

NORTH HERTFORDSHIRE DISTRICT COUNCIL



14/06/22

Our Ref Planning Control Committee/23/06/22
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To: Members of the Committee: Councillors Val Bryant (Chair), Tom Tyson (Vice Chair), Alistair Willoughby, Daniel Allen, David Levett, Ian Moody, Morgan Derbyshire, Raj Bhakar, Sean Nolan, Simon Bloxham, Terry Tyler and Tony Hunter

Substitutes: Councillors Adam Compton, Amy Allen, Carol Stanier, George Davies, Michael Muir, Nigel Mason and Sam North

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE PLANNING CONTROL COMMITTEE

to be held in the

COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES

On

THURSDAY, 23RD JUNE, 2022 AT 7.30 PM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

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

Agenda

Part I

Item		Page
1. APOLOGIES FOR ABSENCE	Members are required to notify any substitutions by midday on the day of the meeting. Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.	
2. MINUTES - 20 APRIL 2022	To take as read and approve as a true record the minutes of the meeting of the Committee held on the 20 th April 2022.	(Pages 5 - 14)
3. NOTIFICATION OF OTHER BUSINESS	Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chair will decide whether any item(s) raised will be considered.	
4. CHAIR'S ANNOUNCEMENTS	Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
5. PUBLIC PARTICIPATION	To receive petitions, comments and questions from the public.	
6. 22/01342/TD LAND AT THE REAR OF 33 AND 35 COOMBELANDS, MELBOURN ROAD, ROYSTON, HERTFORDSHIRE, SG8 7DW REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	Installation of 15m monopole tower to support antenna, associated radio-equipment housing and ancillary development hitherto.	(Pages 15 - 20)

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| 7. | 22/00170/FP THE LORD LISTER HOTEL, 1 PARK STREET, HITCHIN, HERTFORDSHIRE, SG4 9AH
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
21 - 38) |
| | Change of Use from Hotel (C1) to Sui Generis (accommodation with support) and associated external alterations (as amended by plans and additional information received on 6 May 2022) | |
| 8. | 22/00171/LBC THE LORD LISTER HOTEL, 1 PARK STREET, HITCHIN, HERTFORDSHIRE, SG4 9AH
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
39 - 54) |
| | Change of Use from Hotel (C1) to Sui Generis (accommodation with support) and associated external and internal alterations (as amended by plans and additional information received on 6 May 2022). | |
| 9. | 19/01106/FP BURFORD GRANGE, BEDFORD ROAD, ICKLEFORD, HITCHIN, HERTFORDSHIRE, SG5 3XG
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
55 - 88) |
| | Erection of 48 dwellings with associated access, parking, private and public amenity space and associated works, following demolition of existing buildings (as amended 10th June 2021, additional drainage information on 20 April 2022 and revised off site highway works 16 May 2022) | |
| 10. | 21/02768/FP OUGHTON HEAD PUMPING STATION, HITCHIN ROAD, PIRTON, HERTFORDSHIRE
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
89 - 112) |
| | Upgrade of existing pumping station to provide nitrate removal plant and equipment including change of use of land for operational purposes and all associated works. | |
| 11. | 22/00346/FP LAND BETWEEN CHERRY HOLT AND 2, CALDECOTE ROAD, NEWNHAM, HERTFORDSHIRE
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
113 -
130) |
| | Erection of a detached one 3-bed dwelling and erection of detached workshop/shed following demolition of existing workshop/shed on adjacent owned land | |
| 12. | 21/03533/FP LAND WEST OF TUTHILL HOUSE, KELSHALL TOPS, THERFIELD, HERTFORDSHIRE
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
131 -
192) |
| | Erection of three detached dwellings (1 x 4-bed, 1 x 5-bed and 1 x 6-bed) with associated infrastructure and landscaping. | |
| 13. | PLANNING APPEALS | (Pages
193 -
214) |

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Public Document Pack Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
LETCWORTH GARDEN CITY

ON WEDNESDAY, 20TH APRIL, 2022 AT 7.30 PM

MINUTES

Present: *Councillors: Councillor Mike Rice (Chair), Councillor David Levett (Vice-Chair), Val Bryant, Morgan Derbyshire, Tony Hunter, Ian Mantle, Terry Tyler, Tom Tyson, Simon Bloxham and Raj Bhakar*

In Attendance:

Arhamna Jafri (Property and Planning Lawyer), Tom Allington (Strategic Sites Planning Officer), Anne McDonald (Principal Planning Officer) Shaun Greaves (Senior Planning Officer), Tom Rea (Senior Planning Officer), William Edwards (Committee, Member and Scrutiny Manager) and Louis Mutter (Committee, Member and Scrutiny Officer)

Also Present:

At the commencement of the meeting approximately 11 members of the public, including registered speakers.

74 APOLOGIES FOR ABSENCE

Audio recording – 00:25

Apologies for absence were received from Councillors Mike Hughson and Ian Moody.

Having given due notice Councillor Ian Moody substituted for Councillor Michael Muir.

75 NOTIFICATION OF OTHER BUSINESS

Audio recording – 0:50

There was no other business notified.

76 CHAIR'S ANNOUNCEMENTS

Audio recording – 0:55

- (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 advised that a break would be taken around 9pm, if required.

77 PUBLIC PARTICIPATION

Audio recording – 2:02

The Chair confirmed that the eleven registered public speakers were in attendance.

78 21/00434/HYA Land North Of Pound Farm, London Road, St Ippolyts, Hertfordshire, SG4 7NE

Audio Recording: 3:00

The Senior Planning Officer advised that there was one update to the report which had been attached to the agenda as a supplementary agenda pack, which related to the Primary Education contribution referenced at Paragraph 3.3 and 5.4.104 of the report. The amount in the report should be £859,510 and not £859,838. The contributions to the County Council will be index linked. The Senior Planning Officer also reported that the County Council has requested that the matter of fire hydrants not be dealt with in the S106 agreement but as a condition.

The Senior Planning Officer presented the report in respect of application 21/00434/HYA supported by a visual presentation consisting of photographs and plans.

The following Members asked questions:

- Councillor Ian Mantle
- Councillor Tom Tyson
- Councillor Mike Rice

In response to a question from Members, the Senior Planning Officer advised:

- The trees alongside the northern end of the site were to be retained but weren't part of the planned site.
- There is a national government order that says that for applications in the green belt over a certain size, the application should be referred to the Secretary of State for them to consider to call in.
- The County Council are the education authority and it is for them to determine how the money is spent. The applicant has agreed to offer the contribution that has been sought towards education and it is a matter of the County Council how that money is spent to mitigate the impacts of this development.

The Chair invited Neil Dodds and Alissa McDonald to speak against the application.

Mr Dodds and Ms McDonald thanked the Chair for their opportunity to address the Committee and gave a verbal presentation including:

- Mr Dodds is speaking on behalf of Hitchin Forum, an amenity group which has about 100 members;
- Hitchin Forum have noted significant concerns, including overloaded sewage infrastructure, high surface water levels, closure of the gap between Hitchin and St. Ippolyts and access problems onto and from the B656 London Road;
- The government inspector reviewing the proposed updating of the local plan has expressed concerns about the number of houses required and the use of greenbelt land to provide for them;
- Inappropriate development in the greenbelt should only happen in very special circumstances;

- South of this proposed site is another proposed development in the greenbelt involving 52 dwellings, which also accesses the same B656;
- Ms McDonald stated that the Environmental Agency predict rivers to be 30% higher in winter causing flooding, and 80% higher in the summer by 2050. Hertfordshire has been identified as the driest county in England;
- The Lead Local Flood Authority had, until recently, a number of objections which have now become conditions as part of the application;
- Issues of sewage does not seem to have been addressed either. The Planning Application suggests that the proposed development will connect with the current sewage system, which the residents will testify has had its problems;
- It is noted that the S106 funding the applicant will provide to the Council is currently earmarked for Highover Farm and The Priory School are both over 2 miles away from the site, which seems inappropriate;
- The Three Moorhens Roundabout has been identified as a pollution black spot.

The Chair invited Robert Moore and Simon Hoskin to speak in favour of the application.

Mr Moore and Mr Hoskin thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- Mr Moore is the St. Ippolyts Parish Councillor for the ward in which this development falls;
- Have actively engaged with the applicant over several years, securing meaningful improvements across several areas of the developments;
- A comprehensive Parish-wide consultation with residents took place about this application. A sizeable majority expressed support for this development;
- Some of that support was only as a result of the expectation that the Parish as a whole would benefit from the S106 contributions, especially to the much needed expansion of St. Ippolyts primary school;
- Mr Hoskin is speaking on behalf of the applicant, Osprey Homes;
- The site has been allocated for residential development in the Emerging Local Plan and is referred to as site HT2;
- Expected to make an important and early contribution to meeting the urgent need for new housing in the district;
- The Emerging Local Plan is close to adoption and therefore should be afforded significant weight in accordance with Paragraph 48 of the National Planning Policy Framework;
- Proposals seek up to 84 new homes, in line with the dwelling estimate referred to in Policy HE2;
- The proposed development will deliver substantial benefits which include affordable housing of a mix and type which has been agreed with North Herts Council Housing Officer.

In response to a question of clarification from Councillor Michael Muir, Mr Moore advised that there are 3 nominated sites within the Local Plan, totalling 160 houses. Plus another 100 houses are identified as infill or windfall. Overall Mr Moore's objective is to ensure the S106 contributions go to where they are needed most.

In response to a question of clarification from Councillor Tony Hunter, Mr Hoskin advised that there is a statutory duty for sewage undertakers to provide capacity to deal with new housing. The developer has been in contact with the sewage undertakers and they are aware of capacity issues.

The Chair invited Councillor Claire Strong to speak in support of the application.

Councillor Claire Strong thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- Good to see the Parish Council working with the developers for this application;
- Paragraph 56 of the NPPF says that planning condition should be kept to a minimum and imposed only when necessary and relevant to the planning, this is a large development and it is necessary to ensure the educational needs of the new families and those in the area are met;
- The decision makers should consider current school capacity and whether it is sufficient to accommodate proposed development within the relevant school place area;
- The parents won't want to send their children outside of the village and on the other side of Hitchin;

The Chair then asked Antony Proietti of Hertfordshire County Council to advise on any points of clarification raised by the speakers and by Members. He advised that despite St Ippolyts proximity, the development sits within the Hitchin Priory planning area; therefore the County Council has to look at the capacities of the schools in the Hitchin Priory area rather than St. Ippolyts village.

The following Members asked questions:

- Councillor Ian Mantle
- Councillor David Levett
- Councillor Val Bryant
- Councillor Michael Muir

In response to questions from Members Antony Proietti advised:

- This is a constrained site, there is no ability to expand into adjacent land, therefore the 0.3 SC of expansion is the totality of the expansion capability of that school;
- The Council puts a high consideration on carbon, but the Council is not proposing that the children from this village will go to the schools previously mentioned;
- There is limited capacity for this expansion at St. Ippolyts, at least 2/3s of this development contribution will be unable to go St. Ippolyts;
- Any further developments in St. Ippolyts will be the same in that S106 contributions will not go to the St. Ippolyts expansion project;
- The education forecast is available on the Hertfordshire County Council website, which shows what figures are for the current years and the predicted next 4 years.

The following Members took part in the debate:

- Councillor David Levett
- Councillor Ian Mantle
- Councillor Tom Tyson
- Councillor Tony Hunter

Councillor David Levett proposed and Councillor Ian Mantle seconded and, following the vote it was:

RESOLVED: That application 21/00434/HYA be **GRANTED** planning permission subject to the reasons and conditions outlined in the report of the Senior Planning Officer along with the following additional condition:

- Condition 30 to be added with the following:

Prior to commencement of each phase of the development hereby permitted, detail of the installation of fire hydrants for that phase shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure there are adequate water supplies for use in the event of an emergency for the proposed development.

79 21/02973/PIP Land East Of Picknage Road And Adjacent To 36, Picknage Road, Barley, Hertfordshire

Audio Recording: 1:47:15

The Principal Planning Officer advised that an update to this application had been added as a supplementary agenda pack prior to the meeting but summarised the points including:

- The Consultation response from the HCC Growth Infrastructure Unit was not received by the Planning Department and came to light only today;
- This response was seeking contributions towards education, library and youth services;
- Due to this application being less than 20 housing units the contribution should be obtained by a Unilateral Undertaking;
- This application does have a Unilateral Undertaking but one which does not include the contributions previously mentioned;
- As a result of this, a second reason for refusal has been tabled.

The Principal Planning Officer presented the report in respect of application 21/02973/PIP supported by a visual presentation consisting of photographs and plans.

The Chair then invited Jerry Carlisle to address the Committee against the application.

Mr. Carlisle thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- Reconfirming the Parish Council's unanimous objection to this application;
- Since the Parish Council voiced their objections the plans have not changed;
- Support the village shop and recognise it is a highly valued village amenity; but that support cannot be at any price;
- The landowner wishes to see the entire area from the existing housing to the North up to Picknage Corner developed; if the application were to be approved it would be very difficult to resist further development of the remainder of the site.

The Chair invited Councillor Gerald Morris to speak as a Member Advocate against the application.

Councillor Gerald Morris thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- Councillor Morris is District Councillor for the ward which includes the village of Barley;
- Speaking in support of the officer's recommendation to refuse this application;
- The application is based in part on North Herts Council not having a 5-year land supply; this is a way for the Government to try and force Council's to adopt a Local Plan as quickly as possible, failure to do this penalises the Council and the public by encouraging random house building;
- This site was originally submitted during the early call for sites while the Local Plan was still being prepared; at around 2016 the Local Plan Officer concluded that this location was inappropriate and should not be included as a selected site.

The Chair invited John Ridge to address the Committee in support of the application.

Mr. Ridge thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- Mr Ridge has been a local resident of Barley for 46 years, and is speaking on behalf of residents in surrounding villages and hamlets in favour of this application;
- This application provides a golden opportunity to create a well-run and financially viable village store and post office in a sensible location to meet the needs of the local area;
- The existing shop is not successful and there is an urgent need for new premises; the current premises is not fit for purpose;
- The existing shop has no disabled access and no area for lorries to make their deliveries, resulting in deliveries being made through the entrance of the shop; there is no on-site parking leading to parking on roads nearby and congestion;
- There is a major impact in losing the village shop; Barley is fortunate to have a post office and its loss would be a major impact on the surrounding villages;
- There will be an adverse effect on the environment with the loss of the village shop as the nearest supermarket is 12 miles from Barley;
- The proposed 9 new dwellings will not change the character of the village but will assist in keeping the village shop and nearby schools viable.

In response to a question of clarification from Councillor David Levett, Mr. Ridge advised that the post office has major security issues which is reflected in the insurance problems they have had and would like to see a more safe and substantial building. As the building is LPO licensed shop they are unable to put shutters up to protect the shop.

In response to a question of clarification from Councillor Ian Mantle, Mr. Ridge advised that the shop is currently not financially viable, if the application was not approved the shop will likely close.

In response to points raised by public speakers, the Principal Planning Officer advised:

- The information put forward in the application of this site was for a shop with a larger range of items and longer opening hours; it was not specifically stated that the shop is on the brink of closure and the application is not being considered on this basis.

The following Members took part in the debate:

- Councillor Tony Hunter
- Councillor David Levett

Councillor Tony Hunter proposed and Councillor David Levett seconded and, following a vote, it was:

RESOLVED: That application 21/02973/PIP be **REFUSED** planning permission for the following reasons:

“Due to there being no unmet need for a shop facility in Barley, there is no policy support for the proposed shop and 9 enabling dwellings on land outside of the village boundary. The proposed development would have adverse harm on the context of open landscape and edge of village setting in this location as well as unacceptable impact on the residential amenities of the adjoining neighbour number 36. As a result, the application is considered to fail to comply with the provisions of saved Policy 6 of the Local Plan 1996 and emerging Policies CGB1, CGB2b and D3 of the Submission Local Plan 2011 – 2031.

The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Unilateral Undertaking) securing obligations towards education, library and youth services. The secure delivery of these obligations is required to mitigate the impact of the development on local infrastructure and services in accordance with policy 51 of the North

Hertfordshire District Local Plan No. 2 – with Alterations (Saved Policies 2007) and proposed Local Plan Policy SP7 of the Council's Proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF)."

80 21/01834/FP Former Westons Cars Site And Land Adjoining 114-142 Cambridge Road, Hitchin, Herts, SG4 0JJ

Audio Recording:2:06:10

The Senior Planning Officer advised that there were a number of updates to provide to Members including:

- As alluded to in the report, the applicant has now confirmed their agreement to pay the Council £100,000 as a financial contribution in lieu of affordable housing provision on the site;
- There are some revisions to the S106 contributions in the report: Paragraph 4.76 has a contribution that is missing. This was originally requested by the County Council and it is £10,296 plus the indexation towards Special Education Needs and Disabilities;
- The applicant has queried the conclusions in the report regarding the viability. This relates to Paragraphs 4.60-4.63 as not including the revised comments of the Council's viability consultants Dixon Searle Partnership in response to additional information that the applicant submitted to the Council. Would advise that this query is justified as the revised comments of the consultants do state that they accept the overall conclusion that the scheme will not support a contribution to affordable housing;
- Following further discussions with local residents, the applicant has suggested an additional planning condition to secure details of boundary treatments.

The Senior Planning Officer presented the report in respect of application 21/01834/FP supported by a visual presentation consisting of photographs and plans

The following Members asked questions:

- Councillor Ian Mantle
- Councillor Michael Muir
- Councillor David Levett

In response to questions from Members the Senior Planning Officer advised:

- The proposal to remove permitted development rights are one of the conditions included in the report;
- There are dedicated bin stores and a cycle store for Block D along the left side of it. Block C has a cycle store towards the left hand corner which is shared with Block B. Both Block B and Block C have their own bin storage areas. There is no specific provision for mobility scooters but a condition could be added.
- The bin storage area for the houses are situated at the back.
- The main access road includes a turning head in the centre of the site which is suitable for refuse collection vehicle to enter the site and leave in forward gear; the Highway Authority are happy with these arrangements.
- Part of the vegetation has grown out since the building has been left unoccupied but it is unknown whether that goes past the red line in the plans.

The Chair invited Dan Burden and Jon Scurr to speak against the application.

Mr Burden and Mr Scurr thanked the Chair for the opportunity to speak and gave a verbal presentation including:

- Mr Burden lives opposite to the proposed entrance of the development and is representing the residents of Hamden Road;
- All of the traffic will come on the residential road of Hamden, no traffic will go on the main thoroughfare of Cambridge;
- Since the Old College Site has been redeveloped the pictures shown in the Officer's presentation of Hamden Road do not show that is now essentially a car park;
- Paragraph 5.54 of the reports state a prediction of an extra 20 cars during the morning rush-hour, we are looking at a development of 28 residences which will see 2 vehicles per flat;
- Paragraph 4.34 claims there is an existing primary entry point to the garage which is incorrect;
- Mr Scurr lives at the end of the Allwoods Place development which will be right next to the new blocks;
- This plan represents an overdevelopment of the site and the wrong housing mix, think that small houses for families like Block A is what is required for the other blocks;
- Do not feel that the flooding objection raised by the Flood Authority has been addressed, the developer has put forward their own assessment but this hasn't been formally accepted;
- The main objection is overlooking a loss of property, cramming 4 separate development blocks into this site will inevitably to them being overlooked from all sides. These buildings will overlook and effect light of those living on Allwoods Place and Cambridge Road.

The Chair invited Councillor Elizabeth Dennis-Harburg to speak against the application.

Councillor Elizabeth Dennis-Harburg thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- Councillor Dennis-Harburg has been working with the residents of the roads nearby for the past year and only in the past 14 days have they heard any positive engagement from the applicants;
- On the 26th January, the Lead Local Flood Authority sent through a very clear and strong objection to this site. It set out that there is no acceptable flood risk assessment or surface water drainage assessment in place and therefore this submission is non-compliant;
- There is significant flooding already in this area. Neighbors of Cambridge Road have been informed that the existing infrastructure in place is not sufficient to tolerate any further building;
- There is much more work to do to make this site compliant for the safety and mitigation of risk for the new and existing community around this site;
- There is no dry-safe pedestrian access should there be a flood;
- A couple of areas residents would like to see ongoing discussions around including maintaining entryways and access sites, noise from a gate attached to a nearby property, the encouragement of anti-social behaviour, headlights flashing into windows, floodlight switch on times, safe demolition given reports of asbestos, increasing the appeal and biodiversity of the new buildings and making sure there is no negative impact on the substation from the development including performing electromagnetic field surveys before during and after construction.

The Chair invited Matt Corcoran to speak, on behalf of the applicant, in favour of the application.

Mr. Corcoran thanked the Chair for the opportunity to address the Committee and gave a verbal presentation including:

- The applicant has worked positively with the Council officers over the past couple of years;
- The application site is a sustainable brown field location which has fallen vacant over the last 4 years;
- The proposals include a significant array of public realm enhancements including improving the Cambridge Road frontage;
- The site is at present all hard-surfaced and includes unsightly vacant industrial sized buildings with unrestricted commercial use not considered appropriate for such a residential location;
- The development will be providing an acceptable level of car parking; each family home has two car parking spaces with visitors and there is no objection from the Highway Authority on access and transport matters;
- The joint developers are part of the considerate contractor scheme so resident engagement will be continued should Members approve the planning permission;
- This site is a windfall site which appears in the Council's Strategic Housing Land Availability Assessment and the numbers being proposed are lower than the Council's technical evidence base;
- The applicants have been working closely with Council officers and in the report there is a surface water condition, number 20. The site is not in a flood-risk area, which Anglian Water have accepted.

Following a question of clarification from Councillor David Levett, Mr Corcoran advised that following trix analysis of the development and no further objections from the Highways Authority there is considered to be no impacts on the local highway network. The additional traffic data from the new site has been taken into account in those calculations.

In response to points raised by public speakers, the Senior Planning Officer advised:

- The site is within flood zone 1 which is the lowest area likely to flood according to the Environment Agency. There is going to be less hard surfacing and more soft landscape;
- The site plan shows pedestrian access to the north onto Cambridge Road and to the south through the existing shared surface onto Hamden Road;
- Condition number 21 deals with any external lighting within the scheme;
- Several conditions relating to construction requiring the developer to carry out the construction phase in accordance with British standards;
- Condition 7 is a landscaping condition as well as the condition the Senior Planning Officer mentioned in his initial update;
- There will be a contribution of £4,000 towards a new traffic regulation order which will consider any restrictions can be placed within that part of Hamden Road to control on street parking.

The following Members took part in the debate:

- Councillor David Levett
- Councillor Simon Bloxham

Councillor Simon Bloxham proposed and Councillor Michael Muir seconded and, following a vote it was:

RESOLVED: That application 21/01834/FP be **GRANTED** planning permission subject to the reasons and conditions outlined in the report of the Senior Planning Officer and with the following additional conditions:

- Condition 22 to be added with the following:

Prior to the commencement of the development hereby permitted full details of all boundary treatments throughout the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity

- Condition 23 to be added with the following:

Prior to the commencement of the development hereby permitted full details of mobility scooter storage provision shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details

Reason: To ensure adequate provision for mobility scooter users

81 22/00484/FPH 131 Icknield Way, Letchworth Garden City, Hertfordshire, SG6 4AD

Audio Recording: 2:50:53

The Principal Planning Officer advised that there were no updates to provide to Members and presented the report in respect of application 21/00484/FPH supported by a visual presentation consisting of photographs and plans.

Councillor Morgan Derbyshire proposed and Councillor Simon Bloxham seconded and, following a vote it was:

RESOLVED: That application 22/00848/FPH be **GRANTED** planning permission subject to the reasons and conditions outlined in the report by the Principal Planning Officer.

82 PLANNING APPEALS

Audio Recording:2:53:10

The Strategic Sites Planning Officer presented the report entitled Planning Appeals

RESOLVED: That the report entitled Planning Appeals be noted.

The meeting closed at 10:27 pm

Chair

<u>Location:</u>	Land At The Rear Of 33 And 35 Coombelands Melbourn Road Royston Hertfordshire SG8 7DW
<u>Applicant:</u>	Hutchison 3G UK Limited
<u>Proposal:</u>	Installation of 15m monopole tower to support antenna, associated radio-equipment housing and ancillary development hitherto.
<u>Ref. No:</u>	22/01342/TD
<u>Officer:</u>	Vicki Wood

Date of expiry of statutory period : 11.07.2022

Submitted Plan Nos

NHE20781 100 Rev A NHE20781 150 Rev A NHE20781 215 Rev A NHE20781 265 Rev A
A NHE20781 002 Rev A

1.0 Policies

2.0 Relevant History

2.1 None.

3.0 Representations

3.1 The application has been called in by the Ward Councillor, Councillor Hinchliff who has expressed the following concerns:

- The proposed mast is significantly taller than the nearby residential buildings and street furniture, is out of keeping with the existing design of the area and will harm visual amenity for local residents.

3.2 Royston Town Council have objected to the proposal which is supported by Ward Councillor Green on the following grounds:

- It would cause demonstrable harm to the character of the area.
- It is out of keeping with the area as it would be much higher than the nearby houses and lamp posts.
- Guidelines state that masts cannot be sited within 60m of a school but this one would be within that distance of homes with children living in them.

3.3 Neighbours – Three objections have been received, on the following grounds:

- The proposed site is totally unsuitable. The A10 is a busy road where there is no parking facilities.

- The development would be a complete eyesore immediately at the end of residential gardens and will doubtless bring the house prices down.
 - Many of the reasons for rejecting the other sites would apply equally to this site (road proximity, visual eyesore, nearby residents etc).
 - That there are other more suitable sites that have not been put forward.
 - The 1m wide footpath would be affected with a consequent health and safety risk.
 - The visual impact of the mast with associated antenna and other equipment would be visually unacceptable.
 - No health and safety assessment has been submitted with the application.
- 3.4 In terms of TD (Telecommunications Determination), whilst the above objections have been received, the Local Planning Authority are only able to consider siting and appearance of the proposal.
- 3.5 According to the submission, the applicant initiated pre-consultation discussions with NHC and was advised that a formal pre-application was required hence the submission of this application for prior approval.
- 3.6 The supplementary information submitted with the applications confirms that the site is not within a conservation area, it not in close proximity to any listed buildings, ancient monuments or any other heritage assets. Neither is the site located close to any SSSI's or other designated sites.
- 3.7 **Hertfordshire County Council Highways** – No response to date.
- 3.8 **North Herts Council Environmental Health** – No response to date.
- 4.0 Planning Considerations**
- 4.1 Site and Surroundings**
- 4.1.1 The mast and associated equipment would be sited within the grass verge between the footpath and Melbourn Road. Residential properties exist to the west and north of the application site.
- 4.2 Proposal**
- 4.2.1 The installation of a 15m high mast antennas and cabinet around the base of the mast. Three other cabinets and ancillary paving are also proposed. The purpose of the mast is to provide additional telecommunications coverage, particularly 5G.
- 4.3 Assessment**
- 4.3.1 This application has been assessed against the General (Permitted Development) (England) Order 2015 as amended, Schedule 2, Part 16; Class A – Communications. As such, the proposal constitutes Class A (a) - the installation, alteration or replacement of any electronic communications apparatus.
- 4.3.2 As the proposal constitutes the installation of a mast on highway land, the development is permitted subject to prior approval from the Local Planning Authority.

In terms of TD (Telecommunications Determination), whilst the above objections have been received, the Local Planning Authority are only able to consider siting and appearance of the development.

Key Issues

- 4.3.3 The key issues in this case is the siting and appearance of the proposed development.
- 4.3.4 The site is not located in an area which is subject to any constraints that would prevent the development being sited in this position.
- 4.3.5 Paragraph 114 of the NPPF 10 states that “.... *High quality and reliable communications infrastructure is essential for economic growth and social well-being.*’ That ‘.....*decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.*’ Paragraph 115 of the same NPPF states that ‘*Where new sites are required,.....equipment should be sympathetically designed and camouflaged where appropriate.*’
- 4.3.6 Whilst it is accepted that the proposed mast and associated equipment will be visible, it is not positioned near any heritage assets or nature protected areas. Visibility is largely from users of the highway. Occupiers of nearby residential properties will be subject to some impact as a result of the height of the mast. Given that there is some distance from the proposed position of the mast and its associated equipment, the proposed colour and finish will match that of existing street furniture and so any impact is not considered to be significant.
- 4.3.7 The reasons for the application by the applicant are to increase telecommunications coverage, particularly 5G, which in general terms would bring benefits to people, businesses, and the economy. The detailed supplementary information statement submitted with the application states that the site proposed is the only viable one in the area.
- 4.3.8 There have been numerous objections received from nearby residents, some of which have been addressed above. Regarding the other comments received, the applicant has submitted the necessary ICNIRP certificate which demonstrates that the development will not be harmful to health, while concerns relating to property values are not material planning considerations.

4.4 Conclusion

- 4.4.1 In line with paragraph 116 of NPPF 10, the assessment of the proposal is based purely on the siting and appearance of the development. The submitted details are sufficient for the Authority to assess the impact of the works upon the locality. I recommend that prior approval be granted as the siting and appearance of the proposal would not be detrimental to visual amenity and it would not be harmful to the character and appearance of the area.

5.0 Recommendation

















- 5.1 That prior approval be **GRANTED**.

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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

22/01342/TD Land at The Rear of 33 and 35 Coombelands, Melbourn Road, Royston Herts, SG8 7DW

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



Scale 1:713

Date: 14/06/2022

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<u>Location:</u>	The Lord Lister Hotel 1 Park Street Hitchin Hertfordshire SG4 9AH
<u>Applicant:</u>	Toni Nye
<u>Proposal:</u>	Change of Use from Hotel (C1) to Sui Generis (accommodation with support) and associated external alterations (as amended by plans and additional information received on 6 May 2022)
<u>Ref. No:</u>	22/00170/FP
<u>Officer:</u>	Simon Ellis

Date of Statutory Expiry Period: Agreed extension to 24.06.22

Reason for Delay

Further information received and an additional consultation exercise was undertaken as a result.

