

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**



22/10/2021

Our Ref Planning Control Committee/ 04/11/2021  
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To: Members of the Committee: Ruth Brown, John Bishop, Val Bryant, Morgan Derbyshire, Mike Hughson, Tony Hunter, David Levett, Ian Moody, Mike Rice, Terry Tyler and Tom Tyson

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

**NOTICE IS HEREBY GIVEN OF A**

**MEETING OF THE PLANNING CONTROL COMMITTEE**

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,  
LETCHWORTH GARDEN CITY**

On

**THURSDAY, 4TH NOVEMBER, 2021 AT 7.30 PM**

Yours sincerely,

Jeanette Thompson  
Service Director – Legal and Community

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

## **Agenda**

### **Part I**

<b>Item</b>		<b>Page</b>
<b>1. APOLOGIES FOR ABSENCE</b>	Members are required to notify any substitutions by midday on the day of the meeting.  Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.	
<b>2. ELECTION OF A VICE-CHAIR FOR REMAINDER OF CIVIC YEAR 2021/22</b>		
<b>3. MINUTES - 16 SEPTEMBER 2021</b>	To take as read and approve as a true record the minutes of the meeting of the Committee held on the 16 September 2021.	(Pages 5 - 8)
<b>4. NOTIFICATION OF OTHER BUSINESS</b>	Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.  The Chair will decide whether any item(s) raised will be considered.	
<b>5. CHAIR'S ANNOUNCEMENTS</b>	Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
<b>6. PUBLIC PARTICIPATION</b>	To receive petitions, comments and questions from the public.	
<b>7. 20/01764/FP THE BELL INN, 65 HIGH STREET, CODICOTE, HITCHIN, HERTFORDSHIRE, SG4 8XD REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER</b>	Residential development comprising of 9 dwellings including associated	(Pages 9 - 46)

parking, landscaping and refuse storage and provision of car parking spaces for Public House use following demolition of existing outbuildings (Amended by plans received 18.03.2021) (New drainage and other documents received 29.09.2021)

- 8. 20/02507/FP LAND AT AND NORTH OF 68, LONDON ROAD, BALDOCK, HERTFORDSHIRE, SG7 6JL** (Pages 47 - 76)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

Erection of 24 dwelling including extended access from Knights Templar Court and all associated works following demolition of existing dwelling and outbuildings. Pedestrian access onto London Road. (Amended plan received 27/09/21).

- 9. 20/02779/FP LAND AT, WINDMILL CLOSE, BARKWAY, HERTFORDSHIRE** (Pages 77 - 98)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

Erection of 24 dwellings and associated access roads. 2.0 m wide pedestrian footpath link to the public open space to the south of Plots 15 and 16 and additional landscape planting between the parking bays and the public open space in the same area of the site (as amended by plans received on 21 July 2021).

- 10. PLANNING APPEAL REPORTS** (Pages 99 - 176)

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# Public Document Pack Agenda Item 3

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### PLANNING CONTROL COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES, GERONON ROAD, LETCHWORTH GARDEN CITY

ON THURSDAY, 16TH SEPTEMBER, 2021 AT 7.30 PM

### MINUTES

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

*Simon Ellis (Development and Conservation Manager) and Nurainatta Katevu (Legal Regulatory Team Manager and Deputy Monitoring Officer)*

*At the commencement of the meeting approximately 1 member of the public, including registered speakers.*

#### 1 WELCOME

*Audio Recording – 0:50*

The Chair welcomed Members, Officers and registered speakers to the meeting.

#### 2 APOLOGIES FOR ABSENCE

*Audio recording – 1:01*

Apologies for absence were received from Councillors Ruth Brown, John Bishop, Terry Tyler and David Levett.

Having given due notice Councillor Simon Bloxham advised he would be substituting for Councillor John Bishop.

#### 3 MINUTES - 2 SEPTEMBER 2021

*Audio Recording – 1:30*

Councillor Sue Ngwala proposed, Councillor Morgan Derbyshire seconded and it was:

**RESOLVED:** That the minutes of the meeting on 2 September 2021 be approved as a true record of proceedings and signed by the Chair.

#### 4 NOTIFICATION OF OTHER BUSINESS

*Audio recording – 1:45.*

There was no other business notified.

## 5 CHAIR'S ANNOUNCEMENTS

*Audio recording – 1:47*

- (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) The Chair gave advice to the registered speakers on the speaking procedure and time limits.
- (5) Item Withdrawn

The Chair advised that Application 21/01349/FP LAND WEST OF TUTHILL HOUSE, KELSHALL TOPS had been pulled from the agenda and would not be considered owing to the complexity and length of late representations received which required additional time to address.

## 6 PUBLIC PARTICIPATION

*Audio recording – 3:24*

The Chair confirmed that the one registered speaker was in attendance.

## 7 21/01456/FP LAND ON THE NORTH WEST SIDE OF, HIGH STREET, HINXWORTH, BALDOCK, HERTFORDSHIRE, SG7 5HQ

*Audio Recording – 3:37*

The Planning Officer presented the report in respect of application 21/01456/FP supported by a visual presentation consisting of photographs and plans.

The Planning Officer advised of updates to the report including:

- Additional representations had been received regarding T11 which was a tree that was proposed to be removed and regarding the potential for ground heave;
- The Planning Officer and a Tree Maintenance Officer visited the site to assess T11 and confirmed the risk for ground heave which resulted in the production of condition 11 to control the removal of the tree; the author of the representations was satisfied with the condition proposed

The Chair invited Mr Nicholas Tiffin to speak in support of the application.

Mr Nicholas Tiffin thanked the Chair for the opportunity to speak and gave a presentation including:

- He had been resident in Hinxworth for many years and was involved in the upkeep and sustainability of the village;
- He was conscious of the impact of the development on the community, both practically and visually;
- He was conscious also of the potential for the site to be misused;
- The self-build proposed was designed to create an eco-friendly dwelling which will fit the local area and was designed to protect neighbouring properties as well as the orchard area;
- The development would become a family home and efforts had been made to minimise upper floor windows to reduce overlooking;
- Renewable features including air source heating, rainwater collection and electric charging points were included;
- The landscaping plan would include more trees and hedges to encourage wildlife into the garden and the orchard would undergo an improvement programme.

The Chair thanked Mr Nicholas Tiffin for his presentation.

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

- Councillor Mike Rice
- Councillor Morgan Derbyshire
- Councillor Tony Hunter

Councillor Mike Rice proposed, Councillor Morgan Derbyshire seconded and it was:

**RESOLVED:** That application 21/01456/FP be **GRANTED** planning permission subject to the reasons and conditions outlined in the report of the Development and Conservation Manager and the following additional conditions:

“Landscaping condition (T11)

Prior to any tree works hereby consented associated with this development hereby permitted, a full method statement outlining all required tree works relating to tree T11 as illustrated on approved plan ref. 'Tree Protection Plan' shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall demonstrate how such tree works can avoid damage to the adjoining property no. 7 Homefield. The approved tree works shall thereafter be carried out in complete accordance with the approved details or particulars unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the approved tree works relating to tree T11 which are associated with the approved development and consented by this permission in the Hinxworth Conservation Area are carried out safely without damage to nearby residential properties.”

“Removal Class E PD rights from Orchard

On the parcel of land labelled 'Orchard' on plan no. PO1, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended, no development as set out in Class 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 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."

**8      21/01349/FP    LAND WEST OF TUTHILL HOUSE, KELSHALL TOPS, THERFIELD, HERTFORDSHIRE - WITHDRAWN**

N.B This Item was removed from the agenda and not considered.

**9      PLANNING APPEALS**

*Audio Recording – 16:39*

The Development and Conservation Manager presented the report entitled Planning Appeals and drew attention to the following:

- No decision had been reached on Heath Lane
- An appeal had not yet been submitted on the Gladman's application in Royston.

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

The meeting closed at 7.47 pm

Chair



<u>Location:</u>	<b>The Bell Inn 65 High Street Codicote Hitchin Hertfordshire SG4 8XD</b>
<u>Applicant:</u>	<b>C/O Agent</b>
<u>Proposal:</u>	<b>Residential development comprising of 9 dwellings including associated parking, landscaping and refuse storage and provision of car parking spaces for Public House use following demolition of existing outbuildings (Amended by plans received 18.03.2021) (New drainage and other documents received 29.09.2021)</b>
<u>Ref. No:</u>	<b>20/01764/FP</b>
<u>Officer:</u>	<b>Andrew Hunter</b>

## **Reason for Delay**

New details and Committee cycle

## **Reason for Referral to Committee**

The application is to be determined by Planning Control Committee by reason of being called in by Councillor Ian Moody for the following reasons:

*I'd like to call this application please as there is a lot of public objections to the development.*

### **1.0 Background**

- 1.1 Members will recall that this application was deferred from consideration at the Planning Control Committee of 2<sup>nd</sup> September 2021 (the original report is attached as **Appendix A**) for the following reasons:

## **RESOLVED:**

That application 20/01764/FP be **DEFERRED** planning permission for the following reasons:

- That application 20/01764/FP be DEFERRED to require a more detailed assessment of the impact of the proposed development on the Codicote

Conservation Area and further assessment of the surface water management aspects of the development taking into account local flood issues.

- 1.2 The applicants have provided further drainage details, existing and proposed photo montages, and photos of existing development (newer and more historic) when viewed from parts of Codicote High Street.
- 1.3 The drainage document provides details required by Condition 20 of the 2<sup>nd</sup> September 2021 officer committee report.
- 1.4 The photo montages show how the proposed development would appear from the High Street, and specifically from between No. 63 and No. 65 The Bell. The lower roof of single storey Plot 1 is visible at the front, with the higher two storey Plot 2 dwelling behind Plot 1.
- 1.5 The applicant considers that they have addressed the issues of impacts on the Codicote Conservation Area and on surface water management as raised by the Planning Committee on 2<sup>nd</sup> September. In view of the information submitted the application is reported back to the Planning Committee for determination.

## 2.0 Policies

- 2.1 See original report at **Appendix A**

## 3.0 Representations

- 3.1 All notified neighbours of the original application, objectors to the application, the Council's Conservation Officer, and the Lead Local Flood Authority, have been re-notified of the proposed additional information. Responses received at the time of writing this report are set out below. Any further comments will be reported at the Committee meeting.
- 3.2 **Neighbours** – The following objections and comments were received from Nos. 2A Bury Lane and 63 High Street:
  - Added documents are a minimal response to the deferment by the Planning Committee.
  - Delays are due to the applicant.
  - The Bell pub is not part of the application.
  - The water problem cannot be separated from The Bell.
  - The proposal has major inadequacies, and requires a fundamental re-design.
  - Proximity issues.
  - Loss of privacy and overlooking.
  - Large massing, height and scale.
  - Support Conservation Officer's original advice to remove plots 1 and 2 and reduce the rest of the development.
  - Do not accept that the impacts on the Conservation Area and listed buildings are acceptable.
  - Potential for ground destabilisation of No. 2A as it is higher than the site.
  - Water issues are linked to ground destabilisation.
  - Considerable soil removal.

- The Bell basement is flooded.
- The water engineering work is inadequate.
- The LLFA have no local knowledge of the site.
- The LLFA have not approved the drainage scheme.
- Water discharge to the sewer is the most unsustainable outcome.
- Absence of an analysis to determine if the water attenuation actually works, that run-off water from Bury Lane has not been considered, and does not account for displaced water from the basement of The Bell when it floods.
- No. 63 has limited foundations and no damp-proofing.
- The water table is high locally.
- There is a well under the lounge of No. 63, and other nearby properties have or had wells.
- The water equilibrium can be easily influenced.
- The age of No. 63 means it's sensitive to how water migrates across it.
- The natural water path across No. 63 must not be disturbed.
- Protection for No. 63 and its land should be included with the drainage scheme.
- The drainage attenuation will undermine the foundations of No. 63. The attenuation should be at least 5m from No. 63 according to current guidance.
- Water collects at the High Street entrance; near The Pound; and on top of a principal aquifer.
- Potential flooding of nearby buildings.
- Water should pass freely through boundary treatments and walls.
- It is critical that drainage matters are agreed and finalised as part of any permission granted, not left as an afterthought or to be reserved.
- Impacts on trees.
- The only solution is to reduce density and amount of development, and re-design the application.

### 3.3 **Conservation Officer –**

These comments are in response to the photo montage received on 30/09/2021 and which seeks to address NHDC Planning Committee's request for more information and details as to how the proposal will affect the Codicote Conservation Area and the setting of listed buildings when viewed from the High Street. As can be seen below the lower, road-facing section of Plot 1 does have a glazed gable feature which would face towards the rear of nos.63 & 65 High Street (grade II). I appreciate that I did not raise a concern regarding this gable when commenting back in March and I am not aware of any specific concerns raised by the Parish Council or by neighbours with respect to this feature but the only point I make is that the existing vegetation screens this feature in the montage. The impact may be slightly more significant than this image suggests and particular so at night-time. I had thought previously about seeking to negotiate the omission of the glazed apex but I decided that on balance, an objection could not be justified.

Although I have suggested conditions previously, reviewing this, I would perhaps have extended a materials condition to have covered samples/details of brick type and weatherboarding and not just a condition relating to tiles.

## Recommendation

I reiterate that I have given great weight to the conservation of the Codicote Conservation Area and to the setting of nearby listed buildings and conclude that the proposal (as amended) whilst it may still be considered, by some, that there is small amount of harm still occasioned to the character and appearance of the conservation area and to the setting of nearby listed buildings, by reason of the height and density of the proposal, that harm (if considered to exist) would, in my opinion, be very much towards the lower end of the continuum. That harm should then be weighed against any public benefits. Although a reduction in dwelling numbers and providing a more generous rear curtilage to The Bell Inn would have been a more desirable outcome and was my original intended goal, in my view, the amended scheme does make a much more positive contribution to the character and appearance of the conservation area when compared with earlier iterations. In light of the changes made, particular in the area of original Plots 1 and 2 and the retention of the outbuilding, I conclude that the proposal is **UNOBJECTIONABLE** in conservation terms and would satisfy the provisions of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims of Policy HE1 : Designated Heritage Assets, of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018) and the aims of Section 16 of the NPPF.

### 4.0 Discussion

- 4.1 This discussion concerns whether the additional details submitted by the applicant are sufficient to assess the impacts on the Codicote Conservation Area, and to provide all details necessary to satisfy Condition 20 of the officer committee report of 2<sup>nd</sup> September 2021 and therefore to provide satisfactory details concerning surface water management.
- 4.2 Starting with the impacts on the Codicote Conservation Area (CCA), a photo montage of the west elevation of the proposed development as viewed between Nos. 63 and 65 High Street has been provided on drawing PL123, and document PL 125 showing a proposed photomontage.
- 4.3 The Council's Conservation Officer had no objections to the application when it was reported to committee on 2<sup>nd</sup> September 2021, and this remains the case. The four dwellings proposed at the front area of the site are considered to be shown sufficiently accurately given their proposed distance from the public highway.
- 4.4 The above documents PL 123 and PL 125 show the five rearmost dwellings being lower than Plots 2 to 4, whereas the Proposed Street Scene Plots 1 to 9 on drawing PL109 shows those rear dwellings being higher. It is considered that the views of photo montages (or similar) could possibly be achieved from some perspectives. From other perspectives, the Plot 5 to 7 dwellings at the back of the site would be visible above the ridge of Plots 2 to 4. The Plot 5 to 7 dwellings are approx. 1m higher than Plots 2 to 4, however this would not be considered to result in a significantly different appearance and impacts on the CCA than how the development is shown on PL 123 and PL 125, while those dwellings are towards the rear of the site where their impacts will be lesser.

- 4.5 As stated, the Council's Conservation Officer has no objections to the proposal, which is given significant weight. The proposal is not therefore considered harmful to the significance of the designated heritage asset the Codicote Conservation Area.
- 4.6 The other reason for the deferral concerned further assessment of the surface water management aspects of the development taking into account local flood issues. There was uncertainty over whether the proposed development would be satisfactory in terms of mitigating flood risk and providing satisfactory drainage, with Condition 20 cited as being part of this uncertainty due to the information that condition requires.
- 4.7 Condition 20 in the officer report is Condition 2 as recommended by the Lead Local Flood Authority in their comments of 12<sup>th</sup> August 2021. Condition 20 states:

*No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the submitted Drainage Statement in relation to the proposed residential development at The Bell Inn 65 High Street Codicote Hitchin Hertfordshire SG4 8XD, dated November 2020, reference: 6601415-MLM-ZZ-XX-RP-C-0004, prepared by MLM Consulting Engineers Drainage Statement, Rev 03, 10.11.2020 and the Surface and Foul Water Drainage Strategy, Drawing Reference 6601415-MLM-ZZ-XX-DR-C-0002, Revision P03, Prepared by MLM Group, Dated 16.07.2021. The scheme shall also include:*

- 1. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs*
- 2. All corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event with no flooding to occur at the 1 in 30 year return period.*
- 3. Post development overland routes and exceedance routes*
- 4. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as lined permeable paving, this should also be considered for the proposed access road and car park.*
- 5. Silt traps for protection of any residual tanked elements*
- 6. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.*

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

- 4.8 The applicant has provided details required by Condition 20 in a letter dated 29<sup>th</sup> September 2021, which are:

- 1) Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs*

Detailed drainage drawing layout 65204340/SWE-ZZ-XX-DR-C-0100, drainage construction details 65204340/SWE-ZZ-XX-DR-C-0200 -0202 for construction issue stage.

*2) All corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event with no flooding to occur at the 1 in 30 year return period.*

Hydraulic modelling MicroDrainage software calculations are enclosed for the surface water storage type 3 sub- base and hydrobrakes using FSR and FEH rainfall data. These calculations confirm that there is no flooding up to the 1 in 100 year design storm +40% for predicted climate change, with discharge rates less than the greenfield runoff rates and within Thames Water agreed discharge rates as summarised in the table on drawing 65204340/SWE-ZZ-XX-DR-C-0100. Water levels within the type 3 sub-base surface water storage for the 1 in 100 and 1 in 100 year plus 40% for predicted climate change for both FSR and FEH rainfall data are shown on drawing 65204340/SWE-ZZ-XX-DR-C-0150.

*3) Post development overland routes and exceedance routes*

Post development exceedance routes are shown on drawing 65204340/SWE-ZZ-XX-DR-C-0100

*4) Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as lined permeable paving, this should also be considered for the proposed access road and car park.*

5) The Surface Water Management Plan is enclosed and the water quality treatment is shown on drawing layout 65204340/SWE-ZZ-XX-DR-C-0100.

*6) Silt traps for protection of any residual tanked elements*

Silt traps included in all manhole chambers and gullies before discharge into tanked type 3 sub-base surface water storage.

- 4.9 The LLFA had not been able to respond at the time of writing this report that the new details provided by the applicant meant that the details required by Condition 20 had been provided, and that the Condition was no longer necessary. Therefore planning officers are not able to confirm that Condition 20 can be omitted from the recommendation (however this could change if the LLFA respond before the committee, in which case this will be reported verbally). The proposed development is considered to remain acceptable with regards to flood risk and drainage, including how this will be managed in relation to nearby properties, on the basis of the original absence of objections from the LLFA. The proposed development with regard to flood risk can be made acceptable by the conditions recommended by the LLFA, which accords with the advice in paragraph 55 of the National Planning Policy Framework, therefore it is advised that planning permission should be granted and that it would be unreasonable to refuse or further defer planning permission on these grounds.
- 4.10 At the Committee held on 2 September 2021 Members were advised that it would have, in the opinion of officers, effectively have been unreasonable to refuse planning permission on the grounds of Flood Risk in the face of no objection from the Statutory consultee on matters of surface water flooding (the LLFA). Not only would it have been unreasonable in my view to refuse planning permission without sufficient technical evidence to contradict the clear advice given by the statutory consultee, when suitable

conditions are recommended by the consultee acting as the competent authority for flood risk issues, it is in my view unreasonable to continue to defer a decision on this basis. In attempting to achieve compliance with conditions before the decision to grant planning permission has been made the requirements of the Planning Control Committee have already meant that the applicant has gone to greater expense than would have been needed at this stage in the development management process, had Members simply accepted the advice of the LLFA at face value by agreeing that it is for the competent flood risk authority to advise on these matters and they recommended that suitably worded planning conditions were sufficient in this instance. This deferral already in my view puts the Council at risk of an award of costs being made against it in any appeal even if the reasons for refusal do not relate to flood issues. By delaying the determination of the planning application to request additional information for matters that can be controlled via suitably worded conditions as is and was recommended by the LLFA it could be argued that this already amounts to unreasonable behaviour on behalf of the Local Planning Authority in any appeal costs claim should Members be minded to refuse planning permission and an appeal is lodged. On this basis I strongly advise Members not to defer determination of this planning application again even it at the time of the decision the Council has still not received the updated opinion of the LLFA. Or at the very least if Members are satisfied with all other matters (excluding flood risk) they resolve to grant planning permission subject to no objection from the LLFA.

## 5.0 **Conclusion**

- 5.1 For the reasons above the proposal complies with all relevant local and national policies, and that planning permission should be granted.

## 5.2 **Alternative Options**

None.

## 5.3 **Pre-Commencement Conditions**

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

## 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 planning permission be **GRANTED** subject to the following conditions:

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

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

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

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

3. **A sample panel indicating brick type, bond and mortar mix shall be erected on site and shall either be inspected by the Local Planning Authority on site or photographs submitted to and approved in writing by the Local Planning Authority prior to the above ground brickwork being constructed. Thereafter, the brickwork shall be implemented in accordance with the approved sample panel.**

**Reason: To ensure that special regard is paid to safeguarding the character and appearance of the Codicote Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.**

4. **The roofs shall be covered with a clay plain tile, a sample of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the roof-tiling. Thereafter, the roofs shall be covered using the approved tiles.**

**Reason: To ensure that special regard is paid to safeguarding the character and appearance of the Codicote Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.**

5. **Prior to commencement of the approved development (excluding demolition), the following landscape details shall be submitted:**

**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.**

6. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of



similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

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

7. Prior to occupation, each dwelling shall incorporate an Electric Vehicle (EV) ready domestic charging point, and the new car park behind The Bell shall include at least three EV ready charging points.

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

## **8. CONSTRUCTION MANAGEMENT PLAN**

**No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan 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;**
- hi. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;**
- i. 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).**

9. 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.

**10. Contaminated Land Condition**

**(a) The Phase I Report indicated a reasonable likelihood of harmful contamination: no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:**

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

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

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

- (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (b) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.**
- (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.**

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

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

**11. The development shall be completed in accordance with the measures set out in the Recommendations (section 7) of the Ecological Assessment (dated July 2020).**

**Reason: To minimise potential harm to ecology.**

**12. The development shall be completed in accordance with the measures set out in the Arboricultural Report (dated July 2020).**

**Reason: To provide appropriate protection for trees.**

**13. The proposed dwellings shall not be occupied until the noise mitigation measure (1.8 metre close boarded fence between the public house and Plot 1) as detailed in "Technical Note - The Bell Motel, 65 High St, Codicote – Noise Impact Assessment", Project Ref: TN01-20442, dated 31 July 2020 by Cass Allen Associates Ltd has been implemented in accordance with the approved details. The approved scheme shall be retained in accordance with those details thereafter.**

**Reason: To protect the residential amenities of existing and future residents.**

14. Details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (excluding demolition), and no external lighting shall be provided without such written consent. The development shall then be carried out in accordance with the approved details.

**Reason:** To protect the residential amenity of existing and future residents.

15. Prior to the commencement of the approved development (excluding demolition), a Landscape and Ecological Management Plan shall be submitted to the Local Planning Authority demonstrating a biodiversity gain within the site. The Plan if approved shall then be implemented prior to occupation of the development, and the approved measures shall remain unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** In the interests of ecology.

16. No development shall take place/commence (excluding above ground demolition works) until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. 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 of 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 Archaeological Written Scheme of Investigation.

**Reason:** In the interests of archaeology.

17. No development shall take place/commence (excluding above ground demolition works) except in accordance with the programme of archaeological works set out in the Written Scheme of investigation approved under condition 17.

**Reason:** In the interests of archaeology.

18. The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 17 and the provision made for analysis and publication where appropriate.

**Reason:** In the interests of archaeology.

19. The development permitted by this planning permission shall be carried out in accordance with the Drainage Statement in relation to the proposed residential development at The Bell Inn 65 High Street Codicote Hitchin Hertfordshire SG4 8XD, dated November 2020, reference: 6601415-MLM-ZZ-XX-RP-C-0004, prepared by MLM Consulting Engineers Drainage Statement, Rev 03, 10.11.2020 and the Surface and Foul

Water Drainage Strategy, Drawing Reference 6601415-MLM-ZZ-XX-DR-C-0002, Revision P03, Prepared by MLM Group, Dated 16.07.2021 and the following mitigating measures:

1. Limiting the surface water run-off rates to a maximum of 3.5l/s for all rainfall events up to and including the 1 in 100 +40% climate change event with discharge into the Thames Water Foul Water Sewer.
2. Provide attenuation (700mm of storage within the type 3 subbase, or such volume agreed by the LPA) to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
3. Implement the drainage strategy utilising lined permeable paving, type 3 subbase and a Hydrobrake flow control device.

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

20. **No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the submitted Drainage Statement in relation to the proposed residential development at The Bell Inn 65 High Street Codicote Hitchin Hertfordshire SG4 8XD, dated November 2020, reference: 6601415-MLM-ZZ-XX-RP-C-0004, prepared by MLM Consulting Engineers Drainage Statement, Rev 03, 10.11.2020 and the Surface and Foul Water Drainage Strategy, Drawing Reference 6601415-MLM-ZZ-XX-DR-C-0002, Revision P03, Prepared by MLM Group, Dated 16.07.2021. The scheme shall also include:**

1. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs
2. All corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event with no flooding to occur at the 1 in 30 year return period.
3. Post development overland routes and exceedance routes
4. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as lined permeable paving, this should also be considered for the proposed access road and car park.
5. Silt traps for protection of any residual tanked elements
6. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

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

21. Upon completion of the drainage works for the site in accordance with the timing / phasing, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

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

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

22. The first floor south elevation windows of the Plot 7 and 9 dwellings shall be obscure glazed.

Reason: In the interests of privacy and amenity.

23. The undeveloped land west of Unit 1 shall remain as open amenity space.

Reason: In the interests of visual and neighbour amenity.

#### Proactive Statement

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

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**Date of expiry of statutory period:**

6 October 2020

**Submitted Plan Nos.:**

2641-PL101, 2641-PL102, 2641-PL103, 2641-PL104, 2641-PL105, 2641-PL106, 2641-PL107, 2641-PL108, 2641-PL109, 2641-PL110, 2641-PL111, 2641-PL112, 2641-PL113, 2641-PL114, 2641-PL115, 2641-PL116, 2641-PL117, 2641-PL118, 2641-PL119, 2641-PL120, 2641-PL121, 2641-PL122.

**Extension of statutory period:**

1 June 2021

**Reason for referral to Committee:**

The application is to be determined by Planning Control Committee by reason of being called in by Councillor Ian Moody for the following reasons:

*I'd like to call this application please as there is a lot of public objections to the development.*

**1.0 Site History**

- 1.1 02/00786/1 - Change of use of staff bedrooms to four guest rooms – Approved 16/07/02.
- 1.2 02/00161/1 - Single storey detached building to provide 7 additional units (as amended by drawing nos. 2045/01A and 04 received 07.05.2002, drawing no. 2045/02A received 14.05.2002 and drawing no 28.08.02/1 received 18.09.2002) – Approved 12/11/02.
- 1.3 00/00840/1 - Outdoor decked seating area – Refused 09/08/00
- 1.4 91/00436/1 - Single storey side extension incorporating conservatory and single storey part rear extension. Six light columns – Approved 03/06/91.
- 1.5 89/01605/1 - 4 single storey blocks to provide 16 additional bedroom units, existing 5 unit block extended to 6 units plus additional parking facilities, erection of new pitched roof garage (As revised amended plans received 12th March and 19th March – Approved 12/04/89.
- 1.6 87/00931/1 - Erection of 2 single storey detached buildings to provide 8 bedroom units for motel – Approved 30/07/87.
- 1.7 87/00806/1 - Erection of single storey rear extension, entrance canopy and resiting detached garage as a variation of previous permission 1/341/87 – Approved 12/06/87.
- 1.8 87/00341/1 - Erection of single storey rear extension, entrance canopy and resiting detached garage – Approved 30/03/87.
- 1.9 The site has also been subject to other non-relevant advertisement consent applications.

## 2.0 **Policies**

### 2.1 **North Hertfordshire District Local Plan No.2 with Alterations**

Policy 5 – Excluded villages  
Policy 14 – Nature Conservation  
Policy 16 – Areas of Archaeological Significance and other Archaeological Areas  
Policy 26 – Housing Proposals  
Policy 55 – Car Parking Standards  
Policy 57 – Residential Guidelines and Standards

### 2.2 **National Planning Policy Framework**

Chapter 5 – Delivering a sufficient supply of homes  
Chapter 6 – Building a strong, competitive economy  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well-designed places  
Chapter 13 – Protecting Green Belt land  
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change  
Chapter 15 – Conserving and enhancing the natural environment

### 2.3 **North Hertfordshire Draft Local Plan 2011-2031 - (Approved by Full Council April 2017)**

Policy SP1 - Sustainable development in North Hertfordshire  
Policy SP2 - Settlement hierarchy and Spatial Distribution  
Policy SP3 - Employment  
Policy SP4 - Town and Local Centres  
Policy SP6 - Sustainable transport  
Policy SP8 - Housing  
Policy SP9 - Design and sustainability  
Policy SP10 - Healthy communities  
Policy SP11 - Natural resources and sustainability  
Policy SP12 - Green infrastructure, landscape and biodiversity  
Policy SP13 - Historic environment  
Policy ETC2 – Employment development outside Employment Areas  
Policy ETC7 - Scattered local shops and services in towns and villages  
Policy T1 - Assessment of transport matters  
Policy T2 - Parking  
Policy HS3 - Housing mix  
Policy D1 - Sustainable design  
Policy D3 - Protecting living conditions  
Policy D4 - Air quality  
Policy HC1 - Community facilities  
Policy NE1 - Landscape  
Policy NE6 - Designated biodiversity and geological sites  
Policy NE8 - Sustainable drainage systems  
Policy NE11 - Contaminated land  
Policy HE1 - Designated heritage assets



## 2.4 **Supplementary Planning Document**

Vehicle Parking at New Development SPD (2011)

## 3.0 **Representations**

### 3.1 **Site Notice:**

Start Date: 21/08/2020

Expiry Date: 13/09/2020

### 3.2 **Press Notice:**

Start Date: 20/08/2020

Expiry Date: 12/09/2020

### 3.3 **Neighbouring Properties:**

The following objections, 14 in total, were received from dwellings on High Street, Bury Lane, Taverners Place, Valley Road, The Ridgeway, Pond Court:

- The site is not large enough for the development.
- Do not want more expensive houses.
- Loss of village amenities.
- Detrimental to openness of the area.
- Close to heritage assets. No. 63 High Street, Pond House, and The George and Dragon, are listed buildings.
- No. 63 dwarfed by proposed buildings.
- Detrimental to setting of No. 63 and its curtilage.
- Harms the Conservation Area.
- Rear dwellings more dominant due to higher ground levels.
- The future of The Bell is key to the Conservation Area.
- Negative impacts on viability of The Bell due to loss of motel and external storage.
- Potential for inappropriate new storage.
- Proximity. A 21m back-to-back distance. Too imposing and overwhelming.
- Overbearing.
- Massing.
- Loss of privacy. Overlooking (including of proposed dwellings).
- Loss of light and overshadowing.
- Harmful impacts of future extensions to dwellings.
- Loss of views.
- Increased noise compared to existing use, exacerbated by removal of boundary vegetation.
- Car park close to garden. Increased noise and light from car park.
- Pollution from vehicles.
- Traffic generation.
- Impacts on highway safety.
- Parking insufficient for The Bell and proposed dwellings, causing more on-street parking.
- The access is opposite a major junction in the village.

- Loss of public footpath.
- Unsuitable refuse storage.
- Loss of an oak tree.
- No room for new boundary planting. Trees should be required on the north boundary.
- Existing flooding. Proposal could worsen this.
- Flood risk would be increased.
- Positioning of soakaways and likely impacts.
- No cross-section/site levels drawings.
- No west elevation drawing.
- Infrastructure limited, including water.
- Disturbance from construction.
- Possible land slippage.
- Rear boundary of No. 63 incorrect.
- Inaccuracies in statements.
- Permitted development rights should be restricted.

The following comments in support were received:

- See no reason why it shouldn't go ahead.
- Saving The Bell is a positive.
- Development well-designed, spacious, with adequate facilities.
- Massive improvement.

The following other comments were received:

- Opportunity to improve the car parking situation.
- Space should be reserved near the frontage for public car parking, still leaving space for the dwellings.

Following amended plans received on 18/03/21, the following further objections were received from Nos. 2a Bury Lane, 61 and 63 High Street:

- Amendments do not alleviate concerns.
- Excessive height, scale and mass.
- Too many houses, which are too high.
- Support the Conservation Officer's original advice to remove plots 1 and 2, and to reduce the width and height of plots 3 to 9.
- Dominate the Conservation Area visually.
- Do not agree with the Conservation Officer's most recent comments. Impacts on Conservation Area and listed buildings disproportionate.
- Not sure if Conservation Officer and Historic England fully understand the scheme.
- Negative impacts on openness of the area.
- Dominate the skyline.
- Potential for future upward development of plot 1.
- There may be an intention to change site levels.
- Visible from No. 63.
- Need site levels and cross-section analysis.
- Proximity – Plot 4 is 20m from my house.
- Privacy and overlooking, including of proposed dwellings.
- Visual impacts of fence and wall.
- Loss of views.

- Contrary to Local Plan Policy 57.
- Impacts from pub garden.
- Massing, and an increase over the motel.
- Hedges offer little protection.
- Ground destabilisation.
- Mass and amount of development viewed from the High Street between 63 High Street and The Bell.
- Existing flooding.
- Increased flood risk to Nos. 61 and 63, and other properties and areas.
- There should be a sustainable drainage solution, with a flood risk assessment.
- Further information is required.
- Developer has no interest on the site's impacts on residents, nor the future of The Bell.
- Site has been neglected, not secured from vandalism.
- Suspect a commercial use for The Bell Inn is unlikely.

#### 3.4 **Codicote Parish Council:**

##### OBSERVATION

CPC will adhere to the Planning Officer's recommendations.

The new home owners may be disturbed by the noise late at night if The Bell PH were to be re-opened.

#### 3.5 **Statutory Consultees:**

3.6 Hertfordshire County Council Growth and Infrastructure – We will not be seeking financial contributions.

3.7 Environmental Health Officer – No objections.

##### *Noise*

I have reviewed the submitted "Technical Note - The Bell Motel, 65 High St, Codicote – Noise Impact Assessment", Project Ref: TN01-20442, dated 31 July 2020 by Cass Allen Associates Ltd. The desktop study Report was prepared under lockdown conditions when The Bell Inn was not operational, however I consider the use of data from records held by the Acoustic Consultants to predict and model noise associated with the Public House (including fish and chip takeaway extractor noise) to be acceptable in determining the potential noise impact on the proposed future residents. The noise from the kitchen extraction system was determined to be lower at the proposed dwellings than at existing residential dwellings; it is therefore acceptable. Noise impact from use of The Bell Inn, car park and beer garden were predicted. For the closest proposed dwelling (Plot 1) no enhanced noise mitigation measures to achieve satisfactory internal noise levels were found to be required (standard glazing and ventilators will be satisfactory). To achieve satisfactory noise levels in external amenity area (garden) of Plot 1 a 1.8 metre high close boarded fence between the Public House boundary and Plot 1 is recommended (Page 5 of Report). The Technical Report may be Approved. I recommend a Condition below.

##### *Lighting*

Details of proposed external lighting have not been submitted. In order to ensure that the amenity of residential occupiers is not adversely affected by any obtrusive or spill over light or glare from any external lighting on the proposed development once constructed I recommend a Condition below..

*Construction phase*

Due to the potential for nuisance during this phase I have included informatives.

- 3.8 Environmental Health Air Quality – No objection.
- 3.9 Waste Officer – No objections.
- 3.10 Hertfordshire County Council highways officer – Does not wish to restrict the grant of permission.

The application comprises of a residential development comprising of 9 dwellings including associated parking, landscaping and refuse storage and provision of car parking spaces for Public House use following demolition of existing outbuildings (Amended by plans received 18.03.2021).

