

which, within a period of five years from completion of the dwellings die, are removed or become damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed, in writing, by the local planning authority. All landscaping work shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

- 6) Prior to the commencement of the development hereby approved details of the materials to be used in the construction of the buildings (including the proposed cartlodge garaging) shall be submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials, unless otherwise agreed in writing by the local planning authority.
- 7) Before the installation of any external lighting within the development site, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on the site that are particularly sensitive for bats and that are likely to cause disturbance along routes used for foraging and show how and where external lighting will be installed (through the provision of technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats from using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and maintained thereafter in accordance with the scheme. No external lighting, other than that in the approved scheme, shall be installed on the site without the prior written approval of the local planning authority.

Main Issue

2. The effect of the development on the character and appearance of the area.

Reasons

3. The development plan for the area is the Uttlesford Local Plan (ULP) adopted in 2005. The plan was adopted prior to the introduction of the current National Planning Policy Framework (the Framework).
4. The Council rely on saved Policies S7 and Gen2 of the ULP to support the refusal of the appeal proposal. In 2012 the ULP was assessed to see if it was compliant with the then version of the Framework. This found that S7 was partly compliant with the 2012 version of the Framework.
5. Policy S7 seeks to guide development to appropriate locations in villages and sets out what sorts of development might be appropriate in the countryside. Its overall aim is to enhance the countryside of the district and protect its character and appearance.
6. In these respects, I consider that Policy S7 would be consistent with the 2019 version of the Framework, as it contains policies which seek similar objectives, when read as a whole. I can therefore give Policy S7 some weight in the determination of this appeal, due to its partial consistency with the 2019 Framework.

7. The appeal proposal lies in the countryside as defined by Policy S7. There are no reasons advanced by the appellant as to why the development requires a countryside location. I therefore find the appeal proposal is in conflict with Policy S7 of the ULP.
8. The general setting of the site is rural, as is the whole of Wicken Bonhunt. However, whilst the site is in the countryside as defined by the ULP, I do not consider the site to be in open countryside. It is surrounded by houses and their gardens and two roads. Any development on this site would be seen as a continuation of the existing pattern of development in the immediate area, that of large houses standing in substantial grounds. The development of the site in accordance with the appeal proposal would reflect the character and appearance of its immediate surroundings, rather than the tighter grain of the development to the east or the open countryside further west. For these reasons, despite the conflict with Policy S7, I consider the harm that would be caused to the character and appearance of this part of the countryside would be minimal.
9. From my site visit and from viewing the plans, I am of the opinion that due to the elevated nature of the site, the substantial tree and hedge growth around the site (that would be retained as part of the development) and the presence of other dwellings in relatively close proximity to the site, the proposed houses would be no more dominant or intrusive than existing development in the area. The houses themselves are well designed. Their bulk and massing are, to a large extent, broken up by the use of dormer windows, setbacks, projections and varied ridge lines, therefore would not appear dominant in the location. Houses around the appeal site display domestic elements such as children's play equipment and garden buildings. I do not consider that the buildings or their surroundings would be especially dominant in this location.
10. The parties accept that the Council does not have a 5-year supply of deliverable housing sites in the District. The Council's latest assessment shows a 3.29-year supply of deliverable housing sites. I therefore have to regard Policy S7 as out of date for the purposes of the appeal and apply paragraph 11 of the Framework, to assess whether the appeal proposal constitutes sustainable development.
11. Paragraph 11, d), ii) requires that I grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. The adverse impact of the development on the character and appearance of the locality would be minimal and would amount to the introduction of built form into a countryside location which would be in conflict with the development plan. However, I give limited weight to this as the development has a low impact on the character and appearance of its specific location. In my view the adverse impact of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal, such as the contribution it would make to the vitality of the village and the 5-year supply of deliverable housing sites in the District.
13. I find that any adverse impacts of allowing the appeal do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

14. S38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I find that the proposal is in conflict with the development plan. However, I also find that the weight to be given to the material considerations in this case, indicate that the appeal should be allowed, and planning permission granted.

Other Matters

15. Reference has been made to a previous dismissed appeal for a single dwelling on part of this site¹. There are material differences between that case and this which have led me to a different conclusion. These are: lack of a 5-year supply of deliverable housing sites at the current time, and more details regarding the design of the proposed dwellings² being available, so I am better able to assess the impact of the proposed development on the character and appearance of the area, than the Inspector at the previous appeal.

Conditions

16. In addition to the standard time limits and referencing the approved plans I have imposed other conditions for the reasons given below.
17. It is important, given the countryside location of the appeal proposal, that landscaping of the site is dealt with thoroughly and implemented at the appropriate time. In the interests of clarity, I have separated out some of the matters covered by the Council's landscaping conditions into separate conditions.
18. In view of the elevated nature of the site, above Wicken Road, I consider it is important that final floor levels of the buildings are controlled to ensure that the development integrates properly with its surroundings.
19. Control of materials is important to maintaining the character and appearance of the locality. I have imposed a condition requiring the approval of materials to ensure the final finishes of the buildings are acceptable.
20. There is a need to control external lighting, in this rural location, in order to minimise the effect of the development upon bats and to comply with the relevant provisions of nature conservation legislation. I have imposed a condition to seek to deliver this.
21. Finally, I have not imposed a condition suggested by the Council relating to part M4(2) of the Building Regulations 2010 as this matter is capable of being dealt with at the building regulations approval stage of the development.

Conclusion

22. I find that having regard to all matters before me, including the policies of the development plan, when taken as a whole, the appeal should be allowed, and planning permission granted.

Peter Mark Sturgess

INSPECTOR

¹ APP/C1570/W/15/3135166

² The previous application was in outline with appearance, landscaping and scale reserved for future consideration

Appendix F: Doritwich appeal Decision
(APP/H1840/W/19/3241879)

Appeal Decision

Hearing Held on 29 June 2020

Site visit made on 1 July 2020

by David Richards BSocSci DipTP MRTPI

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

Decision date: 23 July 2020

Appeal Ref: APP/H1840/W/19/3241879

Corner Mead, Newland Lane, Droitwich Spa, Worcestershire WR9 7JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Build 1 against the decision of Wychavon District Council.
 - The application Ref 19/01679/OUT, dated 22 July 2019, was refused by notice dated 25 September 2019.
 - The development proposed is up to 9 self-build dwellings including new means of access off Newland Lane.
-

Decision

1. The appeal is allowed and planning permission is granted for up to 9 self-build dwellings at Corner Mead, Newland Lane, Droitwich Spa, Worcestershire WR9 7JH in accordance with the terms of the application, Ref 19/01679/OUT, dated 22 July 2019, subject to the conditions set out in the attached Schedule.

Application for costs

2. At the Hearing an application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect on the character and appearance of the surrounding area, and whether the Council has made adequate provision for the delivery of self-build dwellings in accordance with the requirements of the Self Build and Custom Housebuilding Act 2015 (The Act).

Reasons

4. The application was made in outline and included provision of a new access, with matters relating to appearance, landscaping, layout and scale reserved.
5. The development plan includes the South Worcestershire Development Plan (SWDP) which was adopted in February 2016. Policy SWDP2 is concerned with the Development Strategy and Settlement Hierarchy. The development strategy and site allocations are based on a number of principles, including provision for and facilitation of the delivery of objectively assessed needs to 2030, safeguarding of the open countryside, the effective use and reuse of brownfield land. Most development is focussed on urban areas, which include Droitwich Spa. Under criterion C, the open countryside is defined as land

beyond any development boundary, where development will be strictly controlled and limited to a number of defined categories, none of which include the construction of self-build housing. It is common ground that the appeal proposal conflicts with Policy SWDP2 C as it is located outside of the defined development boundary.

6. The SWDP is under review (SWDPR). However, as it is at an early stage of preparation, it carries very little weight.
7. Section 5 of the NPPF sets out the Government's objective of significantly boosting the supply of homes and states that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The size, type and tenure of housing for different groups in the community should be assessed and reflected in planning policies, including people who wish to commission or build their own homes. Footnote 26 sets out the requirements of the Self Build and Custom Housebuilding Act 2015 which are also explained in Planning Practice Guidance (PPG).
8. Paragraph 023 of the PPG provides that relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period. The first base period begins on the day on which the register is established and ends on 30 October 2016. Each subsequent base period is the period of 12 months beginning immediately after the end of the previous base period. At the end of each base period, relevant local authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period.

Effect on character and appearance of the area

9. The appeal site lies in the countryside on the outskirts of Droitwich Spa, beyond the development boundary defined in the SWDP and detached from it by a gap of some 110 metres. It is located in the Parish of Salwarpe but is more closely related to the town of Droitwich Spa. The SWDP made provision for a large urban extension (site allocation SWDP49/2) which is currently well under construction and lies 110m from the appeal site.
10. The site extends to about 0.68 hectares. It is bounded to the south by Newland Lane and to the west by Newland Road. It is currently occupied by a dwelling and part of the site is garden land, the remainder having last been in agricultural or grazing use. Development in the immediate vicinity is sporadic in nature and the area retains a rural character, albeit one that is now very close to, and influenced by, the urban edge created by the new development. Neither the Council's refusal reason nor statement of case address the impact on the character of the countryside in any detail.
11. The Council refers to the suburban appearance of the indicative layout but notes that layout, scale and appearance are reserved matters, and suggests means by which greater variety might be achieved to reflect the more organic pattern of the area. With regard to effects on the landscape, the committee report recorded no objection on landscape or visual impact grounds, subject to

the attachment of conditions addressing tree and hedgerow retention, new planting and protection during construction. There are established trees and planting which could provide effective screening, particularly on the Newland Road frontage.

12. I accept that the development would lead to an intensification of built development in an urban fringe location. I also agree that the site cannot properly be described as adjacent to the settlement, (given the normal meaning of 'adjacent' as adjoining or next to) as there are other low-density properties and small fields intervening. However, while the area currently has a pleasant semi-rural character, the countryside is very close to the urban edge, and is not covered by any relevant landscape policy designation, nor does it lie within the Green Belt, which lies to the south of Newland Lane. I conclude the actual harm to the countryside setting of the current urban area of Droitwich Spa would be very limited, and could be mitigated by careful design and landscaping.

Whether the council has made adequate provision for self-build dwellings in accordance with the provisions of the Self Build and Custom Housebuilding Act 2015.

13. The Council's position is that the development is in conflict with an up-to date development plan (the SWDP). It considers that the SWDP policies are not 'absent' or 'silent' on the appeal proposal, which in the Council's view entails open market residential development in the open countryside, beyond the development boundary.
14. The Appellant does not dispute that the Council can demonstrate a 5 year Housing Land Supply (5YHLS). Footnote 7 to Paragraph 11 of the NPPF states that policies for the provision of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5YHLS. On this basis, the Council considers that all SWDP policies concerning the provision of housing are to be afforded full weight, and the appeal should be determined in accordance with the Development Plan.
15. The Appellant accepts that the proposal conflicts with Policy SWDP2 C, but considers this is no more than a technical breach of one criterion of one policy. In the Appellant's submission the proposal accords with the strategic objectives and spirit of Policy SWDP2 and the development plan as a whole, and there are significant material planning considerations which indicate that permission should be granted. The Appellant believes that the provision of self-build and custom housebuilding in what is a location with good accessibility to shops and facilities is a fundamental material planning consideration which is clearly capable of outweighing the technical conflict with the development plan.
16. This is so because the Appellant believes that the Council have not complied with their duty under the 2015 Act to permit sufficient self-build and custom housebuilding plots to meet the need as stipulated on the register.
17. The Council publishes an annual progress report for self-build and custom housebuilding. The first base period for the local planning authority is 1 April 2016 – 31 Oct 2016. Data from the council's Annual Progress Reports¹ gives the number of entries for each base period as follows:

¹ Wychavon District Council Self Build and Custom Housebuilding Progress Reports December 2017, December 2018 and December 2019

Base Period	Part 1 Entries	Part 2 Entries	Total Entries
1 April 2016 – 31 Oct 2016			51
31 Oct 2016 – 31 Oct 2017	35	13	48
31 Oct 2017 – 31 Oct 2018	41	26	67
31 Oct 2018 – 31 Oct 2019	50	37	87

18. The Council's position is that they have granted sufficient permissions to meet the demand on the self-build register and that there are no exceptional circumstances to justify determining the appeal other than in accordance with the development plan.
19. In support of its position the Council referred to the SWDP Examination, where the Inspector took the view that self-build and custom build should not be specifically identified in housing allocations as they were considered to represent another form of market housing which could come forward on the numerous small sites allocated in villages for under 10 dwellings, or smaller policy compliant sites that were ruled out as too small to meet the allocation threshold of +5 dwellings. The Council cited a number of appeal decisions which supported this approach².
20. In the committee report and at the hearing, the Council referred to an alternative requirement for the first base period of 11 dwellings. This is not taken from the progress reports, which appear to be the only relevant publicly available documents. It was explained at the hearing that the Council had applied eligibility criteria to the gross figure. People who were on the register were contacted and asked to provide details of local eligibility, to avoid a situation where people interested in self-build could put themselves on a number of different registers, thus potentially inflating overall demand for self-build sites. Those who didn't respond were not taken off the register but retained in Part 2.
21. The Self-build and Custom Housebuilding Act 2015 was amended by the Housing and Planning Act 2016 to enable local authorities to include up to two optional local eligibility tests, only to be applied by local authorities where there is strong justification for doing so. A local connection test should only be applied in response to a recognised local issue. If a local authority chooses to set a local eligibility test it is required to have two parts to the Register. Individuals or Associations of individuals who apply for eligibility criteria must be entered on Part 1. Those who meet all eligibility criteria except for a local connection test must be entered on Part 2 of the Register. Only Part 1 entries count towards the number of suitable serviced plots that they must grant development permission for.
22. The Council's states that the Register was established on 1 April 2016, but went through an update period during May and June 2017 when the local connection test was introduced. During this period, individuals already on the Register were asked to provide an update to remain on the Register, and were

² APP/H1840/W/17/3185471; APP/H1840/W/16/3151822;

automatically placed on Part 1 if such an update was provided irrespective of whether or not they could meet the local connection test. During the update period, a number of entries were removed from the Register if an update was not provided. There were originally 51 entries on the Register during the first base period, however, this figure dropped to 11 as only 11 of these provided an update.