Reason for Referral to Committee

This planning application has been called into the Planning Control Committee for determination at the request of Cllrs Keith Hoskins and Claire Strong on the basis of the extent of public interest that the planning application has generated. They consider that the application needs to be determined by the Committee in the wider public interest.

Submitted Plan Nos to Determine:

22-04_PL01 – Location and Block Plans (received 22.01.22)
22-04_PL02 – Proposed Site and Ground Floor Plans (received 22.01.22)
22-04_PL02A – Front Elevation, CCTV and Security Gates Installation (received 06.05.22)
22-04_PL03 – Existing Floor Plans and Elevations (received 22.01.22)
22-04_PL04 – Proposed Floor Plans (received 22.01.22)
22-04_PL05 – Boundary Treatment, External Lighting and Bin Anchor Installations (received 06.05.22)
22-04_PL06 – CCTV and Security Gate Installations, ground floor plan (received 06.05.22)
22-04_PL07 – CCTV and Security Gate Installations, first floor plan (received 06.05.22)
22-04_PL08 – CCTV and Security Gate Installations, second floor plan (received 06.05.22)

Associated Documents:

Design, Access and Planning Statement (received 22.01.22)

Secure by Design Supporting Statement and appendices 1-11 (received 06.05.22)

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

Policy 8 'Development in Towns'

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 12 'Achieving Well Designed Places'

Section 16 'Conserving and Enhancing the Historic Environment'

1.3 National Planning Practice Guidance:

Healthy and Safe Communities (Last updated November 2019)

1.4 Supplementary Planning Documents:

Vehicle Parking Provision at New Development (SPD – 2011)

1.5 Submission Local Plan (2011-2031) (with Modifications):**Section 2 – Strategic Policies**

SP1 - Sustainable development in North Hertfordshire;

SP9 - Design and Sustainability;

SP10 - Healthy Communities;

SP13 - Historic Environment

Section 3 – Development Management Policies

T2 - Parking;

HS4 – Supported, Sheltered and Older Persons Housing

HS5 - Accessible and Adaptable Housing

D1 - Sustainable design;

D3 - Protecting living conditions;

HE1- Designated Heritage Assets

HE4 -Archaeology

2.0 Site Planning History**2.1 Various extensions and alterations but most recent and significant schemes as follows:**

04/00728/LB and 04/00727/1 – three storey extension to provide en-suite bathrooms.
Approved

17/04422/1 – Construction of managers flat over existing car parking bays. Approved

18/02301/S73 – variation of condition of above permission. Approved.

3.0 Representations:

3.1 Police Architectural Liaison Officer:

Originally raised concerns regarding Secure By Design principles then following discussion and submission of additional information and a full Secure By Design Supporting Statement and appendices (see above list of supporting documents) and speaking on behalf of the Police Crime Prevention Design Service now 'fully supports this application'.

3.2 Environmental Health (Noise):

No objection but suggested a condition requiring a noise assessment prior to first occupation. In response to additional information which includes measures for internal noise insulation, including secondary glazing and lighting, revised comments have been received requiring noise, lighting and details of any plant equipment within three months of the date of the decision notice, recognising this is a retrospective planning application (**see recommended conditions 4-6**).

3.3 Senior Conservation Officer:

No objections. See detailed comments attached as **appendix 1** to the next item on this agenda, the associated Listed Building Consent application (ref. 22/00171/LBC).

3.4 Public Comments:

Full details can be viewed on the Council's website. Members are strongly advised to read public comments set out on the website in order to fully consider all comments received. A brief summary of views is set out below:

- Inappropriate location for this use;
- Harm to listed building and surrounding conservation area;
- Creates anti social behaviour in the vicinity of the site;
- Schools close by, concerned over safety of children;
- Existing pub close by creates a mix of two uses that can generate anti-social behaviour;
- Surrounding area has secluded paths and alleyways which is already not a safe environment for local residents;
- This is a retrospective application and the use is already causing problems before planning permission is granted so is not being managed well in terms of residents and safety of neighbouring residents;
- Resultant pressure on community police and other public services;
- Concern over management of the facility, lack of over night security staff;
- Noise impacts of use on surrounding area;
- Gates are inappropriate to the front of a listed building;
- Hotel use should remain if it is viable;
- Residents need and support and this facility will provide that;
- Poor DDA access;
- Causing loss of business to the nearby Public House;

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site consists of a three-storey hotel building, consisting of 24 self-contained bedrooms. There are also 10 car parking spaces on site. It is a terrace building consisting of three blocks with access to the rear car park through a coach entrance off Park Street. The building is grade II listed and located within the Hitchin Town Centre Conservation Area. The site is at the edge of the town centre, and surrounding land uses are mainly residential with a Public House adjoining.

4.2 The Proposals

- 4.2.1 This is a retrospective planning application for the change of use of the premises from a Hotel (C1 Use) to *Sui Generis* use described by the applicant as residential accommodation with support. The proposal is distinct from C3 use residential or C2 residential with an element of care. A *Sui Generis* use is a use all of its own that does not fit with established use classes contained within the Town and Country Planning (Use Classes) Order.
- 4.2.2 The application seeks permission to retain 21 self-contained units of accommodation for residents within the complex. The managers accommodation and staff accommodation is within the apartment above the four car parking spaces.
- 4.2.3 The overall level of accommodation is the same as the former hotel use, with no increase in the number of rooms, and car parking space and vehicular access to the premises remain the same.
- 4.2.4 Physical alterations include installation of CCTV, new security features including locking systems on doors and windows, secondary glazing for noise insulation, and external lighting and security gates.
- 4.2.5 On site management of the use includes 24-hour staff coverage, secure access to staff and residents only. The use operates 24 hours a day and residents are not required to be in the accommodation at any particular times.

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 as follows:
- The principle of development on the site and the overall policy basis for any decision;
 - Whether the new use is acceptable in terms of living conditions and activity in and around the site;

- Whether planning permission should be refused for reasons of potential or actual anti-social behaviour, or whether these matters are regulated by other agencies, not for the planning system to control;
- Any conditions that may be necessary to ensure the appropriate management and control of the facility if Members were minded to grant planning permission;
- Heritage issues insofar as they relate to the change of use application.

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

4.3.2 The Principle of the use and Policy Basis for the Decision

This planning application is for the change of use of a former C1 Hotel Use to a new use described as supported accommodation as a *Sui Generis* use. There are no policies in the Saved Local Plan or emerging Local Plan which seek to prevent the loss of existing hotel accommodation in town centres. Indeed, Saved Policy 8 of the North Hertfordshire District Local Plan No. 2 – with Alterations, accepts most forms of development in towns in principle, including the change of use of Hotels to new forms of residential accommodation.

4.3.3 Living Conditions and Activity Levels

In terms of the frequency of activity in and around the site, volume of visitors and residents, deliveries and vehicular movements it is clear to me that the new use would be broadly similar to a fully occupied Hotel use on this site which is already authorised in planning terms. Given that the level of car parking, access and importantly extent of accommodation in the premises remains the same as the former use and no extensions to the facility are proposed as this is a change of use only, I am satisfied that the overall intensity of use here is broadly the same as already authorised.

- 4.3.4 In terms of noise issues, Members will note that the additional information submitted on 6 May 2022 by the applicant included details of secondary glazing to help insulate noise impacts of the building from a 24-hour operation. Members must also note that the current authorised Hotel use is not restricted in terms of hours of operation either and the site could be run now as a fully functioning Hotel with all the spill over noise and activity impacts this would have on the surrounding area.

- 4.3.5 Notwithstanding the submission of additional information on matters of noise and lighting, the Council's Environmental Health Officers whilst raising no objections to the grant of planning permission still require a noise and lighting survey associated with this development. The timeframe they propose to resolve these matters is within three months of the date of any decision notice, and this is set out in the recommended conditions below.

4.3.6 Anti Social Behaviour Concerns

The National Planning Policy Framework (NPPF) (July 2021) and the National Planning Practice Guidance (NPPG) (November 2019) together set out the government's position on planning for safe communities including design considerations.

4.3.7 Paragraph 92 of the NPPF states that planning policies and [development management] decisions should aim to achieve 'safe and inclusive places' which, *inter alia*, should ensure that places:

'are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas;'

4.3.8 The emerging Local Plan (2011-2031) Policy D1 'Sustainable Design' includes a requirement to 'design out crime and anti-social behaviour'.

4.3.9 This planning application is for the change of use of an existing building, it does not and cannot include proposals for off-site infrastructure changes to alter the built environment outside the site. The policy guidance referenced above is more applicable to wider development schemes that include new road layouts and pedestrian facilities and spaces with the aim to ensure such developments create spaces that are safe for all members of the community as far as is possible through design and new development. This application only relates to the change of use of an existing building so on that basis the policy guidance is not wholly applicable. Nonetheless, the principles set out in the policy guidance include reference to anti-social behaviour and designing out crime which in my opinion is therefore a material consideration in the determination of this planning application insofar as it relates to design and physical alterations to the building.

4.3.10 On this basis how should concerns about anti-social behaviour apply to a change of use planning application? The planning system regulates land use, not land users, it is not in place to regulate all aspects of an applicant's operation. In this context the change of use is from a Hotel C1 to a non-specific *Sui Generis* use for residential accommodation with support. Any change of use planning permission would run with the land, would not be personal to the current operators of the facility and moreover would not discriminate between the profile of residents who may need care and support at this facility. On this basis in my view it would be very difficult to sustain an argument against the grant of planning permission based on an objection to the use of the building without personalising the refusal to the current operator rather than the maintaining an objective view of the planning use that is presented within the application. Such an argument would not succeed on appeal in my opinion.

4.3.11 To support my professional view on this important issue I attach as **appendix 1** an appeal decision which has very clear parallels with this application. And I particularly draw Members attention to paragraph 10 of the decision letter which reads as follows:

'I note the concerns of the Council and some local residents that the proposed use would result in a local concentration of anti-social behaviour. I have also noted the evidence before me of incidents of anti-social behaviour and disturbance at the appeal site and the concern of neighbours that the appeal site has been a source of noise, disturbance and anti-social behaviour in the past and has resulted in a fear of crime in the locality. However, such matters are influenced by considerations such as the management of the HMO and the behaviour of the occupants. Such matters are not controlled under the planning

regime. They are controlled by other legislation and I am making a decision on the planning merits of the appeal alone. The proposed development could, in principle, therefore, contribute towards promoting safe and accessible environments where crime and disorder, and the fear of crime do not undermine the quality of life or cohesion as set out in paragraph 69 of the Framework’.

4.3.12 The reference to these matters being controlled by other legislation is particularly pertinent in my opinion, and it’s a position I support. To conclude on the matter Members must also note that the planning application commands the support of the Police Crime Prevention Design Service as set out above in paragraph 3.1 above. Insofar as preventing anti-social behaviour it is relevant to ensure the building and site are as safe and secure as possible through the implementation of Secure By Design Measures in consultation with the Police as has happened here. The consideration of anti-social behaviour does not however extend to the principle of the change of use in this location or any form of discrimination over potential criminality from any residents of the facility, as the above referenced appeal decision makes clear, these matters are controlled by other agencies.

4.3.13 Conditions and Mitigation

On this basis it is in my view necessary to ensure the management measures, such as CCTV operation, lighting and security arrangements are maintained throughout the lifespan of the use. This can be controlled by suitably worded conditions which are recommended and set out below. It is also necessary in my view to prevent any further intensification of the use in planning terms by limiting the number of units of self-contained accommodation to that set out in the application as 21 units and staff accommodation. This would limit the change of use to a level of activity to be broadly similar to the hotel use authorised on site. It is also necessary to control noise for residents within the building to ensure acceptable living conditions for occupiers of the facility as well the conditions requested by the Environmental Health Team which are set out below.

4.3.14 Heritage Matters

A comprehensive analysis of the change of use and the associated listed building application is set out by the Council’s Senior Conservation Officer attached as appendix 1. Members will note his analysis of the application raising no objections in relation to the proposed change of use and associated alterations that relate to the planning application in relation to heritage aspects and particularly the listed building within which the use is operating.

4.3.15 Conclusions

Whether a planning application is retrospective or prospective the assessment of relevant material considerations must be the same. I set out above my professional assessment of the proposal. I recognise the concerns of local residents surrounding the nature of the use and some of the activity associated with the current operation. However, as the appeal Inspector makes clear in the highly relevant appeal decision attached as appendix 2 it is not the role of the planning system to regulate behaviour of organisations that provide services to residents who may need assistance. The planning system only controls the use of land not the land user and specific matters of anti-social behaviour that may relate to a particular organisation or residents thereof are matters for other agencies to regulate. On that basis and despite the strong feeling

of many objectors to this planning application I see no basis to refuse planning permission for this change of use.

4.3.16 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:

6.2 Recommended Conditions, Reasons and Informatives

Conditions and Reasons:

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

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

2. The use of the building as assisted residential accommodation shall be limited to a maximum 21 self-contained units for residents and ancillary staff accommodation.

Reason: To accord with the terms of the submitted application to avoid any further intensification of the use without further planning permission.

3. All Secure By Design Measures set out the applicant's Secure By Design Statement (dated May 2022) and appendices including the operation of CCTV, appropriate locks and external lighting and boundary treatment shall be installed and fully operational within three months of the date of this decision notice and thereafter retained and maintained for the lifespan of the current use of the building to the satisfaction of the Local Planning Authority.

Reason: To accord with the terms of the submitted application and to ensure the facility is managed appropriately in the interests of amenity and security of the premises.

4. Within three months of the date of this decision notice the developer shall carry out a noise assessment in accordance with relevant guidance and standards and a scheme for sound insulation and noise control measures shall be submitted for the Local Planning Authority's written approval. Such measures shall thereafter be carried within an agreed timeframe with the Local Planning Authority and once implemented the scheme of measures shall be maintained in accordance with the approved details.

Reason: to protect the residential amenities of future residents.

5. Although no new plant is proposed for installation, if any new plant is to be installed, changed, or upgraded the developer shall carry out a noise survey following the guidelines set out by BS4142: 2014+A1:2019. This survey shall consider 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 existing background noise levels.

Reason: To protect the residential amenities of future residents

6. Details of any external lighting to be installed on the site, including the design of the lighting unit, any supporting structure, and the extent of the area to be illuminated, shall be submitted to and approved in writing by the Local Planning Authority within three months of the date of this decision notice. Only the details thereby approved shall be implemented in accordance with an agreed timeframe with the Local Planning Authority and once implemented the scheme of measures shall be maintained in accordance with the approved details.

Reason: to protect the residential amenities of future residents.

Informatives

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

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

Pro-Active 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.

7.0 Appendices

7.1 Appendix 1 – Appeal Decision.

Appeal Decision

Site visit made on 4 January 2017

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 14 February 2017

Appeal Ref: APP/Z1775/W/16/3159492

Anstey Hotel, 116-118 Clarendon Road, St Jude, Southsea PO4 0SE

- 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 JDI Developments Ltd against the decision of Portsmouth City Council.
 - The application Ref 16/00917/FUL dated 6 June 2016, was refused by notice dated 19 August 2016.
 - The development proposed is change of use from hotel (Class C1) to 25 bedroom house in multiple occupation (Sui Generis) (HMO) with cycle and refuse storage.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from hotel (Class C1) to 25 bedroom house in multiple occupation (Sui Generis) (HMO) with cycle and refuse storage at Anstey Hotel, 116-118 Clarendon Road, St Jude, Southsea PO4 0SE, in accordance with application Ref 16/00917/FUL dated 6 June 2016, subject to the conditions set out in Annex A to my decision.

Procedural Matters

2. An application for costs was made by JDI Developments Ltd against Portsmouth City Council. This application is the subject of a separate Decision.
3. The Council's description of development more accurately describes the development sought. I have therefore used it in the banner heading above and my formal decision in paragraph 1 of this decision letter.

Main Issues

4. The appeal site is included within the East Southsea Conservation Area (ESCA). Having regard to the statutory requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the main issues in this case are the effect of the appeal proposal on the character or appearance of the ESCA and the living conditions of neighbouring occupiers, with regard to noise and disturbance.

Reasons

Living Conditions

5. The appeal site includes an end of terrace three storey Victorian property, with a stucco decorative frontage and two full height projecting bays. It includes a basement and accommodation in the roof.

6. At the time of my site visit, some rooms within the appeal site were occupied and one of the kitchens was in use. It has, in the past, been used as a hostel for homeless people and a hotel/guest house. A Certificate of Lawful Development was granted in 2009 for its use as a hostel¹. Planning permission was granted for its use as a hotel/guest house within Class C1 in 2011². Both of those uses would generate activity, comings and goings of residents in addition to staff who would work there.
7. The appeal proposal would involve internal alteration to refigure rooms and accommodate additional ensuite bathrooms. It would not increase the number of rooms, materially alter the number of potential occupants, the main access from the street or the general location of refuse storage and collection. It would include internal cycle storage. Therefore, I consider that the comings and goings and general activity of the proposed use would not be materially different to the previous uses. As the proposed number of rooms would not be increased, even though it could be used as future residents' primary residential accommodation, it would not represent a more intensive use than previous uses. Whilst visitors, in association with the proposed use, would generate activity, this would not be materially greater, and in all likelihood less than the cumulative comings and goings of staff and residents of a hotel/guest house at the appeal site.
8. In any event, I have noted that the properties either side are a small block of flats and an HMO. The locality generally has a mix of flats, houses, HMOs and some other uses such as shops. It has a generally mixed feel. Notwithstanding the comments from the Council's environmental health officer, and discounting the previous uses, I am unconvinced that the activity that would be generated by the proposed use would be greater than nearby uses and would have an adverse effect on the living conditions of neighbouring residents. This is because it would not be out of character in this locality.
9. I acknowledge the Council's concern and those of local residents that HMOs in a locality can have negative social, economic and environmental consequences. However, most are related to a situation where there is a local concentration of HMOs. As a consequence of this appeal the community would not be imbalanced by a local concentration of HMOs. Its concentration would be well below the 10% stated in the Portsmouth City Council HMO Supplementary Planning Document (2012), using the methodology within that document.
10. I note the concern of the Council and some local residents that the proposed use would result in a local concentration of anti-social behaviour. I have also noted the evidence before me of incidents of anti-social behaviour and disturbance at the appeal site and the concern of neighbours that the appeal site has been a source of noise, disturbance and anti-social behaviour in the past and has resulted in a fear of crime in the locality. However, such matters are influenced by considerations such as the management of the HMO and the behaviour of the occupants. Such matters are not controlled under the planning regime. They are controlled by other legislation and I am making a decision on the basis of the planning merits of the appeal alone. The proposed development could, in principle, therefore, contribute towards promoting safe and accessible environments where crime and disorder, and the fear of crime,

¹ Ref: 08/02203/CPE

² Ref: 11/00335/FUL

do not undermine the quality of life or community cohesion as set out in paragraph 69 of the Framework.

11. I conclude that the appeal proposal would not adversely affect the living conditions of neighbouring occupiers, with regard to noise, disturbance and anti-social behaviour. For this reason it would generally accord with Policies PCS20 and PCS23 of The Portsmouth Plan (TPP) and paragraphs 17 and 19 of the National Planning Policy Framework. These, together, seek to encourage HMOs which do not result in negative social, environmental and economic impacts of high concentrations of HMOs on communities and to secure a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.

Conservation Area

12. The character and appearance of the Conservation Area is varied, but is mainly mixed residential, including houses of various sizes, flats both in subdivided Victorian properties purpose built blocks and HMOs. It also includes uses such as shops and commercial buildings. A pleasing characteristic are the Victorian residential properties that line the streets. With a mixture of brick with stucco detailing and traditional timber windows and doors, they give the Conservation Area a generally cohesive feel. As there is a mix of types and tenures of residential property and some commercial uses and shops, it has a generally mixed feel.
13. The appeal development would include minor alterations to the exterior of the appeal building. It would not adversely affect the external decoration or remaining Victorian features. The proposed refuse collection arrangements would enable internal storage which would improve the cohesion of the appeal site frontage. Together, the alterations proposed would be minor and would generally preserve the character and appearance of the Conservation Area. Further, on the basis of my previous findings, the proposed use would not be out of character.
14. I have very limited substantive evidence to lead me to conclude that the appeal premises would change over time, such that it would harm the character and appearance of the ESCA. I have no assurance that washing would hang in the windows, food would be stored on window cills or curtains would be permanently closed to protect privacy. In any event, those matters are due to the chosen way of living of future occupiers, rather than the proposed use in itself and are not controlled under the planning regime.
15. I conclude that the appeal development would preserve the character and appearance of the ESCA and would generally accord with TPP Policy PCS23. That policy states that all new development must be well designed and, in particular, respect the character of the city.

Other Matters

16. It has been brought to my attention that there is a listed building at 7 Eastern Villas Road, to the rear of the appeal site. However, on the basis of the previous use of the appeal site and the limited external alterations that would be involved, along with the separation distance, no material harm would result to the special architectural or historic interest of that property, or its generally urban setting.

17. I am aware of the local need for hotels and the contribution that they make to the local economy. Whilst the appeal would result in the loss of a hotel/guest house, there is no policy protecting such uses before me. In any event, there is also a need to meet the housing needs of the city, as set out in TPP Policies PCS19 and PCS20, which together seek a mix of housing to meet an identified need.
18. I noted the parking restrictions on Clarendon Road on my site and was able to assess the parking conditions. The Council considers that there is little capacity to accommodate additional parking on-street in the locality. On the basis of my site visit, I have no reason to take an alternative view. The appeal development would not include off-street parking. On the basis of previous uses of the appeal site as a hotel/guest house and hostel, there is unlikely to be a material increase in the parking demand generated from the appeal site. Therefore it would not give rise to additional parking demand and pressure in the locality.
19. The Council suggests that the resultant living conditions would be cramped with few resources. On my site visit I was able to assess the proposed layout and visited a selection of rooms. The two communal kitchens and lounges, which would each serve roughly half of the future occupants, would be large enough to accommodate cooking space and sitting and eating space. On the basis of my site visit and the plans before me, I consider that the proposed rooms would provide adequate usable internal space. Each would have an ensuite and they could accommodate some internal storage space. Generally, the layout would be usable and the circulation space adequate. Overall, I consider that the appeal development would provide satisfactory living conditions.
20. I have noted the concern of a local resident that Clarendon Road has had a lot of new development recently, which has harmfully increased the local population. However, I have limited substantive evidence to suggest that any local increase in population as a result has been harmful. I therefore attach little weight to this matter.
21. City of Portsmouth Tree Preservation Order No 189 (Eastern Villas Road/ Clarendon Road) has been brought to my attention. I note that some of those protected trees overhang the rear garden of the appeal site. However, as the proposed development would not include development close to those trees, no material harm would result to them.

Planning Conditions

22. A list of suggested conditions is before me. I have agreed with the imposition of most of these, subject to refinement to improve clarity and ensure consistency with national policy and guidance.³ A list of conditions to be imposed is set out in Annex A to my decision.
23. Standard time and plans conditions are required to ensure clarity and in the interests of proper planning. Conditions to secure the cycle and refuse and recycling facilities are necessary to promote sustainable forms of development. Conditions to secure measures set out in the Flood Risk Assessment and a Flood Warning and Evacuation Plan are necessary to secure the safety of future occupiers.

³ Paragraphs 203 and 206 of the Framework and PPG paragraphs 21a-001-034

Conclusion

24. Section 38(6) of the Planning and Compulsory Purchase Act (2004) sets out that any determination to be made under the planning Acts must be made in accordance with the development plan unless material considerations indicate otherwise. The appeal development would accord with the development plan and I have identified no material considerations to lead me to a different conclusion. The appeal development therefore falls within the definition of sustainable development. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be allowed.

R Barrett

INSPECTOR

Annex A

















- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with approved plans: 16.2150.103 Rev_P3; 16.2150.104 Rev_P2; 16.2150.105 Rev_P2; 16.2150.106 Rev_P1.
- 3) The HMO use hereby permitted shall only be carried out in accordance with the measures set out in the submitted Flood Risk Assessment and at no time shall any bedroom or sleeping accommodation be provided within the basement level.
- 4) Prior to the first occupation of the property as an HMO a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The property shall thereafter be operated in accordance with the provisions of the approved Flood Warning and Evacuation Plan.
- 5) Prior to the first occupation of the property as an HMO the cycle storage facilities shown on drawing no.16.2150.103 Rev_P3 shall be provided. The cycle storage facilities shall thereafter be retained as approved thereafter.
- 6) Prior to the first occupation of the property as an HMO facilities for the storage and collection of refuse/recyclable materials shown on drawing no.16.2150.103 Rev_P3 shall be provided. The refuse/recyclable storage facilities shall thereafter be retained as approved.

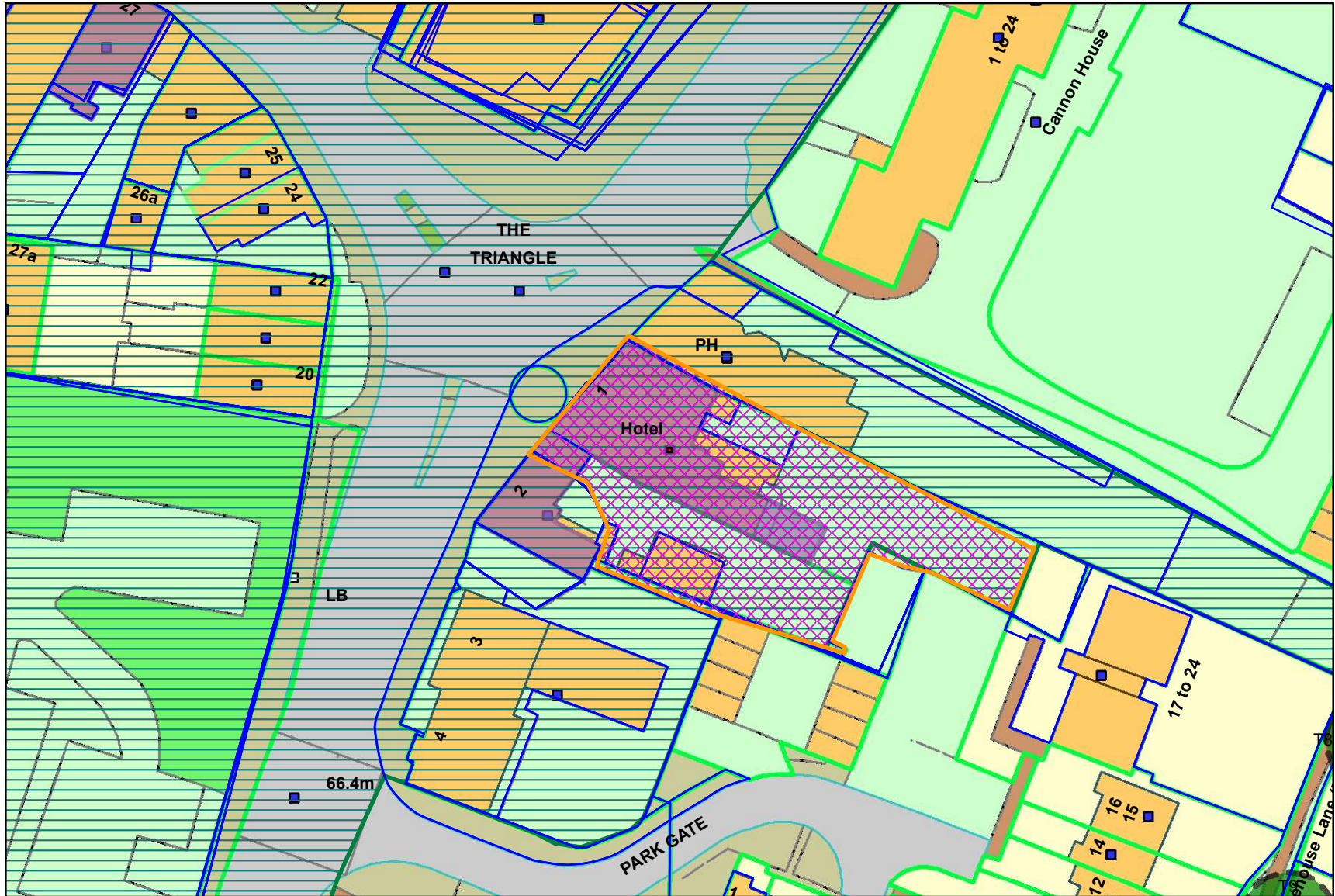
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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

22/00170/FP The Lord Lister Hotel, 1 Park St, Hitchin, Herts, SG4 9AH

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



Scale 1:625

Date: 16/03/2022

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<u>Location:</u>	The Lord Lister Hotel 1 Park Street Hitchin Hertfordshire SG4 9AH
<u>Applicant:</u>	Toni Nye
<u>Proposal:</u>	Internal and external alterations to facilitate Change of Use from Hotel (C1) to Sui Generis (accommodation with support) (as amended by plans and additional information received on 6 May 2022).
<u>Ref. No:</u>	22/00171/LBC
<u>Officer:</u>	Simon Ellis

Date of Statutory Expiry Period: Agreed extension to 24.06.22

Reason for Delay

Further information received and an additional consultation exercise was undertaken as a result.

Reason for Referral to Committee

This listed building consent application has been called into the Planning Control Committee for determination at the request of Cllrs Keith Hoskins and Claire Strong on the basis of the extent of public interest that the planning application has generated. They consider that the application needs to be determined by the Committee in the wider public interest.