**VEHICLE ACCESS**

The submitted details show one point of access from the High Street that is classified as the B656 secondary distributor road subject to a speed limit restricted to 30 mph along the frontage of the development.

Within section 8 of the application form Pedestrian and vehicle access, roads and rights of way, the applicant has implied that there is a no new or altered vehicle access proposed to the existing vehicle access to or from the public highway to the property. The access road and proposed turning areas have sufficient room for vehicles using the proposal such as residents' cars, delivery and emergency vehicles to enter and exit the development in forward gear.

**HIGHWAY SAFETY - Visibility along the highway from the existing access.**

A site visit revealed that the vehicle to vehicle inter-visibility from the existing access is in accordance with "Sightlines at Junctions Manual for Streets section 7.7

**IMPACT ON THE LOCAL HIGHWAY NETWORK - Traffic Generation**

Within Section 9. Vehicle parking the applicant states that given that the proposal involves a redevelopment with a reduction to parking provision of three spaces this has been considered not to significantly alter the traffic generation of vehicles to the property.

The forecast of trips generated show that a total of 9 two-way vehicle trips will occur during the morning peak travelling period and in the evening travelling period a total of 11 two-way vehicle trips are anticipated resulting in an average vehicle movement either way every 5 minutes which will be accommodated by the existing access junction.

**WASTE COLLECTION**

There are 2 bin storage points provided within the site which are within the 30m walking distance for residents to carry their waste to a point to be collected. A further bin collection point is provided within 15 m of the public highway for the North Herts District Council waste collection operators. A waste management company would collect the bins on

collection day (Tuesday) from the resident's storage areas and then return the empty bins back to the resident's area collection point. This method of collection would need to remain in place for perpetuity for the duration of the residential development.

#### ACCESSIBILITY - Public Transport

The nearest bus stops are within the recommended 400 metres from the site.

The bus route along the High Street including routes to destinations such as Hitchin town centre and Welwyn. There are presently 5 bus services throughout the day.

#### CONCLUSION

The B656 is a secondary distributor road capable of accommodating the traffic movements associated with the development. Hertfordshire County Council as Highway Authority has considered that the proposal is a small scale development consequently the proposal would not significantly increase the traffic generation to the area and have an unreasonable impact on the safety and operation of the adjoining highway and has no objections on highway grounds to the application.

3.11 Archaeology – No objections.

3.12 Landscape and Urban Design Officer - I have no objection to the layout or design of the scheme. However, details will need to be provided of proposed planting, including species, size, type, numbers and location together with materials for surfacing and enclosure.

3.13 Hertfordshire Ecology – No objections.

3.14 Environmental Health Contamination – No objection.

3.15 Lead Local Flood Authority – No objection.

We have reviewed the following documents as additional information submitted in support of this application:

- Surface and Foul Water Drainage Strategy, Drawing Reference 6601415-MLM-ZZ-XX-DR-C-0002, Revision P03, Prepared by MLM Group, Dated 16.07.2021

As the LLFA we were previously consulted on the above application. In our previous letter dated 5 July 2021 we recommended the LPA obtained an updated drainage layout for the amended site layout and that the required amount of storage can be provided within the permeable paving 700mm sub-base prior to the approval of planning permission.

We have reviewed the additional information submitted by the applicant in support of the planning application and note that the applicant has submitted an updated drainage layout for the amended site layout. Therefore, we can provide the previous comments:

We note the applicant has undertaken soakage testing onsite, and that the results of these tests have proven infiltration to be unfeasible on the site. The drainage strategy, therefore, is now proposing to discharge surface water into the Thames Water Foul Water Sewer, we note the applicant has obtained prior approval from Thames Water in the form of a pre-planning enquiry for the proposed connection, consenting the connection and proposed discharge rates for the development.

We understand the driveways of the proposed residential development will consist of permeable block paving, so that surface water on the driveway drains into the type 3 subbase below and surface water from the building roofs are also directed via downpipes to the type 3 subbase below the permeable paving before final discharge into the sewer via a hydrobrake flow control. The proposed access road will consist of asphalt paving so that surface water so that surface water drains via gullies into sewers that are directed to the type 3 subbase below the car park for storage to allow a restricted surface water discharge rate via hydrobrake flow control. The car park at the rear of the public house will also consist of asphalt paving and will drain via channel drains connected to the type 3 subbase for storage before discharging to the sewers at a restricted surface water discharge rate.

In order to secure the final detail of the drainage scheme, we therefore recommend the following conditions to the LPA should planning permission be granted.

- 3.16 Conservation Officer - I reiterate that in my opinion, the amount of development remains higher than what I would consider would make a positive contribution to the local area but it is also acknowledged that the applicant has sought (to an extent) to positively address matters raised despite maintaining a 9-unit scheme. As such, I consider that alternative solutions have been explored and ultimately what is now presented is sufficiently better than the previous iterations and I am prepared to remove my objection.

### **Recommendation**

The 'Design and Access Statement Addendum - March 2021' sets out very clearly the progression from the initial submission and initial amendments (both of which were considered to occasion harm) through to the current scheme. I have given great weight to the conservation of the Codicote Conservation Area and to the setting of nearby listed buildings and conclude that the proposal (as amended) whilst it may still be considered, by some, that there is small amount of harm still occasioned to the character and appearance of the conservation area and to the setting of nearby listed buildings, by reason of the height and density of the proposal, that harm (if considered to exist) would, in my opinion, be very much towards the lower end of the continuum. That harm should then be weighed against any public benefits.

Although a reduction in dwelling numbers and providing a more generous rear curtilage to The Bell Inn would have been the most desirable outcome and my intended goal, in my view, the amended scheme does make a much more positive contribution to the character and appearance of the conservation area when compared with earlier iterations. In light of the changes made, particular in the area of original Plots 1 and 2 and the retention of the outbuilding, I am prepared to conclude that the proposal is **UNOBJECTIONABLE** in conservation terms and would satisfy the provisions of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims of Policy HE1 : Designated Heritage Assets, of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018) and the aims of Section 16 of the NPPF.

- 3.17 Historic England – Historic England consider that the applicant has attempted to address the concerns within our previous comments and the scheme would now result in a neutral impact to the character of the Codicote Conservation Area.

## **Recommendation**

Historic England has no objection on heritage grounds.

### **4.0 Planning Considerations**

#### **4.1 Site and Surrounding**

- 4.1.1 The site comprises The Bell Inn, No. 65 High Street, which is a public house (Use Class A4) and includes a small take-away (Use Class A5) in the main building, both of which have now closed. The site is relatively large, with the majority comprising a motel of separate single storey buildings, an associated car park, hard and soft landscaping including some lawned areas for motel guests, and trees and other vegetation around the edges. Ground levels rise gradually from west to east, and from south to north.
- 4.1.2 The locality has a predominantly residential character with dwellings to the west, north and east. To the south is a two storey residential care home, with a public footpath between it and the site. Some additional dwellings are west of the care home and south of the site. The site is also on the High Street, where a short distance to the south the character is a mix of commercial and residential with shops, services and pubs nearby. The site is within the settlement boundary of Codicote. The whole site is within the Codicote Conservation Area. Listed buildings are to the north, west and south.

#### **4.2 Proposal**

- 4.2.1 Planning permission is sought for the redevelopment of the majority of the site behind the public house (which would be retained) to provide 9 new dwellings. All existing buildings and hardstanding would be removed, although a small length of the vehicular access drive would be retained.
- 4.2.2 All dwellings would be two storeys with pitched roofs, apart from Plot 1 which would be single storey. Plots 1 to 4 would be a terrace, Plots 5 to 7 would be linked-detached, and Plots 8 and 9 would be detached. The dwellings would be of a more traditional design, with external materials of plain clay roof tiles, bricks, and stained timber boarding. One dwelling would have two bedrooms (Plot 1), five dwellings would have 3 bedrooms, and the remaining three dwellings would have 4 bedrooms. Dwelling heights would vary from approx. 5m to a maximum height of 8.8m.
- 4.2.3 The dwellings would be accessed by a new access road that would extend to the rear of the site, following the south boundary before turning north at the eastern end of the site. Plots 1 to 7 would have two parking spaces, with Plots 8 and 9 having three spaces. Plot 9 would also include a detached single garage with a pitched roof. Five visitor parking spaces will be provided. Two bin stores with flat roofs will be provided close to the public footpath and south boundary of the site. The development also includes an 11 space car park for The Bell public house in the blue line area, with 4 spaces to be provided in an existing outbuilding. An area of land west of the Plot 1 curtilage will be kept undeveloped as open amenity space for the development. A retaining wall and standalone timber fence is proposed on the boundary with No. 2 Bury Lane, which would be a combined height of approx. 2.6m. Storage for The Bell will be within the building of the pub itself.

#### **4.3 Key Issues**

- 4.3.1 The key issues for consideration are as follows:
- The acceptability of the principle of the proposed works in this location.
  - The acceptability of the design of the proposed development and its resultant impact on designated heritage assets and the character and appearance of the area.
  - The impact that the proposed development would have on the living conditions of neighbouring properties.
  - Whether the proposal would provide an acceptable standard of accommodation for future occupiers of the dwellings, and the future viability of the public house.
  - The impact that the proposed development would have on car parking provision and the public highway in the area.
  - The quality of landscaping proposed and the impact the proposed development would have on trees.
  - The impact that the proposed development would have on ecology and protected species.
  - The impact of the proposal on drainage and flood risk.

Principle of Development:

- 4.3.2 With regards to the proposed development, the site is in the settlement boundary of Codicote, where new buildings and new residential development is acceptable in principle in the adopted and emerging Local Plans in Policies 5 and SP2 respectively. The proposal will also result in the loss of existing motel accommodation, of which there is no policy presumption in the adopted and emerging Local Plans and the NPPF against this. The proposed development is therefore considered acceptable in principle.

Heritage, character and appearance:

- 4.3.3 The existing single storey motel buildings to be demolished date from the late 1980's onwards and as such are relatively new. These buildings are not considered to be of significant historic or architectural merit, therefore there are no objections to their removal and their associated hardstanding, fencing etc.
- 4.3.4 The proposal would create a new residential development of dwellings in a cul-de-sac arrangement, which would contrast with the existing motel business. Development around the site is predominantly residential, therefore new dwellings are not considered out of character with these surroundings. Residential cul-de-sacs are also present in this area of Codicote, therefore new residential development is in general considered in keeping with that of the locality.
- 4.3.5 The site is within a Conservation Area. There are also listed buildings near the site, in particular No. 63 High Street, which has a curtilage that partially adjoins the site. No. 67 High Street and No. 2 Bury Lane are also listed buildings that share boundaries with the site. Of key importance is how the proposed development will affect the above, which are all designated heritage assets. The Conservation Area will be directly affected by the development. With regards to the listed buildings, the material consideration is whether their settings and significance would be harmed.
- 4.3.6 The plans proposed have followed numerous negotiations involving Council Planning and Conservation Officers, and are now considered to be of a design quality that would not be harmful to the significance and setting of the above designated heritage assets. Plot 1 is single storey, with the larger two storey dwellings set sufficiently far back so as not to



detract from the setting of No. 63 (and therefore the other two closest listed buildings). Plots 2 to 4 have also been improved sufficiently in height, design, size and scale to be of an acceptable quality. The design approach for Plots 2 to 4 continues to Plots 5 to 9, which is also considered of an acceptable quality with regard to the significance of the Conservation Area. The absence of objections from the Council's Conservation Officer, and Historic England, are given significant weight.

- 4.3.7 The proposal will provide a new car park on a part of the site that is presently largely of hardstanding, with 4 parking spaces to be provided within an existing building with a pitched roof behind the pub. The retention and proposed use of this building, and the area of land kept as open space, would provide an acceptable buffer between the pub and the development.
- 4.3.8 The layout of the proposed development is considered acceptable, and not untypical of a residential cul-de-sac. The proposal would use existing ground levels satisfactorily. There would be a mix of dwelling types, sizes and bedrooms, with 6 of the proposed dwellings being smaller with 2 or 3 bedrooms. The size, height and scale of the proposed dwellings are considered comparable to nearby dwellings. There are no objections to the detached garage for Plot 9, and for the two bin stores. Class A and C permitted development rights are recommended to be removed by condition if permission was to be granted, to maintain control over the future appearance of the development. The site's location in a Conservation Area removes permitted development rights for roof enlargements. The proposal in terms of its design, impacts on designated heritage assets, and impacts on the wider locality, are considered acceptable.

#### Impacts on Neighbouring Properties:

- 4.3.9 There are a number of dwellings that share a boundary with the site or are close to it, which are on the High Street, Bury Lane, Valley Road, and a residential care home off The Ridgeway. The impacts of the proposed development on these properties will be considered below. Starting with dwellings on the High Street, No. 67 High Street, and Nos. 4, 5 and 6 Coach House, are considered sufficiently far away from the proposed development to be adversely affected, although it would be visible to a limited extent.
- 4.3.10 Nos. 63 and 61 High Street share their rear garden boundaries with the site. The closest proposed dwelling to Nos. 63 and 61 is Plot 1, which would be single storey. This dwelling would be approx. 11.8m from the rear boundaries of those dwellings and at an oblique angle, would have its curtilage separated from them by the proposed undeveloped area of land, and would in any case be largely obscured by means of enclosure and vegetation on and close to the rear boundaries of Nos. 63 and 61. The Plot 1 dwelling would not therefore appear overbearing or result in loss of light and privacy. The next closest proposed dwelling is Plot 2, which would be approx. 22m from the curtilages of Nos. 63 and 61. At this distance, and as no facing side upper floor openings are proposed, the Plot 2 dwelling would not adversely affect Nos. 63 and 61. Visual impacts of the new boundary fence on No. 61 would be largely obscured by an outbuilding and vegetation in the rear garden and on the boundary of No. 61. The other elements of the residential development would be further away than Plot 2, therefore it is not considered that this part of the development would harm the amenity of Nos. 63 and 61.
- 4.3.11 The proposal also includes a new car park for the pub, which would have 11 spaces, and be sited close to the side and rear boundaries of No. 63, although it would be set away

from No. 61. The car park would be obscured from the rear garden of No. 63 by a wall and vegetation on its boundary, and would not appear visually overbearing. This part of the site is presently comprised of hardstanding and vegetation, used as a yard/storage area for the pub and motel, and is not open to pub customers vehicles. The change of use of this part of the site to a public car park would therefore result in customers vehicles being much closer to No. 63, which would result in additional noise and some pollution. The Council's Environmental Health Officer has not however raised concerns relating to these aspects of the proposed development on Nos. 63 and 61 or any other existing dwellings, which is given significant weight. On this basis, while acknowledging the greater impacts of the car park than the existing development, it is not considered harmful to the amenities of nearby dwellings.

- 4.3.12 Bury Lane has dwellings Nos. 2, 2a and 10 that share a boundary with the site. No. 4 Bury Lane is called 'The Vicarage' however this is also in residential occupation, therefore the impacts of the development on the above four properties are material considerations. Starting with No. 2, this dwelling has a relatively large plot, and is approx. a minimum of 8m from the site boundary. The proposed dwellings are a minimum of 25m from the rear elevation of No. 2 and at oblique angles, which is sufficient to prevent overbearing impacts, loss of light and loss of privacy to any main habitable rooms. The Plot 2 and Plot 3 dwellings would be approx. 14m from the rear garden boundary of No. 2, which is considered sufficient to avoid harmful loss of privacy. The proposed boundary fence with No. 2 would be a height of 1.8m on ground at the same level as the rear garden of that dwelling, which would be a typical height for a rear boundary fence, and is not considered harmful to amenity. The other elements of the scheme would not be harmful to No. 2, therefore the amenity of No. 2 will not be harmed.
- 4.3.13 No. 2a is east of No. 2, and would face towards proposed dwellings on Plots 3 and 4. The other dwellings proposed are considered to be sufficiently far from No. 2a and at oblique angles such that they would not harm the amenity of that dwelling. The impacts of Plots 3 and 4 will therefore be considered in more detail. The first floor rear elevations of Plots 3 and 4 would be approx. 13m and 12m respectively from the boundary with No. 2a, and 29m and 21m from its rear elevations. These distances between the rear elevation and garden of No. 2a are considered typical for dwellings facing each other, and are not considered harmful. It is not considered that the amenity of No. 2a would be harmed by the proposal.
- 4.3.14 Turning to No. 4 Bury Lane, the Plot 5 and 8 dwellings would be closest to it. These proposed dwellings would be sited obliquely from the rear and side windows of No. 4 with the two storey elements of those dwellings set away from the boundary, therefore it is not considered that main habitable rooms of No. 4 would be adversely affected. Plots 5 and 8 would be more visible from the garden of No. 4. Single storey side projections of those dwellings would be the closest to the boundary, however it is not considered they would cause loss of amenity as the site is lower than No. 4, they would have roofs sloping away from the boundary, and they would be obscured/softened by the boundary vegetation. The two storey side walls of Plots 5 and 8 would be approx. 4m to 6m from the boundary with No. 4 and on lower ground levels, which is considered sufficient to minimise any visual and overshadowing such that these impacts would not be harmful. No upper floor openings are proposed facing No. 4, therefore no loss of privacy would occur. No. 4 would not be affected by the rest of the proposed development, therefore impacts on the amenity of No. 4 are considered acceptable.

- 4.3.15 No. 10 Bury Lane has a rear garden with one side boundary shared with the rear of the application site. Proposed dwellings 8 and 9 would be closest to this boundary, being approx. a minimum of 11m to the boundary, with Plot 8 being 18m from the rear of No. 10. The 11m distance to the rear boundary from the rear of Units 8 and 9 is fairly typical for dwellings, and is not considered unreasonable or harmful in terms of visual impacts, overshadowing and privacy. The rear window-to-window distance from Plot 8 to No. 10 would be approx. 20m, which is also fairly typical between dwellings, and is considered acceptable. The detached garage for Plot 9 would be single storey and located at the end of the rear garden of No. 10, and is not considered harmful. Impacts on the amenity of No. 10 are considered acceptable.
- 4.3.16 South of No. 10 is No. 2 Valley Road, which shares a boundary with the site. No. 2 and its curtilage are however primarily to the south of Unit 9 and its garage, and there is also a footpath between No. 2 and the site. Due to the distance, siting and size of the development from No. 2, it is not considered that loss of amenity would be caused to that dwelling.
- 4.3.17 To the south-east of the rear of the site is a two storey building Pond Court, accessed off The Ridgeway. Pond Court is considered to have a C2 residential use, and has residential accommodation with a number of units with openings facing the site at ground and first floor level. A fence and vegetation 2m to 3m high on the north boundary of Pond Court would effectively mitigate any potential impacts to ground floor accommodation. The closest of the proposed dwellings to the north elevation of Pond Court would be Units 7 and 9, which would be approx. 14m and 11m respectively from that north elevation. The development would be to the north, and would not cause loss of light. The dwellings would be visible at the above distances, however it is considered they would be sufficiently far to avoid being harmfully overbearing.
- 4.3.18 Unit 7 would include a first floor side window facing Pond Court that would serve a bathroom, and can be required to be obscure glazed by condition if permission was to be granted to avoid loss of privacy. This is also applicable to Unit 9, therefore the privacy of residents of Pond Court would not be harmed. The garage for Unit 9 would be separated from Pond Court by an adjacent footpath, and is not considered harmful. The bin stores would have low heights and would not appear overbearing or cause loss of light.
- 4.3.19 Some of the objections from Pond Court residents concern smells from nearby bin store 2. It is acknowledged that some smells could occur from bins placed there, however both the Council's Environmental Health Officer and Waste Officer have not objected in this respect. Loss of amenity from bin storage is considered to be more likely to be an issue from commercial refuse storage, which is not the case here as domestic refuse would be smaller in scale and therefore its impacts. The proposed bin store 2 is therefore considered acceptable.
- 4.3.20 Regarding the objections received, many have been addressed elsewhere in this report. Disruption and noise etc. from construction would be unfortunate to nearby residents, however this not a reason to refuse planning permission as such impacts will be temporary and can also be controlled by a Construction Management Plan. A pub garden is not part of the proposal. Potential impacts on ground stability are not considered to be material considerations, while it is also considered that the applicant would seek to ensure ground stability as it would be in their own interests to do so. The public footpath would not be

affected by the proposal. Details of any external lighting would be required by condition. Impacts on residential amenity are therefore considered to be acceptable.

Amenity of Future Occupiers, and Viability of the Public House:

- 4.3.21 Paragraph 127 (f) of the NPPF states that “*decisions should ensure that developments... create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity of future and existing users*”. Paragraph 127 (f) is largely reflected in Guideline 8 of Policy 57 in the Saved Local Plan and Policy SP9 of the Emerging Local Plan.
- 4.3.22 The main habitable rooms of the proposed dwellings are considered to be of an adequate size and would receive sufficient outlook and light. They would be sited and space sufficiently far apart to avoid causing mutual overbearing impacts, loss of light and privacy to each other. The private rear gardens of the dwellings would be of a sufficient size and quality to provide acceptable amenity space for their potential occupants.
- 4.3.23 The Bell public house and a fish and chip shop takeaway inside the pub in a separate wing are presently closed, however these could re-open in the future. Noise, smells and other disturbance from the above uses could affect the living conditions primarily of Unit 1, with the other dwellings considered to be sufficiently far away to avoid being adversely affected.
- 4.3.24 Regarding impacts on Unit 1, the applicant submitted a Noise Impact Assessment. This stated that the noise from the kitchen extraction system was determined to be lower at the proposed dwellings than at existing residential dwellings, and is considered acceptable by the Council’s Environmental Health Officer (EHO). No special noise mitigation measures are required for the fabric of Unit 1, while a 1.8m high fence is considered to be required on the west garden boundary of Unit 1 to achieve satisfactory noise levels in the garden. Living conditions of future occupiers are considered acceptable.
- 4.3.25 Potential residents could complain about noise, disturbance etc. from the pub, which could affect its viability. The adopted Local Plan does not contain any policies relating to this, therefore there are no relevant development plan policies.
- 4.3.26 The emerging Local Plan under Policy HC1 paragraph 10.2 refers to development that could affect local shops and pubs, which should be assessed against Policy ETC7. ETC7 refers to the loss of an existing facility being acceptable only where a. there is another service or facility of a similar use available within walking distance. There are two other pubs on the High Street in Codicote a short distance away to the south-east therefore any possible adverse impacts on the viability of the pub are not considered detrimental to Codicote as a whole. Required storage for the pub would be provided within the pub building. In any case the noise mitigation measures and acceptance of the impacts on the pub and take-away on the proposed dwellings are considered acceptable by the EHO, therefore there is no evidence to demonstrate that the proposed development would harm the viability of the existing pub.

Parking and Highways:

- 4.3.29 Each dwelling would have two or three parking spaces, which complies with the Council’s minimum parking standards of two spaces for a dwelling with two bedrooms or more,

therefore parking provision would be acceptable. Each dwelling would include a garage or space within its curtilage that could accommodate two cycle parking spaces, therefore cycle parking provision is considered acceptable. Dwellings 5, 6 and 7 would include garages that would provide one of their two parking spaces, therefore it is considered that permitted development rights for conversion of these garages be removed by condition to maintain an adequate amount of parking. The five visitor parking spaces are considered acceptable.

- 4.3.30 The internal access road and turning area would be a sufficient size for the largest vehicles including refuse and emergency vehicles to enter and leave the site in a forwards gear. Refuse collection arrangements are considered acceptable on the basis of the absence of objections from the Council's Waste Officer and the County Council highways officer. Expected trip generation from the development is considered small (an average vehicular movement every 5 minutes in the morning and evening peaks), would be accommodated satisfactorily by the existing access, and would not be detrimental to the highways network. The development would not result in detrimental impacts to the public footpath. Parking provision and impacts on the public highway are considered acceptable.

#### Trees and Landscaping:

- 4.3.31 The site contains little tree cover given its size, with most trees being at the rear of the pub and close to the boundaries. These trees are not subject to Tree Preservation Orders, although they are protected by virtue of being in a Conservation Area. Four trees are proposed to be removed that are close to the north boundary of the site, which are considered of a minor scale as the highest is 8m, with the other three being 3-5m tall. These losses are not considered harmful, and would be off-set by new tree planting as part of the proposed development.
- 4.3.32 The amount of hard landscaping would be small relative to the soft landscaping provided, which is considered would result in an acceptable quality and finish to the site as well as a reduction in the existing amount of hardstanding. Further details of hard and soft landscaping are however required, which can be secured by an appropriate condition. Landscaping and impacts on trees are considered acceptable.

#### Ecology:

- 4.3.33 Hertfordshire Ecology provided comments on 19<sup>th</sup> September 2020 with reference to an ecological report submitted with the application, advising that the site is not home to protected species, low potential for bat roosts, and the potential for being habitats for nesting birds and hedgehogs. The report sets out suitable precautions to safeguard bats, birds and hedgehogs, which can be required to be implemented by condition. A Landscape and Ecological Management Plan will also be requested by condition to ensure that a biodiversity net gain is delivered. The proposal is not therefore considered harmful to ecology.

#### Drainage and flood risk

- 4.3.34 The Lead Local Flood Authority (LLFA) have not objected to the proposed development on the grounds of drainage and flood risk, which is given significant weight. Surface water would be discharged into the Thames Water Foul Water Sewer, which the applicant has prior approval for. The hardstanding proposed will be permeable or will include

gullies/drains to direct water at appropriate discharge rates to the sewer. I acknowledge that some of the objections received from nearby properties relate to potential for drainage and flooding, however I'm satisfied that the LLFA's absence of objections will ensure that drainage and flood risk will be satisfactory and not harmful. References to works being carried out within The Bell are not considered materially relevant as any such works would be outside the application site. Some further details of drainage will be required by condition in accordance with the recommendations of the LLFA. This is therefore acceptable.

#### Climate Change Mitigation:

- 4.3.35 The NPPF supports the transition to a low carbon future and the increased use of renewable energy sources. North Hertfordshire District Council has declared itself a Climate Emergency authority and its recently adopted Council Plan (2020 – 2025) seeks to achieve a Council target of net zero carbon emissions by 2030 and protect the natural and built environment through its planning policies. Emerging Local Plan Policy D1 seeks to reduce energy consumption and waste. To assist in achieving these aims, Electric Vehicle Charging points will be conditioned to be installed at each of the proposed new dwellings, and at least one charging point for the car park for the pub. The applicant has also submitted a Sustainability Statement demonstrating that the new dwellings in terms of carbon emissions generated would exceed the latest Building Regulations requirements, therefore further helping to minimise climate change.

#### **4.4 Conclusion**

- 4.4.1 The LPA is not able to demonstrate a five year housing land supply. The tilted balance set out in paragraph 11 of the NPPF is engaged as the proposal is not considered harmful to designated heritage assets. There will be moderate benefits from the provision of nine additional dwellings, which is not considered harmful to the locality. There would be further benefits from the redevelopment of the site and associated visual improvements. It is not considered that there would be adverse impacts from the development, therefore it would not be considered to significantly and demonstrably outweigh the benefits as set out in paragraph 11 of the NPPF.
- 4.4.2 The proposed development is considered acceptable and is considered to comply with the necessary provisions of both the existing and emerging Local Plan policies and the National Planning Policy Framework. Grant conditional permission.

#### **4.5 Alternative Options**

- 4.5.1 None applicable

#### **4.6 Pre-Commencement Conditions**

- 4.6.1 Pre-commencement conditions as below are recommended, which have the agreement of the applicant.

#### **5.0 Legal Implications**

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development

plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

## 6.0 **Recommendation**

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

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

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

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

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

3. **Details of brick type, bond and mortar mix shall be submitted to and approved in writing by the Local Planning Authority prior to the above ground brickwork being constructed. Thereafter, the brickwork shall be implemented in accordance with the approved details.**

Reason: To ensure that special regard is paid to safeguarding the character and appearance of the Codicote Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4. **The roofs shall be covered with a clay plain tile, a sample of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the roof-tiling. Thereafter, the roofs shall be covered using the approved tiles.**

Reason: To ensure that special regard is paid to safeguarding the character and appearance of the Codicote Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5. **Prior to commencement of the approved development (excluding demolition), the following landscape details shall be submitted:**

**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.**

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

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

7. Prior to occupation, each dwelling shall incorporate an Electric Vehicle (EV) ready domestic charging point, and the new car park behind The Bell shall include at least three EV ready charging points.

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

**8. CONSTRUCTION MANAGEMENT PLAN**

**No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan 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;
- hi. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- i. 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).**



9. 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.

**10. Contaminated Land Condition**

**(a) The Phase I Report indicated a reasonable likelihood of harmful contamination: no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:**

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

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

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

- (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (b) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.**
- (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.**

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

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

11. The development shall be completed in accordance with the measures set out in the Recommendations (section 7) of the Ecological Assessment (dated July 2020).

Reason: To minimise potential harm to ecology.

12. The development shall be completed in accordance with the measures set out in the Arboricultural Report (dated July 2020).

Reason: To provide appropriate protection for trees.

13. The proposed dwellings shall not be occupied until the noise mitigation measure (1.8 metre close boarded fence between the public house and Plot 1) as detailed in "Technical Note - The Bell Motel, 65 High St, Codicote – Noise Impact Assessment", Project Ref: TN01-20442, dated 31 July 2020 by Cass Allen Associates Ltd has been implemented in accordance with the approved details. The approved scheme shall be retained in accordance with those details thereafter.

Reason: To protect the residential amenities of existing and future residents.

- 14. Details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (excluding demolition), and no external lighting shall be provided without such written consent. The development shall then be carried out in accordance with the approved details.**

Reason: To protect the residential amenity of existing and future residents.

- 15. Prior to the commencement of the approved development (excluding demolition), a Landscape and Ecological Management Plan shall be submitted to the Local Planning Authority demonstrating a biodiversity gain within the site. The Plan if approved shall then be implemented prior to occupation of the development, and the approved measures shall remain unless otherwise agreed in writing with the Local Planning Authority.**

Reason: In the interests of ecology.

- 16. No development shall take place/commence (excluding above ground demolition works) until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. 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 of 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 Archaeological Written Scheme of Investigation.**

Reason: In the interests of archaeology.

17. No development shall take place/commence (excluding above ground demolition works) except in accordance with the programme of archaeological works set out in the Written Scheme of investigation approved under condition 17.

Reason: In the interests of archaeology.

18. The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 17 and the provision made for analysis and publication where appropriate.

Reason: In the interests of archaeology.

19. The development permitted by this planning permission shall be carried out in accordance with the Drainage Statement in relation to the proposed residential development at The Bell Inn 65 High Street Codicote Hitchin Hertfordshire SG4 8XD, dated November 2020, reference: 6601415-MLM-ZZ-XX-RP-C-0004, prepared by MLM Consulting Engineers Drainage Statement, Rev 03, 10.11.2020 and the Surface and Foul Water Drainage Strategy, Drawing Reference 6601415-MLM-ZZ-XX-DR-C-0002, Revision P03, Prepared by MLM Group, Dated 16.07.2021 and the following mitigating measures:
1. Limiting the surface water run-off rates to a maximum of 3.5l/s for all rainfall events up to and including the 1 in 100 +40% climate change event with discharge into the Thames Water Foul Water Sewer.
  2. Provide attenuation (700mm of storage within the type 3 subbase, or such volume agreed by the LPA) to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
  3. Implement the drainage strategy utilising lined permeable paving, type 3 subbase and a Hydrobrake flow control device.

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

- 20. No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the submitted Drainage Statement in relation to the proposed residential development at The Bell Inn 65 High Street Codicote Hitchin Hertfordshire SG4 8XD, dated November 2020, reference: 6601415-MLM-ZZ-XX-RP-C-0004, prepared by MLM Consulting Engineers Drainage Statement, Rev 03, 10.11.2020 and the Surface and Foul Water Drainage Strategy, Drawing Reference 6601415-MLM-ZZ-XX-DR-C-0002, Revision P03, Prepared by MLM Group, Dated 16.07.2021. The scheme shall also include:**
- 1. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs**
  - 2. All corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event with no flooding to occur at the 1 in 30 year return period.**
  - 3. Post development overland routes and exceedance routes**
  - 4. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as lined permeable paving, this should also be considered for the proposed access road and car park.**
  - 5. Silt traps for protection of any residual tanked elements**
  - 6. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.**

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

21. Upon completion of the drainage works for the site in accordance with the timing / phasing, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

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

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

22. The first floor south elevation windows of the Plot 7 and 9 dwellings shall be obscure glazed.

















Reason: In the interests of privacy and amenity.

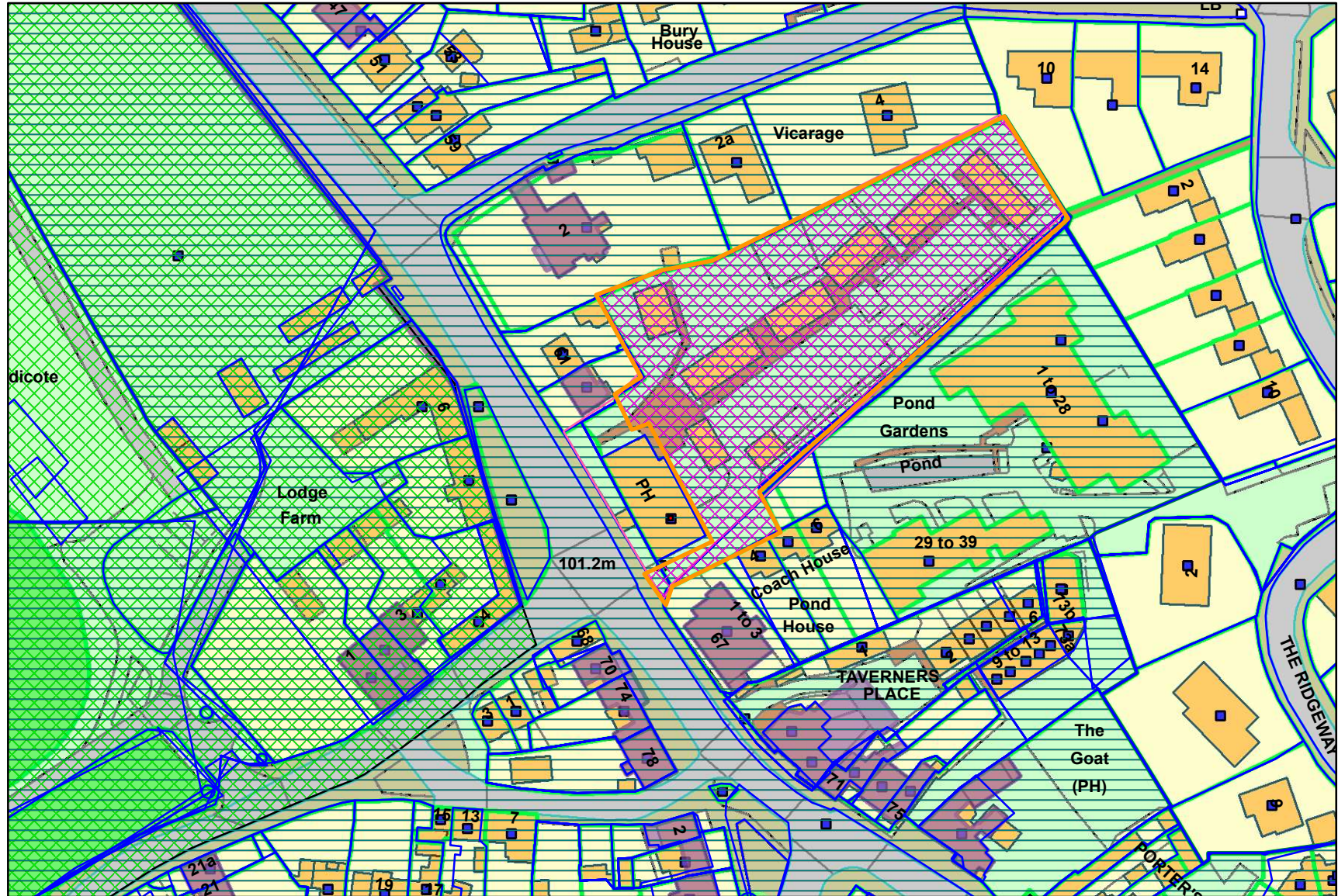
23. The undeveloped land west of Unit 1 shall remain as open amenity space.

Reason: In the interests of visual and neighbour amenity.