23. The Appellant says there is no justification for applying the local eligibility criteria retrospectively to the first base period. Authority to split the register into two parts was only introduced in 2016 through the Housing and Planning Act and brought into force through the Self-build and Custom Housebuilding Regulations 2016. The commencement date for these provisions was 31 October 2016 and the relevant Planning Practice Guidance was not updated in 2017 in this respect.
24. In view of the need for transparency in such matters I share the Appellant's concern that the reduction of the numbers on the register from 51 to 11 is lacking in clear justification. There has been no opportunity to scrutinise the further consultation undertaken by the Council, or whether people on the register were aware of the implications of not establishing local eligibility in relation to the Council's duties in respect of granting planning permissions relating to the first base period. No explanation of the need for eligibility criteria to be applied in Wychavon was given or any indication of a recognised local issue to justify it. A further 23 entrants were included in Part 1 of the register in the second base period (01/11/16 – 31/10/17) according to the table in the Council's statement. It seems at least possible that some of these were people included in the first base period who failed initially to respond to the Council's call for further information and so were excluded.
25. With regard to the supply of sites for self-build, the Council provides evidence of planning permissions granted for 11 serviced plots in the period 1 April 2016 to 31 October 2019. All refer to self-build dwellings as part of the description of development and supported by additional evidence in the form of references to self-build in Design and Access or Planning Statements or self-build exemption CIL claim forms. The Council considers that this provides clear evidence for enough serviced plots to meet the demand in the District for the first base period.
26. The Appellant disagrees and submits that a legal mechanism is required to ensure that the permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding, as set out in the 2015 Act. The Appellant refers to the 'I'm Your Man' case to support the proposition that the Council cannot rely on the description of development to secure self-build homes. On this basis, it would be necessary for an express condition or a s106 legal obligation to ensure that a permission is restricted to self-build. I agree with the Council that this would be too restrictive and would include situations such as infill plots where there would be no reason to insist on an s106 obligation, for example policy compliant infill plots or developments on small housing allocations which could be considered to satisfy a demand for self-build if developed accordingly. The duties do not require a level of completions to be achieved in a particular time frame.
27. In response to the Appellant's claim that the Councils approach is 'overly optimistic' the Council refers to an additional 27 planning permission which

have been granted in the period between 1 April 2016 to 31 October 2019 for a total of 35 new dwellings where the planning application has been submitted with a signed Community Infrastructure Levy Form Self Build Exemption Claim Form (CIL Exemption Form), as detailed in latest Progress Report (December 2019). The Council contend that each of these can also be counted towards meeting the requirement as the CIL Exemption Form is a legally binding agreement whereby the applicant is required to declare that the project meets the definition of self-build and will occupy the dwelling for at least three years after its completion.

28. The Appellant cites a relevant recent Appeal Decision, dated 25 June 2019 concerning land off Hepworth Road, Woodville DE11 7DW³. The application was for self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure. The site was outside the defined limits to development as defined in the relevant Local Plan. As regards the Council's duties under the 2015 Act the Inspector had this to say:

22. The Council confirms that as at April 2019, there are 54 individuals on the Council's Self-Build and Custom Housebuilding Register and that as of April 2019, it has permitted 4 plots in the period since 31 October 2016. Since 31 October 2016 the Council has permitted an additional 133 single plot dwellings which have been distributed across the District. However, the Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended).

23. To my mind this raises considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District. Importantly, the S.106 Agreement submitted with the appeal proposal contains provisions to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. There is no evidence before me of a similar mechanism which would secure the delivery of self-build and custom housebuilding on the plots referred to in Appendix 3 of the Council's Statement. I consider it would be unreasonable to include any of the single dwelling permissions within the calculation of self-build and custom housebuilding permissions granted in the District.

29. The Inspector found in that case that only 4 plots identified by the Council appeared to comply with the definition of self-build and custom build housing in the 2015 Act. He discounted sites that were not subject to a planning condition or a planning obligation requiring a self-build or custom build house to be built on the site that accords with the statutory definition. He concluded on the evidence available that there was a shortfall of permissions for at least 5 serviced plots to meet the demand identified from the first base period and found that the ability of the appeal proposal to address the unmet demand for serviced plots that arose in base period 1, base period 2 and part of base period 3 in a comprehensively planned manner is a material consideration that weighs strongly in favour of the appeal proposal, and that the appeal proposal

³ APP/G2435/W/18/3214451

was necessary to enable the Council to meet its statutory obligations with respect to the duty under Section 2A of the 2015 Act (as amended), given that there appeared to be an inadequate supply of serviced plots coming forward for development in the District.

30. Notwithstanding the conclusions of this Inspector, I do not consider that only those permissions subject to an express condition or s.106 obligation should be counted towards meeting the Section 2A requirement, for reasons set out above. To my mind this would be too onerous a requirement, and could lead to the exclusion of self-build sites within development boundaries ever being counted towards meeting Section 2A, which appears to me to conflict with the objective of promoting self-build as a means of meeting identified housing need, and in a wide range of circumstances. Both the Woodville site and the site under consideration in this appeal were promoted as exceptions sites, where such an arrangement would be necessary to justify making the exception to the policies in an otherwise up-to-date development plan.
31. Nevertheless I do not consider that the evidence provided by the Council is sufficiently reliable for me to conclude that the Council has met its duty under Section 2A. To my mind, some further analysis of the raw data is necessary, which as a minimum relates permissions granted to meeting the needs of named individuals or groups identified in part 1 of the Register. It is not sufficient to rely on CIL exemption forms without this type of further analysis, which is lacking in the Council's evidence. I conclude that the Council has not satisfactorily demonstrated that it has granted enough permissions for serviced plots to meet the demand for self-build and custom build plots in the first base period.

Other matters

32. The parties agree that the site has a reasonable degree of accessibility to the facilities and services available in the wider area of Droitwich Spa, and that the site is locationally sustainable in this respect.
33. Local residents raised a number of issues in their representations, and at the hearing. There was concern regarding the traffic impact of the proposal, and the effect of the new access arrangements on road safety. The Appellant argued that there would be a clear safety benefit, as the existing sub-standard access would be replaced by a designed access that met all the relevant visibility standards. A resident considered that this would be outweighed by the significant increase in vehicle movements arising from 9 dwellings as opposed to one. It was also stated that Newland Drive carried a lot of heavy traffic, though it was acknowledged that some of this was temporary, being attributable to the construction of the urban extension.
34. I note that the Highways consultee asked for a deferral of the application for further information. However, a previous application, to which the consultee had no objection, proposed a similar access arrangement⁴. The previous application was for 10 dwellings, while this is for up to 9, with the existing dwelling retained. However the difference is not material.
35. I acknowledge that extra traffic would be unwelcome to existing residents. However, I do not consider that the increased number of trips would be

⁴ 18/00906/OUT - Outline application for up to 10 self-build dwellings including a new means of access off Newland Lane - Refused 7 August 2018.

significant in the context of existing usage of the local road network, and I conclude that the proposed arrangement would be acceptable in terms of traffic safety and effect on the living conditions of neighbours.

36. Residents were also concerned about the effect of development on their living conditions, during the construction period and thereafter. Layout and appearance are reserved matters, so that the detailed design of the new development could ensure reasonable separation distances between the new dwellings and neighbouring properties to protect the living conditions of existing residents. With respect to the construction period, a site management plan is proposed to address such concerns and in my view would be effective in minimising potential noise and other disturbance to residents. In the event of the appeal being allowed, this could be secured by a condition. I accept that further disturbance would be unwelcome, particularly at a time when work on the urban extension may be drawing to a close. However, I do not consider these concerns would be sufficient to stand in the way of allowing the appeal in the absence of other convincing reasons.
37. Another resident raised concerns with local flood risk, particularly on Newland Road at its lowest point, which is reported to flood after heavy rain. The Council's drainage engineer commented at application stage that the site is in flood zone 1 and in an area at low risk of surface water flooding. Surface water drainage is proposed via soakaways and areas of hard standing will make use of permeable materials or, if grounds conditions are unsuitable, an alternative sustainable solution will be required. The principle of sustainable drainage is that surface water is intercepted so that flows are no greater from a site as a result of development than the current situation. Having regard to the drainage engineer's comments, there is no reason to suppose that an acceptable drainage system cannot be achieved.

Conditions

38. A schedule of agreed conditions was included in the Statement of Common Ground (SOCG). The Appellant expressly agreed to the inclusion of the suggested pre-commencement conditions at the hearing. The application was made in outline (except for the access arrangements) so reserved matters conditions are necessary to ensure the development achieves a satisfactory appearance, landscaping, layout and scale (Conditions 1, 2, 3, 5, 18, 20 and 23). Condition 4 is necessary to protect trees to be retained from damage during construction. Condition 6 is necessary to avoid any risk of surface water flooding. Conditions 7 and 11 are necessary to ensure satisfactory visibility in the interests of highway safety. Conditions 8 and 9 are necessary to ensure appropriate provision for cars and cycle parking. Conditions 10 and 12 are necessary to encourage the use of sustainable transport, including provision for the charging of electric vehicles. Condition 13 is necessary to protect the living conditions of neighbours during construction and in the interests of highway safety. Condition 14 is necessary to secure a programme of archaeological work to ensure that any archaeological interest is investigated and appropriately recorded.
39. Condition 15 sets out a requirement for a Construction Environment Management Plan for Biodiversity (CEMP: Biodiversity) and is necessary to ensure that areas of sensitive ecological importance are appropriately managed and protected from damage during construction. Condition 16 requires the

preparation and implementation of a Biodiversity Enhancement Strategy, and is necessary to ensure that biodiversity objectives for the development are met. Condition 17 requires preparation of a Landscape and Ecological Management Plan (LEMP) to identify responsibilities for on-going management of features of landscape and ecological importance. I have amended the parties' wording as it is not within the Appellants' control to secure the agreement of the local planning authority within one month of the commencement of the development. As this condition is concerned with ongoing management, I consider it acceptable that the LEMP should be approved prior to first occupation of the first dwelling. I have made other minor changes to the wording in the interests of clarity.

40. Condition 19 (slab levels) is necessary to ensure that the development sits well within the landscape and surroundings. Condition 21 is necessary to ensure appropriate provision for refuse storage. Condition 22 is necessary to secure a reduction in carbon emissions from the development.
41. Subject to the amendments I have made I consider these conditions to meet the tests set out in the NPPF and PPG.