Submitted Plan Nos to Determine:

22-04_PL01 – Location and Block Plans (received 22.01.22)
22-04_PL02 – Proposed Site and Ground Floor Plans (received 22.01.22)
22-04_PL02A – Front Elevation, CCTV and Security Gates Installation (received 06.05.22)
22-04_PL03 – Existing Floor Plans and Elevations (received 22.01.22)
22-04_PL04 – Proposed Floor Plans (received 22.01.22)
22-04_PL05 – Boundary Treatment, External Lighting and Bin Anchor Installations (received 06.05.22)
22-04_PL06 – CCTV and Security Gate Installations, ground floor plan (received 06.05.22)
22-04_PL07 – CCTV and Security Gate Installations, first floor plan (received 06.05.22)
22-04_PL08 – CCTV and Security Gate Installations, second floor plan (received 06.05.22)

Associated Documents:

Design, Access and Planning Statement (received 22.01.22)

Secure by Design Supporting Statement and appendices 1-11 (received 06.05.22)

1.0 Policies

- 1.1 **North Hertfordshire District Local Plan No. 2 – with Alterations (Saved Policies):**
Policy 8 ‘Development in Towns’

- 1.2 **National Planning Policy Framework (NPPF) (July 2021):**
In total but in particular:
Section 16 ‘Conserving and Enhancing the Historic Environment’

- 1.3 **Submission Local Plan (2011-2031) (with Modifications):**
Section 2 – Strategic Policies
SP13 - Historic Environment

Section 3 – Development Management Policies

HE1- Designated Heritage Assets

HE4 -Archaeology

2.0 Site Planning History

- 2.1 Various extensions and alterations but most recent and significant schemes as follows:

04/00728/LB and 04/00727/1 – three storey extension to provide en-suite bathrooms. Approved

17/04422/1 – Construction of managers flat over existing car parking bays. Approved

18/02301/S73 – variation of condition of above permission. Approved.

3.0 Representations:

- 3.1 **Senior Conservation Officer:**

No objections. See detailed comments attached as **appendix 1**.

- 3.2 **Hertfordshire County Council (Historic Environment):**

Originally requested a photographic record (before and after) of internal alterations through a Written Scheme of Investigation to archive these changes as part of the historical record. Some photographs have been provided as part of the Senior Conservation Officers assessment (see appendix 1) and further comments from the HCC (Historic Environment) are now awaited. Any comments to be reported orally.

- 3.3 **Public Comments:**

Full details can be viewed on the Council’s website. Members are strongly advised to read public comments set out on the website in order to fully consider all comments received. A brief summary of views is set out below:

- Inappropriate location for this use;
- Harm to listed building and surrounding conservation area;
- Gates are inappropriate to the front of a listed building;

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site consists of a three-storey hotel building, consisting of 24 self-contained bedrooms. There are also 10 car parking spaces on site. It is a terrace building consisting of three blocks with access to the rear car park through a coach entrance off Park Street. The building is grade II listed and located within the Hitchin Town Centre Conservation Area. The site is at the edge of the town centre, and surrounding land uses are mainly residential with a Public House adjoining.

4.2 The Proposals

- 4.2.1 This is a separate Listed Building Consent application for all proposed internal and external alterations to this listed building associated with the previous item on the agenda, the change of use planning application.

4.3 Key Issues

4.3.1 Heritage Matters

A comprehensive analysis of the listed building application is set out by the Council's Senior Conservation Officer attached as appendix 1. Members will note his analysis of the application raising no objections and suggesting various conditions which are set out below.

4.3.2 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 Listed Building Consent be **GRANTED** subject to the following conditions:

6.2 Recommended Conditions

Conditions and Reasons:

1. The work to which this consent relates shall be begun by not later than the expiration of the period of 3 years from the date of this notice.

Reason: To comply with the provisions of Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The replacement doors to the office shall be FD60 6-panelled doors with panel proportions to match other doors off the hallway and utilising existing ironmongery (or new to match) unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The security window film shall only be applied to the new secondary glazing and not the existing ground floor windows unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4. In the event that the kitchen extract vent to window G08 (Laundry) on drawing no. 22-04_PL06 is to be removed, the opening shall be made good with a window to match other windows above the transom in this 4-light window unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7.0 Appendices

7.1 Appendix 1 – Senior Conservation Officer's Comments

North Hertfordshire District Council

Building Conservation comments

File Ref: 22/00170/FP & 22/00171/LBC

Date: 23/05/2022

Planning Officer: SE

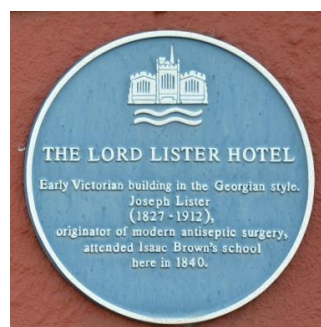
Address: The Lord Lister Hotel, 1 Park Street, Hitchin, Hertfordshire SG4 9AH

Subject: Change of Use from Hotel (C1) to Sui Generis (accommodation with support) and associated external alterations (as amended by plans and additional information received on 6 May 2022) and Change of Use from Hotel (C1) to Sui Generis (accommodation with support) and associated external and internal alterations (as amended by plans and additional information received on 6 May 2022).

1.0 Context

- 1.1 The Lord Lister Hotel is grade II listed and is located in the Hitchin Conservation Area. The building and the area are, therefore, Designated Heritage Assets for the purpose of applying the aims of the National Planning Policy Framework (NPPF). The list entry for this property reads as follows:

Early C19. Stucco, Welsh slated roof. 3 storeys, eaves cornice with paired brackets. 4 flush set windows with glazing bars, sashes to lower floors, casements to 2nd floor. Centre doorway has pilasters, entablature. Yard entry on right. Joseph Lister (1786-1869) educated at a school here.



- 1.2 Is the intention for the building to retain its current name or is this to be removed from the front elevation – if so I suggest that this is included in the description for the LB application?
- 1.3 An 1885 photo in the book entitled 'Old Hitchin' depicts the building at Bull Corner (The Triangle) with external shutters to ground floor windows and light coloured stucco.
- 1.4 On 21/01/1985 under ref: 84/01873/1, planning permission was granted for 'Alteration and conversion of outbuilding to facilitate its use as four additional bedrooms in association with existing hotel' (see left-hand image below) whilst under ref: 17/04422/FP, planning permission was granted for 'Erection of detached two storey building to provide manager's flat over existing parking bays' for which I gave no comment so the recommendation was made without any conservation input (see right-hand image below)

- 1.5 I am slightly confused by 4.4 of the submitted Design, Access and Planning Statement (January 2022) in which it states:

*“The ‘managers apartment’ which is located above the four car parking spaces (reference 17/04422/FP) next to the outbuilding will be used by staff working on the Site. No changes are proposed to this building and **will remain as is.**”*

This apartment has not currently been built, therefore, I take it that the comment that this ‘will remain as is’ is a reference to the planning permission and not to a building already erected?



- 1.6 I suggest that the descriptions are slightly amended as follows:

- **22/00170/FPH**
Change of Use from Hotel (C1) to Sui Generis (accommodation with support). Installation of external CCTV cameras. Erect 1.8m double-leaf timber swing gates within carriage entrance and erect 1.8m fence with 0.3m trellis on northern boundary (as amended by plans and additional information received on 6 May 2022).
- **22/01171/LBC (note comment at 1.2)**
Internal and external alterations to facilitate change of use from Hotel (C1) to Sui Generis (accommodation with support) (as amended by plans and additional information received on 6 May 2022).

- 1.7 At 2.2 of the submitted Design, Access and Planning Statement (January 2022) it states that:

“.... The existing hotel has 24 self-contained rooms which include 4 bed spaces which are located in the two blocks to the rear of the Site. There are 10 existing car parking spaces which are accessed through the coach entrance....”

2.0 Local Plan / NPPF

- 2.1 The emerging North Hertfordshire Local Plan 2011-2031 Incorporating the Proposed Main Modifications (November 2018) and further Proposed Modifications (May 2021) is nearing adoption and the policies within carry material weight i.e. Policy HE1. In addition, the relevant paragraph numbers for heritage matters are at Section 16 of the July 2021 and are as follows:

197. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*

c) the desirability of new development making a positive contribution to local character and distinctiveness.

199. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

200. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.....

202. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

206. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

3.0 The proposal

- 3.1 The key issue is to assess the impact of the internal and external alterations on the special character of this listed building and the impact of the fencing on the northern boundary upon the setting (and hence significance) of The Lord Lister Hotel.

Interior (general)

- 3.2 The proposals are relatively 'light touch' with the only works undertaken pre site visit being the installation of CCTV cameras, some new lighting, removal of wall hangings and general redecoration which have not harmed the building's special character. The former hotel rooms remain as currently laid out with no internal works such as removing or erecting stud walls or doorways. The following 'before' and 'after' images give an idea as to the extent of works undertaken to date. I then turn to specific aspects of the proposals.

Hallway



Smaller Meeting Room



Office



Large Meeting Room



Kitchen



Internal doors

- 3.3 Only two doors are proposed to be replaced with FD60's and these both relate to the office. One door has been plain lined on the office side. The

replacement of both doors with new 6-panel FD60's to match existing doors onto the hallway is considered acceptable and will not occasion harm to the building's special character. I advise that the same or similar ironmongery is used.



Secondary glazing

- 3.4 Generally, this Authority has taken the view that secondary glazing, if designed and fitted well, does not materially affect the special character of a listed building and therefore does not require listed building consent and in some cases Certificates of Lawfulness of Proposed Works to a Listed Building have been granted. Each case is looked at on its own merits and because this aspect of the scheme is included within the application I will comment accordingly.
- 3.5 One problem that can arise with buildings of this type is introducing secondary glazing where there are shutters. There is one such case of this in the rear Meeting Room and where shutters extend across a 2-over-2 Victorian sash. The window and shutters are, in my opinion, of moderate significance and it is understood that the secondary glazing frame will be fixed to the front face of the internal architrave allowing the shutters to still operate. Secondary glazing is discouraged to this window but it is understood that it is necessary from a Secure by Design perspective. The detailing of this opening would not be so significant as to occasion harm.



- 3.6 It is acknowledged that the 'SUREGUARD SECURITY WINDOW FILM' is proposed to be applied to the secondary glazing of the ground floor windows which will screen the windows internally and will have some limited impact upon the appearance of the windows when viewed externally. It is also acknowledged that this is proposed due to the use and would not be a detail that one would readily apply if this was let's say, a dwellinghouse. Both the installation of secondary glazing together with its security film is ultimately removable and the alterations reversible, so would not be to the extent of causing actual harm to the significance of the windows or to the listed building as a whole.
- 3.7 What is important is the method of opening and where there are vertical sliding sashes that a vertical sliding system will be deployed and where a

different method of opening exists i.e. the top-hung, outward opening windows to the kitchen, a horizontal sliding system is installed.



- 3.8 Even if there is a concern regarding the installation of secondary glazing and applying a window film it should be noted that in 2005, listed building consent was granted under ref: 05/01313/1LB for the 'Replacement of all front elevation windows in timber'. Assuming that consent was implemented, the windows to the front elevation are not of historic value but do possess aesthetic interest. Furthermore, I observed on site that there is an eclectic array of window types on the south (side) elevation ranging from traditional vertical sliders, top-hung, bottom-hung, later poorly detailed sliders and even Upvc replacements at second floor. There are no proposals to replace these windows but there is scope, in my opinion, to significantly improve the fenestration on this side of the building.



Window to proposed laundry

- 3.9 One issue has arisen with respect to this window. The kitchen extract vent is no longer in use and is a detracting feature both internally and externally. I have advised that it would be a significant improvement if the opening reverted to a window to match the other windows above the transom. Ideally, a before and after elevation should indicate this change, otherwise, may be this could be covered by condition? In addition, the suggestion is that the metal hopper vent brackets to the two central windows are removed to facilitate the installation of the secondary glazing. This would be considered 'de minimis' and unobjectionable.



Fireplaces

- 3.10 At my site visit, I noted two fireplaces of special interest (assuming these not be replicas) and a much later (maybe inter-war brick/tile fireplace in the hall). I was unable to inspect Room A1 for fireplaces. The fireplaces are to remain.

Smaller meeting room



Office



Hall



Erect 1.8m double-leaf timber swing gates within carriage entrance

- 3.11 At 5.6 of the submitted Design, Access and Planning Statement (January 2022) it states that:

“The installation of the access gates will be to the rear of the coach entrance and so will not be visible or attached to the principle (sic) façade. The very limited changes to the external appearance of the building will preserve the character of Hitchin Conservation Area and would cause no harm to this heritage asset.”

I am satisfied that this will not harm the listed building’s special character or harm the character or appearance of the Hitchin Conservation Area.

Erect 1.8m fence with 0.3m trellis on northern boundary

- 3.12 I note the SUPPORTING STATEMENT FOR SECURE BY DESIGN MEASURES (May 2022) in which it says:

“Installation of a new boundary fence next to the Half Moon PH along the entire length. This has been requested by the Half Moon PH and will also help the site’s own privacy, as in the middle of the boundary the fence line falls. There is an existing brick wall where the current outdoor/patio area is which can be the height to have the new fence.”

- 3.13 The wall in the image below was built pre-1st July 1948 and assuming that it was in the same ownership as The Lord Lister Hotel at the time of listing in 1951, I take the view that the wall is curtilage-listed. It is proposed to increase the height of this boundary with fencing/trellis.



- 3.14 Technically, increasing the height of part of this boundary by placing a fence/trellis on top of this wall requires listed building consent but the fact that the erection of a gate, fence, wall or other means of enclosure surrounding a listed building requires planning permission anyway, I am satisfied that the boundary treatment need only be dealt with under the planning application. I am also satisfied that this will not have an erosive impact upon the setting of

The Lord Lister Hotel, therefore, will not harm its significance and will not harm the character or appearance of the Hitchin Conservation Area.

CCTV cameras

- 3.15 Several cameras are proposed both internally and externally as follows and I consider that these would not harm the building's special character:

Listed Building

- 2no. external front elevation
- 5no. external on LB to side and rear
- 7no. ground floor
- 8no. first floor
- 2no. second floor

New block

- 1no. external to new build block
- 1no. ground floor
- 1no. first floor

4.0 Summary

- 4.1 At 5.5 of the submitted Design, Access and Planning Statement (January 2022) under the heading 'Impact on the Listed Building and Conservation Area' it states

*"The Proposed Development is only seeking to change the operational use of the Site internally with very limited changes internally and externally. **The impact on the building based on the listing description is nil**; the only external change on the principle (sic) façade will be the installation of a single CCTV camera which will provide security to the front entrance door."*

- 4.2 The above may be a little misleading in that a.) there is an impact on the listed building overall and even if the listing only related to the façade (which is not the case) the 2no. CCTV cameras, the film applied to the secondary glazing behind ground floor front windows and the installation of the 1.8m gates to the rear of the carriageway will have some impact on the building as viewed from the front and b.) drawing no. 22-04_PL02 Rev A shows that there are 2no. CCTV cameras proposed at the front and not one as stated at 5.5 of the DAPS.
- 4.3 Generally, the internal and external works are 'light touch' including the fact that the former hotel rooms remain as currently laid out with no internal works such as removing or erecting stud walls or doorways.

5.0 Suggested conditions (LBC only).

1. The work to which this consent relates shall be begun by not later than the expiration of the period of 3 years from the date of this notice.

Reason: To comply with the provisions of Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The replacement doors to the office shall be FD60 6-panelled doors with panel proportions to match other doors off the hallway and utilising

existing ironmongery (or new to match) unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The security window film shall only be applied to the new secondary glazing and not the existing ground floor windows unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4. In the event that the kitchen extract vent to window G08 (Laundry) on drawing no. 22-04_PL06 is to be removed, the opening shall be made good with a window to match other windows above the transom in this 4-light window unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.0 Recommendation

- 6.1 Paragraph 197 of the NPPF says that in determining applications, local planning authorities should take account of *'the desirability of new development making a positive contribution to local character and distinctiveness'* whilst at paragraph 200 it says that *'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.....'*
- 6.2 It is considered that the proposed works would not occasion harm to the listed building 's special character or its setting or, in terms of the external works, harm the character or appearance of the Hitchin Conservation Area. Subject to the above conditions, I raise **NO OBJECTION** on the basis that the proposal will satisfy the provisions of Sections 16(2) (LBC only), 66(1) (PP only) and 72(1) (both) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims of Section 16 of the NPPF and the aims of Policy HE1 of the emerging North Hertfordshire Local Plan 2011-2031 Incorporating the Proposed Main Modifications (November 2018) and further Proposed Modifications (May 2021).

















Mark Simmons
Senior Conservation Officer

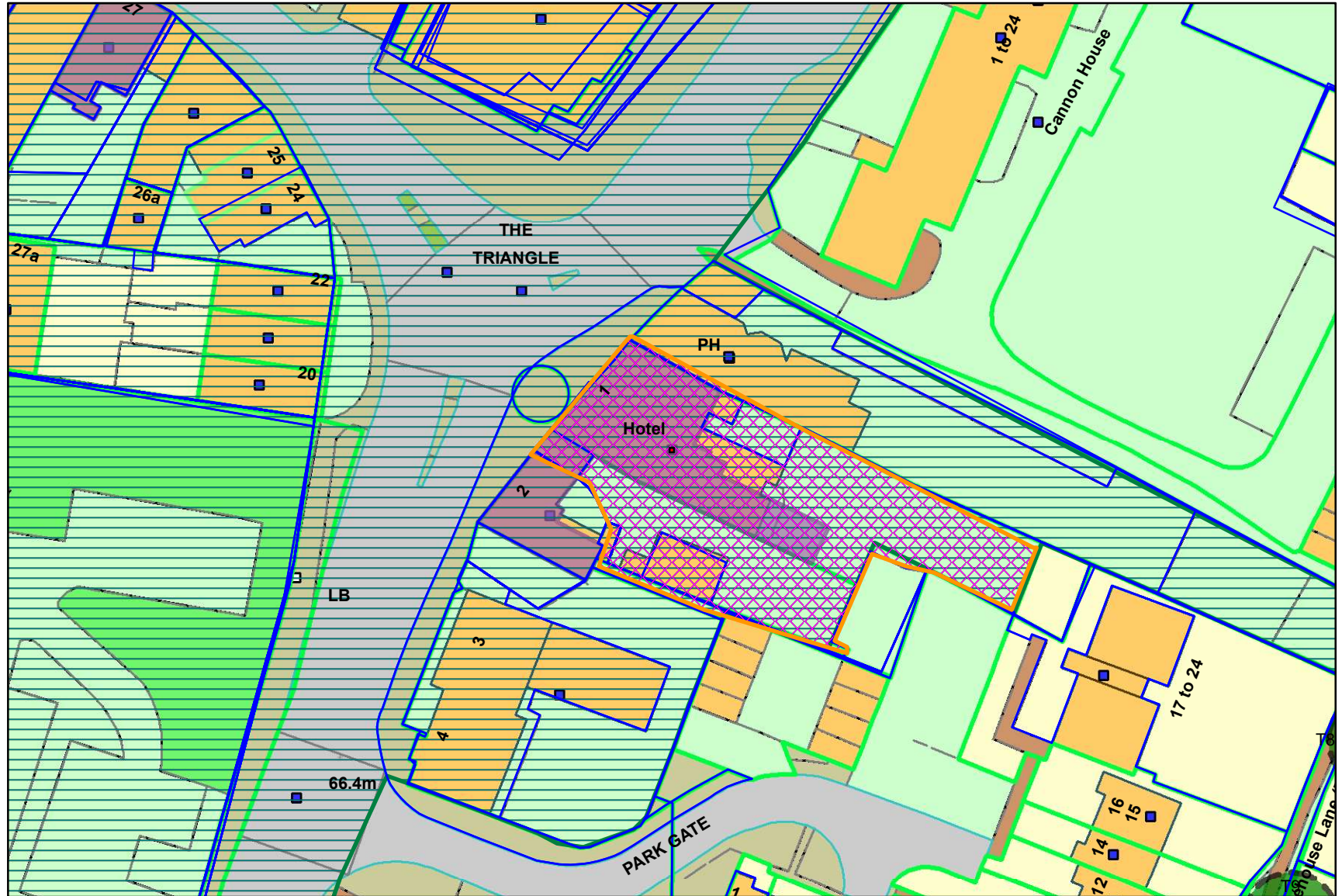
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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

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ORACLE
-  Tree Preservation Order (Group)
ORACLE
-  Parish Boundary
Prparish.shp
-  Conservation Area
Prconrea.shp
-  District Local Plan Boundary
Prdlp2.shp
-  Green Belt
Prgrnbt.shp
-  Health & Safety Consultation Zone
Prhznzone.shp
-  Landscape Conservation
Prlandca.shp
-  Ward Boundary
Prwardcd.shp
-  Noise Nuisance Indicators
Prnnis.shp
-  Indicative Flood Plain
Prifpm.shp



Scale 1:625

Date: 07/06/2022

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<u>Location:</u>	Burford Grange Bedford Road Ickleford Hitchin Hertfordshire SG5 3XG
<u>Applicant:</u>	*
<u>Proposal:</u>	Erection of 48 dwellings with associated access, parking, private and public amenity space and associated works, following demolition of existing buildings (as amended 10th June 2021, additional drainage information on 20 April 2022 and revised off site highway works 16 May 2022)
<u>Ref. No:</u>	19/01106/FP
<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 19th August 2019

Extension of statutory period: 30th July 2022

Reason for delay:

Ongoing negotiations, amendments to the proposals and finalising of a Section 106 Agreement

Reason for referral to Committee

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

Members should be aware that should they be minded to approve the application, this would be a 'resolution to grant' subject to the need to refer the application to the Secretary of State for Levelling Up, Housing and Communities in accordance with The Town and Country Planning (Consultation) (England) Direction 2021.

1.0 Site History

None relevant

2.0 Policies

2.1 North Hertfordshire District Local Plan (Saved Policies)

Policy 2: Green Belt

Policy 14: Nature Conservation

Policy 16: Archaeological Areas of Significance and other Archaeological Areas

Policy 26: Housing Proposals

Policy 51: Development effects and planning gain
Policy 55: Car Parking Standards
Policy 57: Residential Guidelines and Standards

2.2 National Planning Policy Framework (2021)

Section 2: Achieving sustainable development
Section 5: Delivering a sufficient supply of homes
Section 6: Building a strong competitive economy
Section 8: Promoting healthy and safe communities
Section 9: Promoting sustainable transport
Section 11: Making effective use of land
Section 12: Achieving well-designed places
Section 13: Protecting Green Belt land
Section 14: Meeting the needs of climate change
Section 15: Conserving and enhancing the natural environment

2.3 North Hertfordshire District Local Plan 201 – 2031 (Emerging Local Plan)

Site IC2 – Land at Burford Grange
Policy SP1: Presumption in favour of sustainable development
Policy SP2: Settlement Hierarchy
Policy SP5: Countryside and Green Belt
Policy SP6: Sustainable Transport
Policy SP7: Infrastructure requirements and developer contributions
Policy SP8: Housing
Policy SP9: Design and Sustainability
Policy SP10: Healthy Communities
Policy SP11: Natural Resources and Sustainability
Policy SP12: Green infrastructure, biodiversity and landscape
Policy D1: Sustainable Design
Policy D3: Protecting living conditions
Policy D4: Air Quality
Policy HS3: Housing mix
Policy NE1: Landscape
Policy NE8: Sustainable Drainage Systems
Policy NE12: Renewable and low carbon energy development
Policy T1: Assessment of Transport matters
Policy T2: Parking

2.4 Supplementary Planning Guidance

Design SPD
Planning Obligations SPD
Vehicle Parking Provision at New Development
North Hertfordshire and Stevenage Landscape Character Assessment

2.5 Hertfordshire County Council

Local Transport Plan (May 2018)
Guide to developer infrastructure contributions (July 2021)

2.6 Ickleford Parish Council Neighbourhood Plan

The IPCNP Area was designated in September 2014. The Plan is currently in its early consultation stages and as it is not adopted or part of the Development Plan for the district at this stage, does not carry any material weight in the determination of planning applications.

3.0 Representations

3.1 Statutory consultees:

Ickleford Parish Council:

Raises a **strong objection**. Full details of the are set out in the Parish Council's letter on the revised scheme of 7th October 2021 and 8th December 2021. Comments and objections include the following matters :

- The Land is of good quality grass/grazing and is situated within the Green Belt and should remain as a buffer to prevent the impact of urban sprawl.
- There is insufficient parking, especially for the larger families and visitors, and privacy is lacking for neighbouring properties.
- The Flood Risk and Waste Drainage/Sewerage System direction **are of utmost importance for the protection of neighbouring properties and the whole village.**
- There is serious risk to this area's Ecology, due to the loss of Green Belt and the inevitable pollution both from light and ingress into the rare chalk river. The Environmental report carried out by the developer is inadequate.
- Local Planning Authorities must ensure that there is no net loss in the biodiversity of proposed developments and that habitat connectivity, through wildlife corridors, must be protected. Once destroyed the dependent wildlife do not recover.
- The Travel and Transport Statement shows no consideration to the car driver, the pedestrian, existing local traffic, the restrictions of the Bedford Road, vehicle emissions and more importantly negotiating public transport outside of working hours.
- S106 Monies should be made available to the village and its facilities and school.
- IC2 should not be developed bearing in mind the latest National Statistics projection.
- Concern at encroachment onto land owned by The Paddocks
- **With the future Planning Application of 70 homes being proposed for the 'brown field' site at the Bowmans Flour Mill in Ickleford, this location would have been far more suitable and larger for Local Plan inclusion than IC2 Burford Grange. With the world ecology now in crisis, every effort must be taken to protect small pockets of land, especially if they are already within the Green Belt and sited next to a nature reserve as is the case with IC2. With careful overseeing of this 'brown field' site, encouraging the developers to be carbon neutral to include every form of modern technology available to disperse sewerage, wastewater and runoff water, without having to use natural sources like rivers, it would save the future of sites like IC2**

Police Crime Prevention Design Advisor: supports the application. Recommends advisory if permission is to be granted.

Waste and Recycling: Advises that overall, waste provision and collection looks to be well thought out. Provided detailed advice on bin storage and pull distances.

NHDC Environmental Health officer (contamination):
Recommends a land contamination condition

NHDC Environmental Health officer (air quality)
Recommends an Electric Vehicle charging infrastructure condition

NHDC Environmental Health officer (noise)
Recommends a condition and an informative

NHDC Housing Supply Officer
Advises that the applicants proposals as revised does not meet the requirements of the housing need identified in the 2016 SHMA update as there is no provision for flats. Comments on various aspects such as spread through out the site, the requirement to meet minimum size standards for bedrooms and parking provision.

HCC Natural and Built Environment (Archaeology)
Recommends the attachment of archaeological Written Scheme of Investigation conditions should permission be granted.

Hertfordshire Ecology
No response

NHS East and North Hertfordshire Clinical Care Commission Group
Requests financial contributions towards General Medical Services (GP provision) and Acute healthcare provision

Natural England
Has no comments to make on this application. Advises LPA's to obtain specialist ecological advice.

HCC Spatial and Land use team
Asks the Council to have regard to Minerals and Waste management in determining the application.

UK Power networks:
No response

Police Architectural Liaison officer
Requests an Informative that the applicant contact the Police Crime Prevention Design Service to obtain SBD accreditation. Supports the application.

Anglian Water
Advises that the sewage system at present has available capacity for these flows. On surface water disposal Anglian recommend disposal to a sustainable drainage system (SuDS) with connection to a sewer. Recommends advice is sought from the Lead Local Flood Authority regarding the suitability of surface water management. Recommends informatives with regard to used water network.

HCC Rights of Way Unit :

No response

HCC Growth & Infrastructure:

Seeks financial contributions towards Primary education, Nursery education, Childcare service, Secondary education, Special Educational Needs and Disabilities, Library service and Youth service.

The County Council also seeks the provision of fire hydrants

Lead Local Flood Authority:

Objection raised in revised letter dated 22nd March 2022. Provides advice on addressing the concerns.

Hertfordshire Highways:

Amended comments received June 2022: Raise no objections to the proposed development subject to conditions and highway informatives.

Herts and Middx Wildlife Trust

Objection. Biodiversity Net Gain not demonstrated.

Bedfordshire and River Ivel Drainage Board

Advises that the site is outside of the Board's district and therefore has no comments to make.

Environment Agency:

Advises no objections. Provides advice re Environmental Permit

Neighbour and Local Resident Representations :

A total of 22 representations have been received including 10 objections . The full comments can be viewed on the Council's web site. The objections and issues raised include the following matters :

- Concern over ecology, wildlife habitat and environmental issues
- Inadequate ecological survey
- Drainage issue not addressed
- Incomplete tree survey
- Environmental Risk Assessment needed and Air Quality monitoring report
- Concern at Green Belt development / joining Ickleford and Hitchin
- Premature in advance of the adoption of the local plan
- Concern at Traffic impact on Bedford Road
- Detrimental to highway / pedestrian safety
- Concern at housing density / mix and unacceptable design
- Loss of privacy/ boundary issues
- Concern at flood risk prevention measures
- Concern over foul water disposal
- Concern at retaining walls/ loss trees and hedgerows
- Development will overload local infrastructure (e.g. schools)
- Noise and disturbance to residents
- Housing not needed to meet local plan provision due to other windfall / brownfield sites being developed / proposed in the village

Additional comments received in response to the latest amended plans (including pedestrian crossing) :

- Welcome pedestrian crossing but request extension of southern footpath to The Paddocks
- Continuing failure to address wildlife habitat issues
- Continuing failure to address boundary issues

4.0 Planning Considerations

4.1 Site and Surroundings

4.1.1 The application site is a grassed field/paddock located extending to about 2.4 hectares off the A600 Bedford Road. The site currently also contains a large dwelling and outbuildings (Burford Grange). The site lies to the south west of the main part of Ickleford village and just to the north of the current settlement boundary of Hitchin. Residential gardens attached to properties in Westmill Lane adjoin the northern boundary of the site whilst to the south the site adjoins 'The Paddocks' and its residential and paddock curtilage. The River Oughton flows in an west – east direction immediately to the south of 'The Paddocks'. Oughton Head Common and Nature Reserve is located to the south and west of the site.

4.1.2 The whole of the application site lies within the Green Belt and the Parish of Ickleford. The site is allocated for housing within the emerging local plan (eLP) with a dwelling estimate of 40 homes (Site IC2).

4.1.3 The topographical information submitted with the application show a gentle fall in levels from north to south across the site and from east to west. There are a number of trees within the site, predominantly within the residential curtilage of the existing dwelling located towards the Bedford Road frontage.