## Application Validation Sheet

20/01764/FP The Bell Inn, 65 High Street, Codicote, Hitchin, Herts, SG4 8XD

-  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  
Prconea.shp
-  District Local Plan Boundary  
Prdlp2.shp
-  Green Belt  
Prgrnblt.shp
-  Health & Safety Consultation Zone  
Prhmszone.shp
-  Landscape Conservation  
Prlandca.shp
-  Ward Boundary  
Prwardcd.shp
-  Noise Nuisance Indicators  
Prnnis.shp
-  Indicative Flood Plain  
Prifpm.shp



Scale 1:1,250

Date: 23/06/2021

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<u>Location:</u>	Land at And North Of 68 London Road Baldock Hertfordshire SG7 6JL
<u>Applicant:</u>	North Herts District Council and Foxberry Developments Ltd
<u>Proposal:</u>	Erection of 24 dwelling including extended access from Knights Templar Court and all associated works following demolition of existing dwelling and outbuildings. Pedestrian access onto London Road. (Amended plan received 27/09/21).
<u>Ref. No:</u>	20/02507/FP
<u>Officer:</u>	Anne McDonald

**Date of Statutory Expiry Period:** Agreed extension of time to 30/11/21.

## **Reason for Delay**

Time taken to progress the S106 Legal Agreement.

## **Reason for Referral to Committee**

The Council is the land owner for the part of the application site and it is therefore necessary for this application for residential development to be determined by the Planning Control Committee under the Council's constitution and scheme of delegation. Furthermore, the site area at 1.08 ha, is larger than the 0.5 ha requirement above which schemes for residential development are presented to Planning Control Committee for determination.

## **Submitted Plan Numbers:**

1. 19003\_PL01\_A – site location plan;
2. 19003\_PL02\_A – existing site plan;
3. 19003\_PL03\_D – proposed site plan;
4. 19003\_PL20 – apartments 1 – 8 – plans;
5. 19003\_PL21 – apartments 1 – 8 – elevations;
6. 19003\_PL22 – plot 9 plans and elevations;
7. 19003\_PL23 – plot 10 plans and elevations;
8. 19003\_PL24 – plot 11 – 12 plans and elevations;
9. 19003\_PL25 – plot 13 – 14 plans and elevations;
10. 19003\_PL26 – plot 15 – 16 plans and elevations;
11. 19003\_PL27 – plot 17 – 18 plans and elevations;
12. 19003\_PL28 – plot 19 – 20 plans and elevations;
13. 19003\_PL29 – plot 21 plans and elevations;
14. 19003\_PL30A – plot 22 - 24 plans and elevations – amended plan received 27/09/21;
15. 19003\_PL40 – proposed site levels plan;

16. 19003\_PL41 – proposed parking plan;
17. 19003\_PL42 - proposed landscaping plan;
18. 19003\_PL43 – proposed refused collection plan;
19. 19/003\_PL44 – external materials palette;
20. 19003\_PL50 – site sections AA BB CC;
21. 19003\_PL51 – site sections DD EE FF;
22. OS 2057-20.1 – tree survey;
23. OS 2057-20.2 – tree survey;
24. OS 2057-20.3 – tree survey.

### **Supporting Documents:**

1. Design and Access Statement;
2. Planning Statement;
3. Heritage Statement;
4. Arboricultural Impact Assessment;
5. Flood Risk Assessment;
6. Preliminary Ecological Appraisal;
7. Bat and Reptile Surveys.

## **1.0 Policies**

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

- Policy 8 - Development in Towns;
- Policy 16 – Archaeology;
- Policy 26 - Housing Proposals;
- 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;
- Policy 58 - Letchworth Garden City Design Principles.

### **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.

### **1.3 Supplementary Planning Documents:**

- Vehicle Parking Provision at New Development (SPD – 2011)
- Design SPD
- Planning Obligations SPD (November 2006)



#### 1.4 **Submission Local Plan (2011-2031) (with Modifications):**

##### **Section 2 – Strategic Policies**

SP1 - Sustainable Development in North Hertfordshire;  
SP6 – Sustainable Transport;  
SP7- Infrastructure Requirements and Developer Contributions;  
SP8 - Housing;  
SP9 - Design and Sustainability;  
SP10 - Healthy Communities.

##### **Section 3 – Development Management Policies**

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;  
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 Pre-application submission 17/02793/1PRE for the residential development comprising 10 dwellings including new access to Night Court following demolition of existing dwelling. This raised no objection to the principle of re-development and gave some comments on design.
- 2.2 Planning application 18/02586/OP was an outline application for the residential development with 10 houses following demolition of existing property and workshop, accessed via existing driveway from London Road and extensions to Knights Court off Weston Way (all matters reserved except layout and access). This application was refused on 18/02/19 for two reasons. These are:
- 1. The proposed development would, by reason of its layout, character and density, be at odds with the prevailing verdant and suburban character of the surrounding area. This discord would amount to poor design, the proposal failing to take the opportunity to improve the character of the area and the way it functions contrary to Saved Policy 57 of the Local Plan, policies SP9, D1, D3, H3 of the emerging plan and the NPPF as it relates to achieving well-designed places.*
  - 2. The existing London Road access, which will serve three of the proposed new dwellings, is substandard in terms of its width and design. This will compromise the safety of public highway users. Specifically:*

i) it does not provide sufficient passing and waiting space for vehicles turning off London Road into the site;

ii) it does not provide sufficient space outside plots 7 to 9 to allow for the turning of larger vehicles like fire tenders, large delivery vehicles, etc.

iii) it does not offer sufficient visibility for the pedestrian exit emerging from Ashton's Lane;

iv) the London Road vehicular access is too narrow to be shared by traffic and pedestrians at the same time and therefore the proposal does not provide safe and suitable access for all people by modes other than the private motorcar.

v) the tracking for refuse vehicle was undertaken using a smaller refuse vehicle than the one in use by the Council.

vi) the development does not provide safe and suitable access for all people by modes other than the private motorcar, and therefore does not comply with paragraphs 32 and 35 of the NPPF.

In view of the above concerns the proposal would have an unacceptable impact on highway safety and convenience and fail to be accessible contrary to HCC's adopted policies as contained in the Local Transport Plan 4, the adopted standards contained in the Roads in Herts, Policy T1 of the Emerging Local Plan and Section 12 of the NPPF, specifically paragraph 108, 109, 110 and 130.

- 2.3 This was appealed and dismissed under ref. APP/X1925W/19/3227756. The Inspector dismissed the appeal on two main reasons.

*"The main issues to be considered are i) the impact of the proposal upon the character of the area and ii) the impact of the proposal upon highway safety."*

- 2.4 Pre-application submission 19/02979/PRE for the residential development comprising 24 dwellings. This raised no objection to development of the site, allocated as BA7 in the emerging Local Plan and was generally supportive of the proposed layout and design, suggesting a larger central landscaping and tree area in the centre of the site to complement and be in keeping with the character of the area. The vehicle access was via Knights Court and this access and the new layout and design was considered to overcome the previous reasons for refusal.

### 3.0 **Representations**

- 3.1 **Anglian Water** - no objection. Requires for informative to be imposed on the decision notice.
- 3.2 **Herts and Middlesex Wildlife Trust** - objects to the loss of the traditional orchard. The impact is significant and no measurable mitigation as compensation has been offered. Therefore the application must be refused until this has been addressed. (Officer note – off site compensation forms part of this application).
- 3.3 **HCC Fire Rescue** – all developments must be adequately served by fire hydrants in the event of fire and fire hydrants will be required in the development.
- 3.4 **HCC Lead Local Flood Authority** – no objection subject to conditions.
- 3.5 **HCC Ecology** – a completed Natural England Biodiversity Metric assessment has been submitted. This shows the proposal removal of areas of grassland and orchard and will result in a loss of -2.07 habitat units and shows a net gain of 1.54 hedgerow units. Ideally the site should achieve a bio-diversity gain in both area based habitats

(grassland and orchards) and linear habitats (hedgerows). The application does not achieve this. Therefore this short fall should be made available for offsite bio-diversity projects. (Officer note – the application is proposing off site compensation which forms part of this application.)

- 3.6 **HCC Growth and Infrastructure Unit** – contributions are required towards education, library and youth services. (Officer note – these are set out in detail later in the report).
- 3.7 **HCC Highways** – no objection subject to conditions, an informative and a sustainable transport contribution.
- 3.8 **HCC Archaeology** - recommends a condition.
- 3.9 **HCC Minerals and Waste** – a Site Waste Management Plan is required which should aim to reduce the amount of waste generated on site and must contain information including the type of waste to be removed from the site and where that waste will be taken to.
- 3.10 **NHDC Urban Design Officer** - I have no comments to make on this proposal in terms of layout, open space, permeability and design. However, a number of trees within the site will be lost to accommodate this development. New trees and hedges are proposed to create a landscape setting for the scheme and help it to assimilate into its surroundings. A detailed planting scheme for this site should be the subject of a condition together with details for its establishment and long-term maintenance and management.
- 3.11 **NHDC Waste Services** – general advice including drag distances, levels surfaces and width of bin store doors.
- 3.12 **NHDC Housing Officer** - Within the overall 35% affordable housing requirement a 65% / 35% rented / intermediate affordable housing tenure split is recommended in accordance with the requirements of the submission Local Plan. Based on the provision of 24 dwellings, the affordable housing requirement is 8 dwellings, 5 rented and 3 intermediate affordable housing tenure. The applicant has offered 8 flats, (3 x 1-bed and 5 x 2-bed) and if this is to be accepted all should be for affordable rented tenure. The applicant has agreed to this provision.
- 3.13 **NHDC Environmental Protection** - no objection subject to a condition and informative regarding EV charging points.
- 3.14 **NHDC Environmental Health** – no objection subject to conditions and informative regarding land contamination and building hours.
- 3.15 **Third party comments**
- 3.16 The application was advertised with site and press notices and 150 neighbour notification letters. 19 responses have been received with most objecting to the scheme.
- 3.17 **Support:**
- layout appears less congested than in the previous scheme.
  - There appears to be more trees retained in this proposal which is a plus.

### 3.18 **Objecting:**

#### Principle / layout and design:

- Baldock has had its fair share of infill developments and this one is excessive.
- This has gone from 10 to 24 dwellings which is an over development of the site.
- Plots 11 – 14 are too close to the houses in Ashtons Lane and the garden sizes are not proportionate or in keeping with the houses on Ashtons Lane.
- The houses are too close to the existing neighbours.
- There has been enough building and schools and doctors are full.
- It will look an eyesore.
- Why has this increased from 20 to 24. The houses will be 'shoe-horned' into an awkward space.
- This development will not improve our locality or community.
- The allotments have been left unmanaged for 15 years and should be re-used not built over.
- Given NHDC is an applicant they are biased towards this proposal.
- Why should the foul drain at Knight Court take the waste from this development and can it take it? Who will pay the bill if it cannot cope and it all gets blocked up? (Officer note – this is a matter for Anglian Water).
- It will reduce the value of the houses in Ashtons Lane.

#### Traffic and parking:

- Double yellow lines are needed outside the flats at Knights Court to stop people parking along here and causing traffic blockages.
- Where is the visitor parking for Knights Court to be re-located?
- Vans park at /near the junction and it is blind spot / safety hazard and this development will make this bottle neck worse.
- This will cause significant disruption to Weston Way. Weston Way is used by many large vehicles as a short cut form the motor way and these building works will make this worse. A mini roundabout should be put on the junction with Weston Way and Knights Court.
- Documents as far back as 2005 said a roundabout was needed on this junction. At the very least a Road Safety Audit needs to be carried out.
- Will the road be adopted because Knights Court Management Company have responsibility for this road and the adjacent boundaries. (Officer note – this is not correct. The applicant Foxbury Developments owns the access road from the junction with Weston Way and the Knights Court flats have a right of way over it).
- The perimeter fence with currently exists around the proposed Development and Access Road belongs to Knights Court. How much of this fence to be removed and how it is made good after needs to be agreed with the management company. (Officer note – the applicant owns this fence).
- Is the street light to be removed? And where will it be relocated? (Officer note – yes the street light is to be removed. A condition is recommended to ensure that it is relocated and not removed and not replaced).

#### Bio-diversity:

- Habitat for wildlife will be lost. This area has bats, black squirrels; foxes, hedgehogs, muntjac, great spotted woodpeckers and jays.
- Clearly there will be significant biodiversity loss and the proposal should be rejected on this basis. The mitigations offered would come nowhere near to offsetting the losses.

- The loss of the trees and green space we have looked out onto for years is very upsetting.
- The new trees planting will not replace the splendour of the mature trees on the site now.

Amenity issues:

- Our peace will be ruined with two years of building works.
- We work in the emerging services on shift work and need peace and quiet when at home. The building works will affect this and will pose a danger to colleagues, the public and will negatively affect our mental health.
- This development will have a large impact on our privacy and potentially upon our provision of sunlight and day light.
- We chose this property due to its quite location and this will be ruined.
- No consideration has been given to the existing neighbours this scheme will harm.
- The hedging rear of plots 9 and 10 will be retained as this is our hedging planted by us about 25 years ago within our boundary.
- We feel there will be impact on the rear gardens of the houses in Ashtons Lane.
- We are concerned that the pedestrian access to London Road will cause noise in the locality and should be blocked off.
- Three storey accommodation will block sunlight to 18 – 26 Ashtons Lane.
- The short cut from Weston Way to London Road will cause noise and disturbance for neighbours and who knows who will walk through it. We don't want strangers walking round the back of the flats.
- Concern that car lights will shine in my rear rooms.
- It will result in a loss of privacy to our home and garden.

Water supply:

- There are water supply issues in Clare Close and this development could make this worse. (Officer note – this is a matter for Anglian Water).

#### 4.0 **Planning Considerations**

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

- 4.1.1 The application site is formed from no.68 London Road, which is a chalet bungalow with a range of detached outbuildings including a garage and greenhouses and its extensive gardens, which forms the southern part of the site, and the former allotments (owned by NHDC) which form the northern part of the site. The site area is 1.08 hectares and is a roughly 'tri-angular' shaped plot of land. It has a 'back land' position, lying to the east of Weston Way, south of Clare Crescent and west of Ashton's Lane and London Road. The area is a large area of green open land, verdant in character with many mature trees and areas of overgrown grassland and shrubs. It is not within the Conservation Area and it does not neighbour any listed buildings.

##### 4.2 **Proposal**

- 4.2.1 This is a full planning application for the redevelopment of the southern part of the site and residential redevelopment of the allotments part of the site, to form one new development comprising of one block of 8 flats and 16 houses, 24 dwellings in total. The vehicle access is an extension off Knights Court, which forms a central roadway into the development with the houses set around a central open green area. The existing vehicle access off London Road for no.68 is to form a pedestrian and cycle link to London Road.

#### Plots 1 – 8

- 4.2.2 These form the block of flats which is positioned to the immediate east of Knights Court on the south side of the access road. The block is mainly two storeys in height, with the eastern corner section being three storeys. It has a central underpass section, providing access to a rear parking area comprising 10 parking spaces with an additional 2 parking spaces located in tandem style on the west side of the building. Two spaces are disabled and there is a bin store area under the underpass part of the building and a bike store area in the rear car park. Within the block there are 5 x 2-bedroom flats and 3 x 1-bedroom flats and each flat has a generous sized kitchen / dining / living room with hallways and built in storage. The block is part 9.7m and part 10.4m in height and is roughly 'L' shaped in footprint. It is a maximum of 24.7m wide and just under 24m deep on the long elevations. The external design of the block is sections of brick work, tile clad and sand coloured painted render with a tradition tile roof.

#### Plots 9 – 10

- 4.2.3 These are two detached houses positioned in the southern corner of the site and will back onto houses near the junction of Weston Way and Ashton's Lane. These are two storey houses with a front gable design feature with a 'cat slide' roof forming part of the front elevation and are of traditional brick, tile and sections of render for the external materials. The houses have a recessed porch area and comprise a large living room, an office, w.c., storage cupboards, large hallway, utility and large open plan kitchen / dining / family room across the rear at ground floor level and four bedrooms, one with en-suite and a family bathroom at first floor level. The houses have a maximum ridge height of 8.7m. Plot 9 has two parking spaces in the frontage and a rear garden that is 13m deep and 14m wide. Plot 10 has three parking spaces in the frontage and a rear garden than is 12m deep and 28m wide occupying the southern bend in the site.

#### Plots 11 – 14

- 4.2.4 These are two pairs of semi-detached houses positioned on the east side of the site rear of Ashton's Lane. The houses are 9.3m tall and are designed as pairs, with the two end plots being gable fronts with sand coloured painted render finish and the two middle plots being brick built with a ground floor bay window and flat roofed front dormer window. Each house comprises a hallway with w.c., a living room and kitchen / dining room across the rear with a separate utility area at ground floor, two bedrooms, one with en-suite, a family bathroom and a home office room at first floor level and a further bedroom with en-suite at second floor. Each house has two on plot parking spaces, rear garden access and a rear garden area that is 13.5m deep and between 8m to 9m in width.

#### Plots 15 – 16

- 4.2.5 These house have the appearance of one large detached house, but in fact do form one pair of semi-detached houses. These house are also on the east side of the site and back onto the houses in London Road. These houses are 8.2m tall with a rendered external appearance. Plot 15 is larger. It has its front door on the front elevation and comprises a large hallway, with W.C, home office, living room and kitchen / dining / family room with a separate utility at ground floor level and four

bedrooms, one with en-suite and a family bathroom at first floor level. This plot has four on plot parking spaces and a rear garden that is between 15m to 18m in length and just under 9m wide. Plot 16 has its front door on the side elevation and comprises a hallway with a w.c. kitchen / dining room and living room at ground floor with two bedrooms, one with en-suite and one family bathroom at first floor level. The house has two on plot parking spaces to the side and a rear garden that is between 5m to 8m wide and 14m long.

#### Plots 17 – 20

- 4.2.6 These houses form a row of terraced houses in the north-east corner of the site. These houses on the east side back onto the houses in London Road and to the north and west of the block the houses in Clare Crescent. The houses are similar in design to those in plots 11 – 14, with the two end houses having gable design frontage that are rendered and the middle two houses also having render at first floor with steep 'cat slide' roof with front and rear dormer windows at first floor level. The houses are a maximum of 8.2m tall. Plots 18 and 19 (the middle plots) are slightly smaller, with hallway with w.c., a kitchen / dining room and living room at ground floor with three bedroom, one with en-suite and family bathroom at first floor level. Plots 17 and 20 have a large hallway, w.c. and cloakroom, living room, kitchen / dining / family room and sperate utility room at ground floor with four bedrooms (the smallest is marked as a home office), one bedroom with en-suite and one family bathroom at first floor level. Plots 18 – 20 each have two on plot parking space. Plot 17 has three. Plots 17 – 19 have rear gardens that are between 8m to 9m in width and between 28m to 30m in length. Plot 20 has a garden that is 14m wide and between 10m to 17m in length.

#### Plot 21

- 4.2.7 This is a detached house positioned fairly centrally in the site, and is to form one side of the roadway into the site and is opposite the flats in plots 1-8. It backs onto the houses in Clare Crescent on its north side. The house has a front gable design, with sections of brick work, render and bay windows. It is 8.2m in height and comprises a large hallway with w.c., home office, large living room, a kitchen / dining room and utility at ground floor level with four bedrooms, one with en-suite and a family bathroom at first floor level. It has four on plot parking spaces and a rear garden that is 12m wide and is part 14m and part 18m deep.

#### Plots 22 – 24

- 4.2.8 These houses form a row of terraced houses in the north-west corner of the site. The side flank of plot 24 is rear of the houses on Weston Way and the side flank of plot 22 neighbours the houses on Clare Crescent. The house are 8.7m tall and plot 22 has a gable design frontage in brick with plots 23 and 24 are rendered with ground floor bay windows. Each houses comprises a hallway with w.c., living room and kitchen / dining room at ground floor with three bedrooms, one with en-suite and one family bathroom at first floor. Plot 23 also has a home office /small bedroom 4 and a larger landing and larger bedrooms compared to plots 22 and 24 due to the first floor of this house extending over the ground floor passageway to the rear garden area. Plots 23 and 24 have two on plot parking spaces while plot 22 has three. Each house has garden area of 7m wide and 29m deep for plots 23 and 24 and 19m wide and part 10 and part 18m deep for plot 22. An amended plan was requested which has reduced the height of these houses from 9.5m to 8.7m.

4.2.9 Within the development there are 12 visitor parking spaces.

4.2.10 Submitted in support of the application are a Design and Assess Statement; Planning Statement; Heritage Statement, Flood Risk Assessment, Biodiversity Metric letter, Bat and Reptile surveys and Preliminary Ecology Appraisal. All these documents can be viewed on the Council's website. Key points from the Planning Statement include:

- To overcome the previous reason for refusal the application site was extended to include the land of the former allotments and to enable a more comprehensive scheme to be submitted.
- There is a revised housing mix to provide a better mix of dwelling types and sizes.
- The dwelling design better reflects local character and distinctive with groups of short terraces and semi-detached dwellings similar to those in Clare Crescent with more emphasis on open space in the development.
- All vehicle traffic is to enter the site via Weston Way / Knights Court with a shared footpath and cycle path linking to London Road.
- The prominent character of Clare Crescent is made up of arts and crafts garden city terraced styles, with steeply pitched gables, plain tiled roofs, render walls and tall brick chimneys. The new dwellings have been designed in the arts and crafts garden city style, with many of the house types echoing characteristics found in Clare Crescent, Mons Avenue, Nightingale Way, Elmwood Avenue and some parts of London Road. These feature include steeply pitched gables, brick chimney, modest flat roof dormers, porch canopies and bay windows with external materials comprising of plain tile roofs, facing brickwork and render.
- All houses have a generous garden with open space within the centre of the development.
- The site is in a sustainable location.
- Significant weight should be given to the emerging Local Plan, where this site is an housing allocation BA7. Thus there is no objection to the principle of development.
- The proposal is considered to be in accordance with the development plan policies.
- The affordable units are all proposed to be houses within the apartment block. This is considered to be the most appropriate solution as it would enable a housing provider to take responsibility for the single block.
- Each property complies with the National Described Space standards and has parking and private amenity space.
- The trees to be removed do not have a high amenity value. The trees to be retained will be protected during the construction phase.
- The completed development will have an acceptable visual appearance. This includes new planting, retention of existing trees, appropriate materials for shared surfaces and fences and walls.
- The proposal is considered to represent a design and layout that reflects local context and character and will create a strong sense of place whilst also providing a good standard of accommodation for modern living.
- The development will not result in a loss of privacy or adversely affect the existing neighbours in Weston Way, Knights Court, Ashton's Lane and London Road.
- The Knights Court access will become busier as a result of the development. However, it is not considered that the nature of the residential traffic associated with the development would cause adverse material harm to the living conditions of the properties in Knights Court or on Weston Way.
- The access has been assessed by highway engineers and is considered suitable to accommodate the amount and type of additional traffic.
- The site is south-west of Archegonial Area 96 which encompasses the late Iron Age settlement of Baldock, the Roman small town and the medieval town.



- The Heritage Network conclude that there is the potential for the site to contain archaeological remains of significance and as such recommend that a programme of intrusive investigation is likely to be required pre-commencement.
- The application site is in Flood Zone 1 so there is a low risk of surface water flooding across the site.
- The Ecological Survey identified the site as having a high ecological value as well as supporting hibernating bats and potential for summer roosting bats and reptiles. The site is also valuable for birds and invertebrates. Recommendations include habitat compensation and to take a precautionary approach with respect to birds, amphibians, hedgehogs and foraging bats. A Landscape Ecological Management Plan is also recommended in order to secure the required mitigation and ecological enhancements. It is acknowledged that Natural England will need to approve the mitigation measures with regards to the bats and to issue a European Protected Species development site licence prior to commencement. (Officer note – a condition is recommended ensuring the ecological mitigation measures).
- The houses will be built to a high standard with respect to energy performance.

### 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 I consider the main issues to be addressed in the determination of this planning application are:

- The principle of development on the site and the overall policy basis for any decision;
- Whether the design, layout and overall appearance of the development is acceptable in this location;
- Whether the living conditions of nearby residents and future residents of the proposed development would be acceptable;
- Whether the proposal would have sufficient car parking, access and servicing arrangements to meet the needs of the development and not harm the wider area;
- Whether the impact on biodiversity is acceptable;
- Whether suitable S106 contributions and affordable housing can be secured, and
- Whether the proposal is acceptable in all other technical respects, and in relation to matters of climate change and air quality mitigation.

4.3.2 The following paragraphs address these broad issues and related detailed matters in this order before reaching conclusions in the planning balance and setting out a recommendation.

#### Policy basis for the proposal

4.3.3 The application site is located within the urban area of the town of Baldock. Half of the site is already in existing residential use (no.68 and its grounds) and half of the site is a former allotment area. National and local planning policies seek to focus new housing within urban areas and therefore the development of this land is acceptable in principle under saved Local Plan Policy 8 'Development in Towns'.

4.3.4 Under the provisions of the emerging Submission Local Plan 2011 – 2031, this whole site is an allocated housing site BA7. The requirements of Policy BA7 state:

4.3.5 Land rear of Clare Crescent – 20 homes:

- Archaeological survey to be completed prior to development;
  - Preliminary Risk Assessment to identify any contamination associated with previous uses including mitigation;
  - Address existing surface water flood risk issues, including any run-off through SuDS or other appropriate solution.
- 4.3.6 As set out above supporting documents have been submitted to specifically address the three criteria of this policy, and the HCC Historic and Natural Advisor team, the HCC Lead Local Flood Authority and the NHDC Environmental Protection officer have all reviewed these documents and recommend no objection to the application subject to conditions, which are recommended.
- 4.3.7 The emerging Local Plan is at an advanced stage of preparation. The plan process is nearing completion with the various rounds of consultation on the plan and its modification as well as the Examinations in Public sessions all completed. The Council is now waiting of the Inspector's final report, which is imminent, and it is hoped that the emerging Local Plan will be finally and fully adopted within the next few months. As a result, significant weight can be given to the policies contained within it.
- 4.3.8 I note that the policy advocated 20 homes on the site, and this proposal is for 24. As the development is acceptable in principle it must be assessed against relevant design policies, 57 and 58 of the Saved Local Plan and DS1 and DS3 of the emerging Local Plan to assess whether 24 dwellings and the design and layout of the site is acceptable.

#### Design and Layout

- 4.3.9 I have no objection to the proposed design and layout of the proposal. The continuation of the Knights Court access into the development with the proposed flats (plots 1 – 8) on the south side and plot 21 on the north leading to a good sized central area of open space, will create an attractive 'street' into the development. Plots 9 – 16 then form a 'street' along the east side of the site with the two rows of terraced houses set back into the north-east and north-west corners. Some mature trees within the centre of the site are to be retained, along with groups of trees along the site boundary, in particular with Ashton's Lane and numbers 27 and 29 Clare Crescent.
- 4.3.10 The design of the development, based on the traditional arts and crafts design of the houses in Clare Crescent, with gable frontages, steep roofs and traditional materials is considered to be attractive in its own right as well as being reflective and complementary of the character of the locality. The heights of the houses vary between 8.2m to 9.3m. This is considered to result in an attractive street scene and context.
- 4.3.11 Each house has on plot parking and there is sufficient parking provided for the flats. Saved Policy 57 requires for a private amenity garden area of 75 sqm. Each house as a rear garden well in excess of this and a condition is recommended to ensure that secure cycle parking will be provided in each garden as no garages are proposed.
- 4.3.12 Effort has been made to position the houses to prevent material adverse harm on the neighbouring occupiers. Plots 17, 20, 22 and 24 do not have first floor side flank windows so there will be no loss of privacy to the rear gardens of the houses these adjoin and there are no side flank windows in the side flank wall of the flats closest to

Knights Court. Clearly the rears of plots 9 – 16 will be visible from the neighbours along Ashton's Lane and London Road. The 'back to back' distance between the rear of these existing neighbours and the proposed houses is in excess of 30m for plots 9 – 15, which is in compliance with the requirements of Saved Policy 57 to protect privacy and the mature trees along this boundary are to be mainly retained which will provide a good degree of screening. It is noted that plot 16 is 29m rear of no.58 London Road. However, due to the mature trees being retained along the boundary combined with plots 15 and 16 being positioned on an angle to the rear of no.58 so there will be no direct over looking to the rear of this house, no objections raised in this instance to this slight under provision of the requirements of Saved Policy 57.

4.3.13 There is change in levels across the site, with the land falling from east to west. The land levels at Ashton's Road (in the road) are at datum level 84.4. Plots 11 – 14 are to have a patio level at 81.4 whilst the flats in plots 1- 8 are to have a car park level on 79.4 and plots 22-24 will have an car park level of 78.5. The layout takes account of the drop in ground levels. This is considered to be acceptable as existing neighbours along Ashton's Lane and London Road are positioned on a higher ground level than the proposed houses so this will lessen the impact of visual bulk.

4.3.14 The site layout plan shows that a section of landscaping, fence and street lamp will be removed from the Nights Court access to allow access into the site. The visitor parking for Nights Court remains unaffected and the street light is to be removed and a condition is recommended to ensure that one is replaced. There is no objection to the development using the Knights Court access as the access into the development as the applicant own the Knights Court road outright from the boundary with Weston Way and the Knights Court apartments have a right of way over it. Furthermore, the Knights Court access road was designed as a gateway to this site, hence the small section of fence and landscaping that needs removal now with visitor parking being unaffected, and services have been laid underground to the boundary with the rear of no.68 when Nights Court was built in preparation for the development of this site.

4.3.15 The existing vehicle access for no.68 is to provide a pedestrian and cycle link to London Road. In the interests of sustainability and enhancing walking and cycling connectivity this is supported.

4.3.16 In conclusion, the design and layout of the scheme is considered to be acceptable and will result in a high quality and attractive development. No objection is raised to the provision of four dwellings over the BA7 allocation of 20 and the development is considered to comply the requirements of Saved Policy 57 and emerging Policies SP9 and D1. Furthermore, the Council is behind in its delivery of houses assessed as five year housing land supply, so the addition of 24 houses to the housing stock is a positive benefit of this proposal.

#### Living conditions and amenity issues

4.3.17 The proposed development will have a considerable visual presence in the locality compared to the existing site, but this in itself is not a reason for refusal. It is noted that this site has many neighbours which will outlook onto it. However, as set out above, the development is positioned on a slightly lower ground level than many neighbours which will help to reduce visual bulk, distances to neighbours are acceptable, mature trees are to be retained where they exist along the site boundaries and good quality mature trees within the site are also to be retained, and houses are

positioned side on or angled where the relationship to existing neighbours is closer. There is no denying that the existing neighbours will clearly see these houses and block of flats. However, I cannot conclude that the impact from them will be of such significance or materially so adverse from overlooking, over dominance, loss of privacy or loss of light to justify the refusal of this application for this reason.

4.3.18 For the future occupiers, due to the generous size of the flats and houses all exceeding the minimum requirements to the Nationally Described Space Standards, large rear gardens, on plot or allocated parking, open space within the development and the attractive arts and crafts design of the actual buildings, this development represents a high quality and high amenity living environment for future residents.

4.3.19 I note that neighbours are concerned that the footpath link to London Road could result in noise and disturbance to the existing neighbours and there is a concern that non-residents may use it. As the footpath link is considered to represent clear benefits to manoeuvrability and sustainability in the locality, I consider its retention outweighs this concern. People are unlikely to spend any prolonged periods of time on the footpath, as they will use it as a means of access and transport. I therefore cannot justify the removal of the footpath from the scheme for this concern.

#### Car parking and transport issues

4.3.20 The Council's SPD Vehicle Parking at New Developments requires for one parking space per one bed dwelling and two parking spaces per two bed dwellings. When no garages are proposed, 0.25 spaces per dwelling is required for visitor parking. To meet the standard 45 parking spaces plus 6 visitor bays are required to meet the parking requirements of the SPD. 52 spaces are proposed for the flats and houses with an additional 12 spaces for visitor parking. As the SPD standards are minimum parking standards, there is no objection to this over provision of parking in this instance.

4.3.21 There is no objection to the use of Knights Court as the access link. Whilst concerns from local residents is noted, HCC Highways raise no objection to this use of this access on safety grounds, and the noise and disturbance from the additional traffic is not considered to be so great that it would have harm on the residential amenities of the neighbours in Nights Court and no.189 Weston Way, over and above the general traffic noise in the locality, to justify the refusal of this application for this reason.

4.3.22 The internal access road is of acceptable layout and size to allow refuse lorry collection and to meet the needs of the emergency services if required.

4.3.23 No objections are therefore raised on the basis of parking and access.

#### Ecology considerations

4.3.24 Given that the application site is formed from one dwelling set in large grounds and an area of former allotments, that were being used by only one tenant in 2016 who was then shortly relocated to the allotments at Ivel Springs and this site has been unused since, it is acknowledged that this site does represent a large green area that is rich in wildlife and high in biodiversity. The application acknowledges that this proposal will result in a loss of biodiversity and its habitat from the site. As a result, the application is offering, via the S106 legal agreement, an offsite contribution of £27,360.00 (which is

based on the HCC ecology calculation matrix) to pay toward ecology projects at Ivel Springs, with contributions targeted toward tree planting and the wetland project.

- 4.3.25 With regards to the consideration of the existing ecology on the site, the HCC Ecology response states:

*“The 2018 reptile survey included the whole area of the present application site. This found no evidence of reptiles across the site. Although this survey is now 2 years old, given the separation of the site from likely reservoir sites for reptiles, I do not consider conditions at the site will have changed significantly to attract reptiles and therefore no further survey is required in this instance”.*

And:

*“The 2018 survey identified a number of buildings with low to medium potential for bats. Subsequent activity surveys did not confirm any of these buildings as roosts. However, the workshop was also identified during the February PEA survey as a hibernation site for a single brown eared bat and its removal will require a licence from Natural England. Suitable mitigation and compensation for this loss are outlined. I consider with these measures in place that the LPA has sufficient information to deal adequately with bats from a planning perspective”.*

- 4.3.26 Therefore, even though the surveys were done in February 2018, the application does provide sufficient information for its determination with regards to this issue. Condition 29 is an ecology mitigation condition, requiring for a Landscape Ecology Management Plan to be submitted and agreed and for these measures to be implemented on site.
- 4.3.27 Whilst this loss of biodiversity from this site is regrettable, due to the need to provide new homes and combined with the facts that this is an allocated housing site and a payment is being made to encourage wildlife off site, which is in accordance with the requirements of emerging Policy NEx, no objection is raised against the application on this basis.

#### S106 Matters

- 4.3.28 Set out in the table below are the elements of the S106 Obligation that this development proposal requires. All the terms have the agreement of the applicant and an advance draft of the document is submitted and is being prepared by the Council's planning lawyer and the applicant's solicitor.

Element	Details	Justification
Affordable housing (NHDC)	8 dwellings ( 3 x 1-bed and 5 x 2-bed flats) all for affordable rented tenure.	Saved Local Plan Policy 29A and Emerging Local Plan Policy HS2.
Primary education (HCC)	£49,046 (indexed linked to PUBSEC 175) towards the expansion of Hartsfield Primary School to 3FE.	HCC toolkit.
Secondary education (HCC)	£48,012 (indexed linked to PUBSEC 175) towards the expansion of Knights Templar School to 8 FE	HCC toolkit

Sustainable transport (HCC)	£16,000.00 (indexed linked) to provide easy access kerbing to make the nearby bus stop on Weston Way DDA complaint	HCC toolkit.
Library services (HCC)	£3,813.00 (indexed linked) towards the enhancement of Baldock library.	HCC toolkit.
Youth services (HCC)	£927.00 (indexed linked) towards the increase of capacity at Hitchin Young People's Centre	HCC toolkit.
Fire hydrants (HCC)	Provision of fire hydrants in the development	HCC toolkit
Ecology (NHDC)	On offsite contribution of £27,360.00 (indexed linked) towards tree planting and the wetland project at Ivel Springs.	HCC matrix
Open Space (NHDC)	£13,500.00 (index linked) towards the Greenspace Action Plan at Weston Hill for footpath repair and resurfacing.	Planning Obligations SPD 2006.
Waste collection and recycling (NHDC)	£71 per dwelling (indexed linked)	Planning Obligations SPD 2006

4.3.29 As Members will know under Community Infrastructure (CIL) regulations it is necessary to identify the specific infrastructure project to which funding is sought from an applicant at the time that planning permission is granted. It is no longer allowable to collect a tariff through a S106 Obligation towards a general category and allocate to an identified project later. Following consultation with all relevant Service Providers the above table sets out details of all relevant projects that have been sought in relation to this scheme. On that basis this table forms the basis of a CIL regulations compliant S106 Obligation which is at an advanced stage of preparation.