S106 obligation

42. The Appellants submitted a final signed version of a unilateral undertaking (UU) dated 9 July 2020. The main provisions are: 1. The owners covenant that each residential unit shall be constructed as a self-build dwelling; 2. The first occupation of each unit shall be by a person or persons who had a primary input into design and layout and who intends to live in it for at least 3 years and who is included in Part 1 of the Register. 3. The Council shall be notified of the persons who intend to take up first occupation at least two months prior to first occupation.
43. Schedule 2 of the UU addresses an off-site affordable housing contribution of £143,966.25 to be paid prior to the first occupation of the first dwelling.
44. The Council does not dispute the contribution figure but expressed a preference for an on-site discount market self-build dwelling on site, in accordance with Policy SWDP15, which requires that on sites of 5 – 9 dwellings, 20% of units should be affordable and provided on site.
45. I note that in its appeal statement the Council did not take issue with the Appellant's approach of providing a commuted sum for off-site provision, but introduced the request for on-site provision at a later stage. The policy allows for the acceptance of off-site-contributions where a robust justification exists.
46. While I acknowledge the preference for on-site provision, I consider that the provision of an agreed sum as a contribution to off-site provision would satisfactorily address affordable housing provision in the circumstances of the case. I note the difficulties encountered in reaching an agreed form of wording in the context of a UU where it is not appropriate to place a requirement on the Council to exercise its powers in a particular way, for example in respect of nomination rights or marketing strategies. The site lies close to Droitwich Spa where there are opportunities to address affordable needs arising in the neighbouring parish of Salwarpe, in which the appeal site lies.
47. The 2015 Act and the NPPF/PPG guidance support provision for self-build as a means of diversifying access to the housing market and allowing for self-

builders to contribute their skills and labour to reduce the costs of entry into the market. In the circumstances, where the UU secures an appropriate off-site contribution for affordable housing, I do not consider that the failure to make on-site provision outweighs the benefits that would arise from the grant of permission.

48. With regard to the CIL regulations, I conclude that the final UU is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development in scale and kind.

Planning balance and conclusion

49. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. It is not disputed that the proposed development would conflict with Policy SWDP2 C as it lies outside the defined development boundary and within an area identified as open countryside.
50. I have found that the harm to the character and appearance of the area would be very limited, and capable of mitigation by careful design and landscaping. Although other matters of concern were raised by residents, these would not be of sufficient weight to stand in the way of granting permission. I consider the effects on highway safety would be broadly neutral when balancing the increase in trip generation against the improvement in visibility and geometry. The parties agreed that, but for the conflict with the development plan, the location is sustainable for the type of development proposed, having good accessibility to a range of facilities.
51. While there is no dispute that the Council can demonstrate a 5-year supply of housing land, I consider that the Development Plan is out-of-date in respect of self-build housing. There is no reference to self-build housing within Policy SWDP2. Policy SWDP14 addresses the mix and type of market housing to ensure that a range of household demand and needs continue to be accommodated, but does not say anything substantive about self-build housing. In view of the importance attached to provision for self-build housing in the NPPF and PPG, I do not accept the Council's view that it should be treated simply as a component of general market housing. The tilted balance is therefore engaged in this case. The forthcoming review of the plan does address self-build housing but is at an early stage and carries very little weight at this time.
52. With regard to meeting the Council's duty under the 2015 Act I have found that the Council has not satisfactorily demonstrated that it has granted enough permissions to meet the need identified in the first base period, for the reasons set out above. The proposed development would make a significant contribution to the supply of sites for self-build housing in Wychavon in accordance with Section 5 of the NPPF and the associated PPG. There would be an economic benefit during construction and from on-going support for local facilities, and significant social benefit in terms of the diversity of housing type which would contribute to meeting the Council's duty under the 2015 Act. I attach substantial weight to this benefit and conclude that the adverse impacts of granting planning permission in this case would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. This is a material consideration of sufficient weight to

indicate that the appeal should be determined otherwise than in accordance with the development plan.

53. I therefore conclude that planning permission should be granted subject to the conditions set out in the attached schedule.

David Richards

INSPECTOR

APPEARANCES

For the Appellant

Neal Pearce	Director, Avon Planning Services
Mark Donald	Director, H2 Land
Chris Hughes	Commercial Director, H2 Land
Jack Smyth	of Counsel

For Wychavon District Council

Emma Worley	Development Manager (North)
Denise Duggan	Senior Planning Officer (Policy)

Interested Person

Mr Chris Everton	Local resident
------------------	----------------

Appeal Ref: APP/H1840/W/19/3241879

Schedule of conditions:

- 1) Application for the approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced. The development shall be carried out in accordance with approved reserved matter details.
- 3) The following details shall be submitted for approval as part of the landscaping reserved matters: -
 1. Survey information of all existing trees and hedges on the application site, and branches from trees on adjacent land that overhang the site. The survey shall include for each tree/hedge:
 - a) the accurate position, canopy spread and species plotted on a plan;
 - b) an assessment of its general health and stability;
 - c) an indication of any proposals for felling or pruning;
 - d) details of any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 2. A landscape scheme which shall include:
 - a) a plan(s) showing the planting layout of proposed tree, hedge, shrub and grass areas;
 - b) a schedule of proposed planting – indicating species, size at time of planting and numbers/densities of plants;
 - c) a written specification outlining cultivation and others operations associated with plant and grass establishment;
 - d) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

The landscaping shall be provided and maintained in accordance with the approved details within the first planting season following completion of the development hereby permitted.
- 4) Temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837: 2012 (Trees in Relation to Design, Demolition and Construction) before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts. Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) must be agreed in writing by the local planning authority prior to the commencement of development.

Protective fencing shall remain in place until the completion of development unless otherwise agreed in writing with the local planning authority. Nothing should be stored or placed (including soil), nor shall any ground levels be altered, within the fenced area without the previous written consent of the local planning authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

- 5) Details of any walls, fences, surface treatments to drives, cycle and footways and an implementation timetable shall be submitted for approval as part of the landscaping reserved matters.
- 6) Prior to the first use/occupation of each plot hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and retained thereafter.
- 7) Notwithstanding the approved plans no part of the development shall be occupied until visibility splays have been provided from a point 0.6m above carriageway level at the centre of the footway / cycleway access to the application site and 2.0 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 25 metres in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
- 8) No dwelling shall be occupied until an area has been laid out within the curtilage of that dwelling for the parking of cars in accordance with County standards. The parking area shall thereafter be retained for the purpose of vehicle parking only.
- 9) No dwelling shall be occupied until sheltered and secure cycle parking to comply with the Council's standards has been provided for that dwelling in accordance with details which shall be submitted to and approved in writing by the local planning authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 10) Appropriate cabling and an outside electrical socket must be supplied for each property to enable ease of installation of an electric vehicle charging point (houses with dedicated parking). The charging point must comply with BS7671. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building. As a minimum, charge points should comply with Worcestershire County Council Design Guide which requires 7kw charging points for residential developments.
- 11) The development hereby approved shall not commence until drawings of the site access works comprising:
 - The vehicular site access to Newland Lane, and
 - The footway / cycleway access to Newland Road

generally in accordance with, but not limited in detail to, the application drawings have been submitted to and approved in writing by the local planning authority and no part of the development shall be occupied until those works have been constructed in accordance with the approved details.

- 12) Each dwelling hereby approved shall not be occupied until the applicant has submitted in writing to and had approval in writing from the local planning authority a residential welcome pack promoting sustainable forms of access to the development. The approved pack shall be delivered to each dwelling upon its first occupation.
- 13) The development hereby approved shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in by the Local Planning Authority. This shall include but not be limited to the following:
- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
 - Details of site operative parking areas, material storage areas and the location of site operatives facilities (offices, toilets etc);
 - The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring;
 - Details of any temporary construction accesses and their reinstatement; and
 - Details of any site boundary hoarding / fencing set back clear of visibility splays.

The measures set out in the approved CEMP shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved by in writing by the local planning authority.

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

(B) The development shall not be 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 clause (A) of this condition and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 15) No development shall take place (including any site clearance, ground works or demolition) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall be based on

the findings of the Tree Survey, Preliminary Ecological Appraisal and Reptile Survey submitted with the outline application as well as the findings of an updated Preliminary Ecological Appraisal include the following:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of "biodiversity protection zones";
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements and should include details of appropriate protective fencing of retained trees' root protection zone);
- d. The location and timing of sensitive works to avoid harm to biodiversity features;
- e. The times during construction when specialist ecologists need to be present;
- f. Responsible persons and lines of communication;
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 16) No development shall take place until a Biodiversity Enhancement Strategy (BES) has been submitted to and approved in writing by the local planning authority. The strategy shall include the following:
- a. Purpose and conservation objectives for the proposed works;
 - b. Review of site potential and constraints;
 - c. Detailed designs and working methods to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - d. Extent and location of proposed works shown on appropriate scale maps and plans;
 - e. Timetable for implementation, demonstrating that works are aligned with the proposed phasing of development;
 - f. Persons responsible for implementing the works;
 - g. Initial aftercare;
 - h. Details for disposal of any wastes arising from works.

The BES shall be implemented in accordance with the approved details and all features be retained in that manner thereafter. On completion of the ecological mitigation and enhancement works, a statement of compliance shall be submitted to the local planning authority by the Ecological Clerk of Works (or similarly competent person) confirming that specified and consented measures have been implemented.

- 17) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the local planning authority before the first occupation of the first dwelling. The content of the LEMP shall include the following:
- a. Description and evaluation of the features to be managed;
 - b. Ecological trends and constraints on site that might influence management.
 - c. Aims and objectives of management;

- d. Appropriate management options for achieving aims and objectives;
- e. Prescriptions for management actions;
- f. Preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period and longer term thereafter;
- g. Details of the body or organisation responsible for implementation of the plan;
- h. Ongoing monitoring and remedial measures.

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

- 18) Details of any external lighting to be provided in association with the development shall be submitted with each reserved matters application. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.
- 19) The construction work on the buildings hereby approved shall not be commenced until the precise floor slab levels of each new building, relative to the existing development on the boundary of the application site have been submitted to and approved in writing by the local planning authority. Thereafter the new buildings shall be constructed at the approved floor slab levels.
- 20) Each reserved matters application relating to appearance shall include details of the materials to be used in the construction of the external surfaces of any building. Development shall be carried out in accordance with the approved details.
- 21) Each reserved matters application relating to the appearance and layout of the development shall include details of the facilities for the storage of refuse for all proposed dwellings. No individual dwelling shall be occupied until refuse storage facilities to serve that dwelling have been constructed in accordance with approved details. The facilities shall thereafter be retained.
- 22) Prior to the first occupation of any dwelling hereby approved, the renewable energy generating facilities set out in the Energy Assessment by Reports4Planning dated July 2019 to be incorporated as part of the development shall be fully implemented. The renewable energy generating facilities shall provide at least 10% of the predicted energy requirements of the development and shall remain operational for the lifetime of the development.
- 23) Each reserved matters application relating to the appearance, scale and layout shall be broadly in accordance with the principles of the Design & Access Statement (dated 11 July 2019) submitted as part of the

application. All reserved matters applications shall include a statement providing an explanation as to how the design of the development responds to the details submitted as part of the outline application.

- **Appeal Reference APP/X1925/W/21/3271157**

The Council respectfully request that the above mentioned appeal be dismissed, for reasons set out in the report presented to Planning Control Committee on 27th May 2021. However, should the Inspector be minded to allow the appeal, the Council suggests that the following conditions be included in any grant of permission:

1. 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.

2. The materials to be used on all external elevations and the roof of the development hereby permitted shall be in accordance with details approved under application reference 20/01525/DOC, unless otherwise agreed in writing by the Local Planning Authority

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

3. The scheme for the provision of at least 25% affordable housing as part of the development hereby approved, shall be in accordance with details approved under application reference 20/01542/DOC, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the dwellings hereby permitted are occupied in accordance with the terms of the submitted application and to accord with the Council's policies with regard to affordable housing.

4. No more than 4 of the 8 dwellings hereby approved shall be occupied until all of the car parking at the Doctors surgery has been properly formed and laid out and is available for use and the electricity sub-station has been relocated in accordance with drawing 396.700a.

Reason: In order to secure the wider public benefits of the development hereby approved.

5. The approved details of landscaping, as approved under application reference 20/01543/DOC, 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. Before the commencement of any other works on the site, trees to be retained shall be protected by the erection of temporary chestnut paling or chain link fencing of a minimum height of 1.2 metres on a scaffolding framework, located at the appropriate

minimum distance from the tree trunk in accordance with Section 4.6 of BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations, unless in any particular case the Local Planning Authority agrees to dispense with this requirement. The fencing shall be maintained intact for the duration of all engineering and building works. No building materials shall be stacked or mixed within 10 metres of the tree. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to trees.

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

7. The development hereby permitted shall not be occupied until the reconfigured access and principal access road has been widened to 5.5 metres wide for the first 70 metres thereafter being narrowed to a minimum of 5.0 metres wide up to the new turning area as identified on the in principle drawing number 396.700 to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction.

Reason: In order to protect highway safety and the amenity of other users of the public highway.

8. Before the access is first brought into use vehicle to vehicle visibility splays of 2.4 metres by 43 metres in a both directions shall be provided and permanently maintained. Within which there shall be no obstruction to visibility between 600 mm and 2.0 metres above the footway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

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

9. Construction of the approved development shall take place in accordance with the Construction Traffic Management Plan as approved under application reference 20/01544/DOC, unless otherwise agreed by the Local Planning Authority.