4.2 Proposal

This application seeks full planning permission for 48 dwellings with associated access road including new junction onto the A600, car parking, landscaping and all ancillary works. The proposals also include off site highway works to provide a signalised pedestrian crossing across the A600 and the provision of footpaths on the western side of the A600 north and south of the site with the northern footpath linking to a new northbound bus stop facility.

The application is supported by the following documents:

- Revised Planning Design and Access statement
- Road Safety Audit (Lime Transport May 2022)
- Technical Note (Pedestrian crossing and bus stop provision) (Lime Transport May 2022)
- Flood Risk Assessment (PTA, September 2021)
- Energy Strategy statement
- Ecological Survey and Biodiversity Net Gain assessment
- Archaeological Desk Based Assessment
- Statement of Community Involvement
- Tree Report
- Arboricultural Impact Assessment

- Noise Assessment
- Transport Statement
- Air Quality Assessment
- Design and Access statement

4.2.1 The total number of dwellings at 48 represents a 20% increase (by 8 units) on the dwelling estimate of 40 units in the site allocation in IC2 in the emerging local plan.

4.2.2 The layout of the proposed development is defined by a central access road off the A600 leading to an oval shaped community green space. The majority of the dwellings will front the access road and green. New landscaping is proposed throughout the site and along the site boundaries.

4.2.3 Traditional housing styles and materials are proposed with a combination of brick and weatherboarding. Full details will be secured by planning condition. All of the dwellings including terrace blocks are two storey with traditional eaves height of around 5.5m.

4.2.4 There is proposed to be a mix of house types and sizes as set out below:

1 x 2 bed flat over garage
 14 x two bedroom houses
 4 x three bedroom houses
 21 x four bedroom houses
 8 x five bedroom houses

There will be 19 affordable housing units (39.6%) and 29 open market units (60.6%). The 29 open market units will consist of:

21 x four bedroom houses
 8 x five bedroom houses

4.3 Key Issues

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

- Policy background and the principle of development in the Green Belt
- Whether the development would be inappropriate in the Green Belt
- Impact on openness and the purposes of including land within the Green Belt
- Any other harm including
 - Prematurity
 - Impact upon heritage assets
 - Impact on the character and appearance of the area
- Living conditions
- Impact on the highway network and access and parking matters
- Environmental considerations
- Sustainability assessment
- Whether there are any Very Special Circumstances
- Planning obligations
- Planning Balance and conclusion

4.3.2 **Policy background and principle of development in the Green Belt**

4.3.3 The site lies within the open countryside within the Green Belt and therefore Saved Policy 2 of the District Plan applies, which states:

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

4.3.4 This policy is consistent with the approach to Green Belt in National Policy as set out at Section 13 of the National Planning Policy Framework (NPPF). Paragraph 137 of the NPPF confirms that the Government attaches great importance to Green Belts, where the fundamental aim of policy is to prevent urban sprawl by keeping land permanently open.

4.3.5 The Green Belt serves five purposes, these are set out at paragraph 138 of the NPPF and are:

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

4.3.6 **Inappropriate development in the Green Belt**

4.3.7 Paragraph 147 of the NPPF confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal does not fall within any of the exceptions to this approach to development in the Green Belt as set out at paragraphs 149 and 150 of the NPPF. The applicant accepts that the proposed development is inappropriate in the Green Belt but considers that there are material considerations in this case that constitute very special circumstances. Paragraph 148 of the NPPF stipulates that substantial weight must be given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations. Before considering whether very special circumstances exist the harm to openness and purposes of the Green Belt are considered.

4.3.8 **Openness and purposes of the Green Belt**

4.3.9 The fundamental aim of the Green Belt and Green Belt Policy is to prevent urban sprawl by

keeping the Green Belt permanently open and that the essential characteristics of Green Belts are their openness and permanence.

- 4.3.10 One of the main considerations in this assessment is how built-up the Green Belt is now and how built-up it would be if the proposed development occurs. The existing site comprises a grassed paddock and domestic curtilage with a single dwelling and outbuildings.
- 4.3.11 The proposed development for 48 dwellings would result in built form in terms of residential development and associated infrastructure. There would be significant spatial impact upon the openness of the Green Belt because of the number and scale of dwellings proposed. The North Hertfordshire Green Belt Review 2018 assesses the site as making a significant contribution to Green Belt purposes.
- 4.3.12 The National Planning Practice Guidance and recent case law confirm that there is not only a spatial dimension to openness but a visual one. In terms of case law, the Supreme Court has recently clarified that assessment of visual openness is not required as a matter of law but may be considered as a matter of planning judgement. The northern part of the site is close to existing built development in Westmill Lane and the site forms part of a relatively narrow gap between Westmill Lane and the built up edge of Hitchin located to the south. The eastern part of the site is already partially developed with a dwelling and outbuildings. There is residential development to the north east with the newly completed Jarvis development and a group of dwellings east of Burford Ray bridge along the River Oughton. The A600 Bedford Road is a major road linking Hitchin to Ickleford and northwards to Stondon and Henlow. The character of the site and the immediate area is that of an urban and village fringe location .
- 4.3.13 The application site is relatively well contained within the landscape. There are no public footpaths that run alongside the site. Restricted by-way 001 runs alongside the river Oughton to the south however views out from the bridleway towards the site are restricted by trees. The site frontage would be visible from views along the A600 however this part of the site is already partially developed. There are also private views of the site from properties along Westmill Lane and from 'The Paddocks' to the south. It is clear that the proposed development will significantly alter the currently predominantly open character and appearance of the site as viewed from nearby public and private vantage points.
- 4.3.14 Therefore, the proposed development would result in harm to the openness of the Green Belt in terms of both its spatial and visual aspects and paragraph 148 of the NPPF confirms that any harm to the Green Belt attracts substantial weight.
- 4.3.15 Paragraph 138 of the NPPF identifies five purposes of the Green Belt, these are:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.3.16 In terms of the purposes of the Green Belt, the site is proposed to be removed from within the Green Belt in the emerging local plan and is allocated for housing as part of the housing land provision within the emerging Local Plan. As part of the evidence base for the Local Plan, the North Hertfordshire Green Belt Review 2016 (NHGBR) divides the Green Belt into areas for assessment of the contribution at respective parcels of land make to the openness and purposes of the Green Belt.

4.3.17 The evidence base for the emerging Local Plan (ELP) includes the Green Belt Review Update 2018 (GBRU) (ref ED161A) which considers the prospective impact of the proposed allocation on the purposes and openness of the Green Belt. Regarding site allocation IC2, the GBRU finds overall that the site makes a 'moderate' contribution to the purposes of the Green Belt. In terms of the individual purposes of the Green Belt the site (ref: 40) is found to have limited contribution to purposes (b) and moderate contributions to (c) and (a). Only (b) is scored as having a significant contribution.

4.3.18 Therefore, the site has been assessed against the purposes of the Green Belt within the GBRU. The overall effect upon the five purposes is **moderate** in the light of that assessment. Concerns have been raised that the proposed development would lead to a coalescence of Hitchin with Ickleford. However, this would not be the case as open land would remain between the southern boundary of the site and the urban edge of Hitchin.

4.3.19 Any other harm

4.3.20 Under the provisions of paragraph 148 of the NPPF, any other harm resulting from the proposal should be taken into account, very special circumstances will not exist unless other considerations clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. The Courts have confirmed "any other harm" to mean any harm relevant for planning purposes, which can include factors unrelated to the Green Belt in the planning balance, such as heritage harm or harm to highway safety. Having assessed the harm to the Green Belt, outlined above, this report will now go through each of the key material considerations applicable to this proposal to identify and attribute weight to any other harm which may arise from the proposed development.

4.3.21 Prematurity

4.3.22 The allocation of this site in the ELP is discussed later in this report. In terms of prematurity, paragraph 50 of the NPPF confirms that *"refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination... 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 outcome of the plan-making process."*

4.3.23 It is your officers' view that the scheme is relatively small in terms of the housing land requirement in the ELP and whilst this would make a significant contribution to the local housing land supply, it would be a modest extension to Ickleford which had over 800 dwellings in the Parish as of the 2011 census. The proposal would not be of a scale to undermine the ELP and the plan making process.

4.3.24 Moreover, in a recent appeal decision for 167 dwellings at Heath Lane, Codicote (APP/X1925/W/21/3273701), the Inspector in considering a site within the Green Belt allocated for housing in the ELP found that there was no basis for refusing permission on grounds of prematurity for that site. Furthermore, it is also worth drawing attention to the Council's current housing land supply of 1.47 years which is a significant shortfall on the minimum 5-years supply required by the NPPF.

4.3.25 In addition, in January 2022, the Government released the latest Housing Delivery Test results for local authorities. This is a measure of new homes built in the preceding three years against either Local Plan targets (where these are adopted and up to date) or the Government's 'standard method' figures for new homes. The latest results state that North Hertfordshire delivered just under half of the number of new homes required (49%). This is a similar result and position to the previous Housing Delivery Test results.

4.3.26 In the light of the above considerations, it is considered that it would not be reasonable to refuse this application on prematurity grounds. A refusal could not be substantiated at an appeal, and the Council would risk an award of costs, as occurred in respect of the appeal at Heath Lane, Codicote.

4.3.27 Impact upon heritage assets

4.3.28 The site is not within or does it adjoin a Conservation Area and there are no nearby listed buildings or scheduled monuments.

4.3.29 The site has the capacity to contain archaeological remains. ELP Policy HE3 addresses non-designated heritage assets and indicates that planning permission for a proposal that would result in harm to non-designated heritage assets will only be granted where a balanced judgement has been made to assess the scale of harm. In terms of archaeology, ELP Policy HE4 sets out the circumstances where development proposals affecting heritage assets with archaeological interest will be granted, and this includes the submission of a desk-based assessment, demonstration of how archaeological remains will be preserved and the use of appropriate conditions. An Archaeological Desk Based assessment by CgMs Heritage accompanies the application. This assessment confirms that the site has the potential to have archaeological remains, this potential is moderate in respect of the Pre-historic and Roman period and a limited potential for all other periods. It is considered that this is a material consideration in the planning balance that can be adequately addressed by planning conditions. The County Council's Historic Environment Advisor has requested conditions in this case.

4.3.30 Impact on the character and appearance of the area

- 4.3.31 Saved Local Plan Policy 57 (Residential guidelines and standards) states that each housing site is unique and requires that the character of each new development relates to that site's physical shape and existing features, and the character of the surroundings whether urban or rural. Policy D1 of the ELP states that planning permission will be granted if development proposals respond positively to the site's local character, among other things.
- 4.3.32 Whilst the site lies within Ickleford Parish, it is effectively detached from the main built up part of the village. Development of the site with a relatively low density housing scheme together with open space will have no significant effect on the character of the village itself particularly its historic core. Indeed, the provision of a new area of open space within the site will have some commonality with and complement the existing open spaces in the village such as The Green and the area around Chambers Lane. The density, scale and form of the development would be similar to more recent developments within the village such as Ickleford Mews.
- 4.3.33 Policy IC2 sets out various criteria for the development of the site including the retention of planting at the south and west of the site to ensure the integrity of the revised Green Belt boundary. The soft landscape proposals (drawings CALA 20697 11B sheets 1 and 2) propose some retention of trees along these boundaries and some removal of existing landscape features however it is not considered that the scheme is sufficient to provide a well landscaped boundary to the site to meet the above criteria. This matter is capable of being dealt with by condition as it would not affect the general layout of the site or position of dwellings as currently proposed.
- 4.3.34 The development would include a landscaped frontage to Bedford Road with built development set well back from the highway boundary in keeping with the existing character. Generally the new dwellings would be inward facing onto the access road and green with gardens to the majority of the dwellings backing onto the site boundaries. This relatively undeveloped periphery between the developed core of the site and the site boundaries consisting mainly of lawns and planting provides an acceptable integration with the adjoining residential gardens and property to the north and south of the site. The more urban characteristics of the development in the form of access roads, street lighting, parking bays and footpaths would be generally limited to internal views but even then mitigated by new street planting and the village green feature.
- 4.3.35 The density of the site would be around 20 dwellings per hectare which is appropriate for this urban / village fringe location and reflects the generally low density of housing in the immediate locality.
- 4.3.36 The development would have a largely localised impact on the existing landscape and visual amenity taking into account existing surrounding development and the existing urbanising impact of the A600 past the site. With the proposed mitigating landscaping it is considered that the proposal would have limited harm to the character and appearance of the area.
- 4.3.37 Overall, the proposal would deliver a high quality housing environment that responds to local character and would accord with saved Policy 57 and eLP policies D1 and IC2.

4.3.38 Living conditions

- 4.3.39 In terms of impact on existing residents the proposed new dwellings would be between 30 and 60 metres from the nearest adjoining dwellings to the north or south of the site. These separation distances together with intervening landscaping and the modest two storey height of the new houses will ensure that there would be no adverse impact on the surrounding occupiers amenity particularly in terms of privacy and light. The orientation of the development to the north of 'The Paddocks' would ensure no undue loss of daylight or sunlight. The properties to the north of the development in Westmill Lane have substantial and long back gardens and as such will also not be affected in terms of daylight or sunlight.
- 4.3.40 There will inevitably be some noise and disturbance during the construction phase of the development however this will be relatively short term and can be managed through planning conditions and informatives including a Construction Traffic Management Plan. The concerns of residents and other parties with regard to the construction phase are acknowledged however any harm would be fairly minor and considered less than substantial in the overall planning balance.
- 4.3.41 In terms of living conditions for the prospective occupiers the key issues are noise, air quality, space standards, amenity space provision and waste and recycling provision. A Noise Assessment has been submitted which identified Bedford Road as the main noise source from road traffic. The noise survey revealed the eastern boundary as being subject to the highest noise levels (between 47dB and 65 dB). The assessment calculated that using standard masonry construction, standard thermal double glazing and trickle ventilation that internal noise levels would comply with the WHO (World Health Organisation) guidelines in the 'worst case' scenarios. With regard to external noise levels the layout of the development has been designed to meet WHO guideline recommendations not exceeding 55dB. Overall, the proposed development is compliant with WHO Guidelines for Community Noise (1999) and therefore the site is suitable for residential development.
- 4.3.42 In terms of air quality an assessment forms part of the submission documents and has regard to ambient air quality legislation and national policy. The assessment methodology included the construction and operational phase. The assessment sets out how the development can mitigate against dust and pollution effects during the construction phase through compliance with the Institute of Air Quality Management guidance. In respect of the operational phase the site is not within an Air Quality Management Area and NHDC Air Quality Planning Guidance suggest the provision of Electric Vehicle charging points for dwellings both unallocated and allocated parking areas. The report concludes that the proposed Burford Grange development does not, in air quality terms, conflict with national or local policies and therefore there are no constraints to the development in the context of air quality.
- 4.3.43 The submitted planning statement confirms that all of the proposed dwellings exceed the minimum internal space standards set out in the 'Technical housing standards - Nationally Described Space Standards' produced by the DCLG in 2015.

- 4.3.44 The majority of the proposed dwellings comfortably meet the recommended external amenity standards set out in Policy 57 of the Saved local plan. Where there is under provision this is limited to a few dwellings and is slight and more than offset by the nearby community green and access to further open space nearby for example at Oughton Head Common. Open space provision (2,300 sqm) meets the Fields in Trust standard. Refuse and recycling storage provision is indicated for all dwellings within suitable collection distances from the access road.
- 4.3.45 Taking into account the above factors it is considered that the proposed development will result in satisfactory living conditions for both existing and proposed residents.
- 4.3.46 Impact on the highway network, access and parking**
- 4.3.47 The application is accompanied by a Transport Assessment which sets out the highway constraints and associated impacts. Following negotiations, revisions to the scheme including a signalised pedestrian crossing and bus stop on the Bedford Road have been secured.
- 4.3.48 In terms of traffic generation the proposal will generate up to 32 vehicle movements (two-way) in the AM peak period, up to 36 vehicle movements (two-way) in the PM peak period and 318 vehicle movements (two-way) over a 12 hour day (7am – 7pm). The Highway Authority is satisfied that the existing highway network, including the Turnpike Lane / Bedford Road junction can accommodate these flows without detriment to highway safety.
- 4.3.49 The Transport assessment takes into account takes into account the cumulative impacts of future traffic growth on currently under construction, current planning applications and planned sites in the area as part of the emerging local plan.
- 4.3.50 In terms of access the main vehicular and pedestrian access has been re-designed to accommodate large refuse vehicles whilst also accommodating pedestrians more safely. The carriageway into the site will be 6m wide reducing to 5m wide within the development.
- 4.3.51 The internal access road will have footpaths either side until it reaches the community green after which it will be a shared surface. The oval shaped route will allow for refuse vehicles to pass through and leave the site in forward gear without the need to turn.
- 4.3.52 Following negotiations a key new feature of the development is the proposed improvements to pedestrian and public transport facilities through the provision of a signalised pedestrian crossing across Bedford Road and the provision of a north bound bus stop near the site access. These features considerably improve pedestrian safety and encourage travel by sustainable modes. The detail of the new facilities is shown in the submitted technical note document by Lime Transport dated 19th May 2022.
- 4.3.53 In terms of parking at least two parking spaces will be provide for each unit with several of the larger units having up to four spaces (including garages). Garages are over-sized to meet the current standards (3m x 7m). At least 13 visitor parking spaces are provided off the main access road in various locations through out the site. It is

considered that this level of off-street parking provision is in accordance with current standards and sufficient to meet the parking needs of the development.

4.3.54 The Highway Authority raise no objections to the development and seek conditions and informatics should permission be granted. The Highway Authority state that the presence of the new access, the new bus stop, the signalised crossing and associated highway features will all contribute to a traffic calming effect along this section of the A600 and can reasonably be considered as having a wider public benefit.

4.3.55 Taking into account all of the above, including the conclusions of the highway authority, it is considered that the highway and associated impacts of the development are acceptable. It is also considered that the proposals meet the following two bullet points as a requirement of Policy IC2:

- Provision of a pedestrian crossing point over the A600 to connect to the existing footpath network and ensure safe access;
- Transport Assessment to consider the cumulative impacts of sites IC2, IC3 and LS1 on the junction of the A600 and Turnpike Lane for all users and secure necessary mitigation or improvement measures

4.3.56 Environmental considerations

4.3.57 Drainage and flooding

4.3.58 Policy IC2 requires that the proposal addresses existing wastewater infrastructure and provides a detailed drainage strategy. All of the site is within Flood Zone 1 of the Environment Agency's Flood Map within which there is a very low risk of flooding (i.e. less than 1 in 1000 annual probability of river or sea flooding). The river Oughton is 65 m to the south of the site.

4.3.59 The application is accompanied by a Flood Risk Assessment (revised September 2021) and Drainage Strategy layout. It recognises that a small area in the southwest corner of the site is at risk of flooding. The ditch in this location is at a lower level than the proposed houses and hardsurfaces and the FRA concludes that the overall risk of flooding from surface water is very low.

4.3.60 The surface water is to be collected via pipes, gullies and permeable paving and pumped to the east of the site to connect to a surface water drain in Bedford Road. The water will be treated for contaminants before being discharged from the site. Foul water drainage will consist of a pumped system connecting to a public sewer in Bedford Road. The FRA includes a full maintenance strategy and on-going maintenance of the system is to be secured through a management plan clause in the Section 106 Agreement.

4.3.61 Although no objections have been raised by the Environment Agency, the Lead Local Flood Authority have not agreed the Flood Risk Strategy and have requested further information including clarification on the options put forward and confirmation of landowner agreement. Furthermore, the LLFA require further SuDS control measures to deal with surface water attenuation and water quality treatment in line with HCC LLFA Policy 18 of the Local Flood Risk Management Strategy. It is considered that

these issues can be addressed through further technical evidence and detail by the applicants flood and drainage consultants. A suitably worded condition is proposed that would require the final surface water drainage strategy to be submitted to and agreed in writing by the Local Planning Authority. Discussions are on-going between the applicant and the LLFA and Members agreement is sought for officers to conclude this matter with the imposition of appropriately worded conditions.

Overall, the drainage strategy proposed so far and potentially subject to additional conditions, would address the impacts of this proposal in terms of drainage and flooding. There would be a neutral benefit.

4.3.62 Ecology

4.3.63 Policy IC2 requires the following:

- Consider and mitigate against any adverse impacts upon key features of interest of adjoining local wildlife site (Westmill Lane)

In this regard the application is accompanied by an Ecological Appraisal and Biodiversity calculator. The ecological appraisal maps the statutory and non-statutory designated wildlife sites including the Westmill Lane LWS which overlaps part of the site in its north west boundary (10% of the site area) . The designation was due to the presence of a bat roost in one of the nearby buildings at Westmill Lane.

4.3.64 The Ecological appraisal includes the results of a preliminary roost inspection and emergence / re-entry survey and a protected species assessment. The assessment makes various recommendations, mitigations and enhancements in respect of protected species. It is considered that the measures proposed are reasonable and can be secured by a planning condition. The report addresses the policy requirements of IC2 in respect of the Westmill Lane LWS.

4.3.65 In respect of bio-diversity net gain the submitted calculations show a net gain in biodiversity of about 3%. Policy NEx of the ELP requires biodiversity net gain. Therefore, the proposed development is policy compliant in this regard . The Hertfordshire Wildlife Trusts (HWT) object on the basis that more buffer planting should be provided and 10% net gain in biodiversity be achieved. Officers consider that there is no current policy requirement for 10% biodiversity net gain and the proposal would comply with ELP Policy NEx.60 The proposed development would deliver net gains, as required by policy and therefore this matter weighs in favour of the proposed development, to which moderate weight is attributed in the planning balance.

4.3.66 Land contamination

4.3.67 The application site is not known for any contamination and is largely undeveloped. The Council's Environmental Health officer has commented that the site has some commercial land use history and therefore requires a land contamination condition as a precautionary approach.

4.3.68 Air Quality and Noise

4.3.69 The submitted air quality and noise reports conclude that the proposed Burford Grange development does not, in air quality or noise impact terms, conflict with national or local policies and therefore there are no constraints to the development in the context of air quality or noise. Conditions are recommended to secure the mitigation measures including the provision of Electric Vehicle charging points.

4.3.70 Carbon emissions

4.3.71 An Energy Statement accompanies the application this indicates that the energy and carbon policy requirements are proposed to be met using both fabric improvements and utilisation of air heat source pumps for heating of the dwellings and that the proposal would achieve a reduction in Dwelling Emissions Rates 35% better than Building Regulations baseline and an overall 20.54% energy demand reduction. The carbon emissions from the development have been adequately addressed and therefore this is considered to be a matter to which neutral weight should be attributed in the planning balance.

4.3.72 Summary on Environmental considerations

As outlined above, it is considered that the proposed development would have either moderate benefit (ecology), neutral or limited benefit (drainage) or a neutral effect, (land contamination; air quality; noise); or a small adverse impact (residential amenity in the short term). Therefore, it is acknowledged that there would be some disturbance to neighbouring properties during the construction phase and there would be a short-term loss and disturbance to ecology and wildlife, at least until mitigation and replacement planting was established. As such, in the overall planning balance, the proposals cause a small level of environmental harm to which limited weight could be attributed.

4.3.73 **Sustainability assessment**

4.3.74 A matter to consider in all applications for planning permission is whether the proposed development would represent a sustainable form of development. The NPPF confirms that all three objectives of the planning system would be met. These are economic, social and environmental.

4.3.75 In terms of the economic objective the development would provide homes that would support economic growth and productivity. The construction of the development and on-going maintenance of it would result in construction jobs and employment in the service sector. The fitting out and furnishing of the homes would also generate economic activity and jobs. Future occupiers would purchase local goods and services, boosting the local economy and helping to sustain the vitality and viability of local shops and services.

4.3.76 In terms of the social objective, several community benefits would accrue from this development. First, it would provide valuable housing, including a high percentage of affordable housing that meets local housing need, in a district that is suffering from a lack of housing supply and resultant affordability gap. A range of house types and tenures would assist in meeting this need.

4.3.77 Secondly, the proposal would deliver a high-quality and inclusive residential development. The development would be well connected to the existing community of Hitchin and Ickleford and by public transport to larger towns and settlements. As such the development would provide access to the social, recreational and cultural facilities and services that the community needs. The proposal would achieve a well-designed sense of place and make effective use of land. The development would be in accordance with sections 8, 11 and 12 of the Framework.

4.3.78 In terms of the environmental objective, it has been concluded above that the proposed development would likely result in some harm to the character and appearance of the landscape in the short term, however there would not be harm to the wider landscape setting and harm would be reduced in the longer term, as structural planting matures. Regarding biodiversity, whilst there would be limited harm in the short term during the construction process, in the longer term the proposed development would result in a small net gain in biodiversity on site. The site is not isolated in terms of transport with the site accessible by public transport and local services can be reached on foot and by cycling in accordance with Local Transport Plan objectives and Section 9 of the Framework

4.3.79 In conclusion on this matter, it is considered that the proposals would be a sustainable form of development and would comply with national and local planning policy and guidance.

4.3.80 **Whether there are any Very Special Circumstances**

4.3.81 As set out earlier in this report, the proposed development would be inappropriate development in the Green Belt and there would be other harms including harm to the openness of the Green Belt and its purposes. Paragraph 148 of the Framework states *“when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”* It is considered that in this case there are considerations that amount to very special circumstances to outweigh the harm to the Green Belt as set out below.

4.3.82 The proposal would deliver 48 dwellings that would contribute towards the Council’s housing land supply. There is currently a substantial shortfall in housing land supply of only 1.47 years against an expectation of at least five years supply. In responding to the pressing housing situation, a Housing Delivery Test Action Plan has been adopted by the Council. This recognises that housing sites currently within the Green Belt that are allocated in the ELP will remain subject to the test of very special circumstances (VSC). However, it proposes that it may now be appropriate to determine some sites in advance of the examination process being concluded. Planning permission has recently been granted for two of these sites (both in the Green Belt) at Pound Farm, London Road, Hitchin and Heath Lane, Codicote.

4.3.83 The site delivers 19 affordable housing units (40% of the total number on site). This would provide for 65% rented tenure and 35% intermediate tenure and at a mix that

meets the requirements of ELP Policy HS3 including the housing need identified in the Strategic Housing Market Assessment.

- 4.3.84 The Council's emerging Local Plan (ELP) was submitted for Examination in 2017. This is ongoing. Hearings have been completed and the Inspector's report is awaited. The site benefits from a proposed allocation under Policy IC2 for an estimated 40 dwellings and the ELP proposes the whole site be removed from the Green Belt for development and incorporated within the settlement boundary for Ickleford. This policy also contains detailed policy criteria for consideration in the determination of any relevant applications for planning permission.
- 4.3.85 Paragraph 48 of the NPPF provides advice on weight to relevant policies in emerging local plans according to
- a) The stage of preparation the plan has reached;
 - b) The extent of unresolved objections; and
 - c) The extent to which the proposed new policies are consistent with the Framework.
- 4.3.86 Regarding the above, the ELP is well advanced. Whilst it is still at examination all hearings have taken place and consultations carried out on the further Main Modifications. The Council's Green Belt evidence was subject to further examination sessions although the overall assessments of the contribution of this land to Green Belt purpose have not altered over the course of the examination
- 4.3.87 Moreover, at the conclusion of the hearings in November and December 2020, the Inspector held a public 'wash-up' session with the Council to discuss the matters arising and next steps. The Inspector stated that moving forward the Council could expect one of two things to happen; either to receive a letter setting out any fundamental concerns or going out for further consultation on further modifications. The Inspector undertook to write to the Council raising concerns by the end of January 2021 at the latest. The Inspector was clear that any further main modifications would be those that he considered necessary for the soundness of the Plan and that he would not allow modifications with which he was not happy to be consulted upon.
- 4.3.88 The Inspector issued Further Main Modifications and consultation on these were completed in July 2021. The Inspector is currently reviewing responses and the Inspector's Final Report is now awaited.
- 4.3.89 The Further Main Modifications did not propose altering or removing allocation IC2 therefore Officers consider that it is highly likely that this allocation will remain, and the land removed from the Green Belt, when it is eventually presented for adoption.
- 4.3.90 In terms of criterion (b) of paragraph 48 it is however acknowledged that there are still fundamental and formal objections raised to the allocation of IC2 in the emerging local plan, notably from Ickleford Parish Council.
- 4.3.91 In terms of criterion (c) of paragraph 48, several main modifications arising from the examination are to ensure consistency within the NPPF.

- 4.3.92 Therefore, Officers consider that in the light of the above significant weight should be given to relevant policies in the ELP including Policy IC2, which allocates the application site for housing and removes the site from the Green Belt. It is considered that significant weight should be given to this matter in the planning balance.
- 4.3.93 In terms of market and affordable housing, the delivery of the 48 units at IC2 would provide a significant boost to the Council's housing land supply and delivery shortfall. It is considered that substantial weight should be given to the considerable housing benefits of the proposal.
- 4.3.94 There are some additional community benefits associated with this scheme. These have been acknowledged by the Highway authority in their formal comments on the revised scheme. These are the provision of a signalised pedestrian crossing and a new bus stop north of the proposed site access. These are acknowledged as encouraging more sustainable travel to and from the site. In addition, the highway authority consider that the package of highway measures will contribute towards a traffic calming effect to the A600. Although not considered 'very special circumstances' these factors weigh in favour of the proposal and contribute towards the VSC case.
- 4.3.95 Paragraph 81 of the NPPF stipulates that significant weight should be placed on the need to support economic growth and productivity. This is particularly relevant during the ongoing COVID-19 pandemic and other pressures on the economy. There will be considerable economic benefits derived from the construction of the site. There will be employment for construction workers and resulting direct and indirect benefits to the local economy. There will also be economic benefits arising from the fitting out and furnishing of the new homes. There would also be ongoing benefits from the spending of future occupiers. Given the scale of the proposed development it is considered that significant weight should be given to this in the planning balance.
- 4.3.96 The benefits of this proposal and the weight attributed to these will be set against the harm outlined earlier in this report, in the 'conclusion and planning balance' section below. This will assess whether very special circumstances exist necessary to justify the grant of planning permission.