4.3.30 With regards to affordable housing, the emerging Local Plan Policy (HS2) would require 35% affordable housing for a 24 dwelling scheme, of which 65% should be for rent and 35% for other affordable tenures, such as shared ownership. This scheme proposes 33% affordable housing 100% for social rent. The 2016 SHMA Update recommends a greater proportion (59%) of smaller homes for rent (one and two bedroom). Based on this the Council's Housing Officer raises no objection to this offer of affordable housing.

#### Bins and cycle parking

4.3.31 For each of the dwellings, there is space on plot in the side / rear gardens for bin storage and bins will not need to be left out in the street scene. The flats have a bin store area within the vehicle underpass. The refuse lorry can access the site, so bins will have to be dragged to the curb side for collection. All these drag distances are acceptable and no objection is raised on this basis.

- 4.3.32 A secure cycle parking area is proposed for the flats. As the houses do not have garages, cycle parking is required, and a condition is recommended covering this issue.

#### Landscaping

- 4.3.33 The submitted survey plans show that 42 individual trees and 11 groups of trees are to be removed from the site. Many of the trees to be felled have been graded as category C or U trees and the good quality mature trees within the site are being retained within the central area of open space, to the south of the proposed flats and around the site boundaries. The landscaping plan shows the existing trees to be retained and that 43 replacement trees are to be planted. A Landscape Ecological Management Plan is required to be submitted and approved as a recommended condition, and this requires for half of the replacement trees to be orchard species and for all new trees planted to be a minimum of 4m in height, so that they offer an immediate ecology benefit. As set out above it is acknowledged that the site is going to suffer a biodiversity loss, and will look very different as a result of the works. However, the retention of the mature trees where shown and the replacement tree planting on site is supported and no objection is raised on this basis.

#### Sustainability

- 4.3.34 The NPPF sets out the three aims of sustainability are an economic, social and environmental objective. This proposal is considered to comply with these objectives. Being within the town of Baldock, with the town centre and the range of facilities it offers, along with access to public transport links only a short distance away, the site is considered to be in a sustainable location. Socially, the site is well connected to the local facilities, groups and amenity bodies in the town as well as potential friendships can be formed between new neighbours. Environmentally, each house is to have its own cycle parking and EV charging point, and the houses are to be built to a high code, with high levels of insulation, low water fittings and energy efficient boilers. In addition, to this, the Members at Cabinet have requested that as a condition of NHDC selling the allotments part of the site to the developer, additional sustainability measures are to be incorporated which are to be included on the flats in plots 1 – 8. These are:

- solar panels with battery backup to the communal spaces;
- triple glazed windows;
- water usage reduced to 90 litres per person per day;
- significant reduction to fabric U-values, with design targets of 0.15 for external walls, and 0.11 for roofs and floors;
- communal electric vehicle charging point to be installed.

- 4.3.35 As a result, no objection is raised on the application on the basis of sustainability.

#### Other technical matters

- 4.3.36 As can be seen from the technical consultation responses reported above, all outstanding technical matters have been resolved in relation to the determination of this planning application and are addressed in the specifically worded conditions set out in the recommendation below.

### Conclusions and the Planning Balance

- 4.3.37 It is clear in my view that this proposal would have a significant visual presence in the locality. However, it is an allocated housing site in the emerging Local Plan, and given that the Council can only demonstrate a 1.5 year supply of deliverable housing sites (latest AMR figures from April 2021) (which is one of the worst performing local planning authorities for housing delivery in England) the public benefits of the scheme in providing much needed new housing outweighs any harm caused by the development of this site. The main objection is the loss of biodiversity and its habitat from the site. This is being mitigated and the proposed design in its own right will result in an attractive and acceptable form of development. For this reason, this application is recommended for conditional permission, subject to the completion of the S106 Legal Agreement.

### Climate Change and Air Quality Mitigation

- 4.3.38 A condition is recommended ensuring EV charging points for the dwellings and flats and the flats are to be built to a high specification code. As a result the proposal is considered to be sufficiently sustainable to be considered to be in compliance with emerging Policy D1 of the Submission Plan 2011 – 2031.

### Alternative Options Considered

- 4.3.39 Please see the above section referring to the planning history.

### Pre-Commencement Conditions

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

## **5.0 Legal Implications**

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

## **6.0 Recommendation**

- a) That planning permission be GRANTED subject to the following conditions and the completion of the requisite S106 Obligation to deliver the benefits set out in the above table and to no new issues being raised within the period of notice being served on the owner of the planning application site.
- b) That the applicant agrees any necessary extensions to the statutory determination during the period to enable the completion of the S106 Obligation and the grant of planning permission within the extended statutory period or permission is refused under delegated powers based on incomplete S106 Obligation.



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

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

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

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

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

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

4. Details and/or samples of materials to be used for the roadway, driveways, patios or any other hardstanding in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

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

5. Details and/or samples of all boundary treatments to be used in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

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

6. Details of all external lighting to be used in the development hereby permitted, including the re-location of the existing street lamp in Knights Court, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site prior to the first occupation of the first dwelling.

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

7. The full details of the soft landscaping, as indicated by drawing no.PL42, and how it will be managed and maintained in the long term, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. The approved details are to be implemented on site in accordance with the details set

out in the following condition.

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

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

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

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

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

10. 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.

11. No gates shall be provided across the access to the site following the completion of the development.

Reason: In the interests of highway safety so that vehicles are not forced to wait in the carriageway while the gates are being opened or closed.

12. 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 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.

13. The development permitted by this planning permission shall be carried out in accordance with the principles of the approved Drainage Statement produced by Wormald Burrows Partnership Limited, reference E3846-MA-Drainage Statement - Rev1, dated May 2021 and the following mitigation measures:

1. Limiting the surface water runoff generated by the critical storm events so that it will not exceed the surface water runoff generated for all rainfall events up to and including the 1 in 100 year plus 40% climate change event.
2. Providing storage in trench soakaways, permeable paving and individual crate soakaways to ensure no increase in surface water runoff volumes for all rainfall events up to and including the 1 in 100 year plus climate change event.
3. The surface water from the site will discharge from a split network of adoptable access road and private network into the ground.

The drainage scheme 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 prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

14. No development above ground shall take place until a detailed surface water drainage scheme for the site based on the principles as set out in the approved Drainage Statement produced by Wormald Burrows Partnership Limited, reference E3846-MA-Drainage Statement - Rev1, dated May 2021, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details. The scheme shall include:

1. Final infiltration testing to be conducted at the exact location and depth of the proposed infiltration features.
2. Final, detailed post-development calculations/modelling in relation to surface water or all rainfall events up to and including the 1 in 100-year return period including a +40% allowance for climate change.
3. A detailed drainage plan including the location and provided volumes of all SuDS features, pipe runs, invert levels and discharge points. If there are areas to be designated for informal flooding these should also be shown on a detailed site plan.
4. Full Assessment of proposed SuDS treatment and management stages for all surface water runoff from the entire development site.
5. Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs.

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

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

1. Provision of complete set of as built drawings including the final drainage layout for

site drainage network.

2. Maintenance and operational activities for the lifetime of the development.

3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

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

16. Prior to the commencement of development (save for the access road into the development) hereby permitted the main vehicular access shall be provided 6.0 metres wide that narrows to 4.8 m near to the end of the cul-de-sacs and thereafter the access shall be retained at the position shown on the approved Proposed-Site-Plan number 19003\_PL03\_D

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

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

17. The gradient of the vehicular accesses shall not exceed 1:20 for the first 12 metres into the site as measured from the extended 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 and to provide adequate visibility for drivers entering and leaving the site and 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

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

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

19. A No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:
1. The programme and methodology of site investigation and recording
  2. The programme and methodology of site investigation and recording as required 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.
- B The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (A)
- C 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 (A) and the provision made for analysis and publication where appropriate.

Reason: To protect / record any remains found on site.

20. Prior to occupation of the new housing development, Electric Vehicle (EV) ready charging point car park spaces shall be provided as follows:
- On Plot Parking - one EV charge point for each of the 16 dwellings (16 in total)  
Designated Apartment Parking - one EV charge point for each of the 8 dwellings (8 in total)  
Visitor Parking - a minimum of one EV charge point ( Minimum of 1)

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.

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

Reason: To protect the residential amenity of existing residents

22. Full details of a construction phasing and environmental management programme for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works or development

(including any pre-construction, or enabling works). The construction project shall thereafter be carried out in complete accordance with the approved phasing programme unless otherwise agreed in writing by the Local Planning Authority. The phasing programme shall include the following elements:

- i) hours of construction operations including times of deliveries and removal of waste;
- ii) measures to minimise dust, noise, machinery and traffic noise impacts during construction;
- iii) site set up and general arrangements for storing plant including cranes, materials, machinery and equipment, temporary offices and other facilities, construction vehicle parking and loading/unloading and vehicle turning areas;
- iv) the location of construction traffic routes to and from the site, details of their signing, monitoring and enforcement measures;
- v) screening and hoarding details, to protect neighbouring residents;
- vi) end of day tidying procedures to ensure protection of the site outside the hours of construction. The construction activities shall be designed and undertaken in accordance with the code of best practice set out in British Standard 5228 1997 and with the agreed details unless otherwise agreed in writing by the Local Planning Authority;
- vii) wheel washing facilities for construction vehicles leaving the site;
- viii) storage and removal of building waste for disposal or recycling;

Reason: To ensure the correct phasing of development in the interests of minimising disruption nearby residents during construction, minimising any environmental impacts, in the interests of highway safety and amenity.

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

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.

24. (b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:
- (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
  - (ii) The results from the application of an appropriate risk assessment methodology.

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.

25. c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method

Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

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.

26. (d) This site shall not be occupied, or brought into use, until:
- (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
  - (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

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.

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

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

28. Before any development commences on site, a Site Waste Management Plan (setting out the aims to reduce the amount of waste produced on site during the demolition and construction phase, the types of waste to be produced, how it is to be stored on site, how it will be removed from site and where it will be sent to) is to be submitted to and approved in writing by the Local Planning Authority. The development must then be operated in accordance with the agreed SWMP unless otherwise agreed in writing.

Reason: To reduce construction waste in accordance with the HCC Waste Policy 12.

29. Prior to the commencement of development on site, a Landscape Ecological Management Plan is to be submitted to and agreed in writing by the Local Planning Authority. This must include the mitigation measures set out in the 'Preliminary Ecological Appraisal Including a Protected Species Assessment'. This includes:

- no site / tree clearance during the bird nesting season;
- deadwood, standing deadwood and deadwood stumps should be retained and if they have to be removed they must be removed by hand and retained in habitat piles around the site boundary;
- the use of bat and bird boxes in the development;
- the use of insect nests, bumblebee boxes and insect towers;
- the creation of a 'hedgehog highway' across the site;
- at least half of the replacement trees be an even mix of orchard species such as walnut, apple, pear, cherry and plum with the remaining trees to be planted being native broad leaved trees;

- all replacement trees must be a minimum of 3m in height to ensure they provide immediate ecological benefit;
- no lighting near to or shining on to any trees, especially those with any bat or bird boxes.

Before any other development commences details and timings of the above measures are to be submitted to, and agreed in writing by, the Local Planning Authority and the approved measures must be undertaken on site prior to the first occupation of the first dwelling. The results of the survey work is to be submitted to the Council.

Reason: To protect ecology on site.

30. Prior to the first occupation secure cycle storage is to be provided in the rear gardens of plots 9 - 24.

Reason: To comply with the requirements of the Vehicle Parking SPD.

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. LEAD LOCAL FLOOD AUTHORITY:

1. We would recommend the LPA obtains a management and maintenance plan, to ensure the SuDS features can be maintained throughout the development's lifetime. This should follow the manufacturers' recommendation for maintenance and/or guidance in the SuDS Manual by Ciria.

2. ANGLIAN WATER:

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

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



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

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

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

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

### 3. HCC HIGHWAYS INFORMATIVES:

1. Through the planning process Hertfordshire County Council would recommend that a financial contribution is provided by developers toward an integrated transport scheme to mitigate the incremental increase in traffic impact from developments and maximise the sustainability of the site in transport terms where safety and passenger transport improvements would then be delivered in order of need.

In respect of Regulation 122 of the CIL Regulations 2010 the planning obligations sought from this proposal are:

(i) Necessary to make the development acceptable in planning terms.

(ii) Directly related to the development;

The new residents of the development will have an additional impact upon local services.

(iii) Fairly and reasonable related in scale and kind to the development.

The above financial contributions have been based on the minimum requirement to upgrade the above mentioned bus stops. This approach is consistent and relate to the scale and impact of development.

The sustainable contribution means the sum of sixteen thousand pounds (£16,000) (Index Linked) as a contribution towards the upgrading to DDA standards for the improvements to public transport to encourage users of the Development to travel to and from the Development by means of transport other than the private car which the County Council determines will contribute to the improvement of highway conditions on parts of the network affected by traffic associated with the Development.

2. As a requirement of the section 106 agreement the bus stop adjacent to Ashtons Lane is required to be upgraded to Disability Discrimination Act standards in order to maximise accessibility of the site. The bus stop will need to be upgraded with easy access kerbs (shelters may not be appropriate). This will need to be agreed in conjunction with appropriate parties. These works shall be secured through the s106

agreement.

4. EV CHARGING SPECIFICATION:

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

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

- o A separate dedicated circuit protected by an RBCO should be provided from the main distribution board, to a suitably enclosed termination point within a garage or an accessible enclosed termination point for future connection to an external charge point.

- o The electrical circuit shall comply with the Electrical requirements of BS7671: 2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7 (PDF). This includes requirements such as ensuring the Charging Equipment integral protective device shall be at least Type A RCD (required to comply with BS EN 61851 Mode 3 charging).

- o If installed in a garage all conductive surfaces should be protected by supplementary protective equipotential bonding. For vehicle connecting points installed such that the vehicle can only be charged within the building, e.g. in a garage with a (non-extended) tethered lead, the PME earth may be used. For external installations the risk assessment outlined in the IET code of practice must be adopted, and may require additional earth stake or mat for the EV charging circuit. This should be installed as part of the EV ready installation to avoid significant on cost later.




- o A list of authorised installers (for the Government's Electric Vehicle Homecharge Scheme) can be found at

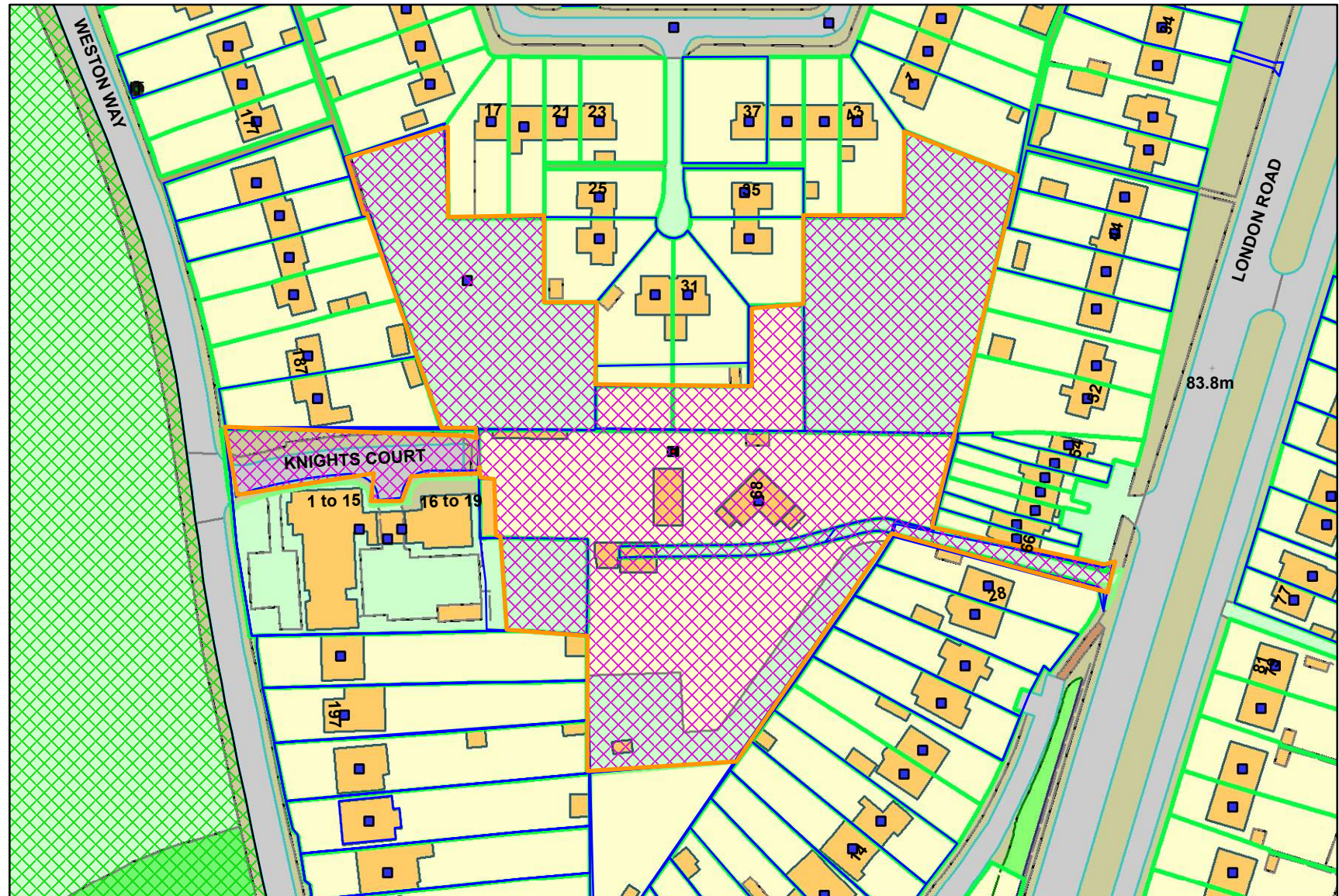
<https://www.gov.uk/government/organisations/office-for-low-emission-vehicles>

5. The applicant is to note that a Natural England European Protected Species licence is required to be obtained due to the presence of protected species on the site.

## Application Validation Sheet

20/02507/FP Land at and North of 68 London Road, Baldock, Hertfordshire, SG7 6JL

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



Scale 1:1,250

Date: 27/09/2021

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<u>Location:</u>	<b>Land At Windmill Close Barkway Hertfordshire</b>
<u>Applicant:</u>	<b>Mr D Jones</b>
<u>Proposal:</u>	<b>Erection of 24 dwellings and associated access roads. 2.0 m wide pedestrian footpath link to the public open space to the south of Plots 15 and 16 and additional landscape planting between the parking bays and the public open space in the same area of the site (as amended by plans received on 21 July 2021).</b>
<u>Ref. No:</u>	<b>20/02779/FP</b>
<u>Officer:</u>	<b>Simon Ellis</b>

**Date of Statutory Expiry Period:** Agreed extension to 30.11.21

#### **Reason for Delay**

Amended plans received and progression of related S106 Obligation. Additional consultations with Hertfordshire Ecology (HE) and the Hertfordshire County Council Lead Local Flood Authority (LLFA). Amended plans also received (27.07.21) following which a full two-week additional consultation process with local residents and the Parish Council was undertaken. This application has also had three case officers due to staff leaving the authority and absence periods.

#### **Reason for Referral to Committee**

The application site area at 0.95ha requires that 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:**

BEV-357-SUR-001 – Location Plan

TS20-240-1 – Topographical Survey

Amended BEV-537-PA-001 Rev E – Proposed site layout plan (received 21.07.21)

Amended BEV-357-PA-010 – Proposed Materials and Elevations Inspiration (received 21.07.21)

Amended BEV-357-PA-011 Rev A – Proposed garages (received 21.07.21)

BEV – 537-PA-012 Proposed street scene elevations

Amended BEV-357-PA-100, 200, 201 Rev A, 300, 400, 500 Rev A – 3 Bed House type A, B, C 4 bed house type D, E and affordable – floor plans and elevations (received 21.07.21)

Amended BEV-357-PA – 600, 700 Rev A – Affordable blocks 1 and 2 – floor plans and elevations (received 21.07.21)

Amended BEV 357-PA-800 Rev A – 4 be house type F – proposed floor plans and elevations

SK02 Rev A – Swept path analysis for refuse vehicle

**Associated Documents:**

Archaeology Report

Air Quality Assessment

Ecology Assessment (additional supporting information received in phases)

Addendum to Preliminary Appraisal (Ecology)

Flood Risk Assessment (additional supporting information received in phases)

Transport Statement

Arboricultural Report

Phase I Desk Study and Phase II Site Investigation Report (contaminated land)

Design and Access Statement (DAS)

Planning Statement

Landscape and Visual Appraisal

Sustainability Report

**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 7 'Selected Villages'

Policy 14 'Nature Conservation'

Policy 26 'Housing Proposals'

Policy 55 'Car Parking Standards'

Policy 57 'Residential Guidelines and Standards'

**1.2 National Planning Policy Framework (NPPF) (July 2021):**

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 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'

Section 16 'Conserving and Enhancing the Historic Environment'

**1.3 Supplementary Planning Documents:**

Vehicle Parking Provision at New Development (SPD – 2011)

Design SPD

Planning Obligations SPD (November 2006)

**1.4 Submission Local Plan (2011-2031) (with Modifications):**

**Section 2 – Strategic Policies**

SP1 - Sustainable development in North Hertfordshire;

SP2 - Settlement Hierarchy;

SP6 – Sustainable Transport

SP8 - Housing;

SP9 - Design and Sustainability;  
 SP10 - Healthy Communities;  
 SP11 - Natural resources and sustainability;  
 SP12 - Green infrastructure, biodiversity and landscape;  
 SP13 - Historic Environment

### **Section 3 – Development Management Policies**

BK2 – Proposed Site Allocation  
 T1 - Assessment of transport matters  
 T2 - Parking;  
 HS3 - Housing mix;  
 HS5 - Accessible and Adaptable Housing  
 D1 - Sustainable design;  
 D3 - Protecting living conditions;  
 NE1 - Landscape;  
 NE4 – Protecting Open Space;  
 NE5 - New and improvement public open space and biodiversity;  
 NE6 – Designated biodiversity and geological sites;  
 NE7 - Reducing flood risk;  
 NE8 - Sustainable drainage systems;  
 NE9 - Water Quality and Environment;  
 NE10 - Water Framework Directive and Wastewater Infrastructure;  
 NE11 – Contaminated Land  
 HE1- Designated Heritage Assets  
 HE4 -Archaeology

## **2.0 Site Planning History**

2.1 None

## **3.0 Representations:**

### **3.1 Technical and Statutory Consultees:**

#### **Hertfordshire County Council (Highways):**

No objection suggested conditions out below (**see recommended condition nos. 6-11**). Also require a £28,500 contribution towards DDA access improvements to public transport in the local area.

### **3.2 Hertfordshire County Council (Growth and Infrastructure and Fire and Rescue):**

Require the following elements on a S106 Obligation:

Middle Education - £38,927 (index linked) towards the expansion of King James Academy and upper education of £41,964 towards expansion of the same school;  
 Youth provision - £1,185 towards improvements to the Royston Youth People's Centre;  
 Library provision - £4,396 towards expansion of Royston Library;  
 Fire Hydrant provision across the development site.

### **3.3 Hertfordshire County Council (Lead Local Flood Authority):**

After a series of objections to various amendments to the Flood Risk Assessment withdrew their objections prior to the preparation of this report. Suggested conditions. (**see recommended condition nos.16+**).

### **3.4 Hertfordshire County Council (Historic Environment – Archaeology):**

No objection. Suggested condition (**see recommended condition no. 13**).

- 3.5 **Hertfordshire County Council (Ecology):**  
After a series of objections to the applicants evolving Ecology Study for the site, finally withdrew their objections prior to the preparation of this report. Request additional information to be provided by a suitably worded planning condition relating to the management and maintenance of on-site landscaping and associated biodiversity (**see recommended condition no. 12**). Also require an off-site biodiversity net gain payment of £72,670 to be secured via an associated S106 Obligation.
- 3.6 **Herts and Middlesex Wildlife Trust:**  
Again, originally objected to the first version of the Ecology report but following further clarifications withdrew their objection and note the retention of hedgerows proposed in the scheme as the main feature to secure biodiversity on this site.
- 3.7 **Environment Agency (Contaminated Land and Controlled Waters):**  
No objection. Suggested conditions (**see recommended condition no. 14**).
- 3.8 **Housing Supply Officer (NHDC):**  
Accepts the proposal for eight affordable housing units within this scheme (5 two bed and 3 three bedroom units) of which five would be affordable rent and three intermediate tenure. This equates to a policy compliant 35% affordable housing offer from this scheme. Also notes that as Barkway has a population of less than 3000 staircasing rights for affordable rent and intermediate tenure can be limited to a maximum of 80% (70% limit for affordable rent for three bed units) of the market value which ensures the units can remain as affordable housing in perpetuity through the S106 Obligation.
- 3.9 **Environmental Protection – Air Quality (NHDC):**  
Requests conditions and informatives to secure an appropriate provision of EV charging point across the site (**see recommended condition no. 15 and informatives**).
- 3.10 **Environmental Protection – Contaminated Land (NHDC):**  
Recommends conditions requiring notice and remediation of any contaminants found during construction on this low risk site (**see recommended condition no. 14**).
- 3.11 **Environmental Health – Noise (NHDC):**  
Requires a condition seeking details of a construction management plan to avoid nuisance during the construction phase (**see recommended condition no. 11**).
- 3.12 **Environment Agency:**  
No meaningful comments received. Control of over contamination of controlled waters can be secured through the condition recommended by NHDC Environmental Protection (**see recommended condition 14**). Surface water flood issues dealt with by LLFA.
- 3.13 **Barkway Parish Council:**  
Concern that the proposed development will generate additional demand for on street car parking on Barway Road, adding to congestion. Consider that the Local Plan indicative figure of 20 dwellings on this proposed site allocation should be adhered to in order to limit the level of overspill car parking.



### 3.14 **Public Comments:**

Full details can be viewed on the Council's website and Members are advised to read comments posted on the website. However, a brief summary of views expressed is set out below:

- Loss of daylight and sunlight, particularly to 5 Millcroft Court;
- Harm to local amenity;
- Development here would harm the village character;
- Poor local infrastructure to cope with this level of growth;
- Lack of local facilities to sustain associated increase in population;
- Lack of local employment opportunities so few local jobs for increased population;
- Excessive traffic and congestion on Windmill Close and on street car-parking already, and this will worsen that problem;
- Insufficient car parking planned within the development;
- Plots 10 and 16 would harm local trees;
- Impact on biodiversity and local wildlife;
- Poor housing mix for local needs.

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

- 4.1.1 The application site comprises two fields accessed off the North Eastern edge of Windmill Close, Barkway. The field off the eastern edge of Windmill Close is an area of informal open space which leads to a more actively maintained area of open space and play space to the east of the application site, to the rear of Royston Road, further to the East. This more actively maintained area of open space is outside the planning application site and would therefore be retained. The field to the north of Windmill Close rises to the fields beyond toward the location of the prominent telegraph tower which dominates the landscape in this locality. This second, larger field is not in active use as public open space but is not farmed either. This second field is larger in area and contains a disused small building in the far north west corner of the site.
- 4.1.2 The site is bordered by the existing housing estate development of Windmill Close to the south, the open space and then the houses along the western side of Royston Road to the east and open countryside to the north and north west. This edge of the settlement location is on lower ground to the higher countryside to the north. The northern and western boundaries of the site are well screened with significant hedgerow and tree belts.
- 4.1.3 The existing dwellings along Windmill Close are all of the same era (1960s/70s) and are of red brick and a mix of two storey detached and semi-detached houses and bungalows. The dwellings on the northern side of Windmill Close (which would adjoin the proposed affordable housing cluster) are two storey, whereas the dwellings on the far edge of the existing settlement on the western side of Windmill Close are bungalows.

## **4.2 The Proposals**

- 4.2.1 Full planning permission is sought for the development of 24 no. dwellings on this site and associated servicing and infrastructure. The proposed accommodation mix would be as follows: 2 x 2 bedroom market units; 6 x 3 bedroom market units, 10 x 4 bedroom market units; 6 x 2 bedroom affordable units and 2 x 3 bedroom affordable units. The proposal also includes associated roads, footpaths, fencing and 67 off street car parking spaces as a mixture of garages, driveways and visitor spaces. The proposed affordable housing would be located in one block located immediately off the eastern edge of the existing Windmill Close Hammer head.
- 4.2.2 The house types would consist of a mix of two storey detached, terrace and semi-detached units. The built form includes some detached and attached garages as well as off street driveways and car parking spaces. The design and form can be described as fairly standard two storey house types, with some gable features, and all with pitched roofs. Proposed finishing materials include red brick and dark grey cladding for the elevations, concrete roof tiles and UPVC grey window and door materials.
- 4.2.3 The proposed plots are of varied size, with the smaller plots located closest to the existing dwellings along Windmill and the more generous lower density plots located to the north closer to the open countryside.
- 4.2.4 A reasonable landscape buffer is proposed around the perimeter of the site on the countryside edge, to preserve the well established tree and hedgerow belt that surrounds the countryside border of this. There is also space for some on street landscaping and planting within the garden areas. Amended plans received in July 2021 show a clearly identifiable footpath link to the north of one of the proposed estate roads linking the site to the existing open space located to the east of the application site.

## **4.3 Key Issues**

- 4.3.1 Taking account of the relevant development plan policies and other material considerations listed above, including the latest version of the NPPF and the emerging Local Plan (now at a very advanced stage of preparation) together with the representations also listed above I consider the main issues to be addressed in the determination of this planning application are as follows:
- The principle of development on the site and the overall policy basis for any decision;
  - Whether the associated loss of open space is acceptable under Policy NE4 of the emerging Local Plan;
  - Whether the design, layout and form of the development is acceptable in relation to the character of the locality and wider countryside beyond;
  - Whether the proposed development would create acceptable living conditions for future occupiers and maintain acceptable living conditions for residents within the surrounding area;
  - Whether sufficient and accessible car parking would be provided within the proposed development and that movement around the site would be safe and

convenient without unacceptably adding to congestion on the existing road network;

- Whether all other technical matters, such as biodiversity net gain and Sustainable Urban Drainage are addressed in line with the requirements of the various technical consultees;
- 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 of approx.1.5 year land supply - April 2021));
- Finally, it is necessary to consider the S106 Obligation that would be required if Members were minded to grant planning permission and whether the currently agreed draft S106 Obligation delivers all the necessary funding to services and other obligations such as affordable housing provision.

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

Addressing the Saved Policies of the North Hertfordshire District Local Plan No. 2 – with Alterations (adopted 1996) first; the northern section of the site (not public open space) is located outside the Selected Village boundary of Barkway wherein Saved Local Plan Policy 6 applies. This policy is a general rural restraint policy which seeks to protect the Rural Area Beyond the Green Belt from most forms of development including housing. The public open space section of the site, immediately to the east of Windmill Close before the hammer heads is located within the Selected Village boundary, wherein Saved Local Plan Policy 7 allows for sensitive additional development including housing within the settlement boundary.

- 4.3.3 Within the Submission Local Plan (2011-2031 as modified in 2019 and 2021) the field on the northern part of the site is allocated for housing development under proposed allocation BK2, with a dwelling estimate of 20 dwellings. The only specific policy requirement of this designation is to ensure that suitable archaeological evaluations are carried out in advance of any development. Whereas the public open space section of the site is now proposed as ‘white land’ within the Category A settlement designation of Barkway. An earlier version of the site allocation (2016 Submission Local Plan) designated the whole of this application site as BK2 but included a specific requirement for any development proposal to maintain the current area of public open space. By removing the current open space from the BK2 designation through the modifications to the emerging Local Plan the need to maintain the open space as part of the BK2 policy was removed. And although the remaining open space lies within the Category A village boundary of Barkway, any development on this land would need to be assessed against Policy NE4 ‘Protecting Open Space’ of the emerging Local Plan. This assessment is set out below under separate heading.

- 4.3.4 Paragraph 11 of the NPPF is of critical 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, when assessed against the policies of this Framework when taken as a whole.'

4.3.5 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 1.5 year land supply of deliverable housing sites (April 2021), down from 2.2 years in 2020 and is in fact one of the worst performing authorities for housing delivery in England. This means policies that are most relevant (e.g. Saved Local Plan Policy 6) are out of date in their entirety.

4.3.6 On this basis any assessment of development on this site sits 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.

#### 4.3.7 Loss of Open Space

Emerging Policy NE4 must be applied to the affordable housing element and plots 14, 15 and 16 of the market element of the proposal which is proposed to be developed on the existing public open space to the east of Windmill Close. The policy states that:

**'Planning permission will only be granted for any proposed loss of open space provided that a) it can be demonstrated that the open space is surplus to requirements and justified on the basis of:**

- i) The quality and accessibility of the open space;
- ii) The extent to which the open space is serving its purpose;
- iii) The quality and accessibility of alternative public open space; and

**b) It is mitigated against by:**

- i) Re-provision of an appropriate open space taking account quality and accessibility; and/or
- ii) Financial contributions towards new or existing open space where;
  - The required provision cannot reasonably be provided on site; or
  - The required provision cannot be delivered on site in full; and
  - The proposal has over-riding planning benefits.'

The policy does not designate open space and this open space is located within white land within the proposed Category A village boundary of Barkway. The policy does however in my view capture this open space as it is listed in the supporting text as one of the categories to be protected, 'amenity green space'.

- 4.3.8 This development would lead to the loss of this open space and the overall development proposal provides very little, if any rep-provision of open space within the scheme. Whilst it could be argued that the open space is surplus to requirements this is largely as a result of its on-going management as a wild grassland area rather than a genuine and well maintained public open space facility. The scheme does however maintain the accessibility of the adjoining open space through a footpath link which is shown on the amended layout plan received in July 2021. The applicant has also agreed to provide a combined play space and open space improvement payment of £24,778.44 (index linked from 2006 costs) towards the provision of enhanced open space and new play space facilities which can be allocated to the Parish Council (who maintain the adjoining open space) to be used to upgrade this facility.
- 4.3.9 Weighing up these factors it is clear that the proposed development does not achieve full compliance with the strict criteria set out in emerging Local Plan Policy NE4 and the associated permanent loss of amenity green space associated with this development must weigh as identifiable harm in the wider planning balance.
- 4.3.10 Design in Relation to the Character of the Area and Wider Countryside beyond  
In terms of design and layout the scheme is of a form and density that is of the upper end of acceptability on what would become an edge of village site, on the village rural interface. Whilst the built form and height of dwellings and their overall density are on the high side the scheme does seek to clearly retain the existing landscape buffer in the form of a hedgerow and tree belt to the north and west of the site. This maintenance of the landscape buffer would not only help to soften the visual impact of the development in the wider landscape but help to maintain a good level of biodiversity around the edge of the site and indeed this is recognised by the ecology consultees as a positive element of the scheme.
- 4.3.11 The scheme itself is of a reasonable standard of design and layout when seen in isolation, with sufficient amenity space, publicly accessible footpaths and sufficient and well-designed road and car parking layouts. There is also space for significant planting as part of a wider landscape plan within the scheme.
- 4.3.12 When judged against the wider townscape whilst there is some jarring between the wholly two storey development scheme and the low-density layout of bungalows on the western side of Windmill Close I am satisfied that when judged in the round the scale, form and layout of the proposal would be broadly acceptable in relation to the existing built form of the surrounding village.
- 4.3.13 It is regrettable that the affordable housing element of the scheme is proposed within one block of development of slightly different house types to the market units. However, as this element of the scheme would be the most integrated part of the development with the wider townscape and on this basis upon completion I consider that the development would be sufficiently tenure blind so as not to appear out of keeping with the surrounding area.

4.3.14 Development on the wider site outside the existing Selected Village boundary would undoubtedly cause some harm to the intrinsic character and beauty of the countryside which the NPPF recognises as a core planning principle (NPPF para 174). Whilst visually the harm would be limited there is an inherent encroachment into currently open countryside associated with this development. This is a harm that must be addressed in the planning balance whilst acknowledging that the site is designated for housing under emerging Local Plan Policy BK2 which must also weigh heavily in favour of allowing housing development on the part of the site that is currently open countryside.

4.3.15 Living Conditions

I am satisfied that the layout and spacing of development would ensure adequate living conditions in terms of outlook, privacy, amenity space and daylight and sunlight for occupiers of the proposed development.

4.3.16 Turning to surrounding development, as can be seen from the layout plan, the majority of existing housing around the application site have very long back gardens which provide generous buffers between the homes and the development. These gardens would in the large part face onto the flank elevations of most of the proposed houses except in the case of plots 19 and 18 which would offer some limited overlooking into the gardens of neighbouring plots. However, given the back-to-back distances here I am satisfied that any material loss of privacy would not be significant.