Reason: To facilitate the free and safe flow of other traffic on the highway and the safety and convenience of pedestrians and people with a disability.

10. Construction of the approved development shall take place in accordance with the Construction Method Statement as approved under application reference 20/01545/DOC, unless otherwise agreed by the Local Planning Authority.

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

11. The development hereby approved shall be carried out and completed in accordance with the highways and access details as approved under application reference 21/00024/DOC, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To facilitate the free and safe flow of other traffic on the highway and the safety and convenience of pedestrians and people with a disability

12. The development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under application reference 20/01546/DOC.

Reason: To provide properly for the likely archaeological implications of this development proposal.

13. The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under application reference 20/01546/DOC and the provision made for analysis and publication where appropriate.

Reason: To provide properly for the likely archaeological implications of this development proposal.

14. The development permitted by this planning permission shall be carried out in accordance with the Drainage Statement/ Strategy Dated October 2016 and the Flood Risk & Surface Water Assessment carried out by Base Energy dated 18 December 2017, submitted and approved under application reference 17/02316/1 and the following mitigation measures detailed within the FRA:

- a. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
- b. Limiting the surface water run-off generated by the 1 in 100 year + climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- c. Provide a flood storage area to intercept and accommodate overland flows.

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

15. The development shall be carried out and completed in accordance with the final design of the drainage scheme, approved under application reference 21/00042/DOC, unless otherwise agreed in writing by the Local Planning Authority.

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

16. The development hereby approved shall be carried out and completed in accordance with the details of fire hydrant provision, as approved under application reference 20/01547/DOC, 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.

17. The development hereby approved shall be carried out and completed in accordance with the details of land contamination investigations and remediation as approved under application references 20/01548/DOC and 21/00168/DOC, unless otherwise agreed in writing 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 as approved under application references 20/01548/DOC and 21/00168/DOC, 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 the details approved under application references 20/01548/DOC and 21/00168/DOC 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.

18. Prior to occupation, each of the 8 residential properties shall incorporate an Electric Vehicle (EV) ready domestic charging point.

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

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

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

20. A suitably worded Condition to secure plot 3 and plot 8 as self-build units, for the prospective purchasers only, who had a material and meaningful input into the design of their respective plots (wording left to the discretion of the Appeal Inspector should they be of the opinion that a condition would be sufficient as opposed to a s106 legal agreement).

<u>Location:</u>	Land Development Site Off Station Road Ashwell Hertfordshire
<u>Applicant:</u>	Mr Wilkinson
<u>Proposal:</u>	Residential development of 28 no. dwellings and landscaping including pond, wildflower meadow and woodland and associated infrastructure.
<u>Ref. No:</u>	20/03070/FP
<u>Officer:</u>	Simon Ellis

Date of Statutory Expiry Period: Agreed extension to 30.05.21

Reason for Delay

Change of case officer following retirement and to enable a pro-active discussion with the applicant prior to determination.

Reason for Referral to Committee

The application site area at over 0.5ha (application site area 2.68 ha) requires this planning application for residential development must be determined by the Planning Control Committee under the Council's constitution and scheme of delegation.

Submitted Plan Nos.

9820/P/001 – Location Plan
9820/P/002 – 021 - Plots 1-10 Floor Plans and Elevations
9820/P022 – Double garage Floor Plans and Elevations
9820/P023 – 040 – Plots 11-28 Floor Plans and Elevations
9820/P041 – Northern edge plots 1 & 2 Street Scene
9820/P042 – Station Road Plots 27 and 28 Street Scene
9820/P043 – Farmstead Cluster Plots 18-21
9820/P044 – Site Sections
M3239-PA-01-V5 – Landscape Layout
M3239-PA-02-V3 – Landscape Layout with Key
M3239-PA-03-V01 – Sketch views 1-4
M3239-PA-04-V1 – Layout Superimposed onto Aerial
Tree Plan Shadow
Tree Plan No Shadow

Associated Documents:

Affordable Housing Statement
Air Quality Screening
Preliminary Ecological Appraisal Report
S106 Heads of Terms
Transport Statement
Utility Infrastructure Feasibility Report
Tree Survey
Desk Study (Contaminated Land)
Soakage Testing Report
Planning Support Statement
Design and Access Statement

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

Policy 6 'Rural Area Beyond the Green Belt'
Policy 14 'Nature Conservation'
Policy 16 'Areas of Archaeological Significance and other Archaeological Areas'
Policy 26 'Housing Proposals'
Policy 29 'Rural Housing Needs'
Policy 29A 'Affordable Housing for Urban Local Needs'
Policy 51 'Development Effects and Planning Gain'
Policy 55 'Car Parking Standards'
Policy 57 'Residential Guidelines and Standards'

1.2 National Planning Policy Framework (NPPF):

In total but in particular:

Section 2 'Achieving Sustainable Development'
Section 4 'Decision Making'
Section 5 'Delivering a Sufficient Supply of New Homes'
Section 8 'Promoting Healthy and Safe Communities'
Section 9 'Promoting Sustainable Transport'
Section 11 'Making Effective Use of Land'
Section 12 'Achieving Well Designed Places'
Section 14 'Meeting the Challenge of Climate Change, Flooding and Coastal Change'
Section 15 'Preserving and Enhancing the Natural Environment'

1.3 Supplementary Planning Documents:

Vehicle Parking Provision at New Development (SPD – 2011)
Design SPD
Planning Obligations SPD (November 2006)

1.4 Supplementary Planning Guidance:

Ashwell Village Design Statement (October 2000)

1.5 **Submission Local Plan (2011-2031) (with Modifications):**

Section 2 – Strategic Policies

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

Section 3 – Development Management Policies

CGB1 – Rural areas beyond the Green Belt
CGB2 – Exception sites in rural areas
T1 - Assessment of transport matters
T2 - Parking;
HS2 - Affordable housing;
HS3 - Housing mix;
HS5 - Accessible and Adaptable Housing
D1 - Sustainable design;
D3 - Protecting living conditions;
D4 - Air quality;
NE1 - Landscape;
NE5 - New and improvement public open space and biodiversity;
NE6 – Designated biodiversity and geological sites;
NE7 - Reducing flood risk;
NE8 - Sustainable drainage systems;
NE9 - Water Quality and Environment;
NE10 - Water Framework Directive and Wastewater Infrastructure;
NE11 - Contaminated land;
HE4 - Archaeology.

2.0 **Site Planning History**

- 2.1 Planning application ref. 17/01406/1: 'Residential development of 46 no. dwellings, children's play area, two new sports pitches, pavilion building and associated infrastructure'.

Planning permission refused by the Planning Control Committee in accordance with officer recommendation on 12 October 2017 for the reasons set out in the decision notice attached as **appendix 1**.

The subsequent appeal was determined under the Hearing Method and the appeal was dismissed by the Inspector in the decision letter dated 26 October 2018 (**see appendix 2**).

As part of this appeal the appellant also made an application for an award of costs against the Council largely on the basis that in their view the Council officers had not acted pro-actively throughout the determination of the planning application by assisting the applicant to reduce the reasons refusal, particularly on technical matters. This application for an award of costs against the Council was also dismissed by the Planning Inspector and this decision is attached as **appendix 3**.

Following the Dismissed appeal the appellants then lodged a Judicial Review (JR) against the decision of the Planning Inspectorate, largely on the basis that in their view the Inspector had applied too much weight to Saved Local Plan Policy 6 based on the absence of a five year land supply at that time and that on that basis the policy was out of date. This JR was also dismissed and the appeal decision was upheld. The appellant was also required to meet the Courts Cost in lodging the JR (**Court decision attached as appendix 4**).

- 2.2 A pre-application proposal for 9 dwellings on the site was submitted in 2019 (ref. 19/02900/PRE). The case officer who no longer works at NHDC gave a professional view that she could not support the scheme.

3.0 Representations:

- 3.1 **Technical and Statutory Consultees:**
Hertfordshire County Council (Highways):
No objections, suggested conditions.

- 3.2 **Hertfordshire County Council (Lead Local Floor Authority):**
No objections, suggested conditions.

- 3.3 **Hertfordshire County Council (Historic Environment – Archaeology):**
No objections, suggested conditions.

- 3.4 **Hertfordshire County Council (Minerals and Waste):**
Any development of this site should proceed on the basis of a site waste management plan to reduce waste from development projects (SWMP). Such a plan could be secured through suitably worded planning condition(s).

- 3.5 **Hertfordshire County Council (Hertfordshire Ecology):**
Some concerns about detail but as this site has largely been intensively farmed arable in the past the proposals would lead to a Biodiversity Net Gain (BNG) on site and therefore raise no objections.

- 3.6 **Hertfordshire County Council (Growth and Infrastructure and Fire and Rescue):**
Object to the proposed development on the basis that it is not possible to expand Ashwell Primary school to meet increased demand that would be placed on this school capacity on the basis of this proposed development.

No financial contributions towards primary school provision are therefore sought on the basis of this planning application and as capacity cannot be increased and primary school children from this development may not be able to attend the local primary school the County Council object to this planning application.

Contributions are however sought for other services as follows:

£83,307 towards expansion of Knights Templar Secondary School in Baldock;

£5,103 towards the expansion of Royston Library;

£1,551 towards increased provision at Royston Young People's Centre (Youth Services);

Fire Hydrant provision across the development site.

3.7 NHDC Environmental Protection (Air Quality):

Require suitable EV charging points on site which can be secured through planning condition(s) and informative(s).

3.8 NHDC Environmental Protection (Contaminated Land):

No objections, suggested standard land contamination condition.

3.9 NHDC Environmental Health (Noise):

No objections, suggested conditions limiting hours of operation during construction.

3.10 NHDC (Waste Collection and Recycling):

No objections, suggested conditions requiring full details of bin storage and locations.

3.11 NHDC (Housing Supply Officer):

Based on this 28 dwelling scheme to be policy compliant the affordable housing provision should incorporate 11 no. affordable housing, of which 7 units should be for rent and 4 units as intermediate tenure (e.g. shared ownership). This should be secured through an appropriately worded S106 Obligation to ensure affordable housing is delivered through a Registered Provider (RP).

3.12 NHDC (Principal Urban Design and Landscape Officer):

Various concerns raised about detailed aspects of the scheme.

3.13 Anglian Water:

Sufficient waste-water capacity is available for this development. Recommend an informative.

3.14 Environment Agency:

Nothing received. Any comments received to be reported orally.

3.15 Ashwell Parish Council:

Object to the proposed development on the following grounds:

Impact on the character of the countryside from this development proposal which would be outside the village boundary;

Impact on the character of the village and local area;
Traffic impact generate by 28 additional dwellings in this location would be unacceptable;
The Ashwell Primary School is full to capacity and could not accommodate additional pupil yield from this development;
There is a lack of primary health provision in the area to accommodate this development proposal;
The proposed development would not meet identified housing needs in the local area.

3.16 Local Residents:

Full details can be viewed on the Council's website. A summary of views is set out below:

The application site is not allocated in the 2011-2031 Local Plan and on that basis this proposal is unplanned;

It would have a poor spatial relationship with the surrounding village in terms of layout and character;

It would impact unacceptably on the character of the local countryside;

Traffic impact would be unacceptable;

There is insufficient local services to accommodate this growth, e.g. health and primary school capacity;

The proposal wouldn't meet local housing needs, with no elderly provision proposed;

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site consists of part of an arable field located off the North Eastern side of Station Road, Ashwell. The field on which the application site is located is slightly undulating and has dense and well-established vegetation on all sides. To the north of the site, bordering the northern flank of the site, is an access track leading to a recreation ground. There is a depth of two houses immediately to the north of the site, with open countryside across the other side of the application and all around the development thereafter.

4.2 The Proposals

- 4.2.1 Full planning permission is sought for the development of 28 dwellings, new vehicular access off Station Road, associated infrastructure and open space provision. Of the 28 dwellings proposed 17 would be market housing and 11 affordable (of which 7 would be affordable rent and 4 shared ownership). The proposal represents a full range of accommodate size.
- 4.2.3 The design is of a layout of three groups of houses surrounding a central spine road, with a norther edge group, a Station Road fronting group and a Farmhouse affordable housing cluster to the rear of the Station Road group.

- 4.2.4 The proposal also includes additional landscaping and planting and open space area to the rear of the development proposal and landscaping proposed to rear to enclose the development envelope.

4.3 Key Issues

- 4.3.1 Taking account of the relevant development plan policies and other material considerations listed above, together with the representations also listed above and the relatively recent appeal decision relating to an earlier proposal for a larger residential development scheme on this site I consider the main issues to be addressed in the determination of this planning application as follows:

- The principle of development on the site and the overall policy basis for any decision;
- Whether this revised scheme has overcome the reasons for refusal and subsequent dismissed appeal (see appendices 1 and 2);
- Whether there are any material change in circumstances since the last appeal decision which should change the basis upon which development is assessed on this site, and;
- Whether any harm identified that would be caused by this development proposal would significantly and demonstrably outweigh the benefits of delivering new homes in the clear absence of a five year land supply of deliverable housing sites in this District (latest published estimate 2.2 year land supply (April 2020)).