4.3.97 Planning Obligations

- 4.3.98 In considering Planning Obligations relating to this proposed development. The Community Infrastructure Regulations and Paragraph 57 of the Framework set out statutory and policy tests. These are: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
- 4.3.99 Detailed negotiations have taken place with the applicant and agreement reached on a range of matters that are included in a draft S106 agreement. These include the provision of affordable housing, contributions to play equipment, floodlighting and a river conservation project and financial contributions towards education and other

services provided by the County Council. .All of the S106 obligations are listed in the table below.

19/01106/FP Burford Grange, Bedford Road, Hitchin	Draft Heads of Terms for Section 106
Element	Detail and Justification
Primary Education contributions(HCC)	Contribution of £592,101 (index linked to BCIS 1Q2020) towards a new school in Ickleford Hertfordshire County Council 'Guide to Developer Infrastructure Contributions' (July 2021) Policy SP7 'Infrastructure requirements and developer contributions'
Childcare service (HCC)	Contribution of £156,563 (index linked to BCIS 1Q2020) towards childcare provision in the new primary school at Ickleford Hertfordshire County Council 'Guide to Developer Infrastructure Contributions' (July 2021) Policy SP7 'Infrastructure requirements and developer contributions'
Secondary Education contributions (HCC)	Contribution of £648,100 (index linked to BCIS 1Q2020) towards the expansion of The Priory School, Hitchin Hertfordshire County Council 'Guide to Developer Infrastructure Contributions' (July 2021) Policy SP7 'Infrastructure requirements and developer contributions'
Special Education Needs and Disabilities (SEND) (HCC)	Contribution of £58,464 (index linked to BCIS 1Q2020) towards the new East Severe Learning Difficulty school
Library Services (HCC)	Contribution of £5,361 (index linked to BCIS 1Q2020) towards increasing the capacity of Hitchin Library or its future re-provision Hertfordshire County Council 'Guide to Developer Infrastructure Contributions' (July 2021) Policy SP7 'Infrastructure requirements and developer contributions'

Youth Services (HCC)	<p>Contribution of £11,720 (index linked to BCIS 1Q2020) towards increasing the capacity of Hitchin Young People's Centre or its future re-provision.</p> <p>Hertfordshire County Council 'Guide to Developer Infrastructure Contributions' (July 2021)</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>
Play Area capacity improvements (Ickleford Parish Council)	<p>Contribution of £10,000 (index linked to BCIS 1Q2020) towards play equipment</p> <p>NHDC Emerging Local Plan Policy SP10 'Healthy Communities'</p>
Chalk Stream conservation (Ickleford Parish Council on behalf of River Hiz Conservation Group)	<p>Contribution of £5,000 (index linked to BCIS 1Q2020) towards ecology measures within the River Hiz and River Oughton</p> <p>NHDC Emerging Local Plan Policy SP10 'Healthy Communities'</p>
Ickleford Sports and Recreation ground (Ickleford Parish Council)	<p>Contribution of £5,000 (index linked to BCIS 1Q2020) towards extra floodlighting at Ickleford Sports and Recreation ground</p> <p>NHDC Emerging Local Plan Policy SP10 'Healthy Communities'</p>
Waste Collection & Recycling (NHDC)	<p>Contribution of £3,408 (before indexation) based on NHDC Planning Obligations SPD (@ £71.00 per dwelling)</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>NHDC Planning Obligations SPD</p>
Open space/ landscape management and maintenance arrangements	<p>Private management company to secure the provision and long-term maintenance of the open space/landscape area and any Drainage infrastructure</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>

4.3.100 Planning Balance and Conclusion

Regarding the overall planning balance, the proposal is inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt to which significant weight should be attributed as required by the Framework. The proposals would introduce 48 dwellings and associated infrastructure onto currently largely undeveloped land which would result in harm to the openness of the Green Belt, and this is attributed significant weight. There would be significant harm to the purposes of the Green Belt.

4.3.101 There would be moderate harm overall to the character and appearance of the area.

4.3.102 It is considered that there would not be severe impacts on the local highway network, indeed there would be highway safety benefits resulting from the proposed signalised pedestrian crossing, new bus stop and traffic calming measures. In addition, the proposals would include significant mitigation measures, some of which weigh in favour of the proposed development, as well as mitigating impacts. There would be some increased traffic at peak times in particular however the Highway authority considers that the A600 has capacity to accommodate the additional traffic.

4.3.103 Lastly, in terms of 'other harm' there would also be some limited harm in the short term relating to disturbance to neighbouring properties in the vicinity during construction works. There would also be limited harm in the short term to ecology and biodiversity until mitigation is established, although there would be net gain in the longer term.

4.3.104 Therefore, the additional environmental harm, to which weight has been attributed needs to be weighed in the balance against the matters which are considered in favour of the proposals and the aspects of the proposals which would result in wider benefits.

4.3.105 To reiterate, paragraph 148 of the NPPF states the following: *"when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'".*

4.3.106 Other considerations include those that have been afforded very substantial, significant, moderate or other weight, and these relate to benefits arising from the supply of housing on this allocated site within the ELP, net gains in biodiversity, open space provision and highway benefits. There are also other matters that are neutral in the planning balance.

4.3.107 When taken together it is considered that the other considerations in this case clearly outweigh the harm that has been identified to the Green Belt, character and appearance, residential amenity and heritage and very special circumstances exist to

justify the development in the Green Belt as required by paragraphs 147 and 148 of the Framework.

4.3.108 As it is considered that very special circumstances apply in this case, regard should be given to the provisions of paragraph 11 (d) of the NPPF and the tilted balance. This stipulates where the local planning authority cannot demonstrate a five year supply of deliverable housing sites the policies for which are most important for determining this application are out-of-date, unless the application of policies in the NPPF that protect areas or assets of particular importance (such as heritage assets and Green Belt) provides a clear reason for refusing the proposed development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. It is considered that the asset of particular importance (Green Belt) does not provide a clear reason for refusing the development, and any adverse impact of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. Therefore, the development would accord with the NPPF and the development plan taken as a whole, and this points towards the grant of planning permission.

5.0 **Pre-commencement Conditions**

5.1 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 is resolved to be **GRANTED** subject to referral to the Secretary of State for Levelling Up Housing and Communities, and subject to the following:

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

B) The resolution of the flood and drainage matters with the imposition of additional planning conditions as necessary and:

c) The following conditions and informatives:

1. The development hereby permitted shall be begun before the expiration of 3 years

from the date of this permission.

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

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

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

3. 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. 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.

5. Before first occupation of the development, additional plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the site access and associated highway works, as shown indicatively on drawing numbers 21/002/011H and 16147.TOP.112.03 (latter plan contained within Lime Transport Technical Note 16/5/2022). These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction, and completed before first occupation of the development. This shall include the permanent provision of the visibility splays as shown on these plans: 2.4m x 52m to the north and 2.4 x 54m to the south, within which there shall be no obstruction to visibility between 600mm and 2 metres above the carriageway level

Reason: To ensure the provision of a vehicle access which is safe, suitable, and sustainable for all highway users

6. Before first occupation of the development, additional plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the highway improvement works to A600 Bedford Road, as shown indicatively on drawing numbers 21/002/011H and 16147.TOP.112.03 (latter plan contained within Lime Transport Technical Note 16/5/2022). This includes:

- o The provision of a new northbound bus stop (and footway to it from the site access), to include raised Kassel kerbing, a Real Time Information display, and a shelter.
 - o The provision of a raised Kassel kerbing and a Real Time Information display at the existing southbound bus stop opposite the site.
 - o The provision of a signalised pedestrian crossing south of the site access (and footway to it from the site access).
- These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction, and completed before first occupation.

Reason: To ensure users of the development can travel safely, freely, and sustainably to Hitchin town centre and other key destinations.

7. Before commencement of the development, a 'Construction Traffic Management Plan' shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The 'Construction Traffic Management Plan' must set out:

- o the phasing of construction and proposed construction programme.
- o the methods for accessing the site, including wider construction vehicle routing.
- o the numbers of daily construction vehicles including details of their sizes, at each phase of the development.
- o the hours of operation and construction vehicle movements.
- o details of any highway works necessary to enable construction to take place.
- o details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
- o details of any hoardings.
- o details of how the safety of existing public highway users and existing public right of way users will be maintained.
- o management of traffic to reduce congestion.
- o control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels.
- o the provision for addressing any abnormal wear and tear to the highway.
- o the details of consultation with local businesses or neighbours.
- o the details of any other Construction Sites in the local area.
- o waste management proposals.

Reason: To minimise the impact of the construction process on the on local environment and local highway network.

8. Before the first occupation of any dwelling hereby approved, satisfactory parking for that dwelling outside highway limits shall be provided in accordance with the approved plans. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

9. Prior to the first occupation of the development hereby approved details of siting, number and design of secured/covered cycle parking spaces and of mobility scooter storage shall have been submitted to and approved in writing by the

Local Planning Authority. The approved details shall thereafter be installed prior to the occupation of each dwelling and permanently retained for cycle parking.

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

10. Before the development hereby approved is first occupied, a strip of land along the site frontage (i.e. its eastern edge), to the south of the site access for this full length, shall be dedicated as public highway land, to provide a minimum overall width from the back edge of the Bedford Road / A600 carriageway of at least 4 metres. The full details of this strip of land shall be shown on detailed plans to be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the effective usable width of the new footway remains at 2 metres, with utility/control services/boxes located behind the footway; and for futureproofing of potential highway schemes.

11. Prior to occupation, each new dwelling, or accompanying garage, shall incorporate an Electric Vehicle (EV) ready domestic charging point. Visitor or unallocated parking spaces shall be allocated an EV charging point, on the basis of 1 charge point per 10 allocated spaces.

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

12. Notwithstanding the detail shown on the submitted landscape scheme and prior to the commencement of the development, further details of the soft landscaping proposals for the southern and western boundaries of the site (including retention of existing landscaping and new landscaping) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plans

Reason: To ensure compliance with the policy criteria for site IC2 as set out in the North Hertfordshire Emerging Local Plan 2011 - 2031 (with Modifications) which seeks to ensure the integrity of the revised Green Belt boundary and in the interests of visual amenity.

13. Before the development hereby permitted is commenced, details of the installation of fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure there are adequate water supplies for use in the event of an emergency, and that all proposed blocks are covered.

14. Prior to their installation, details of any external lighting to the parking areas, walkways and access roads throughout the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity

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

Reason: In the interests of archaeology.

16. The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the approved Written Scheme of Investigation.

Reason: In the interests of archaeology.

17. 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 approved Written Scheme of Investigation and the provision made for analysis and publication where appropriate.

Reason: In the interests of archaeology.

18. During the construction phases of the development hereby approved no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00hrs. There shall be no work at any time on Sundays and Bank holidays.

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

19. The development hereby approved shall be constructed in accordance with the submitted Energy Statement by Briary Energy dated March 2022 , unless agreed otherwise in writing by the Local Planning Authority, and the identified measures shall be maintained and retained thereafter.

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

20. The development hereby approved shall be constructed in accordance with the recommendations and mitigation measures set out in the submitted Noise Assessment by Cass Allen (ref: RP01-18707) , unless agreed otherwise in writing by the Local Planning Authority, and the identified measures shall be maintained and retained thereafter.

Reason: In the interests of residential amenity

21. The development hereby permitted shall be carried out in accordance with the recommendations (including mitigation and enhancement measures) set out in the submitted Ecological Assessment by Ethos Environmental Planning dated October 2021.

Reason: In the interests of nature conservation

22. No development (including any demolition) approved by this permission shall take place until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority.

The development shall not commence until a Sustainable Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Lead Flood Authority. The details shall be based on the disposal of surface water by means of a sustainable drainage system in accordance with the principles as set out in the Technical Guidance to the National Planning Policy Framework and should be in line with Policy SuDS Requirements:

- a. Shall be designed to a 1 in 1 and 1 in 100 year storm event with the allowance for climate change;
- b. Follow the SuDS management train by providing a number of treatment phases corresponding to their pollution potential;
- c. Should maximise opportunities for sustainable development, improve water quality, biodiversity, local amenity and recreation value;
- d. The system must be designed to allow for flows that exceed the design capacity to be stored on site or conveyed off-site with minimum impact;
- e. Clear ownership, management and maintenance arrangements must be established; and
- f. The details submitted shall include levels, sizing, cross sections and specifications for all drainage features.
- g. A maximum discharge rate of 5.64 l/s

Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approved details and must comply with part H of the Building Regulations and s106 of the Water Industry Act.

Reason: To protect and prevent the pollution of controlled waters.

23. The development hereby permitted shall be carried out in accordance with the Foul Water Drainage Strategy as set out in the submitted Flood Risk Assessment by PTA consultants dated September 2021.

Reason: To prevent environmental and amenity problems arising from flooding.

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

contamination likely to be harmful to human health and the built and natural environment.

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

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

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

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

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

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

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

Proactive Statement:

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

Informative/s:

Anglian Water informatives:

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

under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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

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

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

Police Crime Prevention Design Service informative:

The applicant is advised to contact the Police Crime Prevention Design Service with a view to obtaining SBD accreditation, this will also assist in discharging their obligations under Approved Document 'Q' of Building Regulations.

HCC Spatial and Land use planning informative

The applicants attention is drawn to the Hertfordshire Minerals and Waste teams advice dated 24/5/19 particularly in relation to encouraging the re-use of unavoidable waste where possible and the use of recycled materials where appropriate to the construction.

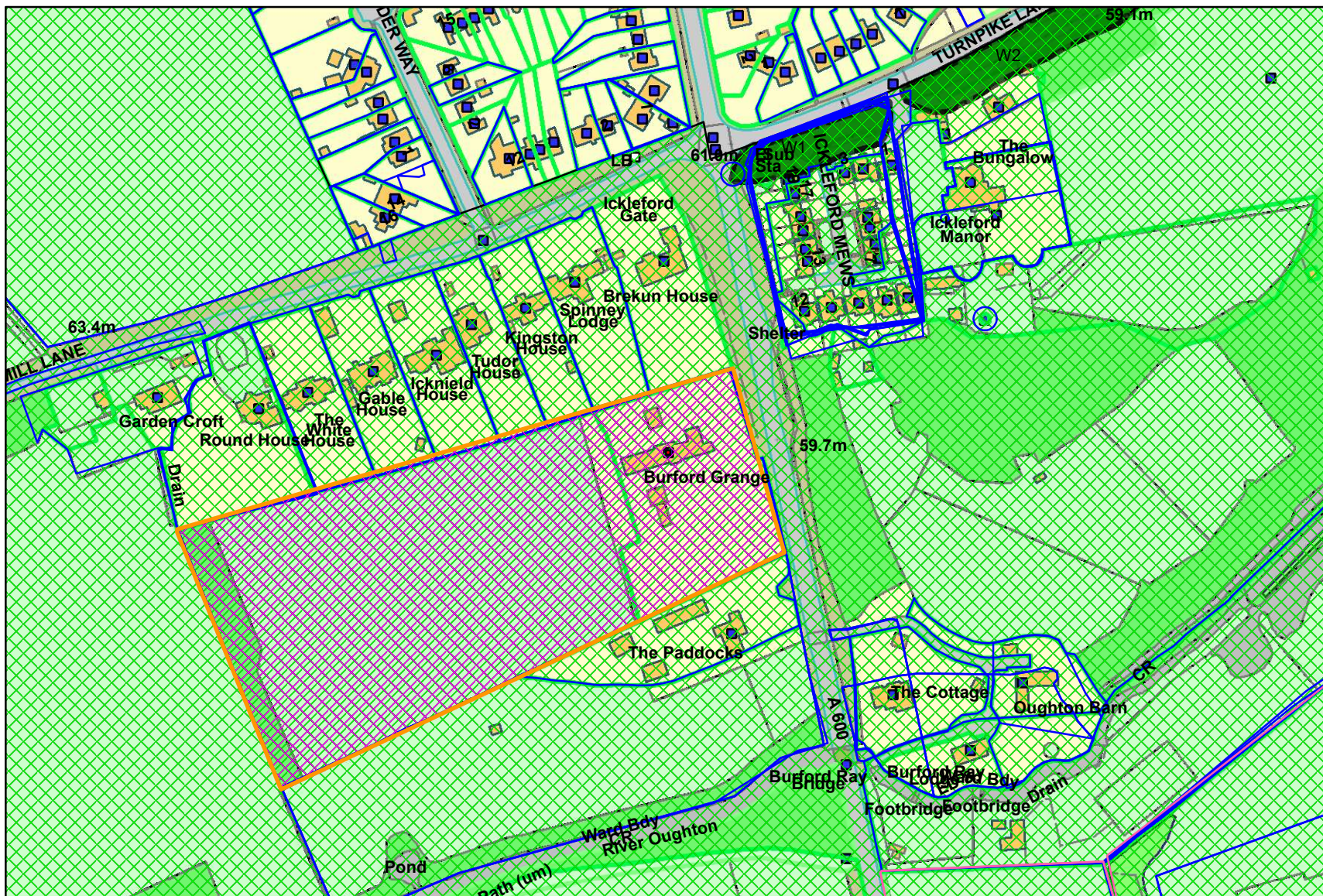
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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

19/01106/FP Burford Grange, Bedford Road, Ickleford, Hitchin, Herts, SG5 3XG

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



Scale 1:2,500

Date: 07/06/2022

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<u>Location:</u>	Oughton Head Pumping Station Hitchin Road Pirton Hertfordshire
<u>Applicant:</u>	Affinity Water Limited
<u>Proposal:</u>	Upgrade of existing pumping station to provide nitrate removal plant and equipment including change of use of land for operational purposes and all associated works.
<u>Ref. No:</u>	21/02768/FP
<u>Officer:</u>	Ben Glover

Date of expiry of statutory period: 22/11/2021

Extension of statutory period: 25/06/2022

Reason for Call in: Application called in by Cllr Sam North for the following reason:

"I believe it covers the following reasons:

- Negative effect on nature conservation
- No Immediate Necessity
- Is in contradiction to local planning principles"

1.0 Submitted Plan Nos.:

196112_PLN_SI_1.1_A – Location Plan
196112_PLN_SI_2.1_A – Site Plan Existing
196112_PLN_SI_3.1_A – Site Plan Proposed
196112_PLN_SI_4.1_A – Elevations Proposed
196112_PLN_VIS_6.1 – Visibility Splay Plan
IWP10025 – IWS – 000 – XX – DR – M – 013 P01 – Turning Head Proposals

2.0 Planning Policies:

2.1 North Hertfordshire District Local Plan No.2 with Alterations

Policy 2 – Green Belt
Policy 55 – Car Parking Standards

2.2 National Planning Policy Framework

Chapter 2 – Achieving Sustainable Development
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

Chapter 16 - Conserving and enhancing the historic environment

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

SP1 – Sustainable Development in North Herts
SP5 – Countryside and Green Belt
SP11 – Natural resources and sustainability
D1 – Sustainable Design
D3 – Protecting Living Conditions
T2 – Parking
NE1: Landscape
NE7: Reducing flood risk
NE9 – Water quality and environment
NE10 – Water conservation and wastewater infrastructure

2.4 **Pirton Neighbourhood Plan**

PNP 2 – Design and Character
PNP 5 – Wildlife
PNP 7 – Key Views and Vistas
PNP 8 – Heritage Assets and Archaeological Heritage
PNP 11 – Safety of Pedestrians, Cyclists, Equestrians and Motorists

2.5 **Supplementary Planning Document**

Vehicle Parking at New Development SPD
Design Supplementary Planning Document

3.0 **Site History**

20/00507/FP - Upgrade of existing pumping station to provide nitrate removal plant and equipment including change of use of land for operational purposes and all associated works – Withdrawn on 07/12/2022.

4.0 **Representations**

4.1 **Site Notice:**

Start Date: 15/10/2021 Expiry Date: 07/11/2021

4.2 **Press Notice:**

Start Date: N/A Expiry Date: N/A

4.3 **Neighbouring Notifications:**

Three neighbouring objections have been received via email that can be viewed in full on the NHDC website and are summarised below:

- Concern that the grassland will be destroyed by the footprint of the new development and during the construction process.
- Dispute the conclusion of the Ecological Impact Assessment that the grassland is unlikely to support notable species.
- A valuable chalk stream environment would be damaged as a result of extraction.
- Proposal should be rejected on biodiversity and water framework grounds.

- The Oughton River is listed as a priority habitat.
- Question 12 on the application form has been inaccurately filled in.
- Ecological Impact Assessment (EIA) fails to identify River Oughton as a priority habitat. The application should be refused on the grounds that the EIA is inadequate.
- The proposal is unsustainable and should be refused.
- The application should be refused on the grounds that the applicant has not shown the effects the proposal would have on the status of the Oughton and Oughton Head Common.
- Any increase in groundwater abstraction from the Great Ouse and Thames catchment is likely to have implications on compliance with the Water Framework Directive.
- The application should be refused on the grounds that the applicant has failed to provide information on how the proposal would comply with NE6 or NE10 of the Emerging Local Plan.

4.4 **Parish Council / Statutory Consultees:**

HCC Highways – No objection subject to conditions.

Environmental Health (Noise) – No comments or objections.

Pirton Parish Council – No objection. Comments available in full on NHDC website.

Pirton Neighbouring Plan Steering Group – Objects to the proposal.

North Hertfordshire Archaeological Society – Objects to the proposal. Comments in full on the NHDC website.

HCC Archaeology – No objection subject to conditions.

Herts & Middlesex Wildlife Trust – Objection. Comments in full on NHDC website.

Environment Agency – No comments received. Previous comments from application reference number 20/00507/FP did not raise an objection subject to conditions.

Lead Local Flood Authority – No comments due to development being minor.

Ecology – No objection. Comments in full on NHDC website and shown in the appendices below.

Principle Strategic Planning Policy Officer – No objection. Comments in full available via NHDC website.

5.0 **Planning Considerations**

5.1 **Site and Surroundings**

- 5.1.1 The application site is an existing enclosed water extraction site situated on the east side of Hitchin Road, south of the village of Pirton. The existing site contains a number of existing small buildings accessed via a tarmacked road off Hitchin Road. The application site is situated within the Green Belt and within a Pirton Parish Archaeological Alert Area.

Pirton 020 Restricted Byway runs alongside the southern boundary of the site.

5.2 **Proposal**

- 5.2.1 Planning permission is sought for the change of use of the land to operational land that would allow for the erection of a 25m x 11.5m x 6.5m building. The proposal also includes the installation of equipment on site including 2 salt saturator tanks. The existing access to the site will also be widened.
- 5.2.2 The development would allow for the reinstatement of the water extraction site and allow the supply of water to the Hitchin Area.
- 5.2.3 The application is a resubmission of a previously withdrawn application (ref. 20/00507/FP). The current proposal is for an identical development that was proposed under the previously withdrawn application.

5.3 Key Issues

5.3.1 The key issues for consideration are as follows:

- The principle of the proposed development and its impact upon the openness of the Green Belt.
- Design and appearance of the development and its impact to the amenity of neighbouring properties.
- The impact of the development upon the safe use of highways.
- Other impacts including to wildlife and archaeological areas.
- Climate change mitigation.

Principle of the Proposed Development within the Green Belt:

5.3.2 The application site is situated within the Green Belt. Considering that the most important policies for determining this application are out of date, paragraph 11 of the NPPF is engaged as follows:

"for decision taking... granting permission unless... the application of policies in this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed"

5.3.3 Section 13 of the National Planning Policy Framework (NPPF) notes that great importance should be attached to the Green Belt and that the main aim of Green Belt policy is to keep land permanently open. Paragraph 147 of the NPPF states that *"inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances"*. Paragraph 148 of the NPPF goes on to states that *"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"*.

5.3.4 Saved Policy 2 of the District Local Plan states that *"Except for proposals within settlements which accord with Policy 3, or in very special circumstances, planning permission will only be granted for new buildings, extensions, and changes of use of buildings and of land which are appropriate in the Green Belt, and which would not result in significant visual impact."*

- 5.3.5 The development would result in the change of use in the land to allow for the expansion of the existing water pumping station. This would involve the erection of a large detached building. The development would not fall within any of the exceptions offered within Paragraph 149 of the NPPF. The erection of a new building for water treatment is therefore, by definition, inappropriate development.
- 5.3.6 Given that the proposed development is considered inappropriate development in the Green Belt, a case for Very Special Circumstances needs to be considered. As stated in Paragraph 148 of the NPPF, "*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*". This assessment is set out within the 'Planning Balance' section of the report following a review of the other key issues relating to the proposal.

Impact on the Openness of the Green Belt:

- 5.3.7 Paragraph 137 of the NPPF states "*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence*". Paragraph 138 of the NPPF goes on to state the five purposes the Green Belt serves.
- 5.3.8 The existing site is a large unused field owned by the applicants. Within the site is a decommissioned water pumping station with two single storey buildings. The proposed development would result in the part of the field being converted for use by the pumping station allowing for the erection of a 25m x 11.5m x 6.5m building.
- 5.3.9 The building would be sited to the east of the existing site and therefore partially screened behind the existing buildings and mature vegetation. To the south of the site there is a public footpath lined by mature vegetation including trees that would screen the view of the proposed building from the south. Land is open to the north of the site and the building would be partially visible from within the area. Given the size of the proposal building and its location in open countryside there would be an impact to the openness of the Green Belt.
- 5.3.10 With regards to the five purposes of the Green Belt set out in Paragraph 138 of the NPPF, the proposed development would not result in urban sprawl or the merging of neighbouring towns. The development would however encroach upon open countryside given its siting within a field adjacent to other agricultural holdings. The development would not impact the setting or special character of a historic town given its remote siting. Finally, p.138 (e) is not considered relevant in this case.
- 5.3.11 Given the above, the proposed development would result in an impact upon the openness of the Green Belt and would conflict with p.138 (c) "to assist in safeguarding the countryside from encroachment" of the NPPF.

Design and Appearance:

- 5.3.12 The NPPF attaches great importance to the design of the built environment, stating "*the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve*". The NPPF goes on to

states that “*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes development acceptable to communities*”. The aims of the NPPF are reflected in the Saved Local Plan in Policy 57 (Relates to residential development but the principles can be applied) and in the Emerging Local Plan Policy D1.

5.3.13 The proposed building would feature a gabled roof form and will be clad in steel with Kingspan effect roof tiles that would be either anthracite or copper beech in colour. The building would have a barn like appearance considering the materials proposed. Given the agricultural landscape it is considered that the development would be of an acceptable design that would not result in any detrimental impact upon the character and appearance of the area. The proposal would be in compliance with both local and national planning policies insofar as they relate to the issue of design.

5.3.14 The boundary treatment would be security fencing to match that of the existing. Full details of this landscaping can be secured by a planning condition set out in the recommendation below.

Impact on Neighbouring Properties:

5.3.15 A core planning principle set out in the NPPF is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This principle is reflected in the provisions of Policy 28 (House extensions) of the Local Plan and D3 of the Emerging Local Plan.

5.3.16 Given the remote siting of the application site, the development would result in no detrimental impact upon the amenities of residential properties in my view.

Highways impact

5.3.17 The County Highways Authority has been consulted on the application and have not raised any objections to the proposed works subject to the inclusion of informatives and conditions.

5.3.18 The works to the existing access include the relocation of existing gates to allow vehicles to pull off from the main carriageway. Visibility is proposed to be improved by repositioning the hedgerow. The works would also include improvements to drainage.

Archaeology:

5.3.19 The application site is situated within a Pirton Archaeological Alert Area. An investigation of the site has been carried out and has identified several archaeological features within the trenches. The consultation response from Hertfordshire County Councils Natural, Historic and Built Environment Team states that “*the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest*”. The consultation response goes on to state that “*three appropriately worded conditions on any planning consent would be sufficient to provide for the level of investigation that this proposal warrants*”. These conditions are recommended below.

- 5.3.20 Given the consultation response from HCC Archaeology, no objection is raised to the impact of the proposed development upon the archaeology of the site subject to the conditions recommended.

Impact to Wildlife:

- 5.3.21 The site is opposite the eastern boundary of the Chilterns AONB and the Hitchin Road verge LWS. The development site is also located only 30 metres west of the western edge of the Oughtonhead Common Wildlife site and within 500m of the Oughton Head Local Nature Reserve (LNR).
- 5.3.22 The submitted Ecological Impact Assessment (EIA) includes a desk based study setting out the designations and habitats within the vicinity of the site and the results of a habitat survey including preliminary bat roost assessment. The EIA provides an assessment of the potential impacts of the development and mitigation measures proposed. The EIA provides the following conclusion:

The site supports locally and nationally common habitats and is not considered critical for populations of any species of fauna of nature conservation importance. However, two Local Wildlife Sites occur within a short distance, a number of notable or protected species may potentially be present and mitigation measures are proposed to minimise the risks to individual animals and to ensure that wildlife legislation is adhered to. Assuming the mitigation is implemented as described, no residual impacts are anticipated as a result of the proposal.

- 5.3.23 Hertfordshire Ecology have commented on the application (comments can be viewed in full at the end of the report). No objection has been raised to the proposal and conditions are recommended.

Flooding and surface water drainage

- 5.3.24 The Environment Agency have not commented on the application, but did comment on the previous 20/00507/FP application and advised that they have no objections subject to the imposition of two conditions firstly to secure a remediation strategy if unsuspected contamination is found and secondly a pre-commencement condition requiring the submission of a surface water disposal scheme.
- 5.3.25 The Lead Local Flood Authority have stated that they are unable to comment due to the application being a minor application and due to current available resources in the LLFA.
- 5.3.26 The application site is located within Flood Zone 3 (land defined as having a 1 in 100 or greater annual probability of flooding). The applicant has provided a Flood Risk Assessment alongside the application that concludes that the proposed is classed as essential infrastructure as it is essential water supply infrastructure which has to be located in an area classed as Flood Zone 3 by the available Environment Agency mapping. The document goes on to conclude that given the lack of historic records of flooding at the site or to nearby properties, the risk to the site is deemed to be low and the proposed development is not predicted to increase flood risk to any third parties.