4.3.17 Car Parking and Traffic

The proposal provides 67 car parking space for 24 dwellings. This exceeds relevant standards and is more than sufficient to accommodate all the car parking requirements of future residents and visitors in my view. Members will note that there are no objections from Hertfordshire County Council (Highways) who, subject to specifically worded conditions are satisfied that the proposed highway layout is safe and accessible and that this development proposal would not cause any significant highway safety or additional congestion harm to the local highway network. I have no reason to disagree with their conclusion.

4.3.18 Biodiversity Net Gain and other Technical Matters

The main reason for delay in the determination of this planning application has been continued objections to the scheme from HCC (Lead Local Flood Authority) (LLFA) and HCC (Hertfordshire Ecology) (HE). At the time of writing and following updates to the various technical documents both the LLFA and HE have confirmed they no longer object to the development proposed on this site.

4.3.19 The HE requirement is now for a biodiversity net gain S106 contribution of £72,670 and a condition requiring details of management and maintenance of retained landscaping on site. The hierarchy of optimum biodiversity benefits associated with new development means that it is preferable to deliver biodiversity net gain on site as part of the development scheme through new planting and orchard provision for example. In the absence of new such on site provision as part of this proposal, with the support of the Wildlife Trust and HE who recommend an offsite payment instead, the development proposal and its compensatory offer would ensure that the overall scheme provides the necessary and in this stage in advance of the enactment of the Environment Bill, non-statutory, biodiversity net gain requirement of 10%. It will however be necessary to ensure suitable donor sites are secured which can deliver

this net gain as part of the wider implementation of the associated S106 Obligation, should Members be minded to grant planning permission. The Council itself does have land assets where these funds could be spent on wildlife enhancement projects but very few within the vicinity of this site. The evolving system in advance of the enactment of the Environment Bill does unusually allow for the donor sites to be unspecified within S106 Obligations at the time that any planning permission is granted. This system does in my mind does not sit comfortably with Community Infrastructure Levy (CIL) regulations but there is an emerging enviro bank fund whereby Hertfordshire County Council receive funds from developers and then seek to establish a network of potential donor sites for biodiversity enhancement schemes across the County which can be funded through developer contributions such as that set out here.

4.3.20 At the time of writing the LLFA have confirmed in writing that they have withdrawn their long-standing objection to this planning application. However, they are yet to specify the exact wording of the condition(s) they require should Members be minded to grant planning permission. The LLFA have also sent a letter to all local planning authorities within Hertfordshire stating that they are suffering from a severe staff and skills shortage and barely able to fulfil their responsibility as statutory consultees on all planning applications of 10 dwellings or 0.5ha site area plus. This is causing significant delays on virtually all qualifying planning applications. In these circumstances if Members are minded to grant planning permission I recommend that an additional spot is left on the recommendation for any condition(s) required by the LLFA and that any such condition(s) if not reported before the Committee resolution are added under delegated powers prior to the final grant of planning permission.

4.3.21 As Members will note from the above list, all other technical consultees, contaminated land, air quality, noise and archaeology all raise no objection to the development proposal subject to suitably worded conditions for their respective specialisms.

4.3.22 Conclusions on Merits of the scheme and Planning Balance

From the above discussion there would be some harms that would be caused by this development that must be weighed in the planning balance. The most significant harm in my view would be the associated loss of an area of informal public open space. Whilst the scheme does offer compensation in the form of payments for off-site open and play space enhancements and also provides an accessible public access route from within the development scheme to the adjoining open space the scheme does not in my view achieve full compliance with the criteria of emerging Local Plan Policy NE4.

4.3.23 The element of the proposal outside the existing Selected Village boundary (Saved Local Plan) but contained within proposed land allocation BK2 would in my view cause some harm to the character of the countryside, undermining one of the core planning principles of the NPPF in recognising the intrinsic value and beauty of the countryside.

4.3.24 These identified harms must be weighed in the planning balance against the benefits of the scheme, which are manifest when the Council can only demonstrate an at best 1.5 year land supply of deliverable housing land, the fourth worst performing local authority in terms of housing delivery. The scheme provides a wide range of well-designed market and affordable housing within a relatively accessible and sustainable location. The additional housing provides economic benefits in the form of local employment in the construction industry and additional customers for local businesses

and services. As Members will note from recent appeal decisions the benefits of delivering new homes weigh very heavily in the mind of appeal Inspectors in reaching decision on housing appeals.

4.3.25 In the clear absence of a five-year land supply and an out-of-date Local Plan, paragraph 11 of the NPPF requires a tilted balance whereby any harm caused by development must significantly and demonstrably outweigh the benefits (in this case of delivering new homes). In my view, under any reasonably objective assessment I do not consider that the harms that are clear but limited in their impact on the locality can be considered to significantly and demonstrably outweigh the benefits of delivering new homes on this site. On that basis, applying the tilted balance, I support this scheme and recommend that planning permission be granted.

4.3.26 S106 Matters

Preparation of the S106 Obligation required in connection with this planning application is at an advanced stage of and in accordance with the new Planning Obligations SPD (approved for adoption subject to adoption of the Local Plan) which seeks to avoid a scenario whereby the Planning Control Committee resolve to grant planning permission subject to a long lead in time for the completion of the necessary S106 Obligation thereafter, this planning application is ready to be determined by the Planning Control Committee. The terms of the currently agreed version of the S106 Obligation are set out below:

<b>Element</b>	<b>Details</b>	<b>Justification</b>
Affordable Housing	5 x 2 bedroom affordable units and 5 x 3 bedroom affordable units. 5 units affordable rent and 3 intermediate tenure at 35% of total	Emerging Local Plan Policy HS2 which requires 35% affordable housing for schemes of 24 units
HCC Middle School Contribution	£38,927 (index linked) towards expansion of King James Academy	HCC toolkit and revised guide
HCC Upper School contribution	£41,964 (index linked) towards the expansion of King James Academy	HCC toolkit and revised guide
HCC Youth Services	£1,185 (index linked) towards improvements to Royston Youth People's Centre	HCC toolkit and revised guidance
HCC Library Provision	£4,396 (index linked) towards expansion of Royston Library	HCC toolkit and revised guidance
HCC off site highway improvements	£28,500 (index linked) towards DDA improvements to local bus stops	Requirement of HCC (Highways)
Biodiversity Net gain payment	£72,670 (index linked) towards unspecified off site improvements to biodiversity	Draft Environment Bill not enacted and HE guidance



Play space and open space combined contribution (NHDC)	£24,778.44 (index linked) towards improvements to play equipment and open space on adjoining open space land	Saved Local Plan Policy 51 and Planning Obligations SPD (adopted 2006) and emerging Local Plan Policy NE4
Waste collection Contribution (NHDC)	£71 per dwelling (index linked) towards waste collection and recycling facilities for each dwelling	Saved Local Plan Policy 51 and Planning Obligations SPD (adopted 2006)
On site management and maintenance arrangements of SUDs and open space	Applicant to submit to the Council an on-going management and maintenance scheme for all public realm and SUDs maintenance on site	Saved Local Plan Policy 51 and Planning Obligations SPD (adopted 2006) and Policies NE7 and NE8 of emerging Local Plan

#### 4.3.27 Climate Change Mitigation

The scheme would create new soft landscaping opportunities and retain on site landscape features. An offsite biodiversity net gain payment has also been secured. Other sustainable development objectives could be secured by conditions (such as EV charging points) were Members minded to grant planning permission for this development. This is in accordance with Section 14 of the NPPF 2021.

4.3.28 In terms of building construction, design and occupation the scheme includes the following features: Use of low carbon materials of construction and recycled materials where possible, water conservation measures to achieve <105 litres per person water consumption per day, cavity wall insulation, high rate efficiency gas combi boilers, living space and sleeping spaces on separate heating zones to reduce need for heating and clear waste collection and recycling installations in each home to ensure waste minimisation.

#### 4.3.29 Conclusions

The absence of a five-year land supply of deliverable housing sites underscores the benefits of delivering new homes on this site, both 16 market and 8 affordable homes in a relatively sustainable location, within a proposed expanded category A Settlement as proposed in the emerging Local Plan. There are harms that would be caused by the scheme in the form loss of informal open space and some harm to the intrinsic value of the countryside on which much of the development would take place. However, in my opinion, and subject to the completion of a necessary S106 Obligation to secure the affordable housing, on site open space and SUDs maintenance and all necessary financial contributions I recommend that planning permission be granted for this development as is set out below.

- 4.3.30 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 **GRANTED** subject to the following conditions and subject to the completion of the necessary S106 agreement;
- 6.2 That the applicant agrees all necessary extensions to the statutory determination - period to enable the completion of the S106 agreement. In the event that agreement is not secured to extend the statutory determination that the Members allow the Development and Conservation Manager to refuse planning permission based on absence of the requisite legal agreement
- 6.3 Recommended Conditions, Reasons and Informatives

### Conditions and Reasons:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.  
  
Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.
3. Details and/or samples of materials to be used on all external elevations and the roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.  
  
Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area.

4. Prior to the commencement of the development hereby permitted full details of a comprehensive hard and soft landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. All approved hard standing shall be completed prior to the first occupation of the development and thereafter retained and maintained to the satisfaction of the Local Planning Authority. The approved soft landscaping / planting details 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 ensure that the full landscaping scheme set out in the application is improved and implemented in full in a timely manner in the interests of phasing and to ensure the development is comprehensively landscaped in the interests of visual amenity.

5. Prior to the commencement of the development hereby permitted full details of a construction method statement for construction with the tree root protection zones as identified on revised site layout plan ref. Amended BEV-537-PA-001 Rev E – Proposed site layout plan (received 21.07.21) shall be submitted to and approved in writing by the Local Planning Authority. Such works shall thereafter be carried out in complete accordance with the approved details or particulars unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that methods of construction within the identified tree root protection zones maintain the health and stability of the trees.

6. Prior to the occupation of the development hereby permitted the principal access road shall be provided 5.5 metres wide with the side access road being 4.8 metres wide to include localised widening to 6.0 metres wide to accommodate the turning of cars from parking spaces adjacent and opposite to plot 16. All exiting footways are to include tactile paving and dropped kerbs at crossing points and links to footways on the new development, thereafter the access roads and footways shall be retained at the position shown on the approved site layout plan number BEV-537-PA-001 Rev E. Arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

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

7. Prior to the commencement of the development hereby permitted full details in the form of scaled plans and written specifications shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority to illustrate the following:

- i) Roads, footways, foul and on-site water drainage;

- ii) Proposed access arrangements including, accurate radius kerbs at the main access to the site, visibility splays, with acceptable stage 1 Road Safety Audit;
- iii) Servicing areas, loading areas and turning areas for all vehicles.

Reason: To ensure satisfactory access into the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

8. Before development commences, additional plans shall be submitted and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which demonstrate that all on-site parking spaces can be accessed by a vehicle, and that on-site turning space is sufficient to enable mid-sized service vehicles (e.g. a supermarket delivery van at 6.5 metres in length) and a fire tender to enter and exit the site in forward gear.

Reason: To ensure that service and emergency vehicles entering and exiting the site do not adversely affect the free and safe flow of traffic on the public highway.

9. The gradient of the access road shall not exceed 1:20 as measured from the extended carriageway.

Reason: To ensure satisfactory access into the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

10. The construction of the development shall not commence until details of construction vehicle movements (routing, amount, types) and traffic management measures are submitted to and approved by the Highway Authority.

Reason: To ensure the impact of construction vehicles on the local road network is minimised.

11. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter construction of the development shall only be carried out in accordance with approved plan. The Plan shall include the following details:

- a) construction vehicle numbers, type and routing;
- b) Access arrangements to the site;
- c) Construction traffic management requirements;
- d) Construction and storage compounds (including areas designated for parking, loading / unloading and turning areas)
- e) Siting and details of wheel washing facilities;
- f) timing and delivery arrangements for construction vehicles;
- g) Cleaning of site entrances, site tracks and adjacent public highway;
- h) Provision of sufficient on-site contractor and construction vehicle parking;
- 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 shall be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;

k) dust and waste minimisation plans and hours of operation and deliveries to and from site.

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

12. Prior to the commencement of the development hereby permitted a landscape and biodiversity management and maintenance plan shall be submitted to the Local Planning Authority and approved in writing. The plan and associated maintenance arrangements shall be carried out in complete accordance with approved details or particulars unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that on-site landscaping and associated biodiversity is retained and maintained in the long term interests of the ecology of the site.

13. A) No development shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. 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 required by the evaluation results;
3. The programme for post investigation assessment;
4. Provision to be made for analysis of site investigation and recording;
5. Provision to be made for publication and dissemination of analysis and records of the site investigation;
6. Nomination of a competent person or persons/organisation to undertake the works set out in the Written Scheme of Investigation.

B) The development shall be carried out in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the Written Scheme of investigation approved under condition (A) and the provision made for analysis and publication where appropriate.

Reason: To ensure that the appropriate site investigation relating to potential archaeological remains are investigated on this site prior to the implementation of the planning permission.

14. Any evidence of contamination, encountered during the development of this site, shall be brought to the attention of the Local Planning Authority as soon as practically possible and development shall cease; a scheme to render the contamination harmless shall be submitted to and approved in writing by the Local Planning Authority, and subsequently fully implemented prior to the occupation of the development.

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

15. Prior to first occupation, each of the 24 proposed new dwellings shall have installed 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.

16. Any condition(s) recommended by the LLFA now that they have agreed no objections

#### 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.

#### Informatives

1. Storage of materials: 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.
2. Obstruction of public highway land: 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.

3. **Road Deposits:** 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.
4. During the construction phase the guidance in BS5228-1: 2009 (code of practice for control and construction on open sites) should be adhered to. During the construction phase no activities should take place outside the following hours: Monday to Friday 0800 to 1800 hours; Saturdays 0800 to 1300 and no work on Sundays or bank holidays.
5. **EV Charging Point Specification:**

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

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

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

- o A list of authorised installers (for the Government's Electric Vehicle Homecharge Scheme) can be found at <https://www.gov.uk/government/organisations/office-for-low-emission-vehicles>

















## **7.0 Appendices**

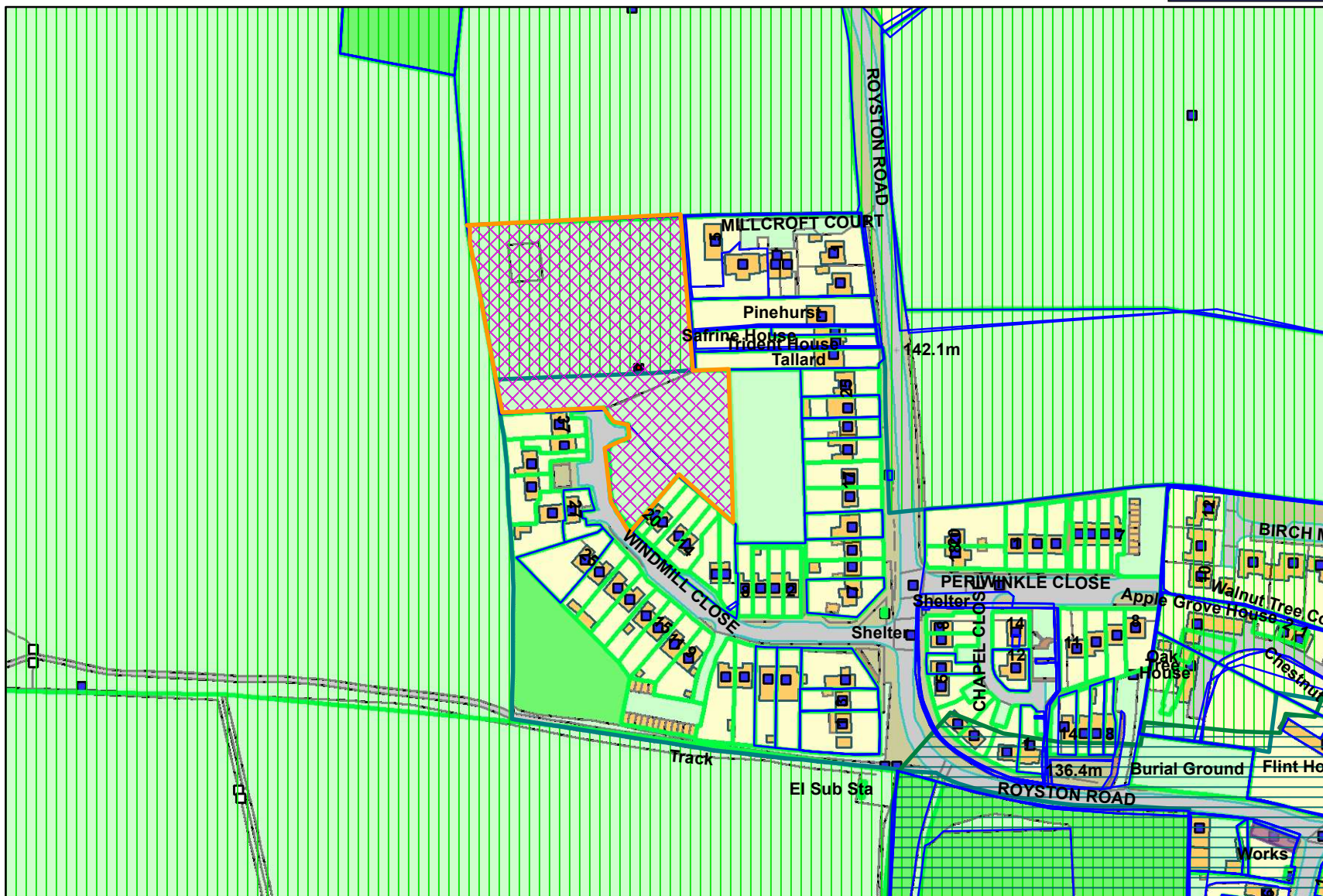
### **7.1 None**



## Application Validation Sheet

20/02779/FP Land at Windmill Close, Barkway, Hertfordshire

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



Scale 1:2,500

Date: 20/10/2021

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**PLANNING CONTROL COMMITTEE**

**DATE: 04 November 2021**

**PLANNING APPEALS LODGED**

<b>APPELLANT</b>	<b>Appeal Start Date</b>	<b>DESCRIPTION</b>	<b>ADDRESS</b>	<b>Reference</b>	<b>PROCEDURE</b>
Mr A Mitchell	02/09/2021	Erection of one detached 3-bed dwelling including creation of vehicle access off Stobarts Close.	16 Deards End Lane Knebworth SG3 6NL	20/02706/FP	Written Representations
Bly Developments Ltd	02/09/2021	Erection of one 4-bed and two 3-bed detached dwellings including alterations to existing access	Nup End Farm House Nup End Old Knebworth SG3 6QJ	20/02109/FP	Written Representations
Mr Adams	02/09/2021	Conversion and extension of existing outbuildings to form two semi-detached 3-bed dwellings including creation of vehicular access off Radcliffe Road together with associated parking and amenity area (as amended by plan received 21.10.20)	Land To The Rear Of Nos 61 And 61A Radcliffe Road, Hitchin SG5 1QG	20/01638/FP	Written Representations
Mrs H Flint	02/09/2021	Permission in Principle: Erection of up to four dwellings	Land West Of Pirton Road Holwell SG5 3SS	20/02359/PIP	Written Representations
Mrs H Flint	02/09/2021	Permission in Principle: Residential Development of Land for Affordable Housing (five dwellings)	Land South Of Holwell Road Holwell SG5 3SG	20/02520/PIP	Written Representations
Hertfordshire County Council (Property)	21/09/2021	Erection of four dwellings following demolition of existing farmhouse and associated farm buildings (all matters reserved except access) (amended description and plans received on 01/07/20 and 10/07/20).	Wrights Farm Shillington Road Pirton Hitchin SG5 3QJ	19/01275/OP	Written Representations

Mr B Mellor	22/09/2021	Change of use of redundant agricultural building to one 3-bed residential unit with all associated building works.	The Carriers Green End Sandon SG9 0RQ	20/01729/FP	Written Representations
Mr Paul Ashby	24/09/2021	Retention of a wooden fence to front/side elevation for security and privacy purposes	2 Chapel Road Breachwood Green SG4 8NU	21/01335/FPH	Householder Appeal Service
Mr Birju Patel	30/09/2021	Demolition of garage and removal of roof of annexe followed by part two storey and part first floor extension on the south side and single storey side extension on the north side. (Amended description only).	10 Girons Close Hitchin SG4 9PG	21/01017/FPH	Written Representations
Garrison Court Freeholders Ltd	30/09/2021	Two connecting 4-storey blocks comprising of 8 apartments following demolition of existing garages.	Garages Rear Of Garrison Court Mount Garrison Hitchin	20/03045/FP	Written Representations
Mr Norrington	30/09/2021	Erection of two detached 3-bed and one detached 4-bed bungalows including alteration to the existing vehicular access off London Road following demolition of existing dwelling.	The Red Lion Stud London Road Reed SG8 9RP	20/02459/FP	Written Representations

**PLANNING CONTROL COMMITTEE**

**DATE: 04 November 2021**

**PLANNING APPEALS DECISION**

<b>APPELLANT</b>	<b>DESCRIPTION</b>	<b>SITE ADDRESS</b>	<b>REFERENCE</b>	<b>APPEAL DECISION</b>	<b>COMMITTEE/ DELEGATED</b>	<b>COMMENTS</b>
Mr & Mrs J Winstanley	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 SG8 8HY	20/03072/S73	Appeal Dismissed on 17-Aug-21	Appeal against non-determination	The Inspector stated that the proposal would conflict with the character and heritage requirements of policies 6 (Rural area beyond the green belt ) and 57 (Residential Guidelines and standards) of the North Hertfordshire District Council Local Plan No. 2 with Alterations 2007; and the requirements of the Framework. There would also be conflict with the design and heritage aspirations of policies SP9 (Design and sustainability), SP13 (Historic environment), D1 (Sustainable design) and HE1 (Designated heritage assets) of the emerging North Hertfordshire Local Plan 2011-2031.
Mr A Gates	Retention of use of land as (B8) outside storage areas	Bury Farm Church Path Little Wymondley	20/02653/FP	Appeal Dismissed on 10-Sept-21	Delegated	The Inspector concluded that he found harm to the Green Belt by reason of the development's inappropriateness. The very special circumstances necessary to justify the development do not exist and the development would conflict with the Green Belt protection aims of the Framework and those of Policy 2 (Green Belt) of the North Hertfordshire District Council Local

						Plan No. 2 with Alterations 2007, Policy GB1 of the Wymondley Neighbourhood Plan 2016 and Policy SP5 (Countryside and Green Belt ) of the emerging North Hertfordshire Local Plan 2011-2031
Mr S Collier	Erection of one 2-bed dwelling adjoining 33 Eastern Way	33 Eastern Way Letchworth Garden City Hertfordshire SG6 4PE	20/02185/FP	Appeal Dismissed on 24-Sept-21	Delegated	The Inspector concluded that the proposed development would significantly harm the character and appearance of the appeal site and surrounding area. This would be contrary to the design, character and appearance aims of of the North Hertfordshire District Council Local Plan No. 2 with Alterations 2007 (DLP ) Policy 57 Residential Guidelines and standards), the emerging North Hertfordshire Local Plan 2011-2031 (LP) Policy D1 (Sustainable design) and the requirements of the Framework. The Inspector also concluded that the proposed development would not provide satisfactory living conditions for future occupiers. This would be contrary to the amenity aims of DLP Policy 57 and LP Policy D1 and the requirements of the Framework.
Ashill Lane Ltd	Residential development of 167 dwellings (Use Class C3) and associated works including formal open space,	Land South Of Heath Lane Codicote SG4 8YL	18/02722/FP	Appeal Allowed on 28 Sept-21	Committee	The Inspector stated: 'I attach very substantial weight to the critically needed housing benefits of the scheme, significant weight to

	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).					<p>addressing the urgency for school expansion and further weights to the range of other lesser scale benefits as identified. In that context, and irrespective of the further support in favour of the proposal drawing from the advanced status of ELP itself and from the Council's affirmation of it, I find potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, to be clearly outweighed by these particular other considerations. Very special circumstances therefore exist to justify the proposal. Accordingly, such very special circumstances mean the proposal would not conflict with Policy 2 of the Local Plan. Further, given the existence of very special circumstances, it follows that the application of the Framework's Green Belt policies does not provide a clear reason for refusing planning permission.'</p> <p>The associated Application for Costs was part allowed.</p>
Mrs T Grainger	Erection of five dwelling houses in association with a new access spur from the Lodge Court, on-site parking, landscaping (inclusive of new trees),	Land At Turnpike Lane And Adjacent To 4 Manor Close Turnpike Lane	20/00891/FP	Appeal Allowed on 28 Sept-21	Committee	The Inspector concluded that they consider that very special circumstances exist which justify the development. Consequently, the proposed development accords with the Green Belt aims of North

	formation of a pedestrian footpath and designated communal open space. (Amended plans received 22/06/20 and 07/12/20).	Ickleford				Hertfordshire District Council Local Plan No. 2 with Alterations 2007 Policy 2 and the requirements of the Framework.
Mr Kevin McBride	Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road.	Land North Of Oakleigh Farm Codicote Road Welwyn	20/00598/FP	Appeal Allowed on 29 Sept-21	Committee	The Inspector concluded that the proposal would not be inappropriate development in the Green Belt and would not conflict with the purposes of including land within it. Furthermore, the proposal would maintain the character and appearance of the area. The proposed development would accord with the Development Plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
Mr Jignesh Patel	Part Change of Use from Retail (Use Class A1) to Hot Food Takeaway (Use Class A5), alterations to shopfront and installation of an external fume extraction flue	1-3 The Mead Hitchin SG5 1XZ	20/00547/FP	Appeal Allowed on 30 Sept-21	Committee	The Inspector concluded that the proposed change of use would not have a harmful effect on the living conditions of the occupiers of the residential flats at first floor level as the noise and odour likely to arise from the cooking of hot food can be addressed through the submission, agreement and implementation of suitable extraction and filtering equipment and this can be a conditioned requirement on any permission. Further, in terms of the appearance of the external flue, the proposal has been modified and the



						design and form of this will not harm the appearance of the host building or the surrounding area.
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## Appeal Decision

Site visit made on 31 August 2021

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 30 September 2021**

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**Appeal Ref: APP/X1925/W/21/3271917**

**1-3 The Mead, Hitchen, Herts, SG5 1XZ.**

- 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 J Patel against the decision of North Hertfordshire District Council.
  - The application Ref. 20/00547/FP, dated 3 February 2020, was refused by notice dated 20 October 2020.
  - The development proposed is the part change of use from retail (Use Class A1) to Hot Food Takeaway (Use Class A5) and installation of an extraction system.
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### Decision

1. The appeal is allowed and planning permission is granted for the part change of use from retail (Use Class A1) to Hot Food Takeaway (Use Class A5) and installation of an extraction system, at 1-3 The Mead, Hitchen, Herts, SG5 1XZ, in accordance with the terms of the application, Ref. 20/00547/FP, dated 3 February 2020 and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### Main Issues

2. The application follows an appeal decision (APP/X1925/W/18/3216420) for a similar proposal for a change of use of the premises. This appeal was dismissed principally for the reason that the inspector concluded that the external flue system needed to facilitate the change of use would harm the character and appearance of the host property and the surrounding area. The present scheme modifies the external flue arrangement proposed.
3. In this context the main issues are:
  - The effect on the living conditions of the occupiers of first floor flats above 1-3 The Mead; and
  - The effect on the character and appearance of the host property and the surrounding area.

### Reasons

#### *Background*

4. The appeal premises relate to the right hand ground floor unit in a two storey building which has two retail units on the ground floor and residential flats above with access via an external staircase at the side of the building leading to a first floor accessway. The building, which functions as a local neighbourhood centre,

lies in a mainly residential area with a variety of house types around it in addition to the flats at first floor.

5. The appellant refers to the previous appeal decision and indicates that the design of the external flue has been modified so that it would not now have a 'contrived course up the side of the building' as identified by the previous Inspector. It would no longer have a metal finish as it would be clad in brick effect panels and the element that extended above the plane of the roof to the same height as the ridge would be painted black.

#### *Effect on living conditions*

6. This issue was not raised by the Council in the previous appeal but the effect on the occupiers of the flats above was the sole reason that the Council refused permission in this application contrary to the officer recommendation. In considering the Council's case I have read the minutes of the Planning Committee meeting of the 10 February 2021, and the representations submitted by local people to the application.
7. At my site visit I noted the nature of the host appeal building and particularly the flank wall of the building facing east which contains a solid door, a ground floor and a double pane window and small window at first floor together with the external steps to the flats with access off the walkway at first floor. The proposed flue would exit the building high on the ground floor and be clad up to the plane of the roof with the black metal element above.
8. In terms of the potential effect of the flue on the residential environment of the flats above, this is likely to be in the form of the cooking odours being emitted and the noise from any extraction system. The appellant submits general details of the extraction and filtration system proposed and these appear to be typical for an operation of this kind. Further, I note that the Council's Environmental Health Officer does not raise objection to the principle of the proposal subject to details of the system being submitted, agreed and implemented before the use commences and these requirements can be imposed through planning conditions.
9. With a proper odour control and extraction system installed, and with the flue discharging at the roof ridge height of the building, I am satisfied that the proposed hot food take-way use would not be likely to cause harm to the living conditions of the occupiers of the flats above the premises. As such the proposal does not conflict with saved Policies 8 and 57 of the District Local Plan 2007, where relevant, or Policy D3 of the emerging Local Plan concerned with protecting living conditions.

#### *Effect on character and appearance*

10. I agree with the previous Inspector who described the host building as 'unexceptional architecturally' and it has a mostly functional form in its role as a local centre. In this revised case the proposed external flue has been simplified in its position and alignment. Moreover, the main section would be boxed in a matching brick effect enclosure and the appellant has supplied photographs of where this has been undertaken successfully elsewhere. I find that this solution would not visually harm the appearance of the host building or appear 'out of keeping' with the residential nature of the surrounding area. There is no conflict

with Policy SP9 or D1 of the emerging plan. This is a material change from the previous appeal decision.

#### *Other matters*

11. Local people also raise other objections to the proposal. Some of these raise a fear of aspects arising from a take-away that can be described as anti-social behaviour but there is no clear evidence before me that these concerns are bound to arise with the proposed use and the hours of operation can be controlled to avoid unsociable times. I am also satisfied that there is adequate parking provision locally for the intended use and I note that the Highway Authority did not raise objection to the proposal. There could be some local impact during construction work but this would only be for a limited period and not be a permanent intrusion. Finally, I understand the concern about a fire risk but this has to be addressed under other legislation separate to the planning process. Overall, I find that the other matters raised do not carry significant weight in the planning decision.

#### *Planning Balance*

12. On the main issues I have found that the proposed change of use would not have a harmful effect on the living conditions of the occupiers of the residential flats at first floor level as the noise and odour likely to arise from the cooking of hot food can be addressed through the submission, agreement and implementation of suitable extraction and filtering equipment and this can be a conditioned requirement on any permission. Further, in terms of the appearance of the external flue, the proposal has been modified and the design and form of this will not harm the appearance of the host building or the surrounding area. On this basis the proposal accords with rather than conflicts with the provisions of the development plan and emerging policy where relevant.
13. I am also satisfied that the proposal broadly accords with the guidance set out in the National Planning Policy Framework when read as a whole as this seeks to encourage social and business development while ensuring safe and healthy communities and well-designed places.
14. Although the local community raises other objections to the proposals these are not of such weight to provide clear reasons to refuse permission or outweigh the above main factors. The appeal should therefore be allowed.

#### *Conditions*

15. The Council recommends eight conditions. In addition to the conditions on the commencement of the development (no.1) and accord with the submitted plans (no.2), the permission is dependent on the submission, agreement and implementation of further details to avoid harm to the living conditions of neighbours so I will impose conditions 3 and 4. In order to maintain the character of the area and residential amenity I will limit the permission to hours that are not anti-social as per condition 6 and limit the hours when deliveries and refuse collection can take place for similar reasons. It is also reasonable for any hot food operation to implement measures to avoid litter and waste locally and I will impose condition 7 in the interests of amenity. Finally, a condition requiring the implementation of the brick cladding to the external flue is reasonable and necessary in the interests of the appearance of the area.

## **Conclusions**

16. For the reasons give above I conclude that the appeal should be allowed.

*David Murray*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and drawing tc/0314/pp/06.
- 3) Prior to the commencement of the development the developer shall carry out a noise survey following the guidelines set out by BS4142: 2014. This survey shall take into account all proposed plant as part of the development and shall include noise control measures which should be submitted for written approval by the Local Planning Authority (LPA). No plant shall be installed and operated at the site until the noise survey has been approved by the LPA. Noise mitigation measures shall be such as to achieve 5dB below existing background noise levels.
- 4) Prior to the commencement of the use and the installation of the kitchen extract ventilation system hereby permitted, details of the proposed system to be used as part of the development shall be submitted to the Local Planning Authority for approval. The extract ventilation system shall incorporate a three stage carbon filtration or similar system. Following approval and installation, the system shall thereafter be permanently maintained as per the approved specification.
- 5) Goods vehicle deliveries and refuse vehicles shall only be permitted between 08.00hrs and 20.00hrs Monday to Friday, 09.00hrs and 18.00hrs Saturdays and no deliveries on Sundays and Bank Holidays.
- 6) The hot food take-away premises shall only be open for customers between the following hours: 10.00hrs until 22.00hrs Monday to Sunday.
- 7) Prior to the commencement of the use hereby permitted, details of measures to deal with litter and waste arising from the proposed use shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall be implemented prior to the first use, and thereafter retained.
- 8) Prior to the commencement of the use hereby permitted the proposed brick cladding to the external flue shall be put in place as per drawing tc/0314/pp/06 and shall have a finish to match the brick of the host building. The brick cladding and the blank painted flue shall thereafter be retained for so long as the use remains.

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# Appeal Decision

Site visit made on 7 September 2021

**by C Osgathorp BSc (Hons) MSc MRTPI**

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

**Decision date: 29 September 2021**

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**Appeal Ref: APP/X1925/W/21/3269379**

**Land at Oakleigh Farm Industrial Estate, Codicote Road, Welwyn AL6 9TY**

- 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 Kevin McBride (Blackshu Ltd) against the decision of North Hertfordshire District Council.
  - The application Ref 20/00598/FP, dated 11 March 2020, was refused by notice dated 11 February 2021.
  - The development proposed is demolition of all existing buildings and structures. Change of use of western section to residential, comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. Change of use of eastern section to paddock. Upgrade existing access road.
- 

## Decision

1. The appeal is allowed and planning permission is granted for 'demolition of all existing buildings and structures. Change of use of western section to residential, comprising the erection of seven new detached dwellings with associated detached garages, parking and amenity areas. Change of use of eastern section to paddock. Upgrade existing access road' at Land at Oakleigh Farm Industrial Estate, Codicote Road, Welwyn AL6 9TY in accordance with the terms of the application, Ref 20/00598/FP, dated 11 March 2020, subject to the conditions set out in the attached Schedule.

## Preliminary Matters

2. The appeal site straddles the boundary between North Hertfordshire District Council and Welwyn Hatfield Borough Council and consequently two applications were submitted. Both applications were refused, and I have considered the current appeal alongside that relating to Welwyn Hatfield Borough Council.
3. The Council cites policies from the emerging North Hertfordshire Local Plan 2011-2031 (the emerging Local Plan) in its decision notice, however given the stage of preparation it could be subject to further modification. Accordingly, I have afforded these policies limited weight.
4. Since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework

## Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and,
- the effect of the proposal on the character and appearance of the area; and,
- whether a planning obligation for financial contributions towards local infrastructure and services is necessary to make the proposal acceptable in planning terms.

## Reasons

### *Inappropriate development*

6. The appeal site is located in the Green Belt. The Framework in paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It outlines that the construction of new buildings, other than in connection with a small number of exceptions set out in paragraph 149, should be regarded as inappropriate development.
7. Saved Policy 2 of the North Hertfordshire District Local Plan 1996 (the District Plan) pre-dates the Framework and is not consistent with the list of exceptions set out in the Framework. This limits the weight that I attach to Policy 2. I have therefore proceeded on the basis of the approach set out in the Framework.
8. The appellant draws attention to the exception set out in paragraph 149(g) [previously paragraph 145(g)] of the Framework, which concerns the limited infilling or the partial or complete redevelopment of previously developed land, providing that it would not have a greater impact on the openness of the Green Belt than the existing development. According to the Framework<sup>1</sup>, previously developed land comprises land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This definition excludes, amongst other things, land that is or was last occupied by agricultural or forestry buildings.
9. The officer's report sets out that the appeal site includes a range of commercial buildings not in agricultural use and so the land west of the proposed paddock is previously developed land. I see no reason to take a different view.
10. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects. The information before me shows that the proposal would reduce the footprint of built form on the site by around 23 square metres (1.92%). Whilst there would be some changes to siting, the proposed dwellings and gardens would be positioned near to the area currently occupied by buildings and open storage. I acknowledge that there would be a sizeable increase in floorspace of around 34.5%, however this is due to the accommodation contained within the roof space of the dwellings. The proposed

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<sup>1</sup> See 'Annex 2: Glossary' – the National Planning Policy Framework

dwelling would be of modest scale and the first floor accommodation would be served by small dormer windows and rooflights. Consequently, the proposed development would result in a minor increase in built volume of around 118 cubic metres (2.3%). Having regard to the above factors, overall, the siting and scale of the proposed development would not result in a spatial loss of Green Belt openness.