The following paragraphs address these broad issues and related detailed matters in this order before reaching conclusions on the planning balance and setting out a recommendation.

4.3.2 Principle of Housing and Policy Basis for the Decision

The application site is located outside the settlement boundary of Ashwell both in the Saved Local Plan (Policy 6) and the emerging Local Plan (Policy CGB1). The site is located within the Rural Area Beyond the Green Belt, wherein pre- the National Planning Policy Framework (NPPF) (both 2012 and 2019 versions) the planning system could effectively prevent market housing and most large scale housing schemes in principle. With the presumption in favour of sustainable development set out in the NPPF this is no longer the case.

- 4.3.3 Paragraph 11 of the NPPF is of crucial importance in setting out the presumption in favour of sustainable development, which for decision making reads as follows:

‘[for housing development] c) Approving development that accords with an up to date Development Plan without delay, or

d) where there are no relevant development plan policies, or the policies which are most relevant are out of date, granting permission, unless;

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

ii) any adverse impacts would significantly and demonstrably outweigh the benefits [of delivering new homes], when assessed against the policies of this Framework when taken as a whole.'

- 4.3.4 Addressing point c) first. The Council does not have an up to date Development Plan. In the year 2021 of an emerging Plan period 2011-2031 the Council has still not adopted a new Local Plan since 1996. Therefore, the Saved Policies of the 1996 Plan represent the current Development Plan for North Hertfordshire. For point d), there are no policies in the Framework listed in the footnote to the paragraph 11, such as Green Belt, National Park, SSSI or heritage that indicate a refusal for development on this site in principle. Moreover, the Council currently has at best a 2.2 year land supply of deliverable housing sites (April 2020) and is in fact one of the worst performing authorities for housing delivery in England. This means policies that are most relevant (Saved Local Plan Policy 6) are out of date in their entirety. When the previous appeal was dismissed under the earlier version of the NPPF there was some scope for Policy 6 to carry weight insofar as it was relevant to the objectives of the Framework. Under the 2019 version, Policy 6 is out of date and cannot be applied to resist housing development in the countryside. Emerging Policy (2011-2031) can only be given weight under relevant sections of the NPPF which deal with emerging policies.
- 4.3.5 On this basis any assessment of development on this site is firmly within the test set out in the NPPF paragraph 11 (d) (ii). To refuse planning permission the Council must demonstrate with evidence that any harm identified as a result of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 4.3.6 Members will note from the appendices that in the determination of the earlier planning application, appeal and even the unsuccessful JR, the issue of weight to be applied to Saved Local Plan Policy 6 in relation to housing development on this site has been considered in depth at all stages of the process. For the avoidance of doubt and to re-emphasise the point raised above, the new version of the NPPF is clear, Policy 6 is out of date and cannot be relied upon to resist housing development on this site in principle.
- 4.3.7 Assessment of Revised Scheme against Previous Refusal
The scheme proposed in this planning application is for 28 dwellings not 44 and would be more loose-knit and less depth into the site. In dismissing the appeal the key findings of the Inspector (see appendix 2) can in particular be found in paragraphs 6-9 of the decision letter.

The Inspector found as did officers who recommended refusal of permission and the Planning Control Committee who endorsed the recommendation, that the site forms an important transition between the edge of Ashwell and open countryside beyond. This remains the case and in my view the development proposal whilst looser-knit than the very heavy appeal scheme (see appendix 5) would still be overly suburban in character in relation to the very open nature of the countryside in this locality. Moreover, due to the proposal for 28 dwellings and size of the site, it is necessary for the depth of development into the site to be positioned well away from the street frontage into the countryside. In my view this represents significant and demonstrable harm to the character of the countryside. Section 15, paragraph 170 (b) of the NPPF requires decision makers to 'recognise the intrinsic character and beauty of the countryside'. Although I find that the scheme would significantly and demonstrably harm the intrinsic beauty of this area of countryside and therefore conflicts with the objectives set out Section 15 of the NPPF in of itself, the NPPF also allows decision makers to give weight to emerging Local Plan policies based on their conformity to the NPPF and the advanced stage of the Plan, among other things. Given the Plan is well advanced I consider that Policy CGB1 of the emerging Local Plan (the effective replacement of Saved Local Plan Policy 6) can be given limited weight and on that basis I find the development also conflicts with Policy CGB1 of the emerging Local Plan.

- 4.3.8 Turning to paragraph 10 of the Inspector's decision letter, the Inspector noted that the appeal scheme would 'Rather than blending in with the adjacent edge of the village, it would provide a much greater intensity and depth'. This is in my view still the case with the revised scheme, to the north the settlement pattern along Station Road is clearly ribbon development along the street frontage and whilst there is a depth of two houses immediately adjacent to the application site, the depth proposed here would in my view remain at odds with the general character and edge of settlement pattern of the surrounding area. Section 12 of the NPPF as cited by the Inspector in the appeal decision (earlier version of the NPPF) requires development to be a high standard of design and layout and settlement pattern and place making relates to this objective in my judgement. Although I find that the scheme would be of such a spoor standard of design and layout and poor inter-relationship with the surrounding settlement pattern that this harm significantly and demonstrably outweigh the benefits of delivering new homes on this site and therefore conflicts with the objectives set out Section 12 of the NPPF in of itself, the NPPF also allows decision makers to give weight to emerging Local Plan policies based on their conformity to the NPPF and the advanced stage of the Plan, among other things. Given the Plan is well advanced I consider that Policy D1 of this document (effective replacement to Saved Local Plan Policy 57) can be given limited weight and on that basis I find the development also conflicts with Policy D1 of the emerging Local Plan.

- 4.3.9 As well as these issues of harm to the intrinsic beauty of the countryside and poor relationship to the surrounding settlement pattern I consider that the affordable housing cluster of development would be located too close to the tree belt in the centre of the two fields. Also this aspect of the development is clearly isolated in terms of its form and position from the remaining scheme (which is lower density) and by being so obviously the affordable element of the scheme (not tenure blind) pushed into the corner this element of the scheme is harmful by representing a poor standard of design and layout within the scheme. This smaller and the above wider critique of the scheme is in my judgement at odds with paragraph 130 of the NPPF which states that 'permission should be refused for development of poor design which fails to take the opportunities available for improving the character and quality of an area and the way it functions.....'
- 4.3.10 In conclusion of these points, in my view the proposed development would significantly and demonstrably harm the character of the locality and the intrinsic value and beauty of the countryside. Its excessive depth into the site when compared to the ribbon development form further into Ashwell represents a poor standard of design and layout and would fail to take the opportunities available for improving the character of the area. The site is bordered by countryside on nearly all sides of this development with only a narrow string of housing linking the northern border to the Ashwell settlement. On that basis I consider that significant and demonstrable harm would be caused to the character of the locality and wider countryside as a result of this development. On this basis I do not consider that this revised development proposal overcomes the fundamental concerns highlighted by the Planning Inspector, or indeed by the Council in refusing planning permission for the earlier scheme.
- 4.3.11 Harm weighed against Benefits
The Council has a very poor land supply position, at approximately 2.2 years, and the stalling of the Local Plan and very few large scale permissions being granted for housing development identified within the Plan means that the benefits of delivering 28 new homes including 11 affordable units must weigh heavily in favour of granting planning permission. Indeed, the more acute the deficit the greater weight that must be applied to the benefits of the delivery of much needed new homes on this site.
- 4.3.12 As well as providing the benefit of new homes with an acute housing shortage and poor land supply in the District, housing also provides localised economic benefits both during construction (employment opportunities) and more customers for local businesses and services. These wider economic benefits must also be considered. The proposal also represents a net gain in biodiversity as confirmed by Hertfordshire Ecology and some new open space.
- 4.3.13 Infrastructure
In terms of sustainability, Members will note from the recent appeal decision on this site, that the Inspector did conclude that development on this site would be broadly sustainable.

The Inspector assessed sustainability in the round and did not support the County Council's position on lack of capacity or scope to increase physical capacity at Ashwell Primary School. On that basis as Members agreed for the recent refusal of planning permission at Lucas Lane Ashwell the District Council must take a neutral position on school capacity (ref. 20/00126/FP). I have expressed this view to both the applicant (during pro-active discussions) and to the County Council. If Members are minded to refuse planning permission I recommend that its simply expressed as an absence of completed and agreed S106 Obligation and it would then be for the County Council (Growth and Infrastructure) to articulate their case on lack of primary school capacity at any subsequent appeal. I do not consider the lack of a S106 Obligation or objection from the County Council (Growth and Infrastructure) to be an element of harm that can weigh in the balance for the Planning Control Committee, (it is for the County Council to articulate this harm at any subsequent appeal) but the absence of an agreed and completed S106 Obligation is supported by a more substantive recommended reason for refusal set out below.

4.3.14 Other Issues

I find the development proposal to be acceptable in all other respects. There are no objections from any technical consultees outlined above, save for the position of the County Council (Growth and Infrastructure) discussed in the preceding paragraph. On that basis all technical issues could be resolved through the use of planning conditions and a S106 Obligation if Members were minded to grant planning permission.

4.3.15 Being pro-active

Members will note that the appellant in the earlier appeal (same applicant as now) challenged the Council on a costs claim at the appeal on the basis of officers not being helpful or pro-active enough in determining the planning application and not negotiating to reduce the number of reasons for refusal. The Inspector found that as the Council had always been clear that it did not support the scheme it was not necessary to attempt to resolve all outstanding matters and dismissed the costs claim.

4.3.16 I have however had a meeting with the applicants and their consultant and clearly set out my position which is that to achieve an acceptable scheme on this site requires a step change beyond the scope of reasonable amendments as part of any negotiation and re-consultation of the current planning application. It also requires them to work with Hertfordshire County Council (Growth and Infrastructure) to establish what quantum of development is needed before they are prepared to remove their objection to housing development on this site? I have also sought clarity and the answer is below 10, as at that point a S106 Obligation would not even be required. Members will note the recent decision to grant planning permission for 9 dwellings at Station Road and Ashwell Street, Ashwell (within the village) which did not attract an objection from Hertfordshire County Council (Growth and Infrastructure) as no S106 Obligation was required (refs. 19/00455/FP and 20/02599/S73).

To conclude, since planning permission cannot be granted for this development without a S106 Obligation and since that agreement would not be signed by Hertfordshire County Council any further negotiation or subsequent delay in the determination of this planning application cannot achieve a satisfactory outcome in my view. Moreover, to grant planning permission in face of an objection from Hertfordshire County Council (Growth and Infrastructure) may risk a legal challenge against that decision by the County Council.

4.3.17 Planning Balance

I consider that when assessed against the policies of the NPPF as a whole, the harm that would be caused by the excessive scale and spread of development deep into the field on which the application site is located, together with the poor design and layout inside the site of the affordable housing block would harm the character and appearance of the locality. The proposal would also in my view harm the intrinsic value of the countryside and create a poor relationship between the development and the settlement pattern and layout of Ashwell and this string of development along Station Road in particular. I consider that this harm would significantly and demonstrably outweigh the benefits of the development.

4.3.18 Climate Change Mitigation

The scheme would create a net gain in biodiversity and other sustainable development objectives could be secured by conditions (such as EV charging points) were Members minded to grant planning permission for this development.

4.3.19 Conclusions

The absence of a five-year land supply of deliverable housing sites underscores the benefits of delivering new homes. That should not in my view mean that decision makers need to abandon all sense of quality and the need to protect the intrinsic beauty of the countryside. This site is an important open field outside the settlement boundary of Ashwell and at the very edge of a ribbon development along this side of Ashwell Street. As the Inspector concluded the excessive depth and overly suburban nature of a new block of housing in this locality would be harmful to the area in my judgement and whilst the applicant has attempted to water down the scheme compared with the earlier proposal it remains unacceptable in this location, in my judgement for the clear reasons set out below.

4.3.20 Alternative Options Considered

See discussion of case merits above.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise.

Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 That planning permission be **REFUSED** for the following reasons:

1. In the opinion of the Local Planning Authority due to the location of this planning application site, largely separated from the main body of Ashwell village, the proposed development for 28 dwellings and associated infrastructure would have a heavily urbanising impact on the character and appearance of the rural area, against the pattern and grain of existing development and poorly integrated with Ashwell village. The excessive depth of the development envelope deep into the field within which the application site is located would harm the intrinsic beauty of this area of countryside. Moreover, such a piecemeal form of development would as a result harm the character and appearance of the locality. The proposed affordable housing block would be discordant with other development and located too close to a heavily planted area within the scheme, creating an overly cramped sense of place within the development itself. This identified harm would significantly and demonstrably outweigh the benefits of the development when judged against the policies of the National Planning Policy Framework when judged as a whole, in particular Sections 12 and 15 of the Framework. Whilst the development scheme is unacceptable when judged against the provisions of the Framework when judged as a whole in isolation, the development proposal is also contrary to Policies D1 and CGB1 of the proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018).
2. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing affordable housing and any other necessary obligations. The secure delivery of these obligations is required to mitigate the impact of the development on local infrastructure and services in accordance with Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) and proposed Local Plan Policy SP7 of the Council's Proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF).

Proactive Statement
















Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through early engagement with the applicant at the pre-application stage and as part of discussions during the determination of the planning application. This positive advice has however been ignored and therefore the Council remains of the view that the proposal is unacceptable. Since the Council attempted to find solutions, the requirements of the Framework (paragraphs 186 and 187) have been met and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

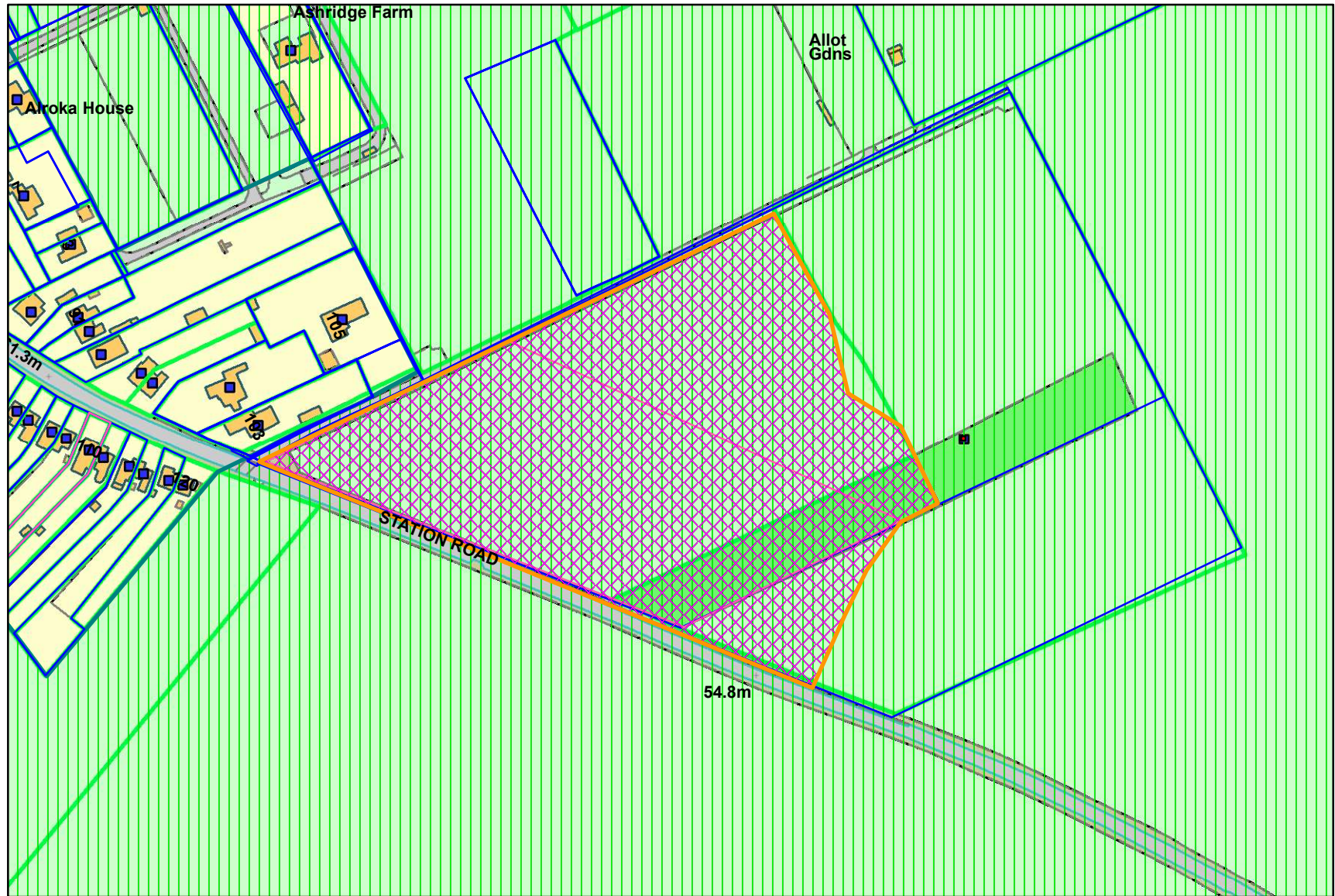
7.0 Appendices

- 7.1 Appendix 1: Decision notice refusal of planning permission ref. 17/01406/1
- 7.2 Appendix 2: Inspector's decision letter dismissing the appeal
- 7.3 Appendix 3: Inspector's costs decision in respect of the appeal
- 7.4 Appendix 4: Court Decision on appellant's Judicial Review against PINs on the dismissed appeal
- 7.5 Appendix 5: Appeal scheme layout plan for comparison

Application Validation Sheet

20/03070/FP Land Development Site Off Station Road, Ashwell, 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**
Prlistld.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**
Prifpm.shp



Scale 1:2,500

Date: 05/05/2021

© Crown copyright and database rights 2017 Ordnance Survey 100018622



This page is intentionally left blank

NORTH HERTFORDSHIRE DISTRICT COUNCIL



Town and Country Planning Acts

DECISION NOTICE

Correspondence Address:

Mr Booth
JWPC Ltd
1B Waterview
White Cross
Lancaster
LA1 4XS

Applicant:

Beck Homes (UK) Ltd

PARTICULARS OF DEVELOPMENT

Application: 17/01406/1

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

Location: **Land Development Off, Station Road, Ashwell**

Refused Plan Nos: 8120/P/001 - 067 & 100 - 109

PARTICULARS OF DECISION

In pursuance of its powers under the above Act and the associated Orders and Regulations, the Council hereby **REFUSE** the development proposed by you in your application received with sufficient particulars on 07/06/2017.

The reasons for the Council's decision to refuse permission are:

- 1 By reason of its siting beyond the built limits of Ashwell, the location within open farmland in landscape character area 226 - Steeple Morden Plain Area and the heavy use of planting to screen the site, the development proposal would fail to positively enhance the wider landscape setting of the village, nor would it improve the character and quality of the Rural Area and, as such, would afford significant and demonstrable harm to the intrinsic beauty of the countryside. This harm is considered to clearly outweigh the benefits of providing new dwellings on the site. The proposal is therefore contrary to the provisions of saved Policies 6 of the North Hertfordshire District Local Plan No. 2 with alterations and, Paragraph 17, 109, 116, 156 of the National Planning Policy Framework. The development would also be contrary to Policy CGB1 of the North Hertfordshire Emerging Local Plan 2011 - 2031.
- 2 In the opinion of the Local Planning Authority due to the location of this planning application site, separated from the main body of Ashwell village, the proposed development for 46 dwellings and sports pitches would have a heavily urbanising impact on the character and appearance of the rural area, against the pattern

and grain of existing development and poorly integrated with Ashwell village. Such a piecemeal form of development would as a result harm the character and appearance of the locality. The proposal therefore conflicts with saved Policy 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations, Policy D1 of North Hertfordshire Submission Local Plan (2011-2031) and paragraphs 57 and 64 of the National Planning Policy Framework.

- 3 Given the lack of essential services in the vicinity of the site, in particular a lack of primary education provision to serve the needs of this development, the occupiers of the proposed dwellings would be heavily dependent on services provided outside of the immediate area, giving rise to a significant reliance on private transport. In additions to this, the land on which the site is located is Grade 2 agricultural land, which constitutes the best and most versatile land. As well as being harmful to the natural environment, this would amount to development of the land which is both environmentally and economically unsustainable. In the absence of any realistic measures or other reasons which may offset this unsustainable impact, the proposal would be contrary to the objectives of the National Planning Policy Framework, generally and specifically Paragraphs 14, 49 and 112, and to Policies SP1 and SP6 of the Emerging Local Plan 2011 - 2031, and to Planning Practice Guidance - Natural Environment para. 026.
- 4 The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing the provision of 40% affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Polices 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary to the requirements of the National Planning Policy Framework (NPPF).
- 5 The proposed development lies within an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of significant archaeological potential. Given this and the large scale nature of the proposal, this development should be regarded as likely to have an impact on significant heritage assets with archaeological interest, some of which may be of sufficient importance to meet NPPF para 139. This could represent a significant constraint on development. In the absence of a geophysical survey or archaeological field evaluation, there is insufficient information to determine the importance of any archaeological remains on the site. The proposal will be contrary to Section 12 of the NPPF.
- 6 The application fails to adequately demonstrate that there is a proven need for the proposed sports facilities. In addition the proposal fails to demonstrate that the development would not occasion harm to either existing residents in the vicinity of the site or future occupiers of the proposed dwellings in terms of noise, the impact of access arrangements on residential amenity and the management and operational arrangements for the sports pitches. As such the application would be contrary to saved Policy 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations, Policy D1 & D3 of North Hertfordshire Submission Local Plan (2011-2031) and paragraphs 57 and 64 of the National Planning Policy Framework.

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through early engagement with the applicant at the pre-application stage. This positive advice has however been ignored and therefore the Council remains of the view that the proposal is unacceptable. Since the Council attempted to find solutions, the requirements of the Framework (paragraphs 186 and 187) have been met and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed:



Development & Conservation Manager

Development Management
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth
Herts
SG6 3JF

Date: 17 October 2017

NOTES

- 1 If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made using a form which you can get from the Planning Inspectorate at Suite C, 4th Floor, Spectrum Building, Bond Street, Bristol, BS1 3LG or online at www.planningportal.gov.uk/planning/appeals

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development

which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appeal Decision

Hearing Held on 2 October 2018

Site visit made on 2 October 2018

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 26th October 2018

Appeal Ref: APP/X1925/W/17/3192151

Land at Station Road, Ashwell, Herts

- 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 Beck Homes (UK) Ltd against the decision of North Hertfordshire District Council.
 - The application Ref 17/01406/1, dated 26 May 2017, was refused by notice dated 17 October 2017.
 - The development proposed is 46 dwellings, children's play area, 2 sports pitches, pavilion and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council's reasons for refusal included reference to lack of provision for affordable housing and in relation to archaeology. Submissions made by the appellant have now satisfied the Council that these matters can be acceptably dealt with and do not represent obstacles to permission being granted. In addition, the Council accept in the Statement of Common Ground that the loss of agricultural land is not a matter that would prevent permission being granted, in this case. This was confirmed at the Hearing and it was stated that they would not offer any opposition on this matter.
4. The Council accepts that it cannot demonstrate a minimum of 5 years' supply of housing land.

Main Issues

5. The main issues in this appeal are the effects of the proposal in relation to;
 - The countryside
 - The character of the village
 - Education matters and locational sustainability

- The need for sports pitches

Reasons

Countryside

6. The appeal site is a roughly rectangular field which has a frontage onto Station Road, outside the defined settlement boundary of Ashwell. The settlement boundary is defined in the North Hertfordshire District Local Plan (LP) and also shown within the Submission Local Plan (SLP) which was the subject of examination earlier this year but is not yet adopted. The boundary sits immediately to the north of the appeal site. Within the LP, the area outside the settlement boundary is defined as 'rural area beyond the Green Belt' and Policy 6 of the LP states that in such areas development will only be allowed if it falls within certain restricted categories, which do not include development of the type proposed in this appeal.
7. The appellant indicates that Policy 6 is out of date and inconsistent with the NPPF and so should be afforded little weight. The NPPF states at paragraph 170, amongst other things, that planning decisions should contribute to and enhance the natural and local environment, including recognising its intrinsic character and beauty. In my judgement, when taken with other policies in the LP, Policy 6 is consistent with this part of the NPPF and would enable a balanced view of sustainable development to be undertaken. I therefore attach weight to it. In addition, I note that the general aim is taken forward in SLP Policy CGB1, although I fully recognise that it has not been adopted and could be the subject of modifications.
8. The site is open, relatively flat and contains no buildings. In its southern part is a relatively narrow belt of trees. The site is bounded by open land to the east and south and on the opposite side of Station Road is open land. To the north is land within the settlement boundary but from what I saw on site, the houses close to Station Road only extend to the east a relatively small distance; the remainder of the land is open and appears to be in a mixture of agricultural use and open sports use. There is little or no intrusion from buildings here. At present, this gives the edge of the village an appearance of blending with the adjacent countryside, rather than forming an abrupt or harsh edge. I consider that this is an important feature of the area.
9. I consider that the open, rural character of the appeal site would be significantly compromised by the appeal scheme. It would result in a significant development of a suburban character which would not be consistent with Policy 6 of the LP. The appellant refers to existing development to the north and to the belt of trees within the south of the site. The development to the north is low key and dispersed and, in my view, forms an appropriate transition where built form gives way to open countryside; the appeal scheme would not represent such an transition, would be deeper into the site and of a more suburban form. I accept that trees within the south of the site would be retained, but my judgement is that this is insufficient to disguise the unacceptable effects of the proposal in this respect. I accept that the land has no specific landscape designation but it clearly represents an attractive area of open countryside which has intrinsic qualities. I consider that the proposal would not be consistent with paragraph 170 of the NPPF for these reasons.