Climate Change

- 5.3.27 The proposed development is designed to provide a long term, safe, efficient and reliable supply of water for the residents of Hitchin, reinstating and adapting an existing pumping station. It is considered that this is a sustainable solution to a key local infrastructure and therefore can be considered to make a positive contribution to the mitigation of the climate emergency.

Planning Balance:

- 5.3.28 Paragraph 144 of the NPPF states that “*substantial weight should be 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*”
- 5.3.29 The development proposed would, by definition, be inappropriate development in the Green Belt. It is accepted therefore that there would be harm to the Green Belt. Harm has been identified including harm to the openness of the Green Belt considering a new building would be erected within the Green Belt.
- 5.3.30 The development has the potential to result in some additional harm through visual impact and some short term impact on existing flora and fauna. Such harm can be reduced by the proposed new planting and the package of mitigation measures set out in the Ecological Impact Assessment.
- 5.3.31 In terms of the historic environment, archaeological work carried out on the site has demonstrated that the development is unlikely to have any significant impact on archaeological remains.
- 5.3.32 The development would allow for the reopening of the water pumping station which would be used to supply clean water to the Hitchin area and increasing water resilience whilst reducing the dependence on imported water from the Grafham area. It is considered that substantial weight can be attributed to this benefit.
- 5.3.33 The tilted balance in favour of granting planning permission as set out in paragraph 11 d) of the NPPF is not engaged in this instance as the site lies within the Green Belt and therefore paragraph 11d (i) applies. In this case however it has been demonstrated that very special circumstances exist which outweighs the harm by reason of inappropriateness in my judgement.
- 5.3.34 The development would increase water resilience within the district that would prevent future potential water shortages and the reliance upon importing water to the Hitchin Area. It is considered therefore that the adverse impacts of the proposals are limited and would be significantly and demonstrably outweighed by the benefits when assessed against the policies set out in the NPPF as a whole and that planning permission should be granted.

Other Issues:

- 5.3.35 The previous 20/00507/FP application was deferred at planning committee held on the 15th November 2020. It is considered that the reasons for deferral have been addressed by the current application.

- 5.3.36 HCC Highways are no longer raising an objection to the development subject to the inclusion of appropriate conditions and informatives.
- 5.3.37 The Environment Agency water extraction licence has been provided by the applicant. See appendix 1 below. The Environment Agency regulate extraction and this is not a material planning consideration. The Local Planning Authority do not regulate water extraction and planning permission cannot be refused on this basis.
- 5.3.38 An update from Herts Ecology is currently being sought and members will be updated on the night of committee should any further comments be received. Ecology are not raising an objection to the application, but have raised concerns on which clarification is being sought. The comments (see appendix 2) made by Ecology have been noted. Hydrology issues are not a material planning consideration and biodiversity net gain is not a reason for refusal as Herts Ecology confirm. Other comments made by Ecology can be conditioned if appropriate.
- 5.3.39 Other issues raised at planning committee included the method that is used to transport water from Grafham Water to the site. The agent has confirmed that the water is piped across existing water networks.

Conclusion

- 5.3.40 That planning permission be granted subject to the planning conditions as set out below.

Alternative Options

None applicable

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:

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. Prior to commencement of the development hereby permitted (save for the access improvement works) the vehicular access indicated for improvement on drawing number 196112_PLN_SI_3.1_A shall be upgraded and widened to a minimum width of 5.0 metres wide and provided with kerb radii as shown on general arrangement drawing number IWP10 025 - IWS - 000 - XX - DR - M 013; to be reconstructed and tied in with over lapping layers bonded level with the adjacent carriageway in accordance with the Hertfordshire County Council industrial access construction specification for the first 12.0 metres as measured back from the near channel edge of the adjacent carriageway. To the local Planning Authority's satisfaction.

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

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.

4. 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.

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.

5. Prior to the first occupation of the development hereby permitted visibility splays as shown on the visibility splay plan number 196112_PLN_VIS_6.1 measuring 2.4 metres x 145 metres to both directions shall be provided to each side of the access where it meets the highway and such splays shall always thereafter be maintained

free from any obstruction between 600mm and 2.0 m above the level of the adjacent highway carriageway.

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

6. (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 for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

Reason: The site lies within an area where there is significant potential for archaeological remains and any finds should be retrieved and/or recorded before they are damaged or destroyed as a result of the development hereby permitted

7. (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)

Reason: The site lies within an area where there is significant potential for archaeological remains and any finds should be retrieved and/or recorded before they are damaged or destroyed as a result of the development hereby permitted

8. (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: The site lies within an area where there is significant potential for archaeological remains and any finds should be retrieved and/or recorded before they are damaged or destroyed as a result of the development hereby permitted

9. If, during development, previously unsuspected contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with, and has obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 170, 178, 179 and Environment Agency Groundwater Protection Position Statements.

10. Development shall not begin until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Infiltration

systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approval details.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with NPPF paragraphs 170, 178, 179 and Environment Agency Groundwater Protection Position Statements.

11. Prior to the commencement of the development hereby permitted, details of any external lighting, including security lighting shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of nature conservation.

12. Prior to the commencement of the development hereby permitted full details of all landscaping proposed within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining the rural character and visual amenity of the landscape.

13. Condition 13 to be recommended by Herts Ecology.

Proactive Statement

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

Appendices:

1. Environment Agency Variation of a Full Licence to Abstract Water

Licence Serial No:

6/33/13/*G/0011

Please quote the serial number in all correspondence about this licence



VARIATION OF A FULL LICENCE TO ABSTRACT WATER

Pursuant to section 51(2) Water Resources Act 1991 the Environment Agency ("the Agency") varies this licence held by:-

Affinity Water Limited
Tamblin Way
Hatfield
Hertfordshire
AL10 9EZ

("the Licence Holder")

Company registration number:

XXXXXXX

This varied licence authorises the Licence Holder to abstract water from the source of supply described in the Schedule of Conditions to this varied licence and subject to the provisions of that Schedule. The variation is effective from the date shown below and shall remain in force until revoked.

Signed

Date of variation02 November 2020

Team Leader

Date effective02 November 2020

Environment Agency
Permitting and Support Centre
Water Resources Team
Quadrant 2
99 Parkway Avenue
Parkway Business Park
Sheffield
S9 4WF

Date of original issue..... ..21 November 1966

The licence should be kept safe and its existence disclosed on any sale of the property to which it relates. Please read the 'important notes' on the cover to this licence.

Note: References to "the map" are to the map which forms part of this licence.
References to "the Agency" are to the Environment Agency or any successor body.

Environment Act 1995
Water Resources Act 1991 as amended by the Water Act 2003
Water Resources (Abstraction and Impounding) Regulations 2006

SCHEDULE OF CONDITIONS

1. SOURCE OF SUPPLY

- 1.1 Underground strata comprising of Chalk at OUGH, Hitchin, Hertfordshire.

2. POINT OF ABSTRACTION

- 2.1 At National Grid Reference TLXXXXX XXXXX marked 'A' on the map.

3. MEANS OF ABSTRACTION

- 3.1 A well not exceeding XX metres in depth and XXX millimetres in diameter with a submersible pump.

4. PURPOSE OF ABSTRACTION

- 4.1 Public water supply.
4.2 Augmentation of the River Oughton.

5. PERIOD OF ABSTRACTION

- 5.1 All year.

6. MAXIMUM QUANTITY OF WATER TO BE ABSTRACTED

- 6.1 For the purpose of public water supply:
272.8 cubic metres per hour
6,547 cubic metres per day
1,659,323 cubic metres per year

at a rate not exceeding 75.8 litres per second.
- 6.2 For the purpose of augmentation of the River Oughton:
18.8 cubic metres per hour
450 cubic metres per day
164,250 cubic metres per year

at a rate not exceeding 5.2 litres per second.
- 6.3 The aggregate quantity of water authorised to be abstracted for the purpose of augmentation of the River Oughton under this licence and under licence serial number 6/33/13/*G/0009 shall not exceed:

1,000 cubic metres per day
365,000 cubic metres per year

SCHEDULE OF CONDITIONS (continued)

- 6.4 The aggregate quantity of water authorised to be abstracted under this licence for the purpose of public water supply and augmentation of the River Oughton shall not exceed:

272.8 cubic metres per hour
 6,547 cubic metres per day
 1,659,323 cubic metres per year

at a rate not exceeding 75.8 litres per second.

Note: an hour means a period of 60 consecutive minutes, a day means any period of 24 consecutive hours and a year means the 12 month period beginning 1 April and ending 31 March.

7. MEANS OF MEASUREMENT OF WATER ABSTRACTED

- 7.1 (i) The Licence Holder shall use one meter for each separately identified purpose to measure quantities of water abstracted.
- (ii) No abstraction shall take place unless the Licence Holder has installed any meters required in (i) above.
- (iii) The Licence Holder shall position and install the meters in accordance with any written directions given by the Agency.
- (iv) The Licence Holder shall maintain, replay or replace any meters to ensure that accurate measurements are recorded at all times.
- (v) The Licence Holder shall retain all evidence of the repair of the meters or replacements including evidence of current certification for inspection by the Agency for 6 years.

8. RECORDS

- 8.1 The Licence Holder shall take and record readings of the meters specified in Condition 7.1 at the same time each day during the whole of the period during which abstraction is authorised or as otherwise approved in writing by the Agency.
- 8.2 The Licence Holder shall send a copy of the record required by Condition 8.1 or summary data to the Agency within 28 days of 31 March or within 28 days of being so requested in writing by the Agency.
- 8.3 Each record shall be kept and be made available during all reasonable hours for inspection by the Agency for at least 6 years.

9 FURTHER CONDITIONS

- 9.1 Within two working days of being notified by the Agency that the level at Oughton Head Spring as measured by the Agency at its gauge board at National Grid Reference TL16121 29906 is equal to or below 57.54 metres Above Ordnance Datum (Newlyn) the Licence Holder shall make a continuous release of augmentation water of not less than 50 cubic metres per day into the River Oughton at National Grid Reference TL16121 29906 marked 'Q' on the map, unless the Agency notifies the Licence Holder in writing that augmentation is not required and that augmentation should cease.

SCHEDULE OF CONDITIONS (continued)

- 9.2 The Licence Holder shall cease augmentation when notified in writing by the Agency that the groundwater level as measured by the Agency at its observation borehole at Lilley Bottom National Grid Reference TL 15690 22761 is greater than 94 metres Above Ordnance Datum (Newlyn), or such other level as may be agreed in writing by the Agency.
- 9.3 Augmentation shall only take place in accordance with Condition 9.1 while the Licence Holder is abstracting water for public water supply under this licence and/or licence serial number 6/33/13/*G/0009 at OFFS.

ADDITIONAL INFORMATION

Note: the following is provided for information only. It does not form part of the licence.

REASONS FOR CONDITIONS

The abstraction is required to be metered to demonstrate compliance with the terms of the licence and to provide information on actual water usage for water planning purposes.

IMPORTANT NOTES

Metering

The Agency will have regard to its Abstraction Metering Good Practice Manual (or equivalent guidance) in directing any of the following; where the meters should be located or how they should be installed; whether the meters measure accurately, and/or are properly maintained; whether it is necessary to require repair or replacement of the meters.

XX

Oughton Transfer Level

The River Oughton water level of 57.54mAOD (Newlyn) as measured Oughton Head Spring is referred to as the Oughton 'Transfer Level'.

Link with OFFS Licence

The groundwater level measured by the Agency at Lilley Bottom observation borehole, referred to in Condition 9.2 of this licence, also triggers the cessation of discharge of augmentation water to the River Oughton as authorised under licence 6/33/13/*G/0009 (OFFS). This licence should therefore be read in conjunction with the OFFS licence.

Levels at Lilley Bottom borehole

A review of the groundwater level referred to in Condition 9.2 can be proposed by either the Agency or Licence Holder if evidence indicates that an alternative level gives better protection to the water environment.

If this were found to be the case and the Agency and Licence Holder were to agree upon a revised groundwater level that also accords with the Water Resource Management Planning cycle, a temporary change can be made in writing, with an agreed effective start and end date, though the Licence Holder would need to make a formal application to vary the licence if any

Licence Serial No:	6/33/13/*G/0011
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agreed change to the groundwater level is to be made permanent.

For any proposal to temporarily change the groundwater level referred to in Condition 9.2, the Licence Holder should provide details in writing to:

Email: IEP_ANG_Central@environment-agency.gov.uk

Licence History

Licence S/N	Issue date	Expiry date	Summary of changes
6/33/13/11	21/11/1966	-	Licence first granted to Lee Valley Water Co.
6/33/13/11	31/03/1994	-	Three Valleys Water Plc succeed to the licence
6/33/13/G/0011	01/07/2009	-	Veolia Water Central Ltd. succeed to the licence
6/33/13/G/0011	14/11/2012	-	Affinity Water Ltd. succeed to the licence
6/33/13/G/0011	02/11/2020	-	NPS/WR/33625. RSA licence variation to include augmentation of the River Oughton.

2. Hertfordshire Ecology Comments:

HERTFORDSHIRE ECOLOGY

Providing ecological advice to Hertfordshire's Local Authorities and communities

Hertfordshire LEADS, Growth and Infrastructure Unit, Environment and Infrastructure
Hertfordshire County Council, County Hall, Hertford, SG13 8DE
ecology@hertfordshire.gov.uk

Ben Glover
Development & Conservation
North Hertfordshire District Council,
PO BOX 10163, Nottingham, NG6

Ask for: Simon Richards

Date: 15/03/2022

Dear Ben

Application: Upgrade of existing pumping station to provide nitrate removal plant and equipment including change of use of land for operational purposes and all associated works.

Address: Oughton Head Pumping Station Hitchin Road Pirton Hertfordshire
Reference 21/02768/FP

Oughton Head Pumping Station Hitchin Road Pirton Hertfordshire
21/02768/FP case officer Ben Glover

Thank you for consulting Hertfordshire Ecology on the above, for which I have the following comments:

Summary of advice:

- In sufficient information to assess the ecological value of the existing grasslands.
- The LPA should satisfy itself the application will not cause a negative impact on the hydrology of Oughton Head prior to determination.
- No requirement for further bat surveys.
- A method statement for clearing of vegetation is needed.
- Discretionary advice regarding measurable biodiversity net gain.

Comments

1. Reports: The following ecological reports support the application

- Ecological Impact Assessment by SLR Consulting Limited (report date 26/02/2020)

Further reports of relevance are the:

- Public Comment submitted date: Thu 04 Nov 2021
- HMWT Comment submitted date: Thu 17 Feb 2022

Funded by the following Local Planning Authorities:
HERTFORDSHIRE COUNTY COUNCIL,
DACORUM BOROUGH, EAST HERTFORDSHIRE DISTRICT, HERTSMERE BOROUGH, NORTH HERTFORDSHIRE DISTRICT,
CITY AND DISTRICT OF ST ALBANS, THREE RIVERS DISTRICT, WATFORD BOROUGH, WELWYN HATFIELD BOROUGH

2. **Bats:** The two buildings on site were assessed as having Low potential for roosting bats. Two trees which had their trunks obscured by ivy making it difficult to detect potential roost features and were also as a precaution were assessed as having low potential. However, these building and trees will not be affected by the proposal. The decommissioned fuel tanks base, which appears to be required to be removed to make way for the access road, was assessed as having negligible potential for bats.

3. **Other Protected Species:**

- **Reptiles:** The grassland within the field was described as tussocky in the ecological report, and grass snake has been recorded in the neighbouring Oughton Local Wildlife Site. Given the proportion of the site which will be affected by the proposal, I support the use of Risk Avoidance Measures as outlined in the section 6.5.2 of the Ecological Impact Assessment to safeguard any reptiles present.
- **Terrestrial mammals,** due vigilance relating to badgers and measures relating to the timing of clearance of vegetation to safeguard hedgehogs have been recommended.
- **Breeding birds:** The proposal requires the removal of a section of hedgerow and part of the adjacent grassland for which there is anecdotal evidence of its use by ground nesting species such as skylark. The survey of 29th January 2020 found two bird boxes on site one on a mature beech tree in the southwestern corner of the site. This should be unaffected by the proposal, however there is also a barn owl box on the eastern aspect of the pump with records of its active use. Barn owls have additional protection under schedule 1 of the Wildlife and Countryside Act which affords them protection against disturbance whilst nesting in addition to the basic level of protection given to all nesting birds. This box has been capped off and an alternative mounted on a pole within the adjacent grassland which has been successful in providing a replacement nesting site for barn owls. Measures to safeguard nesting birds and ensure that barn owls are not disturbed during the breeding season should form part of any approved application. General mitigation for nesting birds is included within the Ecological Impact Assessment.
- Since the mitigation for ground nesting birds, hedgehogs and reptiles all require controlled removal of the existing vegetation, I advise that a method statement is produced combining the proposes mitigation for nesting birds terrestrial mammals and reptiles, taking into account both the behaviour of ground nesting birds and activity periods for reptiles and hedgehogs. This should be secured by **Condition**.

4. **Habitats:** The Preliminary Ecological Appraisal and EIA identify the habitats within the existing water treatment works affected by the proposal as being an area of amenity grassland and a small section of hedgerow and a number of

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shrubs. I have no reason to doubt the ecological reports assessment of these habitats.

The proposed new plant will result in the loss of an area of the adjacent field. This is described in the report as being agricultural grassland being made up mostly of common and widely distributed species but includes atypically for this type of habitat ox eye daisy. This habitat description is informed by a survey carried out in January 2020, a suboptimal season for botanical surveys, and is very different to a credible description submitted by a member of the public (see comments section on the application portal). This describes the grassland as being of greater and potentially Local Wildlife Site value. Photos available on Google Street View (image capture June 2009) also suggests the grassland is of greater botanical interest. Given this conflicting information and the suboptimal survey date, I advise there is insufficient information to allow the LPA to assess the ecological value of the habitats affected. Consequently, I advise the application should not be determined until it has been resurveyed at an optimal time. In addition, if the LPA is minded to seek a measurable biodiversity net gain from the application, consistent with government expectations and the strengthened Biodiversity duty placed on it by the Environment Act to conserve and enhance biodiversity. Then this survey will also be needed to inform the completion of a biodiversity metric. Mitigation for the loss of the proposed development site should include a management plan to prevent further deterioration of this grassland, which is described as becoming scrubby, and restore and conserve its botanical interest and suitability as a nesting site for species such as sky lark, which have been sighted on the site.

Local Wildlife Sites and Statutory Sites. The application site is nearby two Local Wildlife Sites: Oughton and Hitchin Road Verge (S. of Pirton) and Oughton Head Local Wildlife Site.

- Oughton and Hitchin Road Verge (S. of Pirton) Important calcareous road verges with ditches and mixed species hedgerows. This is located on the other side of the road from the pumping station and should be unaffected provided sensible precautions are followed, I advise the attachment of a **informative** with any consent given highlighting the need for this to be safeguarded.
- Oughton Head Local Wildlife Site this consists of the main area of common in the south-east and the Wildlife Trust nature reserve to the north. The common supports marshy grassland with fen and is one of the larger fen woodlands in Hertfordshire. The river itself supports aquatic plants of note, the remnant fen components are notable within the county. This site was previously designated as SSSI, a designation that was removed in 1974 because of the deterioration of the site due to drying out of the peat marsh and lack of water flow from the springs. It has been suggested but not demonstrated that this was due to extraction of ground water by the pumping station. This extraction I understand stopped in 2013 due to the nitrate content of the water. It is likely that this cessation benefitted the Local Wildlife Site. halting

Whilst the present application does not in its self-impact on the Local Wildlife Site, the proposed nitrate removal plant will allow further water

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extraction to take place. Without any other evidence to the contrary its not unreasonable to be concerned that the resumption of water extraction facilitated by this proposal, presumably under an existing extraction licence, will have a deleterious effect on the Local Wildlife Site.

Whilst the Ecological Impact Assessment acknowledges a potential indirect effect on the hydrology, the proposed mitigation measures only deal with pollution hazards. No evaluation of the potential affect of the recommencement of water extraction on the springs or wetland habitats of the Local Wildlife Site has been provided. Nor have any measures to prevent or mitigate for these potential affects been proposed.

Consequently, I advise in line with their updated duties under the Environment Act that the LPA should satisfy itself prior to determination that there will be no indirect negative affect on the Oughton Head Local Wildlife Site from this application

6. **Biodiversity Net Gain:** The application will unmitigated result in net loss of habitats, the Environment Act has increased the weight that should be given to measurable biodiversity net gain, although this will not become mandatory till 2023. I would consider it Reasonable for the LPA to expect this proposal to deliver a minimum of 10% biodiversity net gain, although as this is not mandatory its absence should not be used as a reason for refusal.

I trust these comments are of assistance,
Yours sincerely

















Simon Richards
Ecology Advisor, Hertfordshire Ecology

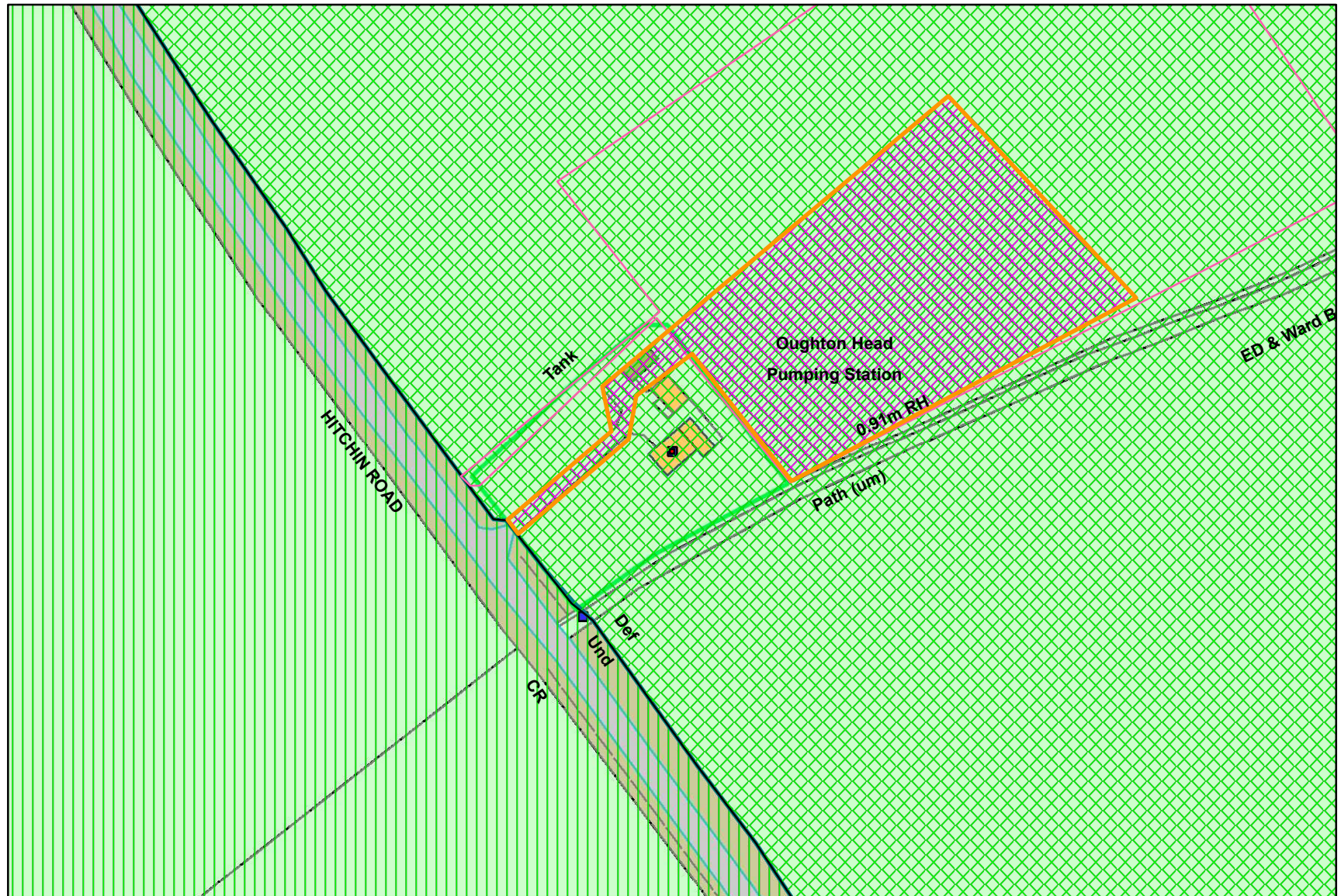
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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

21/02768/FP Oughton Head Pumping Station, Hitchin Rd, Pirton, Herts

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



Scale 1:1,250

Date: 16/03/2022

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<u>Location:</u>	Land Between Cherry Holt And 2 Caldecote Road Newnham Hertfordshire
<u>Applicant:</u>	Mr Andy Bartlett
<u>Proposal:</u>	Erection of a detached one 3-bed dwelling and erection of detached workshop/shed following demolition of existing workshop/shed on adjacent owned land
<u>Ref. No:</u>	22/00346/FP
<u>Officer:</u>	Alex Howard

Date of expiry of statutory period: 4th April 2022

Extension of statutory period:

Reason for Delay: In order to present the application to an available committee meeting.

Reason for Referral to Committee: The application has been called in by Cllr Tyson on the basis that the applicant believes that:

- The application complies with national and local planning policies.
- There is no reason to disengage the tilted balance in favour of development as suggested by the Conservation Officer.
- The development would bring significant positive benefits.
- The Conservation Officer's objection in principle to development on the site is unfounded.

The Cllr believes a committee decision would be in the public interest due to the level of concern expressed by the applicant and others about what they view as inconsistent decision-making by the planning authority with regard to development in the Conservation Area in Newnham.

1.0 **Site History**

1.1 21/02566/PRE - Erection of one detached dwelling.

1.2 20/02313/PRE - Erection of one dwelling.

1.3 19/01509/FP - Proposed 4-bedroom dwelling with detached garage, new accesses, landscaping and associated works.

Refused

- 1.4 05/00873/1 - Erection of a three-bedroom dwelling with integral garage and associated landscaping.

Refused

- 1.5 04/01492/1 - Erection of one four-bedroom dwelling with associated landscaping (as amended by plans received on 14/10/2004)

Withdrawn

2.0 **Policies**

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

Policy 6: Rural Areas beyond the Green Belt

Policy 14: Nature Conservation

Policy 16: Archaeological Areas of Significance and other Archaeological Areas

Policy 26: Housing Proposals

Policy 55: Car Parking Standards

Policy 57: Residential Guidelines and Standards

Supplementary Planning Documents

Vehicle Parking at New Development SPD September 2011

2.2 **National Planning Policy Framework (July 2021)**

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable development

Section 11: Making effective use of land

Section 12: Achieving well-designed places

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

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

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

The Emerging Local Plan (ELP) has now been through the re-scheduled examination hearings in November and December 2020 and further additional hearings were held on 1st and 2nd February 2021. The Inspector has stated that the hearings are now closed, and he does not intend to hold any further hearings. The further main modifications were received from the Inspector in March and presented to the Council's Cabinet meeting on 16th March 2021 (seeking approval to proceed with the consultation on the modifications). Following this, public consultation was held on the further main modifications in May and June, with the responses received from this published in July. The Council now hopes to receive the Inspectors final report in Summer 2022. Weight can be attributed to the emerging North Hertfordshire Local Plan 2011 - 2031 Proposed Submission (September 2016) Incorporating the Proposed Main Modifications November 2018 and the policies contained within it (see below). The weight which can be attributed to the ELP is discussed in greater detail later in this report.

Policy SP1: Sustainable Development in North Hertfordshire

Policy SP2: Settlement Hierarchy and Spatial Distribution

Policy SP6: Sustainable Transport

Policy SP8: Housing
 Policy SP9: Design and Sustainability
 Policy SP11: Natural Resources and Sustainability
 Policy SP12: Green Infrastructure, Landscape and Biodiversity
 Policy SP13: Historic Environment
 Policy T1: Assessment of Transport Matters
 Policy T2: Parking
 Policy CGB1: Rural Areas beyond the Green Belt
 Policy D1: Sustainable Design
 Policy D3: Protecting Living Conditions
 Policy D4: Air Quality
 Policy NE1: Landscape
 Policy NEx: Biodiversity and Geological Sites
 Policy HE11: Contaminated Land
 Policy HE1: Designated Heritage Assets
 Policy HE4: Archaeology

3.0 **Representations**

- 3.1 **Site Notice and Neighbour Consultation** - Representations received from Cherry Holt, Newnham Hall Cottage and another resident of Newnham. All responses support the proposed development, with respect to design, position and use of eco-friendly materials.
- 3.2 **Hertfordshire Highways** – No objection subject to informatives.
- 3.3 **Caldecote and Newnham Parish Council** – No objection.
- 3.4 **Environmental Health (Air Quality)** – No objection subject to condition.
- 3.5 **Environmental Health (Land Contamination)** – No objection subject to condition.
- 3.6 **Environmental Health (Noise)** – No objection subject to informatives.
- 3.7 **Archaeological Implications** – No comment received.
- 3.8 **Waste and Recycling** – No objections.
- 3.9 **Conservation Officer** – Objects to the proposal on several grounds.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The site is a small parcel of land currently associated with 2 Caldecote Road, which is neighboured by Cherry Holt (grade II listed building) to the north – see list entry below:

House, probably late C17. Timber frame, rendered. Close studding and brick nogging exposed on extensions to right of road frontage. Steeply pitched pantile roof, originally thatched. Central axial brick stack with oversailing courses. Original entrance possibly on present rear elevation. 1 bay to left of stack, 2 to right. Scattered 2,3 and 4 light diamond paned wooden casements. Single

dormer to right of stack. Exposed purlins in bargeboarded gables. Lean-to outshut to right of road front with entrance on right return wall; plank and muntin door. Larger lean-to extension leading back from right gable wall with timber frame on brick plinth. Two storey extension to rear behind stack. Back-to-back inglenook fireplaces with staircase on same axis. Original timber frame visible internally.