11. Whilst the proposed development would generate a degree of traffic and activity, this would not be materially greater than that associated with the existing commercial use of the site. The proposed development would lead to parked cars and domestic paraphernalia associated with residential gardens, however this would largely be contained to areas that are currently used for parking and open storage. Furthermore, the unsightly area of open storage in the north-eastern corner of the site would be changed to an open grassed paddock, which would be beneficial to the visual openness of the Green Belt and reduce encroachment into the countryside. Given that the land is within the appeal site, I am satisfied that this could be secured through a planning condition.
12. I appreciate that the domestic appearance of the proposal would result in a degree of visual change, however given the low-rise, modest scale of the proposed dwellings I do not consider that this would diminish the openness of the Green Belt. The proposed soft landscaping and extensive planting around the boundaries would provide more greenery to soften the appearance of the site and restrict views of the buildings, access road and gardens in the surroundings. Therefore, I do not find that the proposal would result in a visual loss of Green Belt openness.
13. For the above reasons, I find that the proposal would meet the exception in paragraph 149(g) of the Framework, which requires that redevelopment of previously developed land would not have a greater impact on the openness of the Green belt than the existing development. The proposal therefore would not constitute inappropriate development in the Green Belt when assessed against the Framework. Furthermore, the proposed development would not encroach into the countryside and therefore would not conflict with the purposes of including land in the Green Belt.

#### *Character and appearance*

14. The appeal site is located behind residential properties and commercial units in Codicote Road and lies in a rural setting outside the village of Codicote. The appeal site contains a range of commercial buildings, including large areas of hard-surfacing and open storage. The utilitarian appearance of the existing buildings and the unsightly open storage, plant and parking in the outside areas appears incongruous in the surroundings and detracts from the character and appearance of the area. This includes a large area of open storage, which has limited screening, and visually encroaches into the countryside to the north-east.
15. The change of use of the open storage to an open grassed paddock at the north-eastern end of the site would provide a significant visual enhancement and reduce encroachment of development into the countryside. The amount of proposed built form would be similar to the existing development, and the traditional design approach would provide an acceptable appearance. The low-rise, modest scale of the proposed dwellings, along with the spacious layout,

would respect the rural character of the area. Furthermore, the proposed soft landscaping and extensive new planting around the site boundaries would be visually beneficial due to the greenery and the screening that would be provided to the proposed dwellings and gardens. Whilst the domestic appearance of the site would result in a degree of visual change, the development would appear discreet in the surroundings due to the modest scale of the dwellings and the new planting. It would also be seen in context of other residential properties nearby.

16. For these reasons, I find that the proposal would maintain the character and appearance of the area. It would therefore accord with Policy 57 of the District Plan and Policies SP1 and D1 of the emerging Local Plan, which, amongst other things, state that housing proposals should achieve high standards of design and relate to and enhance their site and surroundings. The proposal would also accord with Chapter 12 of the Framework, which, amongst other matters, states that decisions should ensure that developments are visually attractive and sympathetic to local character; and paragraph 174 which states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

### *Infrastructure*

17. Whilst not a matter raised by the Council, Hertfordshire County Council seeks financial contributions towards primary education (the expansion of Codicote Primary School), secondary education (the expansion of Monks Walk Secondary School), library services (the enhancement of services at Welwyn Library) and youth services (alterations to the Welwyn Garden City Young Peoples Centre. It also seeks provision of fire hydrants. Hertfordshire County Council's (HCC) Planning Obligations guidance – Toolkit for Hertfordshire (2008) sets out a tariff for calculating such contributions, as shown in Table 2 of the document (index linked to PUBSEC 175).
18. HCC states that education contributions are calculated using its Census-based model which forecasts the number of children likely to emerge from different types, sizes and tenures of dwellings. HCC states that the Census-based model indicates that on a long-term average there will be an additional 2.3 primary school aged children residing within the proposed development at any point in time. It is also estimated that there will be a peak of 3.8 primary school aged children. The long-term average figure is used to calculate the impact on permanent school places and therefore is linked to the costs of permanent school extension.
19. HCC comments that forecast demand is calculated on the basis of primary education planning areas, and although the appeal site falls into the Welwyn primary planning area, the closest school is Codicote C of E Primary School, which is within the Codicote primary planning area at approximately 1.2 miles walking distance. The forecast primary school capacity shown in paragraph 4.9 of HCC's statement shows a surplus of spaces in 2020-21 & 2023-24 and a shortfall in 2021-22 & 2022-23.
20. Having regard to the fluctuation in forecast capacity and the small amount of additional primary school places that would be generated by the proposal, I am not persuaded the evidence shows that the proposal would result in a need for additional primary school capacity. Furthermore, whilst Codicote C of E Primary

School is closest to the appeal site, Welwyn St Mary's C of E Primary School is located around 1.4 miles to the south, which would provide an alternative for future residents of the proposed development. There is no information before me to show the forecast capacity of that school. As such, the evidence does not demonstrate that a financial contribution is necessary to make the development acceptable in planning terms.

21. HCC states that their Census-based model indicates that on a long-term average there will be an additional 2.1 secondary school aged children residing within the proposed development. Further, families living in Codicote and north of Welwyn predominantly look to Welwyn Garden City for secondary schools, and secondary demand is rising in Welwyn Garden City with the latest forecast indicating a need for additional places across the town in future years to meet demand. Nevertheless, the evidence before me does not show up to date forecast capacity of secondary schools in the area, and the amount of additional secondary school places generated by the proposed development would be small. Accordingly, it has not been demonstrated that a financial contribution is necessary.
22. Regarding youth provision, HCC states that their Census-based model estimates 2.2 additional young people may reside in the proposed development. Welwyn Garden City Young People's Centre is the closest young people's centre to the appeal site. HCC states that the additional young people arising from the proposed development would result in the facility being over capacity and contributions are therefore justified in order to fund additional provision. Funding would be used to improve and extend the entrance area of Welwyn Garden City Young People's Centre in order to increase access. However, there is no substantive evidence before me that the proposal would result in the Centre being over capacity.
23. In respect of library provision, HCC states that funding would be used towards the enhancement of Welwyn Library by installing a smaller enquiry desk to create additional capacity. Whilst I note the existing usage of stock at Welwyn Library compared to other libraries in the same category, I am not convinced that this information indicates a requirement for additional capacity. Furthermore, the evidence before me does not indicate the demand that would directly arise from the future residents of the proposed development. Based on the submitted evidence and having regard to the small amount of proposed dwellings, I find that it has not been demonstrated that a financial contribution is necessary.
24. I am satisfied that a scheme for the provision of mains water services providing fire hydrants could be secured through the imposition of a planning condition rather than requiring a planning obligation.
25. HCC has referred to various appeal decisions supporting their views as to compliance of infrastructure obligations with the Community Infrastructure Regulations 2010 as amended (the CIL Regulations) and policy. However, the obligations have to be considered on their particular planning merits and inevitably, outcomes will vary because every development proposal will be different in nature and planning policy context. Supporting evidence on infrastructure needs will also vary.
26. For the above reasons, I conclude that a planning obligation for financial contributions towards local infrastructure and services is not necessary to make

the proposal acceptable in planning terms having regard to the statutory tests in Regulation 122 of the CIL Regulations. The proposal would therefore accord with Policy 51 and Policy SP7 of the emerging Local Plan which require development proposals to make provision for infrastructure that is necessary in order to accommodate additional demands resulting from the development.

### **Other Matters**

27. I have had regard to the representations from local residents which raise various concerns. The south-western elevation of the dwelling on Plot 7 would include a first floor dormer window and rooflight which would face the rear gardens of properties in Codicote Road. Nevertheless, these windows would serve non-habitable rooms which, together with the degree of separation to the boundary, would ensure that there would not be an unacceptable level of overlooking into neighbouring dwellings and their gardens. The windows in the south-eastern elevation of Plot 7 would be roughly perpendicular to the neighbouring properties in Codicote Road and so they would only afford oblique views towards the neighbouring properties. Given the large separation distance and the screening provided by the boundary vegetation, the habitable windows and raised terrace of Plot 7 would not cause an unacceptable loss of privacy to neighbouring occupiers.
28. The Lead Local Flood Authority has raised no objection regarding drainage and flood risk. Details of the final design of the drainage scheme based on the submitted Flood Risk Assessment could be secured by planning condition.
29. The proposal is a small scale development and there is no substantive evidence before me that the proposal would adversely affect sewerage infrastructure. Matters relating to power supply and broadband connection are not within my jurisdiction.
30. A planning condition to require the submission of a Construction Management Plan for approval could be imposed to minimise the impact of construction works on the surrounding area. Details of external lighting could be secured through a landscaping condition to ensure that the design of the scheme would minimise light pollution.
31. There is no substantive evidence before me that the proposed development would adversely affect or restrict access to the driveway of No 85 Codicote Road. Issues relating to private rights of access are a civil matter.

### **Planning Balance**

32. There is no dispute that the Council is unable to demonstrate a deliverable 5 year housing land supply. The appellant indicates that the supply stands at 2.2 years, which is a significant shortfall. In these circumstances, the most important policies for determining the appeal are out-of-date in accordance with footnote 8 of the Framework.
33. Paragraph 60 of the Framework sets out the Government's objective of significantly boosting the supply of housing. In the context of the significant shortfall in housing supply, the proposed development would provide a contribution of 7no dwellings, making efficient use of previously developed land. Small sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly, as indicated in paragraph 69 of the Framework. It would create some employment



at the construction stage, and the occupiers of the proposed dwellings would help to support local facilities and services. The proposal would also provide environmental benefits through the provision of soft landscaping and new planting.

34. I have found that the proposal would not be inappropriate development in the Green Belt and would not conflict with the purposes of including land within it. Furthermore, the proposal would maintain the character and appearance of the area. The proposed development would accord with the Development Plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding.

### **Conditions**

35. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
36. In order to maintain the character and appearance of the area, I have imposed conditions relating to details of the external materials of the dwellings, landscaping, tree protection and land levels. The landscaping condition is also necessary to provide ecological enhancements and protect the openness of the Green Belt.
37. In the interests of highway safety, I have imposed conditions requiring that the proposed access arrangements are provided, and to require the submission of a Construction Management Plan for approval. A condition to require details of the proposed arrangements for future management and maintenance of the streets within the development is necessary to ensure that the roads are managed and maintained to a suitable standard. A condition to require the submission of a Site Waste Management Plan is necessary to minimise waste generation and maximise the reuse and recycling of waste materials. A condition relating to unexpected land contamination is necessary to ensure that risks to the future users of the land and neighbouring land are minimised, together with those to controlled waters and ecological systems. A condition requiring the submission of the final design of the drainage strategy is necessary to reduce the risk of flooding and ensure the satisfactory disposal of surface water from the site.
38. Conditions to remove permitted development rights for enlargement of the dwellings under Schedule 2, Part 1, Class A and Class B of the Town and Country Planning (General Permitted Development) Order 2015, and to require the provision of the paddock, are justified to protect the openness of the Green Belt.
39. A condition requiring the provision of electric vehicle charging points is necessary in the interests of the environment and to reduce carbon emissions.
40. In the interests of the living conditions of future occupiers, a condition to require the mechanical ventilation with heat recovery system to comply with the standard specified in the submitted noise assessment is necessary.
41. A condition requiring a detailed scheme for the provision of mains water services providing fire hydrants is necessary to ensure that the development would be appropriately served by such facilities.

42. Conditions relating to materials, landscaping, land levels, drainage scheme and fire hydrants are pre-commencement conditions in the interests of proper planning and to avoid potentially abortive works. Furthermore, in the interests of highway safety during construction works it is necessary for the Construction Management Plan to be submitted and approved before the commencement of works. The Site Waste Management Plan is a pre-commencement condition because it relates to construction activities. Furthermore, tree protection requires a pre-commencement condition because the carrying out of works without prior agreed methods could cause harm to retained trees.

**Conclusion**

43. For the reasons given above, I conclude that the appeal should be allowed.

*C Osgathorp*

INSPECTOR



### **Schedule of conditions**

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:-  
  
2019/942/01E; 2019/942/02F; 2019/942/03F; 2018/942/04; 2018/942/05; 2018/942/06; 2018/942/07; 2018/942/08; and, Landscape Mitigation Plan.
- 3) No development (except demolition) shall commence until details and/or samples of materials to be used on all external elevations of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The proposed development shall be carried out in accordance with the approved details.
- 4) No development (except demolition) shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall be based on the submitted Landscape Mitigation Plan, and include:
  - planting plans and written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
  - a scheme of ecological enhancements;
  - means of enclosure;
  - boundary treatments;
  - vehicle parking layouts;
  - other vehicle and pedestrian access and circulation areas;
  - hard surfacing materials;
  - drainage details;
  - external lighting; and,
  - an implementation and maintenance programme.

The landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 6) Prior to occupation of the development hereby permitted, the use of the land for open storage shall cease and the proposed paddock shall be provided in accordance with the approved plans. The paddock shall be retained at all times thereafter and shall not be used for any other purpose.

- 7) No development (except demolition) shall commence until details of the existing and proposed ground levels and finished floor levels of the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with these approved details.
- 8) Prior to occupation of the development hereby permitted, each dwelling shall incorporate an electric vehicle domestic charging point.
- 9) Prior to occupation of the development hereby permitted full details shall have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).
- 10) Prior to occupation of the development hereby permitted the existing access from Codicote Road shall be re-constructed 5.50 metres wide with 6.0 metre radii kerbs as identified on drawing number B02913-SWH-ZZ-XX-DR-C-0510-P02, the footway leading from the development shall extend to south side of the reconfigured access for a minimum distance of 10 metres and shall include for pedestrian dropped kerbs and tactile paving and corresponding dropped kerbs and tactile paving opposite on the existing Codicote Road. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction and shall be secured and undertaken as part of the s278 works.
- 11) Prior to occupation of the development hereby permitted the existing access road from the Codicote Road shall be improved and re-constructed 5.50 metres wide as identified on drawing number 2019/942/02F and the internal road layout shall be complete as identified on drawing number 2019/942/03F.
- 12) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan 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.
- 13) No development shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Management Plan as approved shall be implemented throughout the demolition and construction period.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement to the dwellings hereby permitted under Schedule 2, Part 1, Class A or Class B of the Order.
- 15) Prior to occupation of the development hereby permitted, the Mechanical Ventilation with Heat Recovery system and glazing shall be installed in each dwelling in accordance with the specification set out in "Noise Assessment, Oakleigh Farm..." Report reference RP01-19338, dated 30 August 2019 by Cass Allen Associates. The scheme shall be retained in accordance with those details thereafter.
- 16) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is also subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. All remediation works shall be carried out in accordance with the approved scheme before any dwelling hereby permitted is first occupied.
- 17) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins and all supporting information and the following measures:
- 1. 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 + 40% climate change event.
  - 2. Undertaking appropriate drainage strategy based on infiltration and to include permeable paving and soakaways.
- 18) No development (except demolition) shall commence until the final design of the drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system will be based

on the submitted Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins, dated 18 September 2020. The scheme shall also include:

1. Detailed infiltration testing be carried out pre-commencement in accordance with BRE Digest 365 standards at the proposed locations and depths of all SuDS features.
2. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.
3. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features.
4. Provision of half drain down times within 24 hours.
5. Silt traps for protection of any residual tanked elements.
6. Details regarding any areas of informal flooding (events those exceeding 1 in 30 year rainfall event), this should be shown on a plan with estimated extents and depths.
7. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

The drainage scheme shall be fully implemented prior to occupation.

- 19) Prior to occupation of the development hereby permitted, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

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

The management and maintenance plan shall be implemented thereafter.

- 20) No development (except demolition) shall commence until a detailed scheme for the provision of mains water services providing fire hydrants has been submitted to and approved in writing by the Local Planning Authority. No occupation of the development shall take place until the approved scheme for the provision of mains water services providing fire hydrants has been provided in full. Thereafter the fire hydrants shall be retained as approved in perpetuity.

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## Appeal Decision

Site visit made on 24 August 2021

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

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

**Decision date: 28 September 2021**

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**Appeal Ref: APP/X1925/W/21/3269884**

**Land at Turnpike Lane/Adjacent to 4 Manor Close, Turnpike Lane, Ickleford, Hertfordshire SG5 3UZ.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs T Grainger against the decision of North Hertfordshire District Council.
  - The application Ref 20/00891/FP, dated 21 April 2020, was refused by notice dated 11 February 2021.
  - The development proposed is the erection of five dwelling houses in association with a new access spur from Lodge Court, on-site parking, landscaping (inclusive of new trees), formation of a pedestrian footpath and designated communal open space.
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### Decision

1. The appeal is allowed, and planning permission is granted for the erection of five dwelling houses in association with a new access spur from Lodge Court, on-site parking, landscaping (inclusive of new trees), formation of a pedestrian footpath and designated communal open space at Land at Turnpike Lane/Adjacent to 4 Manor Close, Turnpike Lane, Ickleford, Hertfordshire in accordance with application Ref: 20/00891/FP, dated 21 April 2020 and the plans submitted with it and subject to conditions in the attached schedule.

### Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise. I have also inserted 'Hertfordshire' into the address for precision, as it is listed on the appeal form.
3. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes and have submitted comments. Therefore, I will not prejudice either party by taking the comments received and the Framework into account in reaching my decision.
4. The parties have referred to policies contained within the emerging North Hertfordshire District Council Local Plan 2011-2031 (LP). Given the stage of preparation and the degree of consistency with the Framework, I attach significant weight to the emerging policies. Notwithstanding this, the starting point for determining this appeal remains the North Hertfordshire District Council – District Local Plan No.2 with Alterations 1996 (saved policies 2007) (DLP). The relevant DLP policies are broadly consistent with the Framework.

## Main Issues

5. The main issues of this appeal are:

- i. whether the proposed development would be inappropriate development in the Green Belt;
- ii. the effect of the proposed development on openness of the Green Belt;
- iii. if the proposal is inappropriate development, whether harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Inappropriate development*

6. The appeal site is currently located within the Green Belt under the existing DLP, but under the emerging LP, the site is to be removed from the Green Belt and included within the revised settlement boundary for Ickleford. However, although at an advanced stage, the emerging LP has not yet been found sound or adopted. Nonetheless, no issues have been raised surrounding the revised settlement boundary for Ickleford.
7. The Framework establishes, at paragraph 149, that the construction of new buildings is to be regarded as inappropriate in the Green Belt, unless, amongst other things, they represent limited infilling in villages<sup>1</sup>. The Framework does not define a village or what would constitute limited infilling, and a High Court judgment<sup>2</sup> brought to my attention underscores that it is necessary to consider the facts on the ground. Whether or not a proposal represents limited infilling is ultimately a matter of planning judgment, having regard to factors such as the nature and size of the development, the location of the application site and its relationship to other, existing development adjoining and adjacent to it.
8. Whilst the proposed development would have some relationship with the existing pattern of development, with particular regard to the adjacent properties on Lodge Court and Manor Close, the visual connection would be limited due to the open field and woodland to the rear of the site where the dwellings would be located. Additionally, the woodland between Lodge Court and Turnpike Lane would provide additional visual limitations. Therefore, the gap in which the proposed development would take place would not be small and would not fill the gap which currently exists. Taking all of these factors together, I conclude that the proposed development would not constitute limited infilling. Therefore, it would not meet the exception criteria in paragraph 149 e) of the Framework.
9. I conclude that the development would constitute inappropriate development in the Green Belt, which would conflict with the requirements of the Framework. The Framework states that inappropriate development in the Green Belt is by

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<sup>1</sup> Paragraph 149 e)

<sup>2</sup> Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council (2015) EWCA Civ 195



definition harmful and should not be approved except in very special circumstances.

### *Openness*

10. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to prevent urban sprawl by keeping land permanently open. As such, openness is an essential characteristic of the Green Belt. The Planning Practice Guidance (PPG) states that openness is capable of having both spatial and visible aspects.
11. As the proposed development would be constructed on a site which is currently free from built development, the proposal would result in both a spatial and visual reduction in the openness of the Green Belt. Although the proposed development seeks to retain woodland and adjacent mature trees, there would still be significant harm to the openness of the Green Belt through the amount of development proposed. The Framework requires that substantial weight is given to that harm to the Green Belt.

### *Other considerations*

12. Both main parties agree that the Council is not able to demonstrate a 5-year supply of deliverable housing sites<sup>3</sup>. This represents a housing shortfall. In these circumstances, paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that there is a 'tilted balance' in favour of granting permission. As the site is located in the Green Belt Paragraph 11 of the Framework is not engaged as the Green Belt is listed as a clear reason for refusing the proposed development. However, I give the modest amount of existing deliverable housing sites moderate weight in the overall planning balance.
13. It is agreed that the emerging LP is at an advanced stage and that in all likelihood it would have been adopted by now if it was not for the global pandemic. I note that the emerging LP has been through public examination and has had modifications published. I accept that the application subject of this appeal has been submitted before the adoption of the emerging LP. Nonetheless, there is little before me to indicate that the site will not become part of the settlement boundary for Ickleford, as proposed in the emerging LP. I also acknowledge, the aims and objectives of the Housing Delivery Test Action Plan (HDTAP), which was approved by the Council in June 2020. The stage of preparation of the emerging LP and the HDTAP attract very significant weight in the overall planning balance.

### **Other Matters**

14. A number of interested parties, including local residents have also expressed a wide range of concerns including, but not limited to the following: the Council's housing strategy as proposed in the emerging LP; ecology / biodiversity; security and safety; highway and pedestrian safety; drainage (including foul water); trees and archaeology, amongst other things. Additionally, I note the comments on the planning application from elected members, Ickleford Parish Council and Campaign to Protect Rural England (Hertfordshire). However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have

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<sup>3</sup> 2.2 years

dealt with in the assessment above. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

### **Green Belt Balance**

15. The Framework requires that substantial weight is given to any harm to the Green Belt and states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
16. I have concluded that the proposed development has harmful implications for the Green Belt in terms of inappropriate development and the erosion of the openness of the Green Belt. I have also carefully considered the benefits of the proposed development, including the resulting economic and social benefits through the construction phase and the subsequent occupation of the dwellings, and the positive contribution to the Council's deliverable housing land supply, albeit modest. There is also an absence of other identified harm, including character and appearance, highway safety and biodiversity.
17. Therefore, the above factors, particularly the advanced stage of the emerging LP and the impending removal of the site from the Green Belt would, in this instance, clearly outweigh the substantial weight given to Green Belt harm. I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. Consequently, the proposed development accords with the Green Belt aims of DLP Policy 2 and the requirements of the Framework.

### **Conditions**

18. The Council has suggested conditions which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the PPG.
19. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. Materials, trees and landscaping conditions are necessary in the interests of the character and appearance of the appeal site and surrounding area.
20. Conditions relating to the access, carriageway and pavements are all reasonable and necessary in the interest of highway / pedestrian safety. A condition is reasonable and necessary for details of cycle parking at Plots 4 and 5, and the installation of an electric vehicle charging point at all dwellings to ensure that alternative methods of travel are available to future occupants of the proposed development.
21. A condition is necessary in relation to contamination in the interests of future occupiers. Additionally, a condition is necessary to restrict the construction and site clearance operations to protect the living conditions of existing neighbouring occupiers. Conditions relating to archaeology and ecology are reasonable and necessary to ensure that no adverse effects would occur in respect of heritage and biodiversity, respectively. Finally, a condition relating to drainage is reasonable and necessary to ensure that the site and / or



neighbouring land does not experience flooding as a consequence of the development.

## **Conclusion**

22. For the reasons given above, I conclude that the appeal should succeed.

*W Johnson*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL.001; P01; P01 Street Elevations; P02; P03; P04 E; TR01 A; SHA 1132LS; TS18-125D\1 and 2020-3940-001 A.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified within the Design and Access Statement and on the application form.
- 4) None of the trees to be retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed without the prior written agreement of the Local Planning Authority (LPA).
- 5) 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. 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.
- 6) Prior to the first occupation of the development hereby permitted, the soft landscaping of the development shall be done in accordance with the details contained in the report submitted by Sharon Hosegood in support of the application, unless otherwise agreed in writing with the LPA.
- 7) No gate(s) shall be erected across the access to the site for the life of the development without prior written consent from the Council first being obtained.
- 8) Prior to the first occupation of the development hereby permitted, the vehicular access shall be provided 5.5 metres wide and thereafter retained at the position shown on the approved drawing number P04E in conjunction with drawings number 2020-3940-001 A and swept path analysis detailed drawing number 2020-3940-TR01 A. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

9) Prior to the first occupation of the development hereby permitted, the footway leading from the development shall be provided and extended as shown on the approved drawing number P04E to the west side of the reconfigured access and shall include for pedestrian dropped kerbs and tactile paving and corresponding dropped kerbs and tactile paving opposite on the existing footpath of Turnpike Lane.

10) Prior to the first occupation of the development hereby permitted, visibility splays measuring 2.4 metres x 43 metres shall be provided to each side of the access where it meets the highway as shown on drawing number 2020-3940-001 A and such splays shall always thereafter be maintained free from any obstruction between 600mm and 2.0 metres above the level of the adjacent highway carriageway.

11) The gradient of the vehicular access shall not exceed 1:20 for the first 12 metres into the site as measured from the near channel edge of the adjacent carriageway.

12) Prior to the first occupation of the development hereby permitted, each dwelling shall have installed one electric vehicle charging point that is ready for use by the occupier, which shall be maintained and retained for the life of the development.

13) Prior to the first occupation of the development hereby permitted, secure cycle storage is to be provided in the rear gardens of plots 4 and 5.

14) No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the LPA. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- i. Construction vehicle numbers, type, routing;
- ii. Access arrangements to the site;
- iii. Traffic management requirements
- iv. Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
- v. Siting and details of wheel washing facilities;
- vi. Cleaning of site entrances, site tracks and the adjacent public highway;
- vii. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
- viii. Provision of sufficient on-site parking prior to commencement of construction activities;
- ix. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- x. 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.

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

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

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

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

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

- i. All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
- ii. A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the LPA.

16) (a) No development (including any demolition works) shall commence, until an Archaeological Written Scheme of Investigation has been submitted to and approved by the LPA in writing. The scheme shall include an assessment of archaeological significance and research questions; and:

- i. the programme and methodology of site investigation and recording;
- ii. the programme and methodology of site investigation and recording as required by the evaluation;
- iii. the programme for post investigation assessment;
- iv. provision to be made for analysis of the site investigation and recording;
- v. provision to be made for publication and dissemination of the analysis and records of the site investigation;
- vi. provision to be made for archive deposition of the analysis and records of the site investigation; and,
- vii. nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

(b) The demolition/development shall take place/commence in accordance with

the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (a).

(c) 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 (a) and the provision made for analysis and publication where appropriate.

17) The measures set out in the Cherryfield Ecology report, dated 30 November 2020, must be undertaken in full on site, both pre-development and during construction. This includes:

- i. before any other works on site a reptile survey is undertaken between the month of March and October. If any reptiles are found then appropriate trapping / clearing methods must be undertaken prior to any other works commencing;
- ii. no site / tree clearance during the bird nesting season;
- iii. the use of bat and bird boxes in the development;
- iv. the creation of a 'hedgehog highway' across the site; and,
- v. no lighting near to or shining on to any trees, especially those with any bat or bird boxes.

Before any other development commences details and timings of the above measures are to be submitted to, and agreed in writing by, the LPA and the approved measures must be undertaken on site. The results of the survey work are to be submitted to the Council.

18) Prior to the first occupation of the development hereby permitted, surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the LPA. Before any details are submitted to the LPA an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the LPA. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. Include a timetable for its implementation; and,
- iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

**\*\*End of Schedule\*\***



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## Costs Decision

Inquiry held on 3. 4, 5 and 10 August 2021

Site visits made on 13 July and 12 August 2021

**by Peter Rose BA MRTPI DMS MCMI**

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

**Decision date: 28<sup>th</sup> September 2021**

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### **Costs application in relation to Appeal Ref: APP/X1925/W/21/3273701 Land south of Heath Lane, Codicote SG4 8YL**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Ashill Land Ltd for a partial award of costs against North Hertfordshire District Council.
  - The Inquiry was in connection with an appeal against a decision to refuse planning permission for 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.
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### **Decision**

1. The application for a partial award of costs is allowed.

### **The submissions for Ashill Land Ltd**

2. It is submitted that the Council behaved unreasonably with respect to its second reason for refusal by failing to provide evidence to substantiate that objection.
3. The evidence relied upon consists of no more than a general assertion that public confidence would be undermined in the process because people do not like the proposal. The evidence has not grappled with the clear, reasoned advice from Officers nor provided support that the emerging local plan (the ELP) would be undermined.

### **The response by North Hertfordshire District Council**

4. The Planning Practice Guidance (the Guidance) is clear that costs may only be awarded where a party has behaved unreasonably and that conduct has directly caused another party to incur unnecessary or wasted expense in the appeal process.<sup>1</sup>
5. The application should be dismissed for the simple reason that, even if, as the appellant contends, the Council had behaved unreasonably with respect to the substance of its second reason for refusal, the appellant has not incurred unnecessary or wasted expense in the appeal process as a result of any such conduct on the authority's part.

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<sup>1</sup> Paragraph 30: Reference ID: 16-030-20140306

## Reasons

6. The Guidance identifies various possible unreasonable behaviours by a local planning authority. These include failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.<sup>2</sup> The Guidance encourages authorities, amongst other things, to properly exercise their development management responsibilities, and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case.<sup>3</sup>
7. Whilst Council Members have the discretion to reject a recommendation made by its professional Officers, evidence to substantiate each reason of a subsequent refusal of planning permission is still required.
8. Reason 2 of the Council's decision alleged that the scheme would be premature relative to the progress of the ELP. No change to the Council's position in relation to that objection was foreshadowed at the Inquiry Case Management Conference held in June 2021, and the parties then proceeded on those terms.
9. Under cross-examination at the Inquiry, the Council's planning witness clarified the authority's underlying concerns to this objection. In particular, he advised that the concerns were about a potential loss of confidence in the planning system should a site-specific decision be taken in advance of the ELP's adoption. The witness explained how that loss related not to the plan as a whole, but just to the implications for Codicote. He further clarified that, whilst such concerns still amounted to a harm weighing against the scheme, he would not invite the Inspector to dismiss the appeal on that basis alone.
10. On the final day of the Inquiry, the Council then withdrew the objection as a reason for refusal but maintained harm would still arise and to be weighed in the planning balance.
11. I find it legitimate, in principle, for a concern not to be assessed to be so significant as to constitute a reason for refusal but still to give rise to a degree of harm to be weighed as part of the decision.
12. Even so, that concern still requires to be substantiated through evidence. Very little evidence has been offered by the authority beyond general supposition, and no satisfactory rebuttal has been provided to the professional assessment presented to its Members in this regard. In my accompanying decision, I explain why I find no basis to objections around prematurity and nor around implications for public confidence.
13. The Council suggests that no additional expense was incurred by the appellant as, in any case, the authority still maintained that some harm would arise in that respect, and prematurity was also raised by third parties to the appeal. I am not persuaded by these points.
14. Firstly, the Framework states that where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the

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<sup>2</sup> Paragraph 049: Reference ID: 16-049-20140306

<sup>3</sup> Paragraph 028: Reference ID: 16-028-20140306

outcome of the plan-making process.<sup>4</sup> No such credible evidence has been provided, and the authority has not satisfactorily explained rejection of the conclusion set out in its Officer report that a refusal on such terms would not be justified.

15. Secondly, prematurity was maintained by the Council as one of only two reasons for the authority's formal opposition to the scheme. As a formally stated reason for refusal by the local planning authority and maintained until the final day of the Inquiry, such status is entitled to elicit greater attention and effort in rebuttal than one of many general bases for objection variously cited by local interested parties.
16. Whether presented as prematurity or public confidence, the appellant has therefore been required to incur unnecessary cost in responding to an unreasonable ground for refusal.

### **Conclusion**

17. I therefore find that unreasonable behaviour on the part of the Council resulting in unnecessary or wasted expense incurred by the appeal, as indicated in the Guidance, has been demonstrated. Accordingly, I conclude that a partial award of costs is justified.

### **Costs Order**

18. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Hertfordshire District Council shall pay to Ashill Land Ltd the costs of the appeal proceedings described in the heading of this decision but limited to those costs incurred in responding to Reason 2 of the authority's decision only, and such costs shall be assessed in the Senior Courts Costs Office if not agreed.
19. Ashill Land Ltd is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Peter Rose*

INSPECTOR

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<sup>4</sup> Paragraph 50

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## Appeal Decision

Inquiry held on 3, 4, 5 and 10 August 2021

Site visits made on 13 July and 12 August 2021

**by Peter Rose BA MRTPI DMS MCMI**

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

**Decision date: 28<sup>th</sup> September 2021**

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**Appeal Ref: APP/X1925/W/21/3273701**

**Land south of Heath Lane, Codicote SG4 8YL**

- 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 Ashill Land Ltd against the decision of North Hertfordshire District Council.
  - The application Ref: 18/02722/FP, dated 8 October 2018, was refused by notice dated 22 March 2021.
  - The development proposed is 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.
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### Decision

1. The appeal is allowed and planning permission is granted for 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, at Land south of Heath Lane, Codicote SG4 8YL, in accordance with the terms of the application Ref: 18/02722/FP, dated 8 October 2018, and subject to the conditions set out in the attached Schedule.

### Application for costs

2. An application for costs has been made by Ashill Land Ltd against North Hertfordshire District Council. This application is the subject of a separate Decision.

### Preliminary matters

3. The Council withdrew its second reason for refusal relating to prematurity during the Inquiry. It explained that, in the light of the evidence, the harm arising in that regard did not attract so much weight that it would in and of itself justify a refusal of planning permission. It remains the authority's position that some harm would nonetheless result from the scheme by reason of prematurity.
4. The Council advised the Inquiry that its third reason for refusal (the absence of a completed section 106 agreement) would be satisfactorily addressed once the then draft agreement had been executed. The appeal is now supported by a

completed planning agreement (the planning agreement) to that effect made pursuant to section 106 of the Act and other legislation dated 26 August 2020.

5. A request was made in evidence from Codicote Parish Council that the appeal decision should be deferred pending receipt of the Local Plan Inspector's report relating to main modifications to the emerging local plan (the ELP)<sup>1</sup>. I deal with this matter as part of my consideration of prematurity within the main issues and in my conclusions.

### **Main issues**

6. The main issues are:

- possible implications for the Green Belt and, in particular, whether any potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, would be clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development;
- possible implications of the proposal relative to progress of the ELP and, in particular, whether a grant of permission would undermine the plan-making process.

### **Reasons**

#### ***Green Belt***

##### *The appeal site*

7. The appeal site comprises some 10.78 hectares of agricultural land to the south-west of the village of Codicote. The land is an arrangement of individual fields, distinguished by various enclosures, including footpaths, hedgerows and other planting.
8. The site is bounded by existing residential properties and by Codicote Church of England Primary School to the north-east, and by residential properties to the east and south. The appeal site inclines gradually away from its higher northern/central parts down towards the south-west and further open land beyond.
9. Other than No 66 St Albans Road and the adjacent footpath, the site is located within the Green Belt.

##### *Inappropriate development*

10. The National Planning Policy Framework (the Framework) advises that construction of new buildings is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There is no dispute that the scheme involves inappropriate development.