Character of the village

10. There is some over-lapping in relation to the first issue in that I have found that the proposal would have an unacceptable effect on this area, including by providing a form of development which is at odds with both the open land and with the low-key and dispersed nature of the adjacent development to the north, within the village. Added to this, the development here at present where it is within the village is close to the road and contains significant open areas in the form of the open land/recreational uses. My view is that the proposal would not provide development that is consistent with this pattern here, as it would provide a small estate of housing land at some depth from the road, before the open land uses are present. Rather than blending with the adjacent edge of the village, it would provide a development that is of much greater intensity and depth. In my judgement, this would significantly harm the character of the village here contrary to policy 57 of the LP and the advice within section 12 of the NPPF
11. I note that some effort has been put into consideration of the townscape that would be formed by the proposal and the appellants state that they have used references within the existing village. Whilst this may be the case, these matters do not outweigh the harm that I envisage arising from the proposal, as described above.

Education matters and locational sustainability

12. The County Council as Education Authority express the view that the appeal site would generate children of primary school age, who could not be accommodated at the local Ashwell Primary School. This would then involve children being transported to remote schools, with prejudicial effects on health and well-being, as well as adding to car journeys within the area.
13. The County Council has included within its assessment, the likely numbers of children that would arise from a nearby proposal site within the SLP (referred to as the Claybush site) and has assumed that this development would go ahead, for the purposes of calculating school places. The appellant casts doubt on the likelihood of the Claybush site being developed, pointing out that the planning application has been with the Council for some considerable time and remains undetermined and is the subject of unresolved issues.
14. In my view, the proximity of a site to services must be judged as a whole and whilst access to a local primary school may be an important consideration, it forms just one of a list of numerous facilities and services which could determine whether a site or village is well-served or not. In the case of Ashwell, it was acknowledged, and I saw at my visit, that it contains a broad range of shops, health services, social, recreational and religious establishments.
15. When taken as a whole, even if the proposal would result in a relatively small number of children being unable to find a school place at Ashwell, I consider that the other locational advantages are such that this would not form a reason for dismissing the appeal.

The need for sports facilities

16. The Council expressed the view that the facilities contained within the proposal had not been tailored to suit a specific and quantifiable need within the area.

They indicated that local clubs had merely provided a 'wish-list' and that no considered justification is present.

17. Having considered the views expressed at the Hearing, whilst some may have doubts about whether such facilities are needed, my view is that they should be seen as part of the proposal and this aspect of it would represent a modest benefit to the area and this should be weighed in the balance when concluding on this appeal.

Planning Obligations

18. The appellant has submitted completed S106 Agreement and a Unilateral Undertaking. The Council considers that the provisions within the Agreement are necessary to make the proposal acceptable but that the Unilateral Undertaking includes provisions which have been neither sought nor justified. Based on what has been presented, I agree with these conclusions and, where justified, I have taken account of these provisions in determining this appeal.

The Planning Balance and Conclusions

19. The appellant and Council have submitted other appeal decisions which are intended to support their respective cases. It is no surprise that these generally pull in opposite directions in respect of the various issues and cases put forward. Whilst I have read them, what is clear is that the individual circumstances of each appeal case are seldom, if ever, replicated. Each case includes consideration of differing issues which are attributed differing amounts of weight as the individual circumstances dictate. When weighing different issues, with different weights in areas and landscapes with individual characteristics, it is no surprise that a spectrum of conclusions and different decisions arise. Whilst I have born in mind the general conclusions, I have determined this appeal in relation to its individual merits and short-comings.
20. There would undoubtedly be benefits arising from the proposal; the provision of new homes with an element of affordable homes, would be a considerable benefit to the area. The provision of additional sports and recreation facilities would represent a modest benefit, in my judgement. The construction of the development would provide some modest support to the local economy, as would the additional spending in the area provided by new residents, in supporting local shops and services. However, I have found that the negative effect on the countryside here would be significant; combined with the clear and negative effect on the character of the settlement, I find that the disadvantages of the proposal are weighty and significant. Taking account of paragraph 11 of the NPPF, I consider that the adverse impacts that would arise from the proposal would significantly and demonstrably outweigh its benefits. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

S Booth
S Wadsworth
B Wilkinson
C Schwick

FOR THE LOCAL PLANNING AUTHORITY:

J Cousins
R Tiffin
A Bearton
A Proietti

INTERESTED PERSONS:

D Short

This page is intentionally left blank

Costs Decision

Hearing Held on 2 October 2018

Site visit made on 2 October 2018

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 26th October 2018

Costs application in relation to Appeal Ref: APP/X1925/W/17/3192151 Land at Station Road, Ashwell, Herts

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Beck Homes (UK) Ltd for a full award of costs against North Hertfordshire District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for 46 dwellings, children's play area, two sports pitches, pavilion and associated infrastructure.
-

Decision

1. The application for costs is refused.

The submissions for the appellant

2. The appellant submitted the claim for costs in writing. In summary, this relates to the actions of the Council when determining the planning application. It is alleged that the lack of engagement has meant that issues which could have been resolved, have not been. It is also stated that the Council failed to recognise the changes to the proposal when compared to a pre-application scheme which had been the subject of consultation with them. In addition, the Council relied on the County Council's view on school places without relevant figures being provided.

The response by The Council

3. The Council's pre-application advice was clear that such a proposal would be likely to be resisted by the Council, as a matter of principle. In summary, the points raised relate to a matter of a difference of planning judgement and do not amount to unreasonable behaviour.

Reasons

4. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. It is clear that the appellant engaged in considerable pre-application discussions with the local community, which included gaining the response of

the Council's officers. It is also clear that a number of significant revisions were made to the scheme before it was eventually submitted to the Council. Taking account of the response given by the Council, I consider that they cannot be criticised for having not made a meaningful response, at this stage. Their comments included matters of detail and also related to the principle of development in this location. My reading of their response gives me the clear impression that the Council officers would be likely to object to the principle of such a development here, notwithstanding any matters of detail. Therefore, in relation to this matter, I find no unreasonable behaviour.

6. Some matters which were included with the reasons for refusal had subsequently been resolved by the time of the Hearing. These related to archaeology, a mechanism to provide affordable housing, noise and the loss of agricultural land. Whether or not the Council could have sought to resolve these matters or not prior to its decision, the appeal would not have been avoided as other fundamental objections were raised and so the appeal would still have been necessary. Furthermore, the nature and amount of work that the appellant would have to do would have been the same whether done during the life of the application or, as was the case, done during the appeal process. Therefore, I find that there was no additional or wasted expense involved for the appellant.
7. With regards to the evidence about school places, some figures about in-flow were produced at the Hearing and both main parties maintained their respective positions. This merely demonstrates that firstly, the presence of figures would not have changed the arguments and secondly that it is a matter of one judgement against another. Therefore, whilst early presentation of figures may have given more clarity, it would have made no difference to the process and so there has been no additional work or expense involved in this matter.
8. I appreciate that this case has involved a planning balance of various issues and that some issues initially raised have been resolved. Nevertheless, the Council has maintained its position that the harm would outweigh the benefits of the scheme, even in the light of the matters subsequently resolved. I find no unreasonable behaviour in this stance.
9. In the light of my findings, I conclude that there has been no unreasonable behaviour by the Council and its actions have not resulted in any additional or wasted work and expense as those matters referred to would have been necessary in any event. Consequently, the application for an award of costs is refused.

S T Wood

INSPECTOR



**In the High Court of Justice
Queen's Bench Division
Planning Court**

CO Ref: CO/4872/2018

In the matter of a claim for Planning Statutory Review

BECK HOMES (UK) LIMITED

versus

**SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL
GOVERNMENT (1)
NORTH HERTFORDSHIRE DISTRICT COUNCIL (2)**

**Application for permission to apply for Planning Statutory Review
NOTIFICATION of the Judge's decision (CPR PD 8C 7.1 to 7.8)**

Following consideration of the documents lodged by the Claimant and the
Acknowledgements of service filed by the Defendants

Order by John Howell QC (sitting as a Deputy High Court Judge)

Permission is hereby refused.

Reasons:

1. Ground 1:

- a. The issue between the parties was whether (as the Claimant contended) Policy 6 should carry less than "its full original weight" or whether (as the Council contended) it should be given "significant weight" as it was consistent with the NPPF. As the Inspector found that "weight" should be given to it, the Inspector plainly accepted that the weight to be given was not of no significance and he did not suggest that it carried its full original weight. He was not arguably required to indicate some precise weight it was to have, given the conflict of the proposed development with it, assessed without regard to other matters, which could then be given to that matter in the balance that had ultimately to be struck. The individual elements involved in such an overall judgment are not necessarily things measurable on a single scale which can be added to, and subtracted from, each other and which have to be individually quantified before a conclusion on the overall balance can be reached. The relative weight of any consideration in such a balance (which is what is of significance) depends a planning judgment based on the circumstances of the particular case as the Inspector explained in [DL19].
- b. The Inspector's approach in [DL7], in considering whether the policies in the local plan, including policy 6, were consistent with the NPPF, is unarguably consistent with paragraph 213 of the NPPF.
- c. But, in any event, even if the Inspector failed to state what precise weight he attached to Policy 6 (in breach of the requirement to give reasons) and/or if he erred in the reason he gave for giving it weight, any such error was unarguably immaterial or at least it is highly likely that it would have made no substantial difference to the outcome. The Inspector was unarguably entitled to have regard to the significant harm to the countryside described in [DL8] and [DL9] which he found would be inconsistent with paragraph 170 of the NPPF and it was this harm, not the conflict with Policy 6, that was significant in his reasoning in

applying the 'tilted balance' in [DL20]. That harm would be not be diminished if Policy 6 did not exist.

- d. Given that the parties were broadly agreed on the degree of shortfall in the five year supply of housing land (either between 2.2 and 3.8 years or between 2.7 and 3.7 years), there was no arguable requirement on the Inspector to determine within which of these ranges, or precisely where within either range, the shortfall fell (as the Claimant in effect acknowledges in paragraph [36] of the Grounds).
2. Ground 2: there is no arguable basis for contending that the Inspector failed to take into account the benefits of the development listed in the Statement of Common Ground. Nor was the Inspector required to list every consideration that he took into account when striking the overall balance: by identifying which were the most significant benefits and disadvantages of the proposed development in striking that balance in his view, he unarguably explained the reasons for his decision. The Claimant cannot unarguably claim not to know why its appeal was dismissed.
- The costs of preparing the Acknowledgment of Service are to be paid by the claimant to the First Defendant, in the sum of £3,299 unless within 14 days the claimant notifies the court and the defendant, in writing, that it objects to paying costs, or as to the amount to be paid, in either case giving reasons. If it does so, the defendant has a further 14 days to respond to both the court and the claimant, and the claimant the right to reply within a further 7 days, after which the claim for costs is to put before a judge to be determined on the papers. Where the claimant seeks reconsideration, costs are to be dealt with on that occasion.

Signed

John Howell

The date of service of this order is calculated from the date in the section below

For completion by the Planning Court

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date):

Solicitors:

Ref No.

22 JAN 2019

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court under CPR PD 8C 7.8, you must complete and serve the enclosed FORM 86B within 7 days of the service of this order.



**In the High Court of Justice
Queen's Bench Division
Planning Court
Administrative Court**

CO Ref no: CO/4872/2018

In the matter of a claim for Planning Statutory Review

BECK HOMES (UK) LTD

**versus SECRETARY OF STATE FOR HOUSING COMMUNITIES AND
LOCAL GOVERNMENT and Others**

Notice of RENEWAL of claim for permission to apply for Planning Statutory Review (CPR PD 8C 7.4)

1. *This notice must be lodged in the Planning Court Administrative Court Office, by post or in person and be served upon the defendant (and interested parties who were served with the claim form) within 7 days of the service on the claimant or his solicitor of the notice that the claim for permission has been refused.*
2. *If this form has not been lodged within 7 days of service (para 1 above) please set out below the reasons for delay:*
3. *Set out below the grounds for seeking reconsideration:*

4. *Please supply*

COUNSEL'S NAME:

COUNSEL TELEPHONE NUMBER:

Signed

Dated

Claimant's Ref No.