The site is within the Newnham Conservation Area and the Rural Area beyond the Green Belt (RAGB) as allocated in the local plan. Newnham is a 'Category B' settlement in the Emerging Local Plan._

4.2 Proposal

4.2.1 Planning permission is sought for the erection of a part single/part two storey detached dwelling on the east side of Caldecote Road, Newnham. The scheme incorporates landscaping, parking (using existing access) and is stated in the supplementary documents to be built to achieve very low energy and sustainability standards. Furthermore, this proposal also incorporates the re-development of the rear section of the detached garage in the neighbouring listed property, Cherry Holt._

4.2.2 The application is supported by the following documents:

- Plans and Elevations:
E2311 001-A Location Plan, E2311 002-A Block Plan, E2311 010-C Proposed Site Plan, E2311 011-A Proposed Floor Plans, E2311 012-B Proposed Elevations, E2311 013 Existing Garage and Store Plans, E2311 014-A Proposed Garage and Store Plans.
- Planning Statement
- Heritage Statement
- Flood Map and Other Details

4.3 Key Issues

4.3.1 The key issues for consideration are the

- Principle of development
- Planning history
- Impact on Designated Heritage Assets
- Design
- Impact on neighbouring dwellings
- Landscaping
- Parking
- Other Matters

Principle of Development

4.3.2 Newnham is designated as a Category B settlement within Policy SP2 of the Emerging Local Plan (ELP), where ***“infilling development which does not extend the built core of the village will be allowed”***. This settlement does not have a defined settlement boundary and is therefore designated as Rural Area beyond the Green Belt in the ELP, where there is a general presumption against development. Newnham is not a selected village as per the Saved Local Plan (SLP) and therefore, Saved Policy 6

is relevant and states that development in these areas will be allowed if ***“it is a single dwelling on a small plot located within the built core of the settlement which will not result in outward expansion of the settlement”***. Emerging Policy CGB1 also states that permission will be granted for ***“infilling development which does not extend within the built core of a Category B village”***.

4.3.3 It is considered that although the application site is located between a pair of semi-detached properties and a singular detached listed property, the village of Newnham is verdant and open in nature, which must be maintained in accordance with the aforementioned policies. Newnham does not have a defined settlement boundary in either the Saved or Emerging Local Plan, therefore an objective view is necessary to consider whether this site is within the built core of the settlement. In my opinion, due to the small size of this settlement and the proximity of the site to other residential properties, the proposed development would be considered within the ‘built core’ of Newnham. The proposal would be classed as small infill development which will not extend the built core of the settlement, which is considered compliant with Emerging Policies SP2 and CGB1 in their entirety. This should be given significant weight in the planning balance.

4.3.4 Notwithstanding the above, Paragraph 11 of the NPPF states that for decision making:

“c) approving development proposals that accord 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 important for determining the application are out-of-date, granting permission unless:

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

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

4.3.5 National and local planning policies seek to increase housing densities where appropriate, as far as this is consistent with the principles of good design and place making. At the time of writing the Councils five-year land supply is 1.47 years, which is a significant shortfall. Therefore, the presumption in favour of sustainable development is engaged in accordance with paragraph 11(d) of the NPPF, where permission should only be refused if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In line with paragraph 11(i), footnote 7 states that consideration must be given to protect areas/assets of particular importance, which in this case is the Newnham Conservation Area and Cherry Holt. The application of policies which protect heritage assets must give a clear reason for refusal in order to dis-engage the tilted balance. This will be addressed later on in the report. In any case, it is considered that the contribution that these types of developments make to the District’s housing supply is important. Therefore, in my view there is no objection to the general principle of development in this instance, with respect to Saved and Emerging Local Plan Policy compliance.

Planning History

- 4.3.6 This site has an extensive planning history, with 2 applications for new dwellings refused in 2005 and 2019 and 2 recent pre-application submissions for an eco-style dwelling on this plot. The 2 refused permissions were done so on the basis of harm to the Newnham Conservation Area, sustainability, and general policy non-compliance. These decisions were not appealed to the Planning Inspector and are summarised below:

- 4.3.7 19/01509/FP - Proposed 4-bedroom dwelling with detached garage, new accesses, landscaping, and associated works. Refused on two reasons:

“The applicant describes the site as 'modest' whilst the Council's adopted Character Statement describes Caldecote Road as a "verdant country lane with loose-knit development" and refers to this road as significantly contrasting with that of Ashwell Road. Although no longer a side garden to no.2 Caldecote Road, this modest gap reads as the side garden to this property, particularly bearing in mind that it does not enjoy a separate site access. A dwelling on this site would consolidate development on the east side of Caldecote Road eroding the settlement's agreed loose-knit, verdant character. Accordingly, a dwelling on this site would fail to satisfy the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018). The proposal will lead to less than substantial harm to the significance of the designated heritage asset (Newnham Conservation Area) and this harm is not, in my opinion, outweighed by public benefits of the development”.

“It would appear that Cherry Holt (grade II listed) has enjoyed an 'open', edge-of-countryside setting from the late C17 through to the construction of nos.1 & 2 Caldecote Road to the south. The two other buildings on this side of the road being St Vincent's Church (grade II) and the former Vicarage (BLI), both to the north. Presently, the space between Cherry Holt (grade II listed) and no.2 Caldecote Road makes a positive contribution to the setting of both properties by ensuring that a verdant gap is retained between the two. Although rendered with a slate roof and echoing the properties at nos. 1 & 2 Caldecote Road, the dwelling would, nonetheless, be located immediately to the south of Cherry Holt (grade II listed) and the long gabled 'wing' (approximately 12m deep) would present a plain and rather dominant north elevation facing towards the listed building and would not make a positive contribution to the appearance of the conservation area. The harm occasioned to the setting of Cherry Holt, would harm this building's significance and fail to satisfy the provisions of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018). The proposal will lead to less than substantial harm to the significance of the designated heritage asset (Cherry Holt) and this harm is not outweighed by public benefits of the development”.*

- 4.3.8 05/00873/1 - Erection of a three-bedroom dwelling with integral garage and associated landscaping. Refused on three reasons:

“The proposed dwelling, by reason of its design relative to the individual buildings which make up the character of the settlement and siting in the garden of No 2 Caldecote Road, would erode the pattern and character of the Newnham Conservation Area contrary to the intentions of Policy 20 of the North Hertfordshire District Local Plan No 2 with Alterations 1996”.

“The character of Caldecote Road is of widely spaced buildings as the village opens out into the countryside, and as such this site could not be considered as being located within the built core of the village. Development on this site would therefore be contrary to Policy 6 of the North Hertfordshire District Local Plan No 2 with Alterations 1996”.

“The occupiers of the proposed dwelling would be heavily dependent on services provided outside of the settlement, giving rise to a significant reliance on trips by car contrary to the sustainability criteria embodied in Policy 1 of the County Structure Plan Review”.

- 4.3.9 In my opinion, the sustainability and policy non-compliance reasons for refusal as set out in the 2005 application are no longer relevant to this current application. It is acknowledged that the potential occupiers of this dwelling would rely on private vehicles for access to services as stated in the 3rd reason for refusal; however, the emergence of Policies SP2 and CGB1 in the ELP state that Newnham is a Category B village that can accommodate limited development and as such, the location is deemed sustainable. As for the 2nd reason for refusal, this plot can be considered as within the built core of the village, given that built form exists on either side and opposite.
- 4.3.10 Reason for refusal 1 of the 2005 application and reason for refusal 1 and 2 of the 2019 application are all centred around the impact of the development upon designated heritage assets. These reasons for refusal are still considered wholly applicable to this current application and an assessment on such grounds will be completed below.
- 4.3.11 It is important to note that there is consistency of view between the former Principal Conservation Officer’s view in 2004/2005 and that of the current Conservation Officer on the more recent applications. The reason for citing withdrawn application ref: 04/01492/1 is that it is in relation to this application that the first assessment was made by the former Principal Conservation Officer of the application site and the character of this part of the conservation area, stating that:

“..... The existing character of Caldecote Road is of widely spaced buildings as the village opens out into the countryside. On the basis of this current character, the existing open space between Cherry Holt and 1 & 2 Caldecote Road forms an integral part of the character of layout in this part of the village and its conservation area. The closer spacing of buildings that would result from development of the application site would not be typical of Caldecote Road. As such, the principle of building on this site would not preserve or enhance the character or appearance of this part of the conservation area.”

Consistency of professional officer advice (in this case, conservation advice) is seen as an important attribute of the Development Management Team and this is the case here even though the views given were delivered 17 years apart.

Impact on Designated Heritage Assets

- 4.3.12 Given the location of this site within the Newnham Conservation area and within close proximity to a neighbouring listed building, Cherry Holt, the Council's Conservation Officer (CO) was consulted on the proposed development. The CO had been consulted on the 2019 application and provided the reasons for refusal. Furthermore, the CO had also been consulted on the two recent pre-application submissions. The conclusion as per the CO's memo is shown below:

*"Paragraph 199 of the NPPF requires that "... **great weight** should be given to the asset's conservation....". Paragraph 200 says that "... Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require **clear and convincing justification**".*

*In addition, parts a) and c) of Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018) are relevant where it states that planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they "enable the heritage asset to be used in a manner that secures its conservation and **preserves its significance**" and "will lead to less than substantial harm to the significance of the designated heritage asset, and this harm is **outweighed by the public benefits** of the development, including securing the asset's optimum viable use". I am unconvinced that the proposed development would enhance or better reveal the significance of the CA or nearby listed buildings.*

The architectural quality of the existing buildings notwithstanding, it is the spaces between these buildings which, in my view, represents a significant feature of the conservation area in this part of the village. The space around buildings affords views into the gardens of properties and contributes significantly to a sense of pastoral openness. The erosion of a gap in this frontage, by infilling with a dwelling, would constitute harm to the conservation area in my judgement, albeit I would concede that this harm would be 'less than substantial'. The proposal would be injurious to the prevailing character of the Newnham Conservation Area which is verdant and 'loose knit'.

*I consider that the space between Cherry Holt and 2 Caldecote Road is important to the character of the Newnham Conservation Area even though not given a specific designation. This modest gap between no.2 Caldecote Road and Cherry Holt reads as the side garden to the former, particularly bearing in mind that it does not enjoy a separate site access. A dwelling on this site would consolidate development on the east side of Caldecote Road eroding the settlement's loose-knit, verdant character with parking very much towards the front of the site. I raise an **OBJECTION** to a dwelling on this site on the basis that this would fail to satisfy the provisions of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018). The proposal will lead to less than substantial harm to the significance of the designated heritage asset*

(Newnham Conservation Area) and this harm is not, in my opinion, outweighed by public benefits of the development.

It would appear that Cherry Holt (grade II listed) has enjoyed an 'open', edge-of-countryside setting from the late C17 through to the construction of nos.1 & 2 Caldecote Road to the south. The two other buildings on this side of the road being St Vincent's Church (grade II) and the former Vicarage (BLI), both to the north. Presently, the space between Cherry Holt (grade II listed) and no.2 Caldecote Road makes a positive contribution to the setting of both properties by ensuring that a verdant gap is retained between the two. In my opinion, a new dwelling located immediately to the south of Cherry Holt (grade II listed) would not make a positive contribution to its setting or the character and appearance of the Newnham Conservation Area. The harm occasioned to the setting of Cherry Holt, would harm this building's significance and for this reason, I raise an **OBJECTION** on the basis that this would fail to satisfy the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and the aims of Policy HE1 of the emerging North Hertfordshire Local Plan 2011-2031 Incorporating the Proposed Main Modifications (November 2018) and further Proposed Modifications (May 2021)".*

4.3.13 As such, in line with the above, the CO states that the proposed dwelling in this location would occasion less than substantial harm to the significance of the designated heritage asset (Newnham Conservation Area) and would not make a positive contribution to the setting of Cherry Holt, the significance of which is not just that it is timber-framed and probably late C17 but that it has enjoyed an 'open', edge-of-countryside setting from the late C17 through to the construction of nos.1 & 2 Caldecote Road to the south.

4.3.14 This assessment on Conservation grounds that the site has enjoyed an 'open', edge-of-countryside setting from the late C17, is very similar to the consideration of the applications for a new dwelling on the side garden of 1 Caldecote Road (under refs: 22/00606/FP and 21/02890/FP). These applications were refused on very similar grounds to the assessment of this application by the Conservation Officer, in that this pair of semi-detached dwellings are regarded as positive buildings and their garden areas to either side contribute to this sense of rural idyll. As such, it is considered that the LPA has been wholly consistent in its approach to potential development in this location.

4.3.15 This is consistent with the advice given in both pre-application submissions and the 2019 refused planning application. Therefore, the proposal is deemed contrary to the aims of Section 16 of the NPPF and Policy HE1 of the ELP, which provides a clear reason for refusing development. Therefore, given that the application of footnote 7 policies affecting designated heritage assets provides a clear reason for refusal, the tilted balance is dis-engaged, and the neutral balance is applied to all matters. _

4.3.16 Paragraph 202 of the NPPF sets out the neutral test, stating:

Where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public

benefits of the proposal including, where appropriate, securing its optimum viable use.

- 4.3.17 Unlike the situation where a site is not within a conservation area, development which would affect a designated heritage asset is not assessed on the basis that the harm must significantly and demonstrably outweigh benefits to warrant refusal. Instead, because of the two designated heritage assets the neutral test is engaged, and the public benefits must outweigh the harm. The neutral balance will be undertaken at the end of this report.

Design

- 4.3.18 The dwelling is proposed in an 'L' shape with some single and 1.5 story elements, that has been designed with materials and characteristics that resemble an agrarian barn style, that are also highly efficient and ecological. The dwelling would feature a front facing gable end with two catslide dormer cheeks, a rear facing gable and a dual-pitched single storey rear addition. The dwelling would incorporate triple glazed fenestration on most elevations at ground and first floor, with three rooflights.

- 4.3.19 In general design terms, the proposed development is considered acceptable in my view, seeing as it has been designed to resemble a barn within a rural setting. The use of natural sawn timber weatherboarding and fascia with red/multi brickwork corner piers, is considered an unobjectionable choice of palette for the external elevations in planning terms.

- 4.3.20 The CO did briefly consider the design of the proposed development within his memo, with the relevant part stated below:

"I appreciate that the black line work of the gable end in the drawing below may be seeking to emphasis the gable's proportions and its potential presence in the streetscene but the grey outline of the rearward single-storey side projection and the two catslide dormers should not be understated. Furthermore, the fenestration will be a notable change to a village character devoid of buildings of a contemporary appearance".

- 4.3.21 Moreover, the CO has expressed concern that the use of brick quoin detailing, size, and method of opening of the glazed openings and elongated catslide dormers with lead cheeks are not barn-like at all. Therefore, it would be reasonable to conclude that the CO has some concerns with respect to the dwelling's design, in relation to the differing roof forms and fenestration on the principle elevation. That's said, the CO did not refer to the dwelling's design within his reasons for refusal.

- 4.3.22 The proposed dwelling would result in a marked change to the character and appearance of the street scene, given its infill nature and the absence of built form on this plot at present. The CO has made a robust argument regarding the impact of this proposal upon the character of the Conservation Area, which is implicit within the street scene, as it contributes to its character.

- 4.3.23 As such, it is my considered view that the design of the proposed development is unobjectionable in planning terms, seeing as the proposal would utilise sympathetic

materials appropriate for its rural setting, whilst also being of the highest ecological and environmental standards. This would be in accordance with Section 12 of the NPPF and Policy D1 of the ELP.

Impact on Neighbours

- 4.3.24 It is accepted that the proposed development will have some impact upon the outlook and amenities of neighbouring dwellings, due to its scale and nature as built form on a site where there is currently no existing.
- 4.3.25 That said, the dwelling has been positioned so as to be behind the building line of No.2 Caldecote Road and Cherry Holt, which would reduce but not completely avoid it from having an impact. Given the dwelling's 1.5 storey nature and relatively modest eave/ridge heights, the proposal would not occasion any material harm to neighbour with respect to over dominance in my view.
- 4.3.26 All first-floor windows on side elevations with the ability to overlook are proposed to be obscured glazed, which will limit any loss of privacy towards the neighbours either side in my opinion. Moreover, the spacing between the proposed dwelling and the immediate neighbours, coupled with the shallow pitched roof forms, will not give rise to any adverse impacts upon daylight/sunlight levels.
- 4.3.27 As such, the scheme will not give rise to any materially adverse impacts upon the reasonable living conditions and well-being of neighbouring properties. This is in accordance with Emerging Policy D3.

Landscaping

- 4.3.28 The proposed development would look to make some changes to the landscape features on the area in front of the proposed dwelling. This would incorporate the retention of an existing hedgerow to the rear of the ditch, the boundary with Cherry Holt and an existing tree on site, as well as additional planting of hedgerows and trees on this space to strengthen the landscape. This is welcomed by the LPA. The existing access point onto Caldecote Road is to be widened utilising compacted granular material, which is considered acceptable in my opinion.
- 4.3.29 As such, I have no issues with the landscaping measures proposed within this application.

Parking

- 4.3.30 The proposed dwelling has 3 bedrooms and is proposing a driveway capable of accommodating 3 private vehicles. This will provide ample car parking in accordance with the Vehicle Parking at New Developments SPD and Emerging Policy T2. It is understood that nos.1 & 2 Caldecote Road were erected as workers cottages and being close to Newnham Manor reinforces the farming link. Although, not identified as such on the Conservation Area Map, these are regarded as positive buildings and the garden areas to either side contribute to this sense of rural idyll. The proposed hardstanding and parking would erode the character of the area yet further, but it is acknowledged that such an area of hardstanding for a similar number of cars could be formed at no.2 under current permitted development rights.

Other Matters

4.3.31 There has been a lot of issue taken with the Conservation Officer's assessment of the proposed development and the comparison taken against his consideration of the terraced dwellings currently under construction on The Green. The suggestion is that the Conservation Officer has not been consistent in his assessment of applications for new housing in Newnham. Although it is acknowledged that the dwellings being built on The Green will have an impact upon the character and appearance of the Conservation Area, the nature of the development on The Green was supported by the Conservation Officer._

4.3.32 Prior to application ref: 20/00970/FP for '*Erection of a terrace of 4 dwellings (2 x 3 bed and 2 x 4 bed) and new vehicular accesses*' being determined, the Conservation Officer was consulted and provided comment on application ref: 18/02291/PRE for '*Erection of two detached dwellings and garage with new access to highway with associated landscaping and ancillary works*'. At the time he stated the following:

"It is considered that any development on this site should be two-storey, preferably with a front gable element and with first floor accommodation placed within the roof space of 1½ storey sections. Had it not been for the curtilage of no.1 Caldecote Road, a terrace of 4 units may have been a workable solution, however, taking the curtilage of no.1 into account and whilst also seeking to maintain the grain of deep front and back gardens, I suggest that a pair of two-storey semis or maybe a terrace of three units may be appropriate towards the front of the site and on a similar alignment as that of the southern unit in the pre-app proposal. If designed as a pair of semis then a central 'shared' gable may be a potential design approach or, if three is also manageable, then perhaps gables at either end with a dormer(s) in the middle section of roof could be another way forward. In either case, red plain tiles and white render is to be encouraged".

4.3.33 The Conservation Officer was consulted on 20/00970/FP but provided no comment. However, the Area Planning Officer at the time robustly addressed conservation area matters in his officer report in light of the Conservation Officer's considerations in the previous pre-app in 2018. In my view, this clarification reinforces that each application is taken on its merits and notwithstanding the impact of the dwellings on The Green, the proposed development on this site has not been assessed inconsistently and is unacceptable on Conservation grounds.

4.4 Conclusion

4.4.1 Neutral Balance

4.4.2 At the time of writing the Councils five-year land supply is 1.47 years, which is a significant shortfall. Therefore, the presumption in favour of sustainable development is engaged in accordance with paragraph 11(d) of the NPPF, where permission should only be refused if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The significant five-year land supply shortfall and the location of the site are all favourable considerations for the principle of this development. The site is located within a Category B village and Rural Area beyond the Green Belt within the Saved and Emerging Local Plans, where infill development is acceptable where it does not extend the built core of a village. The settlement has suitable services to accommodate limited growth and increased housing numbers. The scheme would be a modest addition to the Districts housing supply shortfall and have limited social/economic benefits locally, which should be afforded modest weight in my opinion. The dwelling has been designed to an unobjectionable form whilst utilising eco-friendly materials, which are welcomed by the LPA, and would not have an adverse impact upon the reasonable living conditions and well-being of neighbours.

That said, the site is located within the Newnham Conservation Area and is within close proximity to a neighbouring listed building, Cherry Holt. The consultation response from the Conservation Officer offers a convincing view that the proposed dwelling in this location would occasion less than substantial harm to the significance of the designated Newnham Conservation Area and would not make a positive contribution to the setting of Cherry Holt (both Designated Heritage Assets). This is deemed contrary to the aims of Sections 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the NPPF and Policy HE1 of the Emerging Local Plan, providing a clear reason for refusing development on Heritage grounds, which should be attributed significant weight in the planning balance. Therefore, given that the application of footnote 7 policies identifies a clear reason for refusal, the tilted balance is disengaged, and the neutral balance is engaged, where it is still necessary for the decision taker to weigh up all other considerations and the benefits of the proposal must outweigh the harm._

Taking the aforementioned benefits of the proposed development into consideration, it is my professional view that in line with the Conservation Officer's comments, the scheme would lead to harm, albeit less than substantial, to the character and appearance of the Newnham Conservation Area and to the significance of Cherry Holt by developing within its immediate setting, which is an environmental impact. Given the significant and combined weight of the environmental harm to the Newnham Conservation Area and the setting of the nearby listed building Cherry Holt, in my opinion the harm caused by the proposal would not be outweighed by the relatively modest public benefits of 1 dwelling towards the housing supply shortfall, the acceptable design and eco-nature of the proposal and the improvements to Cherry Holt's outbuilding. The application of NPPF policies designed to protect designated heritage assets awards a clear reason for refusal in this case, in accordance with paragraph 11(d)(i) of the NPPF.

4.5 Alternative Options

4.5.1 N/A

4.6 Pre-Commencement Conditions

4.6.1 N/A

4.7 Climate Change Mitigation Measures

4.7.1 N/A

5.0 **Recommendation**

5.1 That planning permission be **REFUSED** for the following reasons:

1. The space between Cherry Holt and 2 Caldecote Road is important to the character of the Newnham Conservation Area even though not given a specific designation. This modest gap between no.2 Caldecote Road and Cherry Holt reads as the side garden to the former, particularly bearing in mind that it does not enjoy a separate site access. A dwelling on this site would consolidate development on the east side of Caldecote Road eroding the settlement's loose-knit, verdant character with parking very much towards the front of the site. I raise an OBJECTION to a dwelling on this site on the basis that this would fail to satisfy the provisions of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018). The proposal will lead to less than substantial harm to the significance of the designated heritage asset (Newnham Conservation Area) and this harm is not, in my opinion, outweighed by public benefits of the development.
2. It would appear that Cherry Holt (grade II listed) has enjoyed an 'open', edge-of-countryside setting from the late C17 through to the construction of nos.1 & 2 Caldecote Road to the south. The two other buildings on this side of the road being St Vincent's Church (grade II*) and the former Vicarage (BLI), both to the north. Presently, the space between Cherry Holt (grade II listed) and no.2 Caldecote Road makes a positive contribution to the setting of both properties by ensuring that a verdant gap is retained between the two. In my opinion, a new dwelling located immediately to the south of Cherry Holt (grade II listed) would not make a positive contribution to its setting or the character and appearance of the Newnham Conservation Area. The harm occasioned to the setting of Cherry Holt, would harm this building's significance and for this reason, I raise an OBJECTION on the basis that this would fail to satisfy the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and the aims of Policy HE1 of the emerging North Hertfordshire Local Plan 2011-2031 Incorporating the Proposed Main Modifications (November 2018) and further Proposed Modifications (May 2021)".

Proactive Statement:

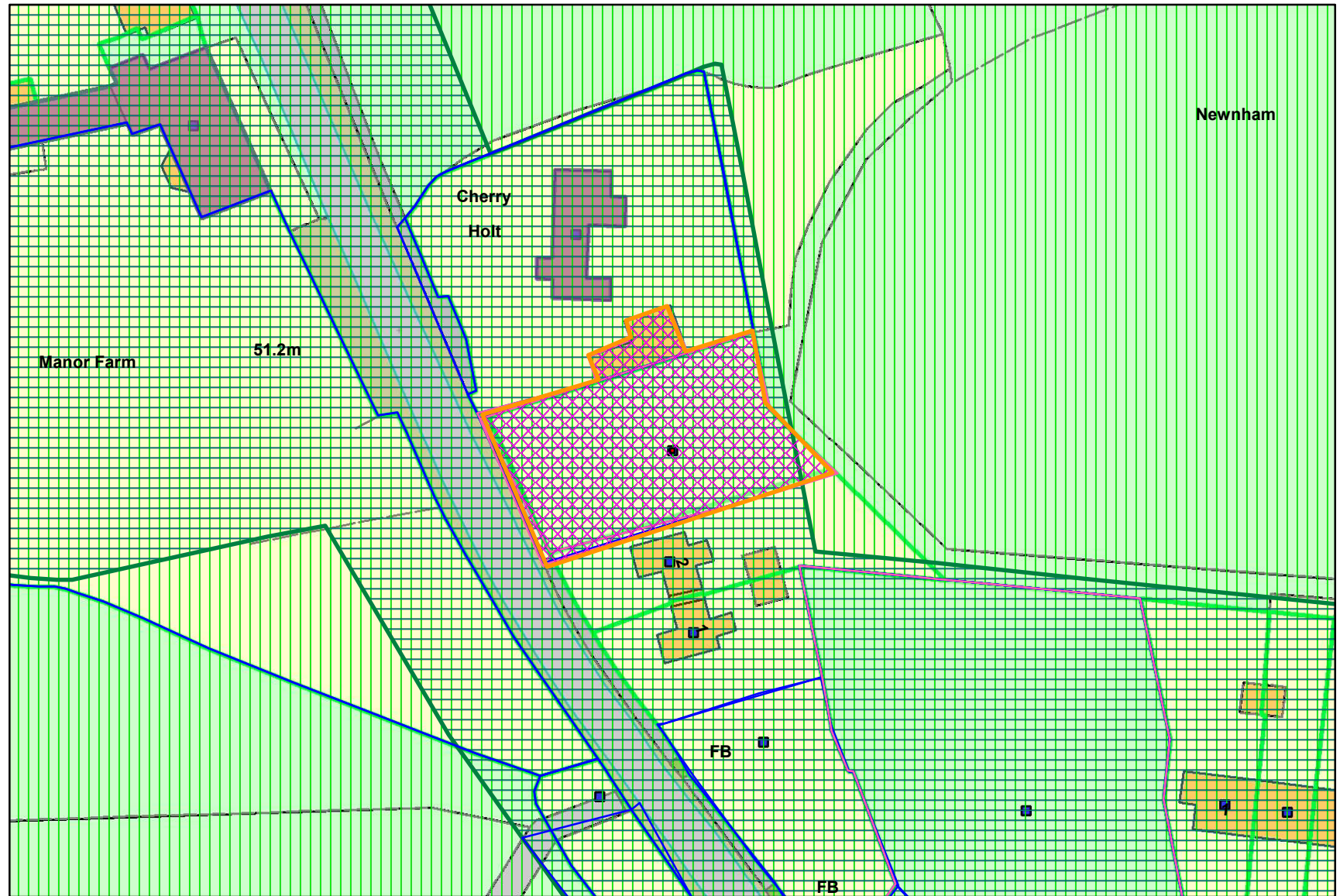
Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied 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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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

22/00346/FP Land Between Cherry Holt and 2 Caldecote Road, Newnham, Herts



Scale 1:750

Date: 07/06/2022

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<u>Location:</u>	Land West of Tuthill House Kelshall Tops Therfield Hertfordshire
<u>Applicant:</u>	Mr R Du Toit And Mr And Mrs G Bullard
<u>Proposal:</u>	Erection of three detached dwellings (1 x 4-bed, 1 x 5-bed and 1 x 6-bed) with associated infrastructure and landscaping.
<u>Ref. No:</u>	21/03533/FP
<u>Officer:</u>	Simon Ellis

Date of Statutory Expiry Period: Agreed extension to 24.06.22

Reason for Delay

Further information received and progression of related S106 Obligation.

Reason for Referral to Committee

The application site area at just over 0.5ha 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 to Determine:

Dapa_1549_101_01 – Existing Site Location Plan
Dapa_1549_300_01 – Proposed Site Layout + Roof Plan
Dapa_1549_301_00 – Proposed Stable House Floor plans and elevations
Dapa_1549_302_00 – Proposed Barn House Floor Plans and Elevations
Dapa_1549_303_00 – Proposed Manor House Floor Plans and Elevations
Dapa_1549_304_00 – Proposed Street Scene and key plan
Dapa_1549_305_00 – Proposed Ariel View
Dapa_1549_306_00 – Proposed Entrance View
Dapa_1549_310_00 – Landscape Strategy
Dapa_1549_311_00 – Proposed Refuse Plan

Associated Documents:

Accommodation Schedule
Design and Access Statement
Heritage Statement
Transport Statement (parts 1-3)
Arboricultural Impact Assessment Report (2 parts)
Geo Environmental Ground Investigation Report (parts 1-6 and appendices)
Desk Study Preliminary Risk Assessment Report
Ecological Assessment Report (2 parts)

1.0 Policies

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

Policy 6 'Rural Area Beyond the Green Belt'
Policy 14 'Nature Conservation'
Policy 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;
SP5 – Countryside and Green Belt
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

CGB1 – Rural areas beyond the Green Belt
T1 - Assessment of transport matters
T2 - Parking;
HS3 - Housing mix;
HS5 - Accessible and Adaptable Housing
D1 - Sustainable design;
D3 - Protecting living conditions;
NE1 - Landscape;

NE5 - New and improvement public open space and biodiversity;
 NE6 – Designated biodiversity and geological sites;
 NE7 - Reducing flood risk;
 NE8 - Sustainable drainage systems;
 NE9 - Water Quality and Environment;
 NE10 - Water Framework Directive and Wastewater Infrastructure;
 NE11 – Contaminated Land
 HE1- Designated Heritage Assets
 HE4 -Archaeology

2.0 Site Planning History

- 2.1 This site has a complex planning history the relevant highlights of which have been summarised below.
- 2.2 92/00643/1 Application to use the land for open storage of agricultural vehicles and as operating depot for 4 HGV. This was approved subject to a S106 agreement.
- 2.3 93/00543/1TD Application for a 15m telecommunications mast was accepted as permitted development subject to an amendment to the S106 agreement.
- 2.4 93/01303/1 Application for a small storage building approved subject to an amendment to 106 agreement.
- 2.5 05/00355/1 Application for use of site for storage and distribution of building materials. Refused at the Royston and District Area Committee on 21 April 2005.
- 2.6 Applications for residential development were submitted in 2015 but subsequently withdrawn.
- 2.7 An application to vary/remove the S106 agreement was submitted in 2018 but subsequently withdrawn.
- 2.8 Planning application no. 20/00118/OP: Outline planning application for an 18 dwelling scheme. Refused at the meeting of the Planning Control Committee held on 16 July 2020.
- 2.9 Planning application no. 20/00117/OP: Outline planning for a 6 dwelling scheme. Refused at the meeting of the Planning Control Committee held on 16 July 2020.
- 2.10 Planning application no. 21/01349/FP: Full application for the erection of 3 dwellings (1x4 bedroom, 1x5 bedroom and 1x6 bedroom) with associated infrastructure (amended plans received 27.07.21) – Withdrawn 06.01.22.