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<sup>1</sup> Local Plan 2011-2031 Proposed Submission October 2016  
Proposed Submission Local Plan Incorporating The Proposed Modifications

*Openness of the Green Belt*

11. The Framework defines one of the essential characteristics of the Green Belt to be its openness. There is no formal definition of openness but, in the context of the Green Belt, it is generally held to refer to an absence of development. Openness has both a spatial (physical) dimension, and a visual aspect.
12. Spatially, the scheme would result in a significant reduction in existing openness simply by dint of an extent of built development involving 167 dwellings.
13. Visually, the effect of the development would be shaped by a more complex combination of factors.
14. The site lies within the Codicote Plateau Landscape Area (Area 205) as defined by the North Herts Landscape Study (Character, Sensitivity and Capacity) (the Study). Area 205 is described as a gently rolling upland landscape plateau defined to the south and west by the River Mimram. The Study identifies large, regularly shaped fields mainly used for arable production but with parcels of grazing land and paddocks adjacent to Codicote.
15. The eastern side of the appeal site is more physically enclosed by the adjacent built forms of the village. The pattern of more intimate and relatively enclosed fields is reflective of the Study. Allied to its immediate village-edge character, this part of the site contrasts with the more open, larger scale countryside to the west. The surrounding topography and the composite nature of the fields and enclosing built development to the east also limit an immediate visual appreciation of the appeal land as one uniformly open site.
16. These characteristics lead me to concur with the Council's assessment made as part of its ELP evidence base.<sup>2</sup> This identifies the visual openness of the site to be mixed, but the physical openness to be high.
17. The proposed houses would be set away from the site's western boundary and proposed planting along the southern and western edges characteristic of the Landscape Area would limit to some degree exposure of built form from outside. The extent and quality of landscaping proposed within the site would be significant. Some 4.4 hectares of the site would comprise landscaped public open space absent of significant built form (some 41%).<sup>3</sup>
18. The impact physically and visually would be most evident in the immediate vicinity of the site at its eastern side, but less so in more distant views from the west and which would comprise relatively glimpsed exposures of upper levels of dwellings once proposed landscaping becomes established.
19. Spatially, the existing completely open character of the site, notwithstanding the enclosed and sub-divided character of individual fields, would be lost. The effect of mitigation would be to reduce the visual impact of built form as landscaping becomes established, but the spatial implications would not be similarly offset. The footprint of built form would be a permanent feature and the accompanying spatial impact upon openness would not reduce over time.
20. Visually, the proposed planting would be of merit in itself and would strengthen the characteristic vegetation and planting of the surrounding landscape.

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<sup>2</sup> Appendices to North Hertfordshire Local Plan 2011 - 2031 Green Belt Review Update 2018

<sup>3</sup> See Figure 2 of Mr Kindred's proof

Nevertheless, its primary purpose would be to mitigate the impact of built form and to offset the loss of countryside, and it falls to be assessed in that context.

21. I find the visual impact upon openness would vary from moderate adjacent to the existing settlement, to more significant in its more open character to the west, and this would reduce over time.
22. Taken together, I assess the overall harm to the openness of the Green Belt to be in the range of moderate-significant.

*Encroachment and other Green Belt purposes*

23. One of the Framework's defined purposes for the Green Belt is to safeguard the countryside from encroachment. No conflict has been identified with other purposes.
24. Built form would replace existing open countryside and encroachment would thereby be incurred. Given the site and scheme characteristics described, and particularly the immediate relationship to the existing built form of the village, I agree that such harm would be moderate consistent with Council's ELP evidence base.

*Summary of Green Belt harm*

25. The scheme would incur definitional harm as inappropriate development and would impose various levels of moderate-significant harm through loss of openness and through encroachment.
26. To that extent, the scheme would thereby conflict with Policy 2 of the Local Plan<sup>4</sup>. Amongst other things, this seeks to ensure that uses of land in the Green Belt will be kept open in character. Defined exceptions where planning permission will be granted, however, include proposals where very special circumstances apply.
27. I return to an assessment of very special circumstances as further relevant to Policy 2, and as also reflected in the Framework, as part of my planning balances to follow, and to be made in the context of all other relevant factors.

**Prematurity**

*The Council's objection*

28. The ELP is now at a very advanced stage of the local plan-making process. The main modifications consultation process has been completed and the Inquiry was advised that the Inspector's final report was anticipated in early Autumn.
29. The Council is concerned that it is not known what the ELP Inspector is going to say when he reports. The authority considers it possible that, in light of the consultation that has taken place on the main modifications, the Inspector will decide not to recommend that the ELP be adopted. It further maintains there are unresolved objections and, irrespective of whether opposition to a draft allocation persuades the local planning authority to change its own mind, opponents should still be given a fair opportunity to persuade an examining Inspector to uphold their concerns.<sup>5</sup>

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<sup>4</sup> North Hertfordshire District Council District Plan No.2 with Alterations Originally adopted April 1996, Saved policies under Planning and Compulsory Purchase Act 2004 Written Statement September 2007

<sup>5</sup> Paragraph 48b) of the Framework is submitted to apply

30. In cross-examination, the Council's witness clarified its concerns around prematurity to relate to loss of public confidence if a key site-specific decision were to be taken in advance of plan adoption. Further, those concerns were confirmed as relating to Codicote and not to the ELP as a whole.

*The current status of the ELP*

31. The appeal site is proposed for housing development in the Council's ELP. Policy CD5 identifies a possible development of 140 homes as part of development also accommodating expansion of the adjacent Codicote Church of England Primary School on Land south of Heath Lane.
32. The allocation forms part of the authority's strategic approach to meeting its future housing needs. This is set out in Policy SP8 of the ELP which commits the authority to support housing growth in the period 2011-2031 by releasing sufficient land across the District to deliver at least 11,600 net new homes for North Hertfordshire's own needs.<sup>6</sup>
33. The Inquiry was informed how, at the end of the pre-Christmas 2020 ELP hearings, the Local Plan Inspector discussed the next steps. The Inspector advised that the Council could expect one of two things to happen; either to receive a letter setting out any fundamental concerns, or to proceed to consultation on further main modifications. The Inspector undertook to write to the Council raising any concerns by the end of January 2021 at the latest. No notification of fundamental concerns was received by the January deadline, and the subsequently received main modifications did not suggest any substantive change to the appeal site's housing status.
34. The Council agreed that the required further consultation should take place and this was limited to consultation on the main modifications. These do not include material changes to allocation CD5 relevant to this appeal.
35. The Inquiry was advised that the Inspector has raised no concerns about the inclusion of the appeal site as a housing allocation, and neither has the Council as part of that process. Despite long-standing objections to the proposal, the appeal site has been maintained by the authority as a development allocation since 2016. The Council is supporting the draft allocation and has not suggested it is contemplating changing its position in the future.

*The context of local housing need*

36. The Council can only demonstrate 1.47 years of an expected five-year housing land supply (5YHLS). This represents a further deterioration from 2.2 years identified at the time of its decision to reject the appeal scheme. At the time of its refusal, the Council also had the fourth lowest performance nationally for housing delivery relative to the terms of the Government's Housing Delivery Test. The national context is of an objective of significantly boosting the supply of homes as set out in the Framework.
37. In 2018, the authority had 2,128 live applications for general needs affordable housing, with a maximum wait time of 59 months (nearly 5 years) for a 2-bed flat, and an average wait time of some 25 months (over 2 years) across all property types. By 2021, the average wait time remained similar, but the number of applications had risen to 2,354.

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<sup>6</sup> Schedule of Further Proposed Modifications to the North Hertfordshire Local Plan 2011-2031, page 16

38. Since the start of the plan period (2011) only 518 affordable homes have been constructed. This amounts to 18% of net completions relative to a target of 33%. More locally, no affordable housing has been delivered in Codicote in the last 14 years.
39. In response to its pressing housing situation, the Council has adopted a Housing Delivery Test Action Plan.<sup>7</sup> Whilst recognising how proposed housing sites currently within the Green Belt generally remain subject to tests of very special circumstances, it proposes that it may now be appropriate to determine some planning applications on these sites in advance of the ELP examination being concluded. This position has been reached having regard to various factors, including the potential for early delivery of key infrastructure and the acute shortfall of housing provision relative to Government targets.
40. The Council has advised the ELP Inspector that it considers the appeal site, in conjunction with other allocations in Codicote, to be the only reasonable alternatives for local housing delivery and that exceptional circumstances exist to warrant their release from the Green Belt. The proposal would also be consistent with the Local Plan's general acknowledgement, expressed through Policy 26, to make housing provision, although the detail of that policy is now substantively out-of-date in relation to the current housing requirement.
41. There is an unquestionably urgent need to identify land in North Hertfordshire to provide for essential market and affordable housing. The Council itself acknowledges a substantial and serious housing land supply shortfall, a position which it further describes as 'acute'.<sup>8</sup> I attach very substantial weight to the considerable housing benefits of the appeal scheme, and which include an ELP-compliant affordable housing contribution of 40% of the dwellings.

*The context of local education need/primary school capacity*

42. The appeal scheme makes provision for delivery of playing pitches for the adjacent primary school through a land transfer agreement which, in turn, would enable both expansion and re-configuration of the wider school site.
43. Additional to a future shortfall in school places that will result from the proposed housing growth in Codicote as envisaged by the Council through its ELP, there is already an existing shortage of places within the village and which makes the education need particularly urgent. In 2019, for example, some 11 resident children had to travel to school outside of the village. This pattern appears likely to persist and will have adverse impacts not only in terms of the need to travel and children's welfare, but also in terms of Codicote's social cohesion as a community and the wider implications for its integrity as a sustainable settlement. To meet future needs, the County Council proposes to enlarge the school to accommodate two forms of entry and, given the immediate urgent circumstances, for expansion to commence if possible from September 2022.
44. It is agreed that there are no further options for temporary expansion of the school without locating a mobile classroom on the existing playing field, further encroaching onto the already constrained site area, or on the location of a new permanent classroom block and so placing more pressure on the existing core facilities.

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<sup>7</sup> Cabinet Report dated 23 June 2020, 'Housing Delivery Test Action Plan 2020'

<sup>8</sup> Council closings



45. The County Council does not consider compulsory purchase of the allocated expansion site to be an appropriate alternative. Aside from the expediency of such a course, it would also raise issues of timeliness and resourcing not incurred by the appeal proposal.
46. The appeal scheme would facilitate and support the future of the village school in a locally sustainable location and in a way necessary to support existing needs and further housing development in Codicote.
47. Provision of school land is a clear and very important benefit that should be afforded significant weight. I consider that 'unlocking' the potential of other housing allocations falls to be weighed as a sub-feature rather than as a further and separate benefit in itself. The expanded school would be available to serve the appeal site and other housing allocations as identified by the ELP, or to address such other education needs as apply.

*Summary of conclusions - prematurity*

48. The Framework sets out how arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both: the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new development that are central to an emerging plan; and the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.<sup>9</sup>
49. A scheme of 167 dwellings would constitute less than 2% of the homes the ELP seeks to deliver by 2031. The appeal site relates to Codicote only, and is just one of 34 Green Belt releases proposed throughout the District as a whole. This would not be so substantial such that the plan-making process would be undermined.
50. That said, I do not accept the appellant's classification of prematurity as a 'binary' matter. I am unconvinced that, in circumstances where the requirements of paragraph 49 of the Framework are not met, a decision-maker should be precluded entirely from giving any weight at all to prematurity as a possible harm. Rather, it should be open to conclude as a matter of planning judgement that some weight could still be attributed to prematurity in any overall planning balance if any such harm can be demonstrated.
51. Public confidence may also have different facets. It may be relevant not just to the perceptions of objectors to the scheme, but could also apply to other stakeholders who may have contrasting expectations towards the proposal and its plan-making context, such as people seeking homes in Codicote or persons awaiting affordable housing within the District. It may also be relevant to the parents and guardians of children within the village, and of the commuting children themselves, looking for reassurance regarding their future schooling. By failing to deliver and further delaying the long-standing expectations of the ELP in those regards, their confidence in the planning system could equally be undermined. No particular evidence has been provided as to the overall implications for public confidence or the extent to which different aspects of it may or may not be relevant.

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<sup>9</sup> Paragraph 49

52. I do not accept that a permission for the appeal scheme should pre-determine proposals for other Codicote housing allocations within the ELP. A permission for the appeal scheme would only 'unlock' the potential of the other draft allocations for Codicote insofar as their implementation may be currently precluded by available school capacity. Other relevant site-specific considerations would remain according to the particular merits of each case.
53. I also note that Counsel instructed by the authority in advance of its decision expressly advised the Council that there was no prohibition on the granting of planning permission for residential development in the Green Belt ahead of adoption of the ELP provided the Framework's test of very special circumstances is met.<sup>10</sup>
54. Notwithstanding the Council's commitment to the ELP, should it not be adopted for whatever reason, the appeal scheme, in common with all other development proposals in the District, would still remain to be determined against the extant statutory Local Plan.
55. There is an immediate imperative for people to be housed in Codicote. There is an immediate imperative for resident children to be educated in Codicote. No alternative solution to the ELP was before the Inquiry to meet these urgent and outstanding needs.
56. In terms of the merits of the proposal and its relationship to the ELP, I have no reasonable basis to conclude that determination of this application would be premature or otherwise inapt or that any harm would arise in that regard.

### ***Other matters***

#### *Other non-Green Belt implications for character and appearance*

57. More generally, the scheme would involve loss of countryside, albeit of mixed character, and its replacement with built form. Notwithstanding the quality of the landscaping and other mitigation proposed, housing would remain visible and harm would be incurred by virtue of that loss of existing character and appearance contrary to the aspirations of the Framework. This requires planning policies and decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital.
58. There would be moderate harm in the early years due to the lack of established landscaping, but this would reduce over time through the mitigation proposed. In overall terms, I assess this harm to be in the range of limited-moderate.
59. The scheme would thereby incur a degree of conflict with Policy 57 of the Local Plan which, amongst other things, expects all proposals for residential development to retain existing landscape features where possible. Even so, this policy sets out a range of relatively detailed guidelines for new residential development and falls to be read in conjunction with other, more strategic development plan policies, including Policy 2 and its provision for very special circumstances.
60. Whilst Policy SP5 of the ELP also seeks to seek to recognise the intrinsic value of the countryside, it is significant that the same emerging plan proposes to

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<sup>10</sup> Advice from Suzanne Ornsby QC dated 29 October 2020



remove the appeal site from its current Green Belt designation and allocates the site for built development.

### *Heritage*

61. The appellant's Built Heritage Statement identified implications for particular heritage assets as a consequence of changes to their settings. These concerned three related Grade II listed buildings: Codicote Farmhouse; barn and shed 20 metres north of Codicote Bottom Farm; and barn 50 metres north-west of Codicote Farmhouse. The setting of Ayot House, a Registered Park and Garden (the RPAG), was also identified as being affected.
62. The three listed buildings form a group at Codicote Bottom Farm and are located some 380 metres to the west of the appeal site towards the lower levels of the Mimram valley. The farmhouse and separately listed structures derive special interest from the age, traditional materials and detailing of their historic fabric as purpose-built agricultural structures, and from their configuration and relationship as surviving elements of an historic farmstead.
63. The setting of each of the listed buildings is particularly shaped by their relative proximity and common heritage and this contributes to their significance as an historic group. This collective interest is best understood and appreciated looking westwards away from the appeal site.
64. The sympathetic character of the surrounding fields and farmland forms part of the assets' wider settings and thereby also contributes positively to their particular historic interest. This includes general views from the assets towards the western/south-western boundaries of the appeal site. Even so, the appeal site offers no specific or individual contribution in its own right as part of that wider landscape, and the immediate surroundings of the group, and which make the most positive contribution to setting as part of their significance, would remain unaltered.
65. New landscaping and areas of open space are proposed around the western/south-western areas of the appeal site, with proposed dwellings set back from the boundary and at a relatively lower housing density. There would be some distant views of built form within the wider settings of the listed buildings, but that exposure would be mitigated to some degree over time as the proposed landscaping matures.<sup>11</sup>
66. The introduction of new development within the wider rural settings of the listed buildings at Codicote Bottom Farm would therefore result in limited and less than substantial harm relative to their significance.
67. The significance of Ayot House is as an eighteenth century landscape park and country residence.
68. The proposed scheme would be partially visible within long distance views outwards from the asset's drive and across the valley towards the western/south-western fields of the appeal site. Those views similarly make a minor positive contribution to the setting and significance of the RPAG as part of the wider rural landscape. The appeal site again makes no specific contribution to the significance of the RPAG in its own right, and the asset's

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<sup>11</sup> This is particularly evidenced by Photomontage Viewpoint 2 contained within the Landscape and Visual Impact Assessment

wider setting and overall significance would be unaffected. The degree of harm would be limited and less than substantial relative to its significance.

69. Elsewhere, an icehouse exists as a non-designated heritage asset in proximity to the listed Codicote Lodge to the north of Heath Lane. The icehouse is set well back from Heath Lane and is separated by a substantial boundary wall and related planting. The icehouse derives significance from its association to Codicote Lodge and its relatively self-contained grounds rather than from any particular wider physical or functional relationship to the appeal site to the south of Heath Lane. I do not consider the scheme would have any implications for its setting or otherwise affect its significance.
70. Similarly, given their location and physical relationship to the appeal scheme, I do not consider the proposal would have any implications for the settings of other listed assets, including Codicote Lodge itself, Rose Cottage and Bentleys. The same applies to the adjacent Codicote Conservation Area. There would be minor visual changes from the appeal scheme in the outward view from the Conservation Area along Heath Lane. The existing and largely planted character of Heath Lane would remain, and the scheme would not unduly affect the Conservation Area's setting with implications for its significance as an important historic village.
71. I therefore conclude that the proposal would be harmful to the setting of the Registered Park and Gardens at Ayot House, and would thereby be contrary to Policy 19 of the Local Plan. This seeks to refuse development proposals which destroy or result in any loss in the value of Historic Parks and Gardens.
72. More widely in relation to the limited harm arising to both Ayot House and the listed assets at Codicote Bottom Farm, the scheme would conflict with Policy HE1 of the ELP. Amongst other things, this seeks to conserve and preserve the significance of designated heritage assets.

### *Ecology*

73. The proposal is accompanied by an Ecological Assessment (the Assessment) updated in June 2021. Although the evidence is of a site of overall limited ecological significance, adoption of a suitable Landscape and Ecological Management Plan (the Plan), in line with the Assessment's recommendations, is proposed to ensure the biodiversity value of existing habitats is both retained and enhanced.
74. Indicative proposals identify how harm to biodiversity can be mitigated, and a financial contribution has been agreed with the Council to facilitate other off-site enhancements. The Plan would include details of how a measurable level of biodiversity gain should be achieved. This requirement would be set out in a planning condition relating to the Plan should the appeal be allowed, and the financial contribution is accommodated within the planning agreement.
75. Whilst the accompanying biodiversity metric pre-dates the most recent national technical guidance, it has been prepared over significant time and been reviewed and approved by Hertfordshire Ecology.
76. Policy NEx of the ELP states that planning permission will only be granted for development proposals that appropriately protect, enhance and manage biodiversity in accordance with various criteria. All development should, amongst other things, deliver measurable net gains for biodiversity and/or

restore degraded or isolated habitats where possible. Amongst other requirements, applicants should have regard to a need to integrate appropriate buffers of complimentary habitat into ecological mitigation and design. The appropriateness of any buffers will be considered having regard to the status of the relevant habitat. Policy NEx specifies 12 metres of complimentary habitat to be provided around wildlife sites, trees and hedgerows.

77. The scheme would not provide 12 metres of complimentary planting throughout the site. The site contains relatively few trees and the evidence is of hedgerows in relatively poor condition and having suffered from historic mismanagement and grazing pressure. In a no development scenario, such grazing pressure would be likely to continue and to the further detriment of existing vegetation.
78. The scheme offers an opportunity to restore features and instigate appropriate management such that overall ecological value can be sustained and developed in the long-term. The proposal includes a commitment to protect, restore and/or enhance hedgerows. In that context, I do not find the absence of a uniformly defined buffer to be a significant shortcoming and do not consider Policy NEx would be compromised in overall terms.
79. The scheme makes a reasonable contribution to ecology and biodiversity gain broadly consistent with the Framework. This encourages opportunities to improve biodiversity in and around developments and integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
80. I therefore conclude that the proposal would not be harmful to local ecology or biodiversity and would not thereby conflict with Policy 14 of the Local Plan. Amongst other things, this expects development proposals to take account of, and where possible, to show improvements to the nature conservation value of the site and its surroundings. In addition, the Local Plan may require the preparation and implementation of a management scheme to maintain or enhance the site's nature conservation value.
81. The proposal would preserve diversity and deliver net gains to which I attach limited weight as a benefit.

#### *Highways*

82. No objection is raised by the local highway authority, and a number of particular technical details, including arrangements for site access and sightlines and associated implications for highway safety, would be the subject of planning conditions should the appeal be allowed.
83. Whilst there would be an increase in local traffic generation, I have no un rebutted evidence of particular significant harm in relation to highway matters or of matters which cannot be addressed either by planning conditions as proposed by the parties or by the more general mitigation set out in the planning agreement. Further, the Framework requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

*Other concerns and harms*

84. A number of other lesser scale harms would arise from the scheme, including loss of agricultural land and, notwithstanding the best efforts of mitigation, implications for local living conditions during the construction period and for air quality in conjunction with traffic generation. These are matters to which, in sum, I attach limited weight.
85. I am satisfied that any other relevant adverse impacts arising could be addressed either through the mitigation proposed in the planning agreement, or through appropriate planning conditions should the appeal be allowed.
86. The physical relationship of the scheme to Codicote Lodge, and particularly in terms of respective boundaries and relative locations, would be such that there should be no adverse implications for the living conditions of its residents once the scheme is completed.

*Planning agreement*

87. The agreement makes various commitments to mitigation, additional to arrangements for affordable housing and for the school land transfer. These include transport contributions to a bus link, a car club, to sustainable movement and to a travel plan. Social contributions would be made to education, libraries, health, sport, open space and to youth facilities. Environmental contributions are proposed for ecology, waste regulation and fire safety.
88. The mitigations are consistent with Policy 51 of the Local Plan, with Policy SP7 of the ELP, and with relevant aspects of the Council's planning obligations supplementary planning guidance<sup>12</sup>. These seek to ensure necessary contributions towards the provision and maintenance of facilities or in respect of other implications arising directly as a result of a development.
89. I am satisfied with the form and content of the undertaking as a deed. I find the undertaking to be compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

*Other considerations of the ELP*

90. Whilst the proposal provides for 167 dwellings which is more than the 140 homes identified in the CD5 allocation, Policy HS1 makes clear that the number of units is intended as indicative and that the capacity of each allocation will be shaped by a design-led approach to development.<sup>13</sup> The project history and evolution of the appeal scheme reflect such an approach.
91. Policy CD5 identifies a range of other development criteria for the appeal site, including assessment of transport, contamination, drainage, biodiversity, public rights of way, landscape, and its physical relationship to the Heath Lane frontage. It also identifies lower density of development to the southern edge of the development to respect local character. I find no overall conflict in these regards.

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<sup>12</sup> Planning Obligations Supplementary Planning Document Final Version November 2006

<sup>13</sup> Paragraph 8.3 accompanying Policy HS1 refers

92. The scheme also accords with other more general ELP requirements. The Council accepts that the proposal would comply with the ELP as a whole if adopted, and I agree.

*Other benefits*

93. Aside from provision of market and affordable housing, and facilitating development of the school and its associated contribution to unlocking the development prospects of other housing allocations, and securing net biodiversity gain, the scheme would yield a number of other benefits.
94. The economic benefits of development would include investment in construction and related employment for its duration. There would also be an increase in subsequent local household expenditure and demand for services. This would be appreciable given the scale of development, its physical proximity to services within the High Street, and the relatively self-contained nature of the village.
95. I disregard any suggestion of financial contributions to the local authority through Council tax receipts, New Homes Bonus payments or similar as a possible benefit of the scheme. The Guidance states that whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms.<sup>14</sup> Further, it advises that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority or other government body.
96. The appeal site is currently private land crossed and enclosed by public footways. The scheme would generally ensure the site becomes more publicly accessible. It would include significant provision of open space generally available to the local community and upgrading of footways.
97. I attach significant collective weight to these other benefits.

*Other planning decisions and judgements*

98. Various references have been made in evidence and submissions, and all of which have been considered. Each turns on its own facts and, whilst generally relevant to varying degrees, none dissuade me from the assessments and conclusions set out above based upon the particular circumstances of this appeal. These have also been considered in relation to aspects of the planning balances which follow.

**Planning balances**

*Heritage*

99. The Framework advises that heritage assets are an irreplaceable resource, and requires them to be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, it requires great weight to be given to an asset's conservation, and irrespective of the scale of harm. It further requires that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage

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<sup>14</sup> Paragraph: 011 Reference ID: 21b-011-20140612

asset, as in this case, such harm should be weighed against the public benefits of the proposal.

100. The extensive public benefits arising from the scheme as described would out-weigh the collective harm arising for the heritage significance of Codicote Farmhouse and its associated barns and shed, and in relation to Ayot House.
101. Accordingly, the Framework does not provide a clear reason for refusing the development proposed in this specific regard.

*Very special circumstances*

102. The Framework makes clear that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.<sup>15</sup>
103. In addressing this subject, the Courts have made clear that a particular mathematical exercise is not required. Rather, a single exercise of judgement is necessary to assess whether there are very special circumstances which justify the grant of permission notwithstanding the particular importance of the Green Belt and the seriousness of any harm to it.<sup>16</sup>
104. As inappropriate development the appeal scheme would constitute definitional harm. Built development of the scale and form proposed would incur moderate-significant harm to the openness of the Green Belt, and moderate harm through encroachment. There would also be a range of other, more limited non-Green Belt harms as identified, including limited-moderate harm to the landscape, and to heritage assets.
105. Against that, the circumstances of this application are quite extreme. The context is of a critically inadequate and deteriorating 5YLHS set against pressing housing needs, no recent local provision of affordable housing, and a local school unable to meet the needs of the village and with subsequent implications for local children, for Codicote's social cohesion, and for its future as a sustainable settlement supporting itself and minimising the need to travel. Such circumstances are acute and highly compelling. The proposal would make a very significant contribution in all those regards and would be accompanied by high quality mitigation to help offset and minimise the visual implications of additional built form.
106. I attach very substantial weight to the critically needed housing benefits of the scheme, significant weight to addressing the urgency for school expansion and further weights to the range of other lesser scale benefits as identified. In that context, and irrespective of the further support in favour of the proposal drawing from the advanced status of ELP itself and from the Council's affirmation of it, I find potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, to be

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<sup>15</sup> These current iterations of the Framework and Guidance also post-date the Minister for State for Housing and Planning's Written Statement made on 17 December 2015 as referenced in evidence by the Council

<sup>16</sup> Sefton Metropolitan Borough Council v Secretary of State for Housing, Communities, and Local Government v Jerry Doherty 7 May 2021 Case No: CO/2050/2020 Co/2051/2020



clearly outweighed by these particular other considerations. Very special circumstances therefore exist to justify the proposal.

107. Accordingly, such very special circumstances mean the proposal would not conflict with Policy 2 of the Local Plan. Further, given the existence of very special circumstances, it follows that the application of the Framework's Green Belt policies does not provide a clear reason for refusing planning permission.<sup>17</sup>

## **Overall assessment**

### ***i) The development plan as a whole***

108. I consider the development plan policies which are most important are those referred to and variously applied in my assessment of the main issues and other considerations.<sup>18</sup>

109. I have identified some limited conflict with Policies 19 and 57, compliance with Policy 2, some commonality with Policy 26, and found no significant discord with other saved provisions. Given the particular significance of Policy 2 to this proposal, and the limited scale of conflict with Policies 19 and 57, I conclude the scheme would accord with the development plan as a whole.<sup>19</sup>

### ***ii) Other material considerations***

110. As the Council is unable to demonstrate a 5YHLS, the tilted balance of paragraph 11d) is engaged.<sup>20</sup>

111. The collective benefits of the development as described would be extensive. As such, any possible adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The scheme therefore benefits from the presumption in favour of sustainable development and which is a further material consideration.

### ***iii) Final planning balance***

112. The proposal would accord with the development plan as a whole and other material considerations do not indicate a decision other than on those terms. Accordingly, planning permission should be granted, subject to conditions.

## **Conditions**

113. I have considered as a starting point the suggested list of conditions put forward and agreed by both main parties. I have had regard to the advice set out in the Guidance and in the Framework, and have reviewed and adjusted detailed recommendations in terms of the necessity for, and reasonableness of, individual conditions and other aspects thereof, and to ensure clear and enforceable wording and general consistency.
114. For reasons of certainty, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings.

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<sup>17</sup> See Footnote 7

<sup>18</sup> The main parties agree that the most important policies of the development plan are Policy 2, Policy 51 and Policy 57. The Council considers that Policy 26 is also one of the most important policies

<sup>19</sup> There was also no dispute at the Inquiry that, if very special circumstances do apply, there would be broad compliance with the existing development plan

<sup>20</sup> By virtue of Footnote 8

115. To safeguard the character and appearance of the appeal site and its surroundings, conditions require details to be submitted of external materials, and of landscaping, and inclusive of proposed footpath treatments. Details are also required of tree and hedge retention and protection, of a Landscape and Ecological Management Plan, and of lighting. Full external details are also required of the proposed pumping station facilities and associated works.
116. To ensure a satisfactory living environment for both occupiers and neighbours, conditions require details to be approved of proposed drainage, and investigation and remediation of any possible site contamination. Details are also required of refuse arrangements.
117. To safeguard living conditions for future occupiers, a condition is necessary to ensure appropriate noise insulation of the dwellings.
118. To protect the living environment of neighbours during construction, it is necessary for the works to be undertaken in accordance with a Construction Method and Traffic Management Statement, and including arrangements for working hours and waste management.
119. To ensure the free and safe movement of vehicles and pedestrians at and in the vicinity of the site, various technical details are required to be followed regarding arrangements for ensuring safe access, and for treatment of Footpaths 14 and 15. Similarly, conditions make provision for retention of garage parking, and for cycle storage. The future status of the estate roads and their detailed design relative to use by refuse vehicles and other associated matters also require further attention.
120. To further contribute to a sustainable development, conditions require submission of a revised Energy and Sustainability Statement and of arrangements for electric vehicle charging.
121. To safeguard any hitherto unrevealed heritage interest within the site, a scheme of archaeological investigation is necessary.
122. Matters relating to contamination, drainage, archaeology, tree and hedgerow retention and protection, the Construction Method and Traffic Management Statement, and the design of the access for construction traffic, are all to be addressed before development commences. This is necessary given the importance of those matters and the implications which could otherwise arise should works proceed in the absence of their resolution.

## **Conclusion**

123. For the above reasons, I conclude the appeal should be allowed subject to the conditions identified.

*Peter Rose*  
INSPECTOR



## **SCHEDULE OF CONDITIONS**

### **Time limit**

1. The development hereby permitted shall begin not later than 3 (three) years from the date of this decision.

### **Details and drawings**

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan S201  
Existing Site Survey S202  
Site Layout Masterplan P201 Rev L  
Site Layout (North site, Heath Lane) - Roof Plan P203 Rev C  
Site Layout (South site, St Albans Road) - Roof Plan P202 Rev C  
Coloured Site Masterplan C201 Rev L  
Proposed Street Elevations A-A & B-B P210 Rev B  
Proposed Street Elevations C-C & D-D P211 Rev A  
Proposed Street Elevations E-E & G-G P212 Rev A  
Proposed Street Elevations H-H & K-K P213 Rev B  
Proposed Street Elevations L-L & P-P P214 Rev A  
Coloured Street Elevations A-A & B-B C210 Rev B  
Coloured Street Elevations C-C & D-D C211 Rev A  
Coloured Street Elevations E-E & G-G C212 Rev A  
Coloured Street Elevations H-H & K-K C213 Rev B  
Coloured Street Elevations L-L & P-P C214 Rev A  
Affordable 2 Bed Houses (Sheet 1 of 3) P220  
Affordable 2 Bed Houses (Sheet 2 of 3) P221  
Affordable 2 Bed Houses (Sheet 3 of 3) P222  
Affordable 2 Bed W/C Houses (Sheet 1 of 3) P223  
Affordable 2 Bed W/C Houses (Sheet 2 of 3) P224  
Affordable 2 Bed W/C Houses (Sheet 3 of 3) P225  
Affordable 3 Bed Houses (Sheet 1 of 6) P226  
Affordable 3 Bed Houses (Sheet 2 of 6) P227  
Affordable 3 Bed Houses (Sheet 3 of 6) P228  
Affordable 3 Bed Houses (Sheet 4 of 6) P229  
Affordable 3 Bed Houses (Sheet 5 of 6) P230  
Affordable 3 Bed Houses (Sheet 6 of 6) P231  
Affordable 4 Bed Houses (Sheet 1 of 2) P232  
Affordable 4 Bed Houses (Sheet 2 of 2) P233  
Private 2 Bed Houses - Type 2A P240 Rev A  
Private 3B Houses - Type 3A (Sheet 1 of 5) P241 Rev B  
Private 3B Houses - Type 3A (Sheet 3 of 5) P243 Rev B  
Private 3B Houses - Type 3A (Sheet 4 of 5) P244 Rev B  
Private 3B Houses - Type 3A (Sheet 5 of 5) P245 Rev B  
Private 3B Houses - Type 3B (Sheet 1 of 9) P246 Rev B  
Private 3B Houses - Type 3B (Sheet 2 of 9) P247 Rev A  
Private 3B Houses - Type 3B (Sheet 3 of 9) P248  
Private 3B Houses - Type 3B (Sheet 4 of 9) P249  
Private 3B Houses - Type 3B (Sheet 5 of 9) P250  
Private 3B Houses - Type 3B (Sheet 6 of 9) P251 Rev B

Private 3B Houses - Type 3B (Sheet 7 of 9) P252 Rev B  
Private 3B Houses - Type 3B (Sheet 8 of 9) P253 Rev A  
Private 3B Houses - Type 3B (Sheet 9 of 9) P254  
Private 3B Houses - 3A/3B Sales special P255 Rev B  
Private 3B Houses - Type 3D (Sheet 1 of 2) P258  
Private 3B Houses - Type 3D (Sheet 2 of 2) P259  
Private 4 Bed Houses - Type 4A (Sheet 1 of 5) P260 Rev B  
Private 4 Bed Houses - Type 4A (Sheet 2 of 5) P261 Rev A  
Private 4 Bed Houses - Type 4A (Sheet 3 of 5) P262 Rev A  
Private 4 Bed Houses - Type 4A (Sheet 4 of 5) P263  
Private 4 Bed Houses - Type 4A (Sheet 5 of 5) P264 Rev A  
Private 4 Bed Houses - Type 4B (Sheet 1 of 4) P265  
Private 4 Bed Houses - Type 4B (Sheet 2 of 4) P266  
Private 4 Bed Houses - Type 4B (Sheet 3 of 4) P267  
Private 4 Bed Houses - Type 4B (Sheet 4 of 4) P268  
Private 4 Bed Houses - Type 4C (Sheet 1 of 3) P269  
Private 4 Bed Houses - Type 4C (Sheet 2 of 3) P270  
Private 4 Bed Houses - Type 4C (Sheet 3 of 3) P271  
Private 4 Bed Houses - Type 5A (Sheet 1 of 2) P272  
Private 4 Bed Houses - Type 5A (Sheet 2 of 2) P273  
Private 2 Bed Houses - Type 2A (Sheet 2 of 3) P274  
Private 2 Bed Houses - Type 2A (Sheet 3 of 3) P275  
Private 3 Bed Houses - Type 3A (Sheet 1 of 4) P276  
Private 3 Bed Houses - Type 3A (Sheet 2 of 4) P277  
Private 3 Bed Houses - Type 3A (Sheet 3 of 4) P278  
Private 3 Bed Houses - Type 3A (Sheet 4 of 4) P279  
Apartments Plots 1-5 - Proposed Plans P280  
Apartments Plots 1-5 - Proposed Elevations P281  
Apartments Plots 18-27 - Proposed Ground Floor Plan P282  
Apartments Plots 18-27 - Proposed First Floor/Roof Plan P283  
Apartments Plots 18-27 - Proposed Elevations P284  
Ancillary Buildings (Garages and sub-station) P290 Rev A  
Entrance Vignette 1471-0006 Rev G  
Landscape Masterplan 1471-0007 Rev I  
LEAP Landscape Plan 1471-0008 Rev C  
Tree Planting Strategy 1471-0009 Rev F  
Proposed Access Arrangement St Albans Road -  
2015/2368/001 Rev H  
Proposed Access Arrangement Heath Lane -  
2015/2368/003 Rev F  
PROW Footpath design 2015/2368/014 Rev E  
Swept Path Assessment Southern 2015/2368/016 Rev A  
Swept Path Assessment Southern 2015/2368/017 Rev A  
Swept Path Assessment Northern 2015/2368/018 Rev A  
Swept Path Assessment Northern 2015/2368/019 Rev A

### **Pre-commencement**

3. No development shall commence until a Construction Method and Traffic Management Statement has been submitted to and been approved in writing by the local planning authority. The Statement shall include the following details as a minimum:
  - a) a phasing plan for the works;
  - b) works access;
  - c) arrangements for cleaning of the site entrance and the adjacent public highway, and to include wheel washing facilities;
  - d) principal routes for construction traffic;
  - e) site compounds (including areas designated for car parking);
  - f) cable trenches;
  - g) foundation works;
  - h) sub-station/control buildings;
  - i) disposal of site waste materials;
  - j) arrangements to ensure the local community will be kept informed of matters of site progress as appropriate, and including confirmation of key contact details for site management during the course of the works.