Tel.No.

Fax No.

**To the Planning Court Administrative Court Office, Royal Courts of Justice, Strand,
London, WC2A 2LL**

FORM 86B PLN

This page is intentionally left blank

This page is intentionally left blank

PLANNING CONTROL COMMITTEE

DATE: 27 May 2021

PLANNING APPEALS LODGED

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mr & Mrs J Winstanley	06/04/2021	Relating to Application 18/03349/S73 granted on 15/03/2019 - Variation of Condition 2 (Approved Plans) to facilitate relocation of parking at plots 5 and 6, change of external material at plot 5 and variations to the dwelling type, scale and appearance of plots 3 and 8.	The Gables High Street Barley Royston	20/03072/S73	Written Representations
Mr A Gates	23/04/2021	Retention of use of land as (B8) outside storage areas	Bury Farm, Little Wymondley , Hitchin, Hertfordshire, SG4 7JN	20/02653/FP	Written Representations
Mr Danny Dance	23/04/2021	Retention of storage shed	Austen Lodge, Node Park Hitchin Road, Codicote	20/01810/FP	Written Representations
Mr K Haer	23/04/2021	Single storey rear conservatory	6 Cubitt Close, Hitchin SG4 0EL	20/02902/FPH	Householder Appeal Service
Ashill	05/05/2021	Residential development of 167 dwellings (Use Class C3) and associated works including formal open space, internal road network, landscape enhancement and creation of accesses from Heath Lane and St Albans Road; and the demolition of 66 St Albans Road (as amended by drawings received 1st and 6th November 2018, 17th and 18th December 2018 and 3rd April 2019).	Land South Of Heath Lane Codicote	18/02722/FP	Public Inquiry Note: The date of the Public Inquiry is currently 3rd August 2021 It is scheduled to last for 4 days (3-5 th August and 10 th August)

PLANNING CONTROL COMMITTEE**DATE: 27 May 2021****PLANNING APPEALS DECISION**

APPELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APPEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Mr and Mrs P Ambler	Erection of two detached 2-bed bungalows with associated parking and landscaping.	52 Green Street, Royston, Hertfordshire, SG8 7BA	20/01347/FP	Appeal Dismissed on 31 March 2021	Delegated	The Inspector stated that the benefits associated with two dwellings would be limited even taking account of the objective of significantly boosting the supply of housing set out in the Framework, and the Council's housing land supply position. Consequently, the adverse impact on the spatial character of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result the presumption in favour of sustainable development does not apply.
Mr & Mrs J P Uys	Erection of a 1.5 storey detached garage to include storage room above following demolition of existing detached single storey garage	139 Coleridge Close, Hitchin	20/02017/FPH	Appeal Dismissed on 07 May 2021	Delegated	The Inspector concluded that although the proposal would not harm the living conditions of the neighbouring occupiers, it would harm the character and appearance of the area.

This page is intentionally left blank



Appeal Decision

Site visit made on 23 March 2021

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2021

Appeal Ref: APP/X1925/W/20/3262407

52 Green Street, Royston SG8 7BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs P Ambler against the decision of North Hertfordshire District Council.
 - The application Ref 20/01347/FP, dated 11 June 2020, was refused by notice dated 9 September 2020.
 - The development proposed is the erection of 2 No. two-bedroomed bungalows with associated parking, landscaping and remodelling of existing landscape.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted a revised block plan¹ with the appeal that did not form part of the planning application determined by the Council. I have considered this drawing, which omits a car-parking space, under the principles established by the Courts in *Wheatcroft*². I am satisfied that it does not change the nature of the scheme to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. The Council has commented on the revised drawing, the effect of which does not concern any objection from surrounding occupiers. I have therefore determined the appeal with regard to it.
3. The Council has referred to policies in the emerging North Hertfordshire Local Plan 2011-2031. This has not completed its examination in public, and the Council has not provided information on the extent and content of any unresolved objections to the plan, nor how these may affect the policies to which it has referred. Therefore, whilst I have had regard to them, bearing in mind its progress to adoption, these policies carry limited weight.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the spatial character of the area; and,
 - the living conditions of surrounding occupiers, with particular regard to noise and disturbance.

¹ Ref: 05B

² *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment* [1982] JPL 37

Reasons

The spatial character of the area

5. Green Street is characterised by its enclosure on both sides by an eclectic range of houses which front directly to the street. Though the houses date from different eras and have different typologic and stylistic characters, their broad alignments parallel to the street, their long back gardens leading to the allotments, their siting at the front of the plot, and the lateral gaps between them are the common threads of spatial character which tie them together, and which make the street spatially and architecturally distinctive.
6. The truncation of the long back garden behind No52 and No56 would diminish the soft, green character behind the houses on this side of the street, and the contribution their lack of development makes to the spatial character of the area. The plots of the proposed houses would be far shorter and smaller than the prevailing plot size on this side of the street, and their footprint:plot ratios many times greater, breaking from the established pattern of development in this section. More decisively, the introduction of a secondary layer of development behind the houses enclosing the street, which would be visible from surrounding houses and through the broad opening leading from the street, would diminish the strong, linear, single layer of street enclosure on this side. The incompatible siting of the development would undermine the distinctive spatial character of the area.
7. While saved Local Plan 2007 (LP) policy 26 permits housing development in residential areas, this is subject to it being acceptable within the environment and character of the area. I have identified harm from the proposed development to the spatial character of Green Street. The proposal would therefore conflict with LP policy 26 as well as the objectives of LP policy 57 which include for development to relate to the character of the surroundings.
8. It would also be at odds with the National Planning Policy Framework (the Framework), which, in paragraph 127, requires development to be sympathetic to local character including the surrounding built environment, whose spatial character this proposal would harm. The overall effect of the development would be to undermine the coherent identity of the place, which is a key characteristic of place set out in the National Design Guide³, and which makes this area distinctive. To the identified harm, and to the conflict with local and national planning policies I attribute substantial weight.

The living conditions of surrounding occupiers

9. Though the development would introduce the risk of noise and disturbance from the movement of cars where there is presently none, the number of trips likely to be generated by the development would not be so great that the intensity of movements would disturb the privacy of surrounding occupiers.
10. The parking spaces would be sufficiently distant from the openings of neighbouring houses to avoid disturbance from the slamming of doors. There would be some risk of noise from the manoeuvring of cars. However, given the plot's location in the built-up area where some occasional, background noise from neighbours is anticipated, a landscaping condition could secure sound absorbent treatment around the enclosures closest to the car-parking and

³ National Design Guide, paragraphs 50 & 58

manoeuvring areas, to mitigate the risk from movement and engine noise to an acceptable degree.

11. In short, there is nothing in the scale or configuration of the development with particular regard to noise and disturbance that could not be adequately mitigated by condition to avoid harm to the living conditions of surrounding occupiers. There would be no conflict from the development with the objectives of saved LP policy 57 which sets out guidelines to protect the living conditions of surrounding occupiers.

Other Matters

12. I have taken into account the examples of backland development referred to by the appellant. I acknowledge the visibility of the parking area behind the flats at the other end of the street, but the buildings there are sited at the front of the plot, rather than behind those at the front, like this proposal. Though 53 Green Street is an infill development, sited with its frontage directly to the street, it continues the street enclosure, rather than working against it, as in this proposal.
13. The examples of dwellings in Gage Close appear part of a more modern estate type layout, set around cul-de-sacs rather than the linear street pattern which distinguishes the pattern of development in Green Street. The bungalow does appear as backland development. Though I have not been provided with the circumstances which led to its development, it is sited beyond the back gardens of the houses on the opposite side of Green Street; it has more affinity with Gage Close than with Green Street, and, like the other examples referred to by the appellant, it appears to substantially predate the present development plan and the Framework. I have not been given the details of the permission for two houses on land adjacent to 26 Morton Street, however, it appears to me that the houses would be beside No26, with an aspect direct to the street, unlike this proposal which would form a secondary layer of development behind the houses enclosing the street.
14. I appreciate that the Framework promotes the effective use of land to meet the need for homes in paragraph 117, but it also indicates that this should be while safeguarding and improving the environment. I recognize in paragraph 68 its support for the development of windfall sites and the great weight to be given to using suitable sites within existing settlements for homes. However, for the reasons above, the site is unsuitable for the proposed development.
15. Two additional houses would be a small boost to housing supply, representing a modest social benefit. They would have accessibility advantages to all sections of society, a social benefit, their size also offering choice to those seeking smaller dwellings here. The site is close to a network of public transport, and a full range of local services and facilities, bringing social and environmental benefits. Construction work would bring short-term services and manufacturing benefits to the wider economy. The future occupiers would be likely to use local services and facilities and thereby contribute to the local economy, bringing a long-term, economic benefit. While all these benefits of the housing are material considerations in favour of the proposal, because of the modest number of dwellings proposed, I attach only moderate weight to them.

16. I appreciate that the development plan policies referred to by the Council, which concern design and living conditions, are old, but they are broadly consistent with the Framework. Notwithstanding this, the appellant points to the Council's inability to demonstrate a five-year supply of deliverable housing sites, estimated by the Council as less than 2.2 years, as well as its performance against the Housing Delivery Test, as bringing the presumption in favour of sustainable development into play.
17. In these circumstances footnote 7 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.
18. As described above, the benefits associated with two dwellings would be limited even taking account of the objective of significantly boosting the supply of housing set out in the Framework, and the Council's housing land supply position. Consequently, the adverse impact on the spatial character of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result the presumption in favour of sustainable development does not apply.

Conclusion

19. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed

Patrick Whelan

INSPECTOR



Appeal Decision

Site visit made on 5 March 2021

by Euan FS Pearson BA(Hons) BTP FRGS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021

Appeal Ref: APP/X1925/D/20/3264230
139 Coleridge Close, Hitchin SG4 0QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs JP Uys against the decision of North Hertfordshire District Council.
 - The application Ref 20/02017/FPH, dated 8 September 2020, was refused by notice dated 16 October 2020.
 - The development proposed is demolition of existing detached single garage and construction of new 1.5 storey detached garage/storage accommodation.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on i) the character and appearance of the surrounding area, and ii) the living conditions of neighbouring occupiers.

Reasons

Character and appearance

3. The appeal property is a two-storey detached dwellinghouse at the end of a short cul-de-sac. Any garaging associated with neighbouring properties, I observed, are single garages, located to the side, and behind or in line with the elevation facing the street. Buildings are spaced out and set back from the public highway, providing a general appearance of openness.
4. The appeal property also has a single garage, but to the front and perpendicular to the original dwellinghouse. It is proposed to demolish this and replace with a much larger outbuilding: about 5.5m deep, 10m in length and rising to around height of 5.65m (accommodating an upstairs). This would be side-by-side the original dwellinghouse with only a very narrow, impassable gap separating them.
5. The proposed outbuilding, at almost double the height and more than triple the length of the existing garage cannot be considered diminutive, resulting in a size and mass of building not dissimilar to a dwellinghouse.

6. Due to its height, the proposed building would be clearly visible from both Coleridge Close and Gibson Close filling in much of the space between the appeal property and No. 138. Taken with the original dwellinghouse, I consider the proposal would result in a scale of development that would overwhelm the appeal property and the setting within the cul-de-sac thus causing significant harm to the surrounding area, compromising the pattern of plot density. The development is visible from the public realm and the presence of such outbuildings or large extensions is not widespread.
7. Therefore, the proposed development conflicts with policy 57 of North Hertfordshire District Local Plan No. 2 with Alterations 2007 (Local Plan) and policy D2 of proposed North Hertfordshire District Council Local Plan 2011-2031 (emerging Local Plan). Among other things, these require a high standard of design in development, including outbuildings, that relates to the character of the streetscene and surroundings. Similarly, creating high quality buildings and places is fundamental to sustainable development as set out in the National Planning Policy Framework 2019.

Living conditions

8. The proposed outbuilding would be constructed near the boundary with neighbouring property at No. 138 and I have taken into account their submission. Occupants of that dwellinghouse already have a view of the existing garage within the appeal property, albeit not directly. This situation would be made no worse, the position and depth of the existing and proposed garages being similar, so their outlook would not be harmed.
9. The proposed development would result in an increase in the height of building at the boundary. However, I consider that the windows on the front of No. 138 are sufficiently far away so as not to be significantly affected by overshadowing or loss of daylight/sunlight.
10. Therefore, the development complies with emerging Local Plan policy D3. Among other things this requires that development not cause unacceptable harm to living conditions.

Conclusion

11. Although the proposal would not harm the living conditions of the neighbouring occupiers, it would harm the character and appearance of the area. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Euan FS Pearson

INSPECTOR