During the demolition and construction period no activities shall take place on site outside the hours of 08:00-18:00 Monday to Friday; no activities shall take place outside the hours of 08:00-13:00 on Saturdays; and no work shall take place on Sundays or Bank Holidays.

The approved Statement shall be adhered to at all times throughout the demolition and construction period.

4. No development shall commence until full details and a programme for an investigation and risk assessment of the nature and extent of any contamination on the site have been submitted to and been approved in writing by the local planning authority.

Arising from the investigation and risk assessment, a fully detailed remediation scheme to bring the site to a condition suitable for the proposed development by addressing any unacceptable risks shall be submitted to and be approved in writing by the local planning authority prior to the commencement of any development.

The scheme shall include all works to be undertaken and a programme for implementation of the proposed details.

The scheme shall also set out monitoring and maintenance arrangements to include, where appropriate, observing the long-term effectiveness of all proposed contamination remediation over an agreed period.

The remediation scheme shall be carried out in accordance with its approved details and the agreed programme.

In the event that contamination is found at any time when subsequently carrying out the development that was not identified by the previous investigation and risk assessment, that finding shall be reported in writing

immediately to the local planning authority, and all works shall cease on that part of the site until written confirmation is provided by the Council that they may continue. A further investigation and risk assessment shall be undertaken specific to the identified contamination and, where remediation is necessary, a supplementary remediation scheme in light of those findings shall be submitted to and be approved in writing by the local planning authority. The details shall include a programme for implementation and the remediation shall be undertaken as approved and thereafter be maintained as required.

Following completion of all measures identified in the approved remediation schemes, verification reports demonstrating that full details and specifications of the approved schemes have been implemented shall be prepared in accordance with agreed timescales and be approved in writing by the local planning authority.

5. No development shall commence until full technical details, and including a programme for implementation, of the proposed drainage system have been submitted to and been approved in writing by the local planning authority in accordance with the submitted Flood Risk Assessment and Surface Water Drainage Strategy carried out by RSK (Ref: 132884-R1(2)-FRA dated 25 September 2018).

The drainage arrangements shall include a management and maintenance plan for the lifetime of the development, and the drainage scheme shall be implemented in accordance with the approved details and the agreed programme.

A verification report shall be submitted to and be approved in writing by the local planning authority prior to occupation of the first dwelling demonstrating that full details and specifications of the approved drainage system have been implemented.

6. No development shall commence until a programme of archaeological field evaluation has been implemented in accordance with a written scheme of investigation which has been previously submitted to and been approved in writing by the local planning authority. The results of the evaluation shall inform the preparation of a subsequent mitigation strategy/action plan which shall be submitted to and be approved in writing by the local planning authority prior to the commencement of the development. The mitigation strategy/action plan shall be implemented in accordance with the details and a programme as approved.

Any historic or archaeological features not previously identified which are subsequently revealed when carrying out the development shall be retained in-situ and shall be reported in writing immediately to the local planning authority. Works shall be immediately halted in the area/part of the development affected until provision has been made for retention and/or recording in accordance with details and a programme that have been previously submitted to and been approved in writing by the local planning authority. The details shall be undertaken as approved and in accordance with the agreed programme.

7. No development shall commence until a detailed scheme for the protection of existing trees and hedges to be retained in accordance with the general measures set out in the submitted Arboricultural Impact Method Statement (Ref: ASH21253aia-ams dated 28 August 2018), and an accompanying programme for implementation of the scheme, have been submitted to and been approved in writing by the local planning authority.

The scheme shall be implemented and maintained in accordance with the details as approved and in accordance with the agreed programme. Any tree or hedge removal shall be limited to that specifically to be approved.

No building materials shall be stored or mixed within 10 metres of a tree or hedge. No fires shall be lit where flames could extend to within 5 metres of retained foliage, and no notices shall be attached to any trees.

8. No development shall commence until one of the proposed accesses has been constructed to accommodate operational traffic to a minimum standard of base course construction for the first 20 metres and the join to the existing carriageway has been constructed in accordance with specifications previously submitted to and approved in writing by the local planning authority. The final gradient of the accesses to serve the dwellings shall not be steeper than 1 in 20 for the first 12 metres from the edge of the carriageway.

### **Pre-occupation**

9. Prior to the construction of the final road surfacing of the development (but not prior to those works associated with operational/construction access), details of the circulation route for refuse collection vehicles shall be submitted to and be approved in writing by the local planning authority. The details shall include a full construction specification for the route. No dwelling shall be occupied until the refuse vehicle circulation route has been constructed in accordance with the details as approved, and thereafter the route shall be maintained in accordance with such details.
10. No dwelling shall be occupied until full details of the proposed arrangements for future management and maintenance of the proposed roads within the development have been submitted to and been approved in writing by the local planning authority. The roads shall thereafter be maintained in accordance with the approved management and programme details until such time as an agreement has been entered into under the Highways Act 1980 or a private management and maintenance company has been established.
11. No dwelling located to the south of Footpath 15 shall be occupied until the proposed principal access road from St Albans Road, as defined on drawing number 16208 P201 Rev L, has been provided at least to binder course level. The access road shall be completed to surface course prior to the occupation of the final dwelling to be constructed south of the Footpath.
12. No dwelling shall be occupied until full details of proposed arrangements for management of traffic along the narrow link road crossing Footpath 15

adjacent to Plots 107 and 143 have been submitted to and been approved in writing by the local planning authority. The arrangements shall be implemented as approved and in accordance with an agreed programme, and shall be maintained and retained thereafter.

13. No dwelling with a dedicated and adjacent car parking space shall be occupied until it has been provided with an electric vehicle ready domestic charging point. The charging arrangements shall be maintained and retained thereafter.
14. Prior to occupation of any apartments, two electric vehicle ready domestic charging points shall be provided to serve the car parking spaces of those dwellings. One electric vehicle charging point shall be installed to serve Plots 1-5 and one charging point shall be installed to serve Plots 18-27. The arrangements shall be maintained and retained thereafter.
15. No dwelling shall be occupied until a scheme setting out details of cycle parking has been submitted to and been approved in writing by the local planning authority. Such facilities shall be provided in accordance with the approved details prior to the first occupation of each corresponding dwelling and shall be maintained and retained thereafter.
16. No dwelling shall be occupied until the proposed accesses as shown on drawings 2015/2368/003 Rev F and 2015/2368/001 Rev H have been provided with visibility splays of 2.4 metres by 59 metres in both directions to the St Albans Road access and 2.4 metres by 57 metres in both directions to the Heath Lane access. There shall be no obstruction to visibility within the splays between heights of 0.6 metres and 2.0 metres above the level of the adjacent public carriageway. The arrangements shall be implemented as approved, and shall be maintained and retained thereafter.
17. No dwelling shall be occupied until a scheme setting out details of all on-site household refuse and recycling storage and collection facilities (and including details of any enclosures or screening) to serve each dwelling have been submitted to and been approved in writing by the local planning authority. The scheme shall also include arrangements for management of any other waste generated by the development. All such facilities shall be provided in accordance with the approved details prior to the first occupation of the corresponding dwellings and shall be maintained and retained thereafter.
18. No dwelling shall be occupied until a scheme of external lighting has been submitted to and been approved in writing by the local planning authority. The scheme shall be designed to ensure public safety and to minimise the potential effects upon the ecology of the site and its surroundings. The scheme shall be implemented as approved and in accordance with an agreed programme, and the arrangements shall be maintained and retained thereafter.
19. No dwelling shall be occupied until the noise mitigation measures for that property as identified in the Grant Acoustics report Ref: GA-2017-0007-R1-Rev A dated 26th July 2018 (Noise Assessment for Proposed Residential Development), and including any relevant adjacent



fencing specifications, have been fully implemented, and the measures shall be maintained and retained thereafter.

## **Other**

20. Prior to commencement of any above ground construction works, full details of the external materials to be used in the facings all buildings, and including their roofs, shall be submitted to and be approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.

21. Prior to commencement of any above ground construction works, full details of all hard and soft landscaping, and of all fencing, enclosures, associated structures and equipment, and including detailed treatment and landscaping of Footpaths 14 and 15, shall be submitted to and be approved in writing by the local planning authority. The works shall be implemented in accordance with the details as approved and within the first planting season following the commencement of the development or such other period as may be agreed in writing by the local planning authority, and shall be maintained and retained in accordance with an approved management plan. Any trees or plants which die within 5 (five) years of planting, or which are removed, or which become seriously damaged or diseased, shall be replaced with others of the same size and species and in the same positions within the next planting season.

22. Prior to the commencement of any landscaping works, a Landscape and Ecological Management Plan which details how a minimum of 22.95 ecological units will be delivered as part of the development shall be submitted to and be approved in writing by the local planning authority. The Plan shall include the following details:

- a) aims and objectives of management;
- b) existing and proposed features to be managed, including specific reference to improvements to retained hedgerows, and to proposed hedgerows;
- c) species composition of habitats to be enhanced and created;
- d) a programme for implementation;
- e) the body or organisation responsible for implementation of the Plan;
- f) monitoring and remedial measures of the Plan.

The Plan shall be implemented in accordance with the details and the programme as approved and the measures shall be maintained and retained thereafter.

23. Prior to the commencement of the erection of any above ground pumping station facilities, full external details of all relevant buildings, and of associated enclosures and works, shall be submitted to and be approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.

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

25. Prior to commencement of any above ground construction works, a revised Energy and Sustainability Statement shall be submitted to and be approved in writing by the local planning authority. The development shall be constructed in accordance with the approved Statement and identified measures shall be maintained and retained thereafter.
26. Notwithstanding provisions of the Town and Country Planning (Use Classes) Order 1987 and of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and nor any re-enactments nor amendments thereto), the garages approved as part of this permission shall be retained and be available for the parking of vehicles only and shall not be occupied as habitable floorspace.

End of Conditions 1-26



## **APPEARANCES**

### **For the local planning authority:**

Heather Sargent of Counsel, instructed by Legal Services,  
North Hertfordshire District Council

She called:

Phillip Hughes - Director, PHD Chartered Town Planners Limited

(Sam Dicocco, Senior Strategic Sites Officer also contributed to  
round-table discussions)

### **For the appellant:**

Tom Cosgrove of Queen's Counsel, instructed by Jonathan Stoddart of CBRE

He called:

Adam Kindred - Associate Director, CBRE

Angus Jeffery - Director, Landscape Visual

Quentin Andrews - Director, OSP Architecture

Neil Rowe - Director, RGP

Jacob Hepworth-Bell - Director, Ecology Solutions

Victoria Brocksopp - Senior Associate Director, RPS

Colin Whittingham - Associate Director, RSK

(Christina Daniels of BDB Pitmans LLP also contributed to the  
round-table discussion in relation to the proposed planning  
agreement)

### **Interested parties:**

Chris Watts - Maze Planning Limited on behalf of Codicote Parish Council

Lisa Foster - Save Rural Codicote

Matt Dodds - Planning and Biodiversity Manager,  
Herts and Middlesex Wildlife Trust

**INQUIRY DOCUMENTS**

The following documents were submitted and accepted by the Inquiry:

<b>Reference</b>	<b>Title</b>
ID1	Key View 2 - Codicote Conservation Area
ID2	Mr Kindred summary proof of evidence
ID3	Mr Hughes summary proof of evidence
ID4	Appellant's application for costs dated 29 July 2021
ID5	NPPF table of changes - Mr Kindred proof
ID6	Appellant's opening statement
ID7	Council's opening statement
ID8	ELP map with key and constraints overlaid
ID9	Local Plan map with key and constraints overlaid V2
ID10	Codicote Lodge Codicote Historic England List Entry 1296186
ID11	Heritage Gateway printable result for Codicote Lodge
ID12	Figures 1-14 - extracts from appellant's heritage evidence
ID13	Email from Mr Kindred dated 3 August 2021 relating to ID12
ID14	North Herts Landscape Study 2011 - Part 1
ID15	Minister for State for Housing and Planning's Written Statement made on 17 December 2015
ID16	Public rights of way proposed footpath design - 2015/2368/014 Rev E
ID17	Statement of common ground dated 3 August 2021
ID18	Council's closing statement dated 16 August 2021
ID19	Council's response to appellant's application for costs dated 16 August 2021
ID20	Appellant's final comments dated 16 August 2021 following Council's response to application for costs
ID21	Appellant's closing statement dated 16 August 2021
ID22	Completed section 106 agreement dated 26 August 2021

## Appeal Decision

Site visit made on 24 August 2021

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

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

**Decision date: 24 September 2021**

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**Appeal Ref: APP/X1925/W/21/3271762**

**33 Eastern Way, Letchworth Garden City, Hertfordshire SG6 4PE**

- 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 Steve Collier against the decision of North Hertfordshire District Council.
  - The application Ref 20/02185/FP, dated 28 September 2020, was refused by notice dated 19 November 2020.
  - The development proposed is described as 'a small-scale development, consisting of one semi-detached one-bedroom house on land currently housing a residential dwelling, with off-street parking and private garden'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form, as it is more precise.
3. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes, but only comments from the Council have been received. Therefore, I will not prejudice any party by taking the Framework and the comments received into account in reaching my decision.
4. Revised plans have been submitted with the appeal after the decision by the Council was made. I have not taken these into consideration as they have not benefitted from a full consultation exercise undertaken by the Council. In determining this appeal, I have therefore only considered the plans that formed the basis of the Council's refusal of planning permission.
5. The parties have referred to policies contained within the emerging North Hertfordshire District Council Local Plan 2011-2031 (LP). Given the stage of preparation and the degree of consistency with the Framework, I attach significant weight to the emerging policies. Notwithstanding this the starting point for determining this appeal remains the North Hertfordshire District Council – District Local Plan No.2 with Alterations 1996 (saved policies 2007) (DLP). The relevant DLP policies are broadly consistent with the Framework.

## **Main Issues**

6. The main issues of this appeal are the effect of the proposed development on:
- i. the character and appearance of the appeal site and the surrounding area; and,
  - ii. the living conditions for future occupiers.

## **Reasons**

### *Character and appearance*

7. The appeal site comprises a semi-detached house occupying a prominent corner plot location. The houses in the locality comprise a mixture of detached, semi-detached and terraced properties. The appeal property is constructed out of brick that has been painted, with a tiled roof, which is handed in appearance with 35 Eastern Way, which it adjoins, displaying similar fenestration details.
8. The appeal scheme would change the character of No 33 considerably, through the creation of a terrace of properties. The host property has retained a clear sense of balance and symmetry relative to No 35, which accordingly contributes towards a positive feature of the wider street scene. Whilst the proposed development comprises a two-storey addition that would form the new dwelling, the narrow width of the new dwelling and the location of the proposed front door in its front elevation would create an irregular and visually awkward feature, which would be readily visible from the street. These factors would diminish and unbalance the character and appearance of No 33 and No 35 to the detriment of the wider street scene.
9. The plot size of the appeal scheme in this location appears significantly smaller than the surrounding properties. These properties are all situated in generous plots, with long rear gardens, which gives a distinct sense of spaciousness. The generous plot sizes contribute to a regular rhythm of development, making a positive contribution to the surrounding area. In the context of the area surrounding the appeal site, the appeal scheme would be distinctly at odds with the character of neighbouring dwellings, as it would appear discordant in its location and more cramped in its appearance.
10. My attention has been drawn to other dwellings in the area, where photographs have been provided in support. Whilst noting the presence of other dwellings in the wider area, relatively little detail has been provided regarding the particular planning backgrounds to those schemes. Without such information a full and detailed comparison between those developments and the case before me cannot be drawn except insofar as I was able to observe and assess the sites at my visit.
11. For all of these reasons, the proposed development would significantly harm the character and appearance of the appeal site and surrounding area. This would be contrary to the design, character and appearance aims of saved DLP Policy 57, LP Policy D1 and the requirements of the Framework.

### *Living conditions*

12. I note the concerns raised by the Council in respect of the rear room at first

floor, which has been described as a study on the submitted drawings and by the appellant in his statement. There is also reference to the proposed development comprising one bedroom on the application form. On this basis, I recognise that the appellant is disputing the shortfall in gross internal floor area (GIFA) and the classification of the rear room as a bedroom. The appellant has provided further clarification on this matter in his submission.

13. However, despite the dispute surrounding the proposed study and whether it could be used as a bedroom or not, I note that the appellant confirms that the GIFA for the proposed development would be 44m<sup>2</sup>, which he considers to be in excess of the requirements contained within the Technical housing standards – nationally described space standard 2015 (THS). However, the quoted 37m<sup>2</sup> refers to a one-bedroom, one person and one storey dwelling with built in storage<sup>1</sup>.
14. Whilst the appellant asserts that it is likely that only one person would reside in the property, I note the size of the proposed bedroom on the submitted drawings would be sufficient to accommodate a double bed. Consequently, I cannot be sure that more than one person would not live in the appeal property. Thus, as the proposal is for a two-storey development, which could easily be used by 2no. persons, a minimum GIFA of 58m<sup>2</sup> is required.
15. Although, DLP Policy 57 refers to 75m<sup>2</sup> for private amenity space as a rough guide, there is still a notable shortfall in provision within the proposed development, which would further compound the adverse living conditions of future residents. In this instance, a suitably worded condition could not be imposed to ensure that otherwise unacceptable development could be made acceptable.
16. For the reasons given above, I therefore conclude that the proposed development would not provide satisfactory living conditions for future occupiers. This would be contrary to the amenity aims of DLP Policy 57, LP Policy D1 and the requirements of the Framework.

### **Other Matters**

17. The Council is not able to demonstrate a 5-year supply of deliverable housing sites. This represents a housing shortfall. In these circumstances, Paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that there is a 'tilted balance' in favour of granting permission. However, my findings in this case are that harm to character and appearance to the appeal site and surrounding area and living conditions of future occupiers is sufficient to significantly and demonstrably outweigh the tilted balance in favour of granting permission.
18. I acknowledge there would be some limited economic and social benefits resulting from the development. I have considered this appeal proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.

### **Planning Balance and Conclusion**

19. In this case, there is evidence before me to suggest that the development plan is out of date and that the tilted balance outlined at Paragraph 11 of the

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<sup>1</sup> Table 1 in the THS

Framework should be engaged. I also acknowledge the absence of other harm resulting from the proposed development.

20. However, these and the other benefits that would arise do not significantly and demonstrably outweigh the harmful effect to the character and appearance of the appeal site or surrounding area, the living conditions of future occupiers and the subsequent conflict with the development plan and the requirements of the Framework.

21. For the reasons given above, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR

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# Appeal Decision

Site Visit made on 22 June 2021

**by Graham Wyatt BA (Hons) MRTPI**

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

**Decision date: 10 September 2021**

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**Appeal Ref: APP/X1925/W/21/3269173**

**Bury Farm, Church Path, Little Wymondley SG4 7JN**

- 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 A Gates against the decision of North Hertfordshire District Council.
  - The application Ref 20/02653/FP, dated 9 November 2020, was refused by notice dated 11 January 2021.
  - The development proposed is described as the "change of use of two areas of an area of agricultural yard to an outside storage area (B8)".
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The development has already been carried out. I have therefore dealt with the appeal on the basis that permission is sought to retain the areas for B8 (storage and distribution) use.
3. The appellant has provided a noise impact assessment<sup>1</sup> (NIA) which I have considered under the principles established by the Courts in Wheatcroft<sup>2</sup>. I am satisfied that the NIA does not change the development to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal taking into account the contents of the NIA.
4. Since the submission of the appellant's appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and I have taken any subsequent responses into account in reaching my decision.

## Main Issues

5. The main issues in this appeal are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and development plan policy,
  - the effect of the proposal on the openness of the Green Belt and the character and appearance of the area,
  - the effect of the development on the living conditions of adjoining occupiers with particular regard to noise and disturbance, and

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<sup>1</sup> Noise Impact Assessment, Cass Allen Associated, 8 February 2021

<sup>2</sup> Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] P&CR 233

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

## Reasons

### *Inappropriate Development*

6. The Framework states at paragraph 137 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Furthermore, the essential characteristics of the Green Belt is their openness and permanence. The construction of new buildings should be regarded as inappropriate in the Green Belt, other than in a limited range of specified exceptions, as set out in Paragraphs 149 and 150 of the Framework. As the development proposes a change of use of the land from agriculture to outside storage, it need not be considered as inappropriate development within the Green Belt provided, in accordance with paragraph 150 e) of the Framework, it preserves its openness and does not conflict with the purposes of including land within it.

### *Openness and Character and Appearance*

7. The appeal site covers two distinct areas that are set within a wider parcel of land that is within agricultural use. The first area is being used for the storage of aggregates and is split into four bays. The second area contains a compound surrounded by metal palisade fencing and an open area that contains a metal shipping container and various building items such as bricks and piping.
8. The Courts have confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. But equally this does not mean that the openness of the Green Belt has no visual dimension.
9. The Framework is very clear that openness is one of the key attributes of the Green Belt, and any such reduction, and therefore harm, needs to be apportioned substantial weight in the determination of this appeal. Openness is an essential characteristic of the Green Belt and although it is not defined in national policy or the development plan, in considering the effects on openness, I have taken into account the spatial and visual impacts of the proposal and the findings in the court judgments drawn to my attention and in the *Samuel Smith* Supreme Court judgment<sup>3</sup>.
10. The appellant argues that in this instance, given the nature of the site and the surrounding area, it is not open to begin with and as such, an assessment of the visual impact is not material to the proposal. The appellant also argues that the use of the areas to store building materials and machinery would be very similar to the use of the sites for agricultural use and the site areas involved are very small when one considers its wider context.
11. Although the development does not contain buildings, the storage of construction materials, vehicles and aggregates on the sites would reduce spatial openness by reason of bulk and volume. Additionally, the Council confirm that public footpath 012 passes in close proximity to the appeal sites. Consequently, the use of the land to store materials that I witnessed during my site visit, such as bricks, breeze

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<sup>3</sup> R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3



blocks, drainage pipes, cement mixers and skips, visually erodes the openness of the site. There is limited information on the screening effectiveness of proposed planting and in any event, this would not address the loss of spatial openness which conflicts with the purpose of the Green Belt to assist in safeguarding the countryside from encroachment.

12. Moreover, I am not persuaded that the use of the sites for agricultural purposes would be less harmful spatially than the proposed use or that it would have the same effect on openness. Agricultural uses are an accepted and expected form of development within a countryside environment, which cannot be said of the items currently stored at the appeal sites. Additionally, paragraph 149 a) of the Framework confirms that buildings for agriculture and forestry are not inappropriate development within the Green Belt.
13. Furthermore, a B8 (storage and distribution) use is wide ranging and although the areas are small in relation to the totality of the site within the appellant's ownership, their use for the storage of landscaping and ground working materials and machinery nonetheless reduce the openness of the Green Belt and therefore, I apportion significant weight to this harm.
14. Turning to the effect of the development on the character and appearance of the area, I share the Council's opinion that when viewed in isolation, the harm created by the aggregate bays could be similar to stored materials used for agricultural purposes. However, it must be recognised that the effect of a development on the character and appearance of an area is quite different to its effect on the openness of the Green Belt. Thus, notwithstanding my findings on the aggregate bays effect on the character and appearance of the area, this does not diminish the harm I have found to the openness of the Green Belt.
15. The western site is much larger and contains a shipping container and an area surrounded by palisade fencing which lends itself to a more commercial or industrial appearance and is quite out of keeping with its rural setting. I find this particular element harmful to the character and appearance of the area and is visible from footpath 012 and surrounding properties. Although I accept that additional planting could shield the development, it would take a considerable time to become established and cannot be relied upon to remain in perpetuity.
16. Thus, I have concluded that the development harms the openness of the Green Belt. As such it is inappropriate development within the Green Belt. It would also result in harm the character and appearance of the area. Thus, it would be in conflict with Policies 2 and 36 of the North Hertfordshire District Local Plan No.2 with Alterations 1996 (LP), Policies SP1, SP5, SP9, ETC2 and D1 of the emerging North Hertfordshire Local Plan 2011-2031 (eLP), Policies GB1, SLBE1, HOD2 and HOD3 of the Wymondley Neighbourhood Plan 2016 (WNP) and paragraphs 130 and 137 of the Framework which seek, amongst other things, to ensure planning permission will only be granted for new buildings, extensions, and changes of use of buildings and of land which are appropriate in the Green Belt, and which would not result in significant visual impact.

#### *Noise*

17. There are several residential properties near to the site, the occupiers of which have identified noise emanating from such sources as vehicle reversing beepers, gravel scraping, rubble tipping, large vehicle engine noise and generators. However, the appellant's NIA argues that the use of the appeal sites by Maytree Landscapes is similar to agricultural activities at Bury Farm. It concludes that any

increased noise associated with the proposed use is marginal and would only be experienced towards the edge of the gardens nearest to the storage areas.

18. Although agricultural activities may have peak occurrences during harvest or maintenance and improvement of the site, from the evidence that has been provided by neighbouring occupiers, the B8 use of the site has introduced other vehicles associated with Maytree Landscapes such as vans, low loaders, small and large excavators and large lorries delivering aggregates. It is evident that vehicle movements into, around and out of the site, collecting and delivering materials, tools and equipment every day have had a greater effect on the living conditions of surrounding occupiers than the agricultural use of the site.
19. Furthermore, although I accept that the weather conditions were suitable for the survey, the measured length of time that noise incidences were recorded for the NIA is quite short and only represent a very limited snap shot in time. There is very little before me to demonstrate that the activities recorded for the NIA were part of a typical day, whereby a greater number of vehicle movements associated with Maytree Landscapes may occur, either now or in the future, and those during the collection and delivery of materials such as aggregates or during more favourable weather conditions.
20. Although the appellant states that a condition restricting the hours of operation and the use of the sites to Maytree Landscapes only would be agreeable, I have not been provided with any mechanism to control the use, the amount or the type of storage at the site, including the number or type of vehicle, or how this would lessen the impact of the proposed storage use on the living conditions of adjoining occupiers.
21. Thus, based on the evidence submitted, I am not persuaded that the activities associated with the use of the appeal sites for storage and distribution would not amount to harm to the living conditions of surrounding occupiers through noise and disturbance. It would be in conflict with Policy 36 of the LP, Policies SP1, ETC2 and D3 of the eLP, Policy SLBE1 of the WNP and paragraph 130 of the Framework which seek, amongst other things, to ensure that developments provide a high standard of amenity in keeping with the character and environment of the area.

### **Other Considerations**

22. The Framework states at paragraph 148 that substantial weight should be given to any harm to the Green Belt, and that inappropriate development should not be approved except in very special circumstances. It explains that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
23. The appellant puts forward several matters that are considered to represent the very special circumstances required to outweigh the harm to the Green Belt. This includes living close to the site, the use of the site by a local firm which employs local people, the use of a small area of land within a larger agricultural unit, the diversified income stream as a result of Maytree's use of the site and upcoming changes to current agricultural policy which could see farmers subsidies reduced. Moreover, the appellant relies upon Maytree's assistance with the upkeep and maintenance of the farm, some of which can be dangerous activities and require more than one person to achieve the desired outcome.
24. Although I acknowledge the financial pressures the appellant faces and that there are current uncertainties over subsidies farmers can expect to realise, the line of reasoning that the change of use would support the farm would apply equally to

most diversification projects. Moreover, the other matters raised do not apply solely to the appeal site and would apply equally to other sites that are not within the Green Belt or those that are considered suitable for the development. Furthermore, although the director of the company lives close by and is a benefit, I would not consider this to amount to a very special circumstance required to outweigh the harm to the Green Belt.

25. Moreover, although Little Wymondley is identified as an appropriate location for further employment provision through the eLP, it is evident that this is for sites that are located within the settlement boundary. As the appellant confirms the site lies beyond the settlement of Little Wymondley, it is not certain that further employment uses at the site would be considered favourably. Moreover, notwithstanding Policy ETC2 of the eLP, the WNP requires any such development to be appropriate in terms of location, scale and type.
26. As such, I do not find the appellant's arguments to amount to the very special circumstances required to clearly outweigh the harm to the Green Belt.

### **Green Belt Balance and Conclusion**

27. I have found harm to the Green Belt by reason of the development's inappropriateness. Weighed against that are the other considerations set out above. However, for the reasons given those would not, in their totality, clearly outweigh the harm to the Green Belt that I have identified. The very special circumstances necessary to justify the development therefore do not exist and the development would conflict with the Green Belt protection aims of the Framework and those of Policy 2 of the LP, Policy GB1 of the WNP and Policy SP5 of the eLP.
28. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that appeal should be dismissed.

*Graham Wyatt*

**INSPECTOR**

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## Appeal Decision

Site visit made on 26 July 2021

**by P Eggleton BSc(Hons) MRTPI**

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

**Decision date: 17 August 2021.**

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**Appeal Ref: APP/X1925/W/21/3271157**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr & Mrs J Winstanley.
  - The application Ref 20/03072/S73 is dated 24 December 2020.
  - The application sought planning permission for 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' without complying with a condition attached to planning permission Ref 18/03349/S73 dated 15 March 2019.
  - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.
  - The reason given for the condition is: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The original approval for the site was Ref 17/02316/1, issued 30 May 2018. The council's report sets out that the development approved was described as 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'.
  3. The above permission was varied by application Ref 18/03349/S73, dated 15 March 2019. A section 73 Application does not change the description of development. That consent therefore retains the original description but imposed a revised condition 2.
  4. This proposal is to amend permission Ref 18/03349/S73 dated 15 March 2019. I have retained the original description of development in the banner above.
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The proposal seeks the relocation of parking at plots 5 and 6, to change the external materials at plot 5 and to vary the dwelling type, scale and appearance of plots 3 and 8 by amending condition 2.

5. Although the council did not determine the application before the appeal was lodged, they subsequently considered the matter at their planning committee. The council resolved that had it been able to reach a decision, it would have been to refuse the application. The council's main concern is the changes in terms of the increased scale and bulk of the revised dwellings at plots 3 and 8, notwithstanding that it acknowledges that there would be some benefit to the removal of parking from the central green area.

### **Main Issue**

6. The main issue is whether the proposal would preserve or enhance the character or appearance of the Barley Conservation Area and the setting of the Grade II Listed building known as White Posts, having particular regard to the changes proposed to plots 3 and 8.

### **Reasons**

7. Although the application is for a new permission for the entire development, of relevance to this appeal is that the proposal seeks the relocation of parking at plots 5 and 6, a change of external materials at plot 5 and variations to the dwelling type, scale and appearance of plots 3 and 8. Concerns have only been raised with regard to the changes to plots 3 and 8 and I have considered the proposal on this basis.
8. The approved plans for plot 8 illustrate a two storey property with a large single storey addition to the rear. This plot is to the rear of the curtilage of White Posts which is a Grade II listed building. The approved arrangement ensures that the listed property maintains a relatively open setting despite the scale of development that is approved to the west. This is a similar arrangement to that considered by the inspector in relation to application 18/02299/FP for ten units which was dismissed on 24 September 2019 under Ref APP/X1925/W/19/3228265. The current proposal for plot 8 would extend the rear of the dwelling further to the south, creating a greater built overlap with the rear garden of White Posts. The design would include twin rear facing gables above a further single storey addition.
9. The previous inspector found that given the separation distance and the intervening landscaping that would be retained, the development would have a neutral impact on the setting of the designated heritage asset. The landscaping to be retained is within the grounds of the listed building and new planting is proposed which would form a further buffer between the properties. However, I consider that the increased depth of two storey development in particular, would extend further into the previously retained open aspect to the rear of the listed property. The openness of the land to the rear of White Posts contributes to the significance of this historic building and this further encroachment would be sufficient to result in harm to its setting.
10. The approved plot 8 dwelling has a relatively narrow floorplan with a two storey addition to the front which extends across approximately half of the width of the house. The proposed larger house would be almost square with regard to

its first floor plan which would result in it having side elevations of substantial bulk and depth. These would be dominant in views when entering the site, above the adjacent proposed garage; and from the greenspace at the centre of the site. Rather than only the first floor front wing extending towards the front boundary, the entirety of the wider frontage would be set only marginally back from the access road. This would significantly increase its prominence and reduce the perceived openness of the plot. It would also restrict views towards the greenspace when approaching from the east and would reduce the plot's contribution to the openness of the layout in general. The reduction in the greenspace to accommodate the parking for plot 8 would further erode the perception of openness.

11. Plot 3, as approved, would sit forward of the adjacent pair of semi-detached houses but would have a relatively narrow floorplan with the rear two storey addition stepped back from the side elevation. The appeal statement illustratively suggests that it would have a marginally narrower frontage than the approved, but this does not appear to be the case when comparing elevation details. The overlay drawing appears to be more accurate. The revised dwelling would have a much lower roof form but it would be set slightly further forward in the plot. It would be perceived as having a deeper plan form.
12. The proposed lower side facing gables would help to reduce the perceived scale of the side elevation when viewed from the east, in front of the neighbouring properties. Although marginal, the forward position would reduce the openness of the development overall, but this too would be balanced, to some extent, by the lower height of the house; and the removal of parking from the greenspace opposite. Its corner position would reduce the impact of the greater bulk of its western flank, but I am not satisfied that the scale and detail of this relatively unrelieved elevation would represent a design standard commensurate with the other elevations, or the house designs more generally within the site.
13. Overall, the proposed revised layout would reduce the perceived openness of the site. Despite the reduced height of plot 3, development would be more dominant. Whilst the removal of parking from the greenspace would be a benefit in relation to that particular corner, the loss of greenspace to the curtilage of plot 8 and the greater dominance of the side facing elevation would be less satisfactory than the approved plans. The greater prominence of plot 8 and the harm to the setting of White Posts, together with the reduced quality with regard to design and layout generally, would result in more harm than the approved scheme.
14. As reported by the previous inspector, the level of built development 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 conservation area. It was found that 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 conservation area. Those findings related to a ten house scheme. However, the approved eight house scheme would have a similar impact, although the level of harm would be reduced as it would result in a more spacious layout, set around a significantly larger and more open area of greenspace. Similarly, the lack of two storey development at depth within plot 8 and the openness of the greenspace would assist in preserving the

setting of White Posts. This proposal, particularly but not limited to plot 8, would increase the prominence of development and would erode the open character.

15. Although the changes to the significance of the conservation area would be small, they would be negative, thereby increasing the harm. The proposal would continue to result in less than substantial harm to the conservation area. Furthermore, the proposal would also result in less than substantial harm to the setting of the listed property, when previously the impact was considered to be neutral.
16. 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) requires that in making decisions on planning applications and appeals within a conservation area, special attention be paid to the desirability of preserving or enhancing the character and appearance of the area.
17. The benefits of the permitted schemes have been well rehearsed during the considerations of previous applications and the appeal. I have had full regard to these benefits, particularly having regard to the provision of new houses. This proposal would bring similar benefits from the same number of houses. I accept however that the provision of self-build housing provides additional benefits as described by the appellant and set out in paragraph 62 and footnote 28 of the National Planning Policy Framework 2021. However, even if I accepted that self-build housing would not come forward unless larger houses were accepted, which is not an argument that has been persuasively made, given the harm to the setting of the listed building, the benefits would not outweigh the great weight that the Framework requires to be given to the conservation of heritage assets. The additional harm to the conservation area provides further weight against the proposal.
18. The proposal would conflict with the character and heritage requirements of policies 6 and 57 of the North Hertfordshire District Council Local Plan No. 2 with Alterations 2007; and the requirements of the Framework. There would also be conflict with the design and heritage aspirations of policies SP9, SP13, D1 and HE1 of the emerging North Hertfordshire Local Plan 2011-2031. Given the progress towards adoption and the conformity of these policies with the Framework, they can be afforded moderate weight.
19. As with the previous 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 Framework is clear that as the policies relevant to the designated heritage assets, as set out in the footnote to paragraph 11, provide a clear reason for refusing the development, the requirement of paragraph 11(d) to grant permission does not apply. For the reasons set out above, the appeal is dismissed.

*Peter Eggleton*

**INSPECTOR**