3.0 Representations:

3.1 Technical and Statutory Consultees:

Hertfordshire County Council (Highways):

No objections, suggested conditions and informatives (**see recommended condition nos. 6-10**).

3.2 Hertfordshire County Council (Lead Local Flood Authority):

No comment.

- 3.3 **Hertfordshire County Council (Historic Environment – Archaeology):**
No objection. Suggested condition **(see recommended condition no. 11)**.
- 3.4 **Hertfordshire County Council (Ecology):**
Nothing received within the consultation period.
- 3.5 **Environment Agency (Contaminated Land and Controlled Waters):**
No objection. Suggested conditions **(see recommended condition no. 13)**.
- 3.6 **Historic England:**
No objections. Recommends the below ground archaeological potential of the site is examined.
- 3.7 **Senior Conservation Officer:**
Conservation surgery discussion and considers that overall harm to designated heritage assets is within the lower end of the less than substantial harm test set out in paragraph 202 of the NPPF. Considers that some harm would be caused by the larger dwelling proposed on plot 3 to be of a scale that would be dominant within the courtyard setting when compared with the smaller barn style dwellings on plots 1 and 2.
- 3.8 **NHDC Waste Collection and Recycling Service:**
No objections.
- 3.9 **NHDC Environmental Health (Noise):**
No objection. Recommend informative regarding construction management **(see recommended informative no. 5)**.
- 3.10 **NHDC Environmental Health (Air Quality):**
No objection. Recommend condition regarding EV charging points associated with the development **(see recommended condition no. 14)**.
- 3.11 **NHDC Environmental Protection (Contaminated Land – Human Health):**
No objections. Suggested condition **(see recommended condition no. 12)**.
- 3.12 **Therfield Parish Council:**
Object to the proposed development. Consider the site to be greenfield, all previous reasons for refusal still stand, consider the existing controls of the S106 agreement should be maintained and no housing development should be allowed on this site.
- 3.13 **Public Comments:**
Full details can be viewed on the Council's website. A brief summary of views is set out below:
The application site is not allocated in the 2011-2031 Local Plan and is located outside the Therfield Settlement boundary as proposed in the Plan;
Any development of this site would set a dangerous precedent and undermine countryside protection in the wider area;
This is a greenfield site tied as agricultural use within the S106 agreement and these controls should remain;
The current S106 agreement prohibits development on this site;
All previous reasons for refusal still stand;
Visual impact on the skyline and hilltop appearance;

The development proposal is a wasted opportunity as many more houses could be accommodated on this site and houses are needed in this locality;

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site comprises an enclosed and gated area of land which is largely down to concrete hardstanding. The site occupies a prominent position on the high ground to the south of the Kelshall Road on the edge of the village of Therfield, west of Tuthill Farmhouse.

4.2 The Proposals

- 4.2.1 Full planning permission is sought for the development of three detached dwellings and associated infrastructure on this site. The accommodation mix proposed would be 1x4 bed, 1x5 bed and 1x6 bed dwellings.
- 4.2.2 Vehicular access to this courtyard form of development would be gained from the current gated vehicular access point. The two dwellings proposed on either side of the proposed entrance would be of barn style design and appearance and the larger dwelling proposed in the western section of the site would have a more traditional farmhouse style appearance.
- 4.2.3 The proposal includes the establishment of three generous plots within a landscaped setting and would require the breaking up and removal of the large concrete apron which dominates the application site, covering almost the total area of the site at present.

4.3 Key Issues

- 4.3.1 Taking account of the relevant development plan policies and other material considerations listed above, together with the representations also listed above and the relatively recent decisions of the Planning Control Committee to refuse permission for larger scale development schemes on this site 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 this revised scheme has overcome the reasons for refusal of the most recent two planning applications and whether there have been any material change in circumstances since those decisions;
 - 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 1.5 year land supply (April 2021));
 - Finally, if Members are minded to grant planning permission for this development proposal, how does the Council ensure that the existing planning controls relating to this site contained in the current S106 agreement are maintained post such a

grant until the establishment of a new land use on the site, by which point the controls could be removed as they would no longer be necessary?

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

4.3.2 Principle of Housing and Policy Basis for the Decision

The application site is located outside the settlement boundary of Therfield both in the Saved Local Plan (Policy 6) and the emerging Local Plan (Policy CGB1). The proposal does conflict with Saved Local Plan Policy 6 which is the most relevant development plan policy. The site is located within the Rural Area Beyond the Green Belt, wherein pre- the National Planning Policy Framework (NPPF) (both 2012, 2019 and 2021 versions) the planning system could effectively prevent market housing and most housing schemes in principle, certainly for market housing. With the presumption in favour of Sustainable Development set out in the NPPF this is no longer the case.

4.3.3 Notwithstanding the conflict with the development plan, 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.'

4.3.4 Addressing point c) first. The Council does not have an up to date Development Plan. In the year 2022 of an emerging Plan period 2011-2031 the Council has still not adopted a new Local Plan since 1996. For point d), there are no policies in the Framework listed in the footnote to paragraph 11, such as Green Belt, National Park, SSSI or heritage (see discussion below) 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 (Saved Local Plan Policy 6) are out of date.

4.3.5 On this basis any assessment of development on this site is within the test set out in the NPPF paragraph 11 (d) (ii). The Council must grant permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

4.3.6 Assessment of Revised Scheme against Previous Refusals

The scheme proposed in this planning application is for 3 dwellings not 6 or 18 as were proposed in the previous applications. The reasons for refusal of the 6 dwelling scheme

(ref. 20/00117/OP) which most closely resembles the quantum of development proposed here are set out in order below, together with my opinion of the scheme in relation to those earlier reasons for refusal:

4.3.7 Reason for refusal 1 of planning application no. 20/00117/OP

'By reason of its suburban form and layout, the proposed development would appear at odds with the informal agrarian character of the surrounding countryside in this edge of village location. As such the proposal would fail to take the opportunity to safeguard or enhance the character of the area and the way it functions contrary to the advice set out in the NPPF, specifically paragraphs 127 and 130 and the requirements of saved Policies 6 and 57 of the local plan (SLP) and Policies CGB1 and D1 of the emerging local plan (ELP).'

4.3.8 In my opinion the current proposal creates a more agricultural style layout in the form of a group of buildings surrounding an enclosed courtyard of development which is more appropriate for this location and with the reduced number of dwellings proposed would in my view be a less suburban form of development than the recently refused scheme.

4.3.9 The policies referred to in this reason for refusal also seek to protect the intrinsic value of the countryside (although this objective is not referred to in the text) and in which case are consistent with the aims and objectives of the NPPF. As I set out above it is no longer the case the planning policies impose an effective embargo on housing development outside defined settlements and with the presumption in favour of sustainable development it is for the decision maker to assess a scheme against the objective of seeking to preserve the intrinsic value of the countryside. To this end I consider that this site which consists largely of a concrete apron on an admittedly elevated site has a very limited contribution to the intrinsic value of the countryside and on that basis I consider that in terms of protecting the countryside, the proposed development does not unduly harm the character the countryside in this location. Overall, therefore I consider the proposed development overcomes this reason for refusal and the balance between development and protection of the countryside, given that this site is not an open green space, is dominated by concrete hard standing and has an extant permission for HGV storage, is neutral in my judgement.

4.3.10 Reason for refusal 2 of planning application no. 20/00117/OP

'The application proposal would be in an area remote from services and facilities such that the occupiers would be almost exclusively reliant on private transport for most of their everyday needs. This inadequacy would be compounded by the site's poor connectivity with the limited facilities available in the village itself, most notably the school. Being some 800m from the school with no footpaths or lighting, along narrow country lanes, non-car access from the site would be poor and possibly hazardous. This poor local connectivity would further militate against the development's successful assimilation into the settlement. If approved, this would amount to the promotion of unsustainable development at variance with the National Planning Policy Framework and its aim to promote sustainable patterns of well connected, inclusive development and policies in the Council's emerging local plan (ELP), principally Policy SP1, supporting the same.'

4.3.11 This remains the case, there have been no changes to the wider higher network in the intervening period and the proposed development seeks to utilise the same access point. The lack of access to local facilities therefore remains a negative in the planning balance and other than a reduction in the number of dwellings proposed and therefore a reduction in harm there is also no corresponding increase in benefits as the costs benefit equation between harm caused to sustainability against benefits of new homes remains the same. There has however been a reduction in housing land supply since July 2020 from the 2020 AMR figure of 2.2 years to a current even worse figure of 1.5 years.

4.3.12 Reason for refusal 3 of planning application no. 20/00117/OP

'The developments reliance on private transport to access essential services in the village and beyond, and the provision of car parking at the minimum standard, with limited surplus capacity for visitors, would likely combine and give rise to hazardous and unsightly on street parking conditions in what is a very narrow country lane. Given the nature of the highway network local to the site, this concern is considered serious and likely to manifest in locally severe highway issues contrary to the advice in the NPPF and policies in the local plan (SLP Policy 55) and the emerging plan (ELP Policies T1 and T2) promoting adequate parking and highway safety.'

4.3.13 This reason for refusal is overcome in my view as there is more than sufficient car parking proposed within the site and with no objection from HCC (Highways) in my view this reason for refusal would be very difficult to sustain on appeal if repeated. Each of the three dwellings would include double garages and space outside the dwellings for two additional car parking spaces therefore creating spaces for four cars for each dwelling. On that basis the likelihood of this development proposal leading to dangerous additional on-street car parking is very limited and certainly not a sufficiently high likelihood to justify a refusal of planning permission.

4.3.14 Reason for refusal 4 of planning application no. 20/00117/OP

'The proposal would, by its very nature, introduce a form of development which would inevitably occasion a marked change to the rural setting (and therefore significance) of the adjacent conservation area as it is currently framed on this important entrance to the village. Further, the suburbanising nature of development would occasion harm to the setting of the scheduled monument referred to as 'Motte and Bailey castle and associated earthworks and the grade 2 listed building known as Tuthill Manor. Not only would this change manifest itself by the introduction of development more typical of a suburban environment, but by the inevitable chattels and general domestication associated with such development, including overspill car parking onto the narrow Kelshall Road. Accordingly, it is considered that the proposal would adversely impact upon the setting (and therefore significance) of the listed building and conservation area as well as the scheduled monument. This being the conclusion, the proposal would fail to satisfy the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the aims of Section 16 (particularly paragraphs 192, 193, 194 and 196) of the NPPF and Policy HE1 of the North Hertfordshire District Proposed Submission Local Plan 2011-2031.'

4.3.15 Paragraph 202 of the NPPF (July 2021) states that:

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

- 4.3.16 In terms of designated heritage assets the comments of Historic England address the scheme in relation to the nearby scheduled monument and Members will note that whilst they raise concerns regarding the effect on the setting of scheduled monument (i.e. some harm would occur as a result of this development) they do not object to the current planning application.
- 4.3.17 The Therfield Conservation Area boundary runs immediately to the east of the application site. Also, the grounds of the grade 2 listed building Tuthill Manor lie immediately to the east of the track that runs to the east of the application site. On this basis the proposed development of three dwellings in this location would have an effect on the settling of both these designated heritage assets. Visually, given the level of screening within the site on this side of the development and the design features of the development as a relatively close-knit courtyard development of three dwellings in appropriate materials and finish for each dwelling I consider that any harm both visually and in terms of built form would be on the lower end of the less than substantial test set out in paragraph 202 of the NPPF. Moreover, as there is more than sufficient car parking proposed and potential for generous landscaping within the scheme the specific harms set out in the above referenced previous reasons for refusal, namely overall suburbanisation and potential spill over car parking in the wider area, would not occur with this new development proposal in my judgement.
- 4.3.18 Given the less than substantial harm identified to the nearby designated heritage assets, consideration of the public benefits of the scheme must be weighed against this harm under the terms of paragraph 202 of the NPPF. More detailed discussion of the public benefits are set out in the Planning Balance section of the report, these being mainly the delivery of new homes in a situation where the Council has a substantial under delivery of new homes and the development proposal providing an opportunity to break up and remove an unsightly large expanse of concrete that defines this site and replace it with a well landscaped small scale housing scheme. In my view these benefits outweigh the less than substantial harm to the designated heritage assets. The conclusion of this balance under paragraph 202 of the NPPF places the overall assessment of the development proposal firmly within the presumption in favour of sustainable development set out within paragraph 11 of the NPPF as set out above.
- 4.3.19 In my opinion reason for refusal 4 of the earlier application has been overcome.
- 4.3.20 Reason for refusal 5 of planning application no. 20/00117/OP
‘The Preliminary Risk Assessment report provided with the planning application 20/00117/OP appears to be incomplete and will therefore need to be updated to reflect all recent, as well as historic activity and uses, including the storage and/or dismantling of end-of-life vehicles. In the absence of this additional information, the application has not adequately demonstrated what risk the proposed development poses to controlled waters.’

4.3.21 Advising on potential contamination of controlled waters is the responsibility of the Environment Agency and Members will note above that they raise no objection to this planning application. On that basis this reason for refusal has been overcome.

4.3.22 Reason for refusal 6 of planning application no. 20/00117/OP

'The Flood Risk and Surface Water Assessment carried out by Ardent Consulting Engineers reference 196660-04 Rev A dated April 2020 submitted with this application does not comply with the requirements set out in paragraph 9 the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.'

4.3.23 Members will note that there are no objections to the current application from the Lead Local Flood Authority (LLFA) and on that basis this sixth reason for refusal of the earlier application has also been overcome. Members must also note that for schemes of less than 10 dwellings the LLFA are not a statutory consultee and on that basis are not required to offer advice in relation to this planning application in any event.

4.3.24 Conclusions on Merits of the scheme and Planning Balance

From the above discussion there remain some harms that would be caused by this development that must be weighed in the planning balance, most notably the lack of access to local services and the reliance on the private car that would be necessary to access services and poor pedestrian facilities (including lack of footpath link from the site to the village) to access the wider village. There would also be albeit within the lower range of less than substantial harm to nearby designated heritage assets. Does this remaining harm significantly and demonstrably outweigh the benefits of the scheme? The benefits of the scheme in my view are the delivery of three new homes when the Council is manifestly unable to demonstrate a five-year supply and the benefits of new homes only increases in the decision-making equation the more the shortfall in supply (note that this shortfall is more acute now than it was in 2020). Other benefits include the associated removal of the concrete apron which dominates the site and other benefits in the form of new planting and landscaping. Paradoxically the operational development required to remove some or all of the concrete apron without a new planning permission would represent a breach of the terms of the current S106 agreement (as it prohibits operational development) so to deliver this benefit a new planning permission and associated modification of the current agreement is required as at this time such an operation is prohibited even if the current owner wanted to return the site to greenspace without any associated housing. The extant permission (92/00643/1) to which the associated S106 agreement relates to also allows for the storage of 4 HGVs on this site and by the proposed removal of this use and associated controlling agreement in my view would also be of benefit to the local environment.

4.3.25 As can be seen from the representations set out above and displayed on the Council's website, many local residents consider that the use of the site should remain as an agricultural use (albeit there is also permission for HGV storage). In my view the current non-use / agricultural use of this site which simply consists of a raised concrete apron contributes very little the character of the area and in my judgement if permission is granted for this relatively small scale housing development in this edge of village location (outside the settlement boundary but close to it) would provide an incentive to properly and carefully break up and remove a huge swathe of concrete and replace it with a well-designed housing layout within a landscaped setting. This in my view

represents a positive benefit to the scheme as well as the delivery of three new homes. In my view the remaining harm of poor access to the village and wider services and at the lower end of less than substantial harm to nearby heritage assets does not significantly and demonstrably outweigh these benefits and on that a basis in terms of planning merits and on that basis I support this scheme.

- 4.3.26 The proposed landscape plan identified broad opportunities for new planting to enhance existing screening where possible, within the confines of the application boundary (a point clearly illustrated on the landscape strategy plan). The specifics of any additional planting and timing can be secured by suitably worded planning conditions which are set out in the recommended conditions below.
- 4.3.27 This planning application includes an area of highway land within the red line to demonstrate how the requisite visibility splays can be accommodated at the access point and within the highway land. A secure refuse collection point is also shown within the entrance to the site to ensure that roadside collection of waste can occur following this development and no objections are received from the Shared Services Waste Collection and Recycling Team to this layout.
- 4.3.28 Applicant's Proposal to Ensure Continuity of Control of Existing S106 Agreement
As Members have been advised before and as is reflected in earlier decisions on planning applications relating to this site, the existence of a controlling S106 agreement which places additional controls regulating the current authorised use of the land as an HGV depot and open agricultural storage is not a material consideration that affects the merits of the current planning application. In particular Members must note that the existence of this S106 agreement did not amount to a reason for refusal of planning permission on the previous schemes. Notwithstanding this, as is explained below, to develop the site for housing without revoking or changing the controls in the S106 agreement would be a breach of it, as currently worded. On this basis, if Members were minded to grant planning permission for this development, a suitable mechanism is required to ensure that if the development is implemented it does not breach the terms of the current S106 agreement.
- 4.3.29 The attached document as **appendix 1** sets out the applicant's proposal to provide a deed of variation to the existing agreement and new S106 agreement and paragraphs 4.1 to 4.4 of the Temple Bright document explain the proposed sequence to ensure continuity of control pre-commencement, during construction and post completion. This would allow the new development to take place, whilst protecting the landscaped area marked on the appended landscape plan from future development. The applicant states that the freehold owner of the landscaped areas has agreed to sign the deed of variation agreement.
- 4.3.30 This approach has been supported by the Council's Legal Regulatory Team Manager and the recommendation set out below to grant planning permission is subject to the successful completion of this process.
- 4.3.31 To summarise this point, and contrary to the argument that because an existing legal agreement stops new development on this site therefore no other development should ever be permitted, I set out the following points:

* the existence of the controlling legal agreement was not itself a reason for refusal of the recent applications for housing, it was planning harms that were identified associated with the proposed development that persuaded Member to refuse planning permission;

* the existing restriction are intended to control the use of the current authorised land use on the site, not to prevent other forms of development following any other grant of planning permission. If the proposed development is complete the existing authorised use of the site falls away, is no longer authorised, and no longer needs to be controlled by the existing agreement;

* If Members are minded to grant planning permission for this development, there is a mechanism available to ensure that the current controls on the land remain until the new development is occupied and therefore the existing agreement does not prevent the Local Planning Authority from allowing a new, alternative development on this site that it considers is acceptable in planning terms.

4.3.32 Climate Change Mitigation

The scheme would create new soft landscaping opportunities and other sustainable development objectives could be secured by conditions (such as EV charging points) were Members minded to grant planning permission for this development. This is in accordance with Section 14 of the NPPF 2021

4.3.33 In terms of building construction and design the scheme includes the following features: highly insulated building fabric, passive ventilation, solar energy, energy efficient lighting and rainwater harvesting.

4.3.34 Conclusions

The absence of a five-year land supply of deliverable housing sites underscores the benefits of delivering new homes. Other benefits include the removal of a large area of concrete apron, and the provision of HGV car parking permitted via the extant permission. There remains harm that would be caused by the revised scheme in the form of poor pedestrian links and the relative isolation of the site in relation to services as well as to the lower end of less than substantial harm to nearby designated heritage assets. However, in my opinion, and subject to the completion of a necessary legal agreement to ensure continuity of land use control up to and including the development of the new housing scheme, the identified harm of this scheme does not significantly and demonstrably outweigh the benefits of the scheme and on that basis I recommend that planning permission is granted for this scheme as is set out below.

4.3.35 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 deed of variation and new S106 agreement;
- 6.2 That the applicant agrees all necessary extensions to the statutory determination - period to enable the completion of the deed of variation 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 landscaping 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 a full management plan and method statement to achieve the break up and safe and sustainable disposal of the concrete apron on the site 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 and must be completed prior to the first occupation of the development hereby permitted.

Reason: To ensure the correct phasing of the development and to enable a comprehensive soft landscaping plan to be delivered on this site in association with the development hereby permitted.

6. The development hereby permitted shall not commence until the proposed access has been constructed 4.8m wide complete with 6.0m radius kerbs for at least 12m into the site, and the verge shall be reinstated to the current specification of Hertfordshire County Council and the Local Planning Authority's satisfaction. These works shall be secured and undertaken as part of the S278 works.

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

7. Prior to occupation of the development hereby permitted vehicle to vehicle inter-visibility splays of 2.4m by 57m to the eastern direction and 2.4m by 59m to the western direction shall be provided and permanently maintained, within which there shall be no obstruction to visibility between 600mm and 2.0m above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

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

8. The gradient of the main access from the adjacent Kellshall Road shall not exceed 1 in 20 for the first 12m from the edge of the carriageway into the site as measured from the near channel edge of the adjacent carriageway.

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

9. Before the development hereby approved is first occupied, all on site vehicular areas shall be accessible and surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

10. 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 the following:
- a. Construction vehicles, number, type and routing;
 - b. Access arrangements to the site for construction vehicles;
 - c. Traffic management arrangements;
 - d. Construction and storage compounds (including areas designate for parking, loading and turning areas);
 - e. Siting and details of wheel washing facilities;
 - f. Clearing of site entrance, 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 and 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 the public highway;
 - j. Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;

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

11. 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.

12. Following the breaking-out of the concrete surface of the site, a visual olfactory survey shall be made of the surface of the site by a qualified, experienced environmental consultant. Any evidence of contamination, encountered either during the above mentioned survey, or 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.

13. If, during development, contamination not previously identified is found to be present at the site, then no further development (unless agreed in writing by the Local Planning Authority) shall be carried until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with, and has obtained written approval of the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF) paragraphs 174, 183, 184 and relevant Environment Agency Groundwater Protection Position Statements.

14. Prior to occupation, each of the three proposed new dwellings 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.

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.

Informatives

1. Works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication Roads in Hertfordshire Highway Design Guide. Before proceeding with the proposed development the applicant shall contact for further information: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047 to obtain the requirement for a S278 agreement for the associated road works as part of the development.
2. Prior to the commencement of the development the applicant shall contact <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047. To arrange a site visit to undertake a conditions survey of the approach of the highway leading to the development likely to be used by delivery vehicles to the development. Under provisions of Section 59 of the Highway Act 1980 the developer may be liable for any damage caused to the public highway as a result of traffic associated with the development. Hertfordshire County Council may require an officer to be present during the movement of larger loads.
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. **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>

Informative 5

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

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

7.0 Appendices

7.1 Appendix 1 – Temple Bright Note, Draft Deed of Variation, Draft new S106 Agreement and Landscape Plan

Land on Kelshall Road, Therfield

Note on existing S106 Agreement dated 6 August 1993 and proposed deed of variation and new S106 Agreement

- 1.1 This note has been written by Temple Bright LLP for the benefit of Quanta Homes 6 Limited (“Quanta”).
- 1.2 Quanta are to submit a planning application for the redevelopment of the land on Kelshall Road, Therfield Property registered at the Land Registry under title number HD307468 (the “**Site**”). The Site is owned by Graham Bullard and Jean Margaret Bullard (the “**Owner**”). The application is to seek permission to redevelop the Site to erect three residential dwellings (the “**Development**”).
- 1.3 The Site is subject to an agreement made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended). The agreement is dated 6 August 1993 made between (1) David Miller and (2) North Hertfordshire District Council (the “**Original Agreement**”) and remains extant.
- 1.4 The Original Agreement defines the land that is bound by it as: “*land (the Land) situate at Tuthill Farm, Kelshall Road, (Therfield, Royston, Hertfordshire and shewn edged red on the attached plan for the purposes of identification only*”. No colour version of the plan attached to the Original Agreement is available and the extent of the “Land” that is bound by the Original Agreement is not clear. An extract of the plan attach to the Original Agreement is shown at Schedule 1. Therefore it is possible that the “Land” as defined in the Original Agreement is greater than the Site as owned by the Owner.
- 1.5 James William Croucher is the registered freehold proprietor of the land to the south of the Site as registered at HM Land Registry Title Number HD312324. There is a strip of land along the southern boundary of the Site where there is existing landscaping and it is possible that the Original Agreement binds part of the land which is outside of the Site and owned by Mr Croucher where this landscaping is located (i.e. the strip of landscaping forms part of the “Land” bound by the Original Agreement). Mr Croucher has confirmed that he is willing to enter into a deed of variation to consent to the Original Agreement being varied and to confirm that any restrictions in the Original Agreement that do bind his land relating to existing landscaping on his land, will continue to do so.
- 1.6 The Original Agreement includes restrictions on the use of the Land in connection with the existing use of the Land (as defined in the Original Agreement). The implementation of the planning permission for the Development will create a new chapter in the planning history of the Site and the restrictions in the Original Agreement relating to the previous use are to be varied and/or released insofar as they relate to the Site.

- 1.7 The planning application relates to the Site (as owned by the Owner) and does not include any land owned by Mr Croucher as no development is proposed on the land owned by Mr Croucher. Any obligations in the Original Agreement relating to landscaping in relation to the land owned by Mr Croucher will continue to bind.
- 1.8 This note sets out the legal position and procedure in order to document the variation of the Original Agreement through the application process for the Development.

2. LEGAL POSITION

- 2.1 The power to modify or discharge any section 106 agreement by agreement is provided by Section 106A the Town and Country Planning Act 1990:

“S106A(1) planning obligation may not be modified or discharged except—

(a) by agreement between the appropriate authority (see subsection (11)) and the person or persons against whom the obligation is enforceable”.

- 2.2 The parties to the contract (i.e. for the Original Agreement, the Owner(s) of the “Land” and the Council) can lawfully agree to discharge an agreement at any time. There is a requirement that the discharge is documented through an instrument executed as a deed (Section 106A(2)).
- 2.3 There is nothing in the Original Agreement which could be interpreted as prohibiting or limiting the right of any person to apply to develop the Site in any way which is authorised by a planning permission to be granted subsequent to the conclusion of the Original Agreement. Nor is there any form of prohibition or restriction that fetters the power of the Council to grant any new planning permission.

3. PROCEDURE

- 3.1 There are no additional procedural requirements or statutory tests required by law for the discharge or modification of any section 106 agreement where it is agreed between the parties to that contract¹.
- 3.2 The discharge or modification of the Original Agreement can be agreed as part of the application process and the permission for the Development should not be granted until it is completed. The Council’s reasonable legal fees will need to be paid prior to completion.

¹ This is unlike the extensive procedure where there isn’t agreement with a Council to modify or discharge under Section 106A(3) and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 SI 1992/2832 (“1992 Regulations”). These provisions and procedures do not apply to a S106 agreement modified or discharged by agreement.

- 3.3 The Original Agreement revoked an earlier planning agreement dated 15th September 1978. This revocation is to continue to apply and should be documented by modifying the Original Agreement.
- 3.4 The Original Agreement contains a restriction on part of the Land coloured red for that land not to be used for any purpose other than as a landscaped area. It is understood that all parties are desirous for this restriction to remain. The plan to the Original Agreement does not show any colours but it appears to relate to two areas. These are:
- (a) An area of land at the western end of the Site. This restriction will be re-imposed via a new S106 Agreement with the area of “Landscaped Land” shown hatched green on the plan proposed to be attached to the S106 Agreement at Appendix 2.
 - (b) A strip of land along the southern boundary of the Site where there is existing landscaping. This strip of land is outside of the Site. The restriction will be unaffected by the deed of variation and new S106 Agreement and the owner of that land (Mr Croucher) will enter into the deed of variation to consent to the Original Agreement being varied and to confirm that any restrictions that do bind his land relating to existing landscaping on his land, will continue to do so.

4. A TERMS OF A DEED OF VARIATION AND A NEW S106 AGREEMENT

- 4.1 The intention is to enter into a deed of variation and a new S106 Agreement. The deed of variation will allow for the new Development to be built out and the new S106 Agreement will ensure that the “Landscaped Area” within the Site is restricted to its use as such.

Deed of Variation

- 4.2 The deed of variation should secure the following:
- 4.2.1 The Original Agreement is to remain in full effect until commencement of the Development.
 - 4.2.2 During construction of the Development (between commencement and completion of the Development) the Council shall cease to enforce the provisions of the Original Agreement so that the Development can be constructed on the Site. During the construction period the Site shall only be used for the construction of the Development in accordance with the planning permission and any uses ancillary to the construction of the Development.
 - 4.2.3 Upon practical completion of the Development the Site shall be released from the covenants and obligations within the Original Agreement save in respect of clause 2 [revocation of agreement dated 15th September 1978] of the Original Agreement which clause 2 shall remain in effect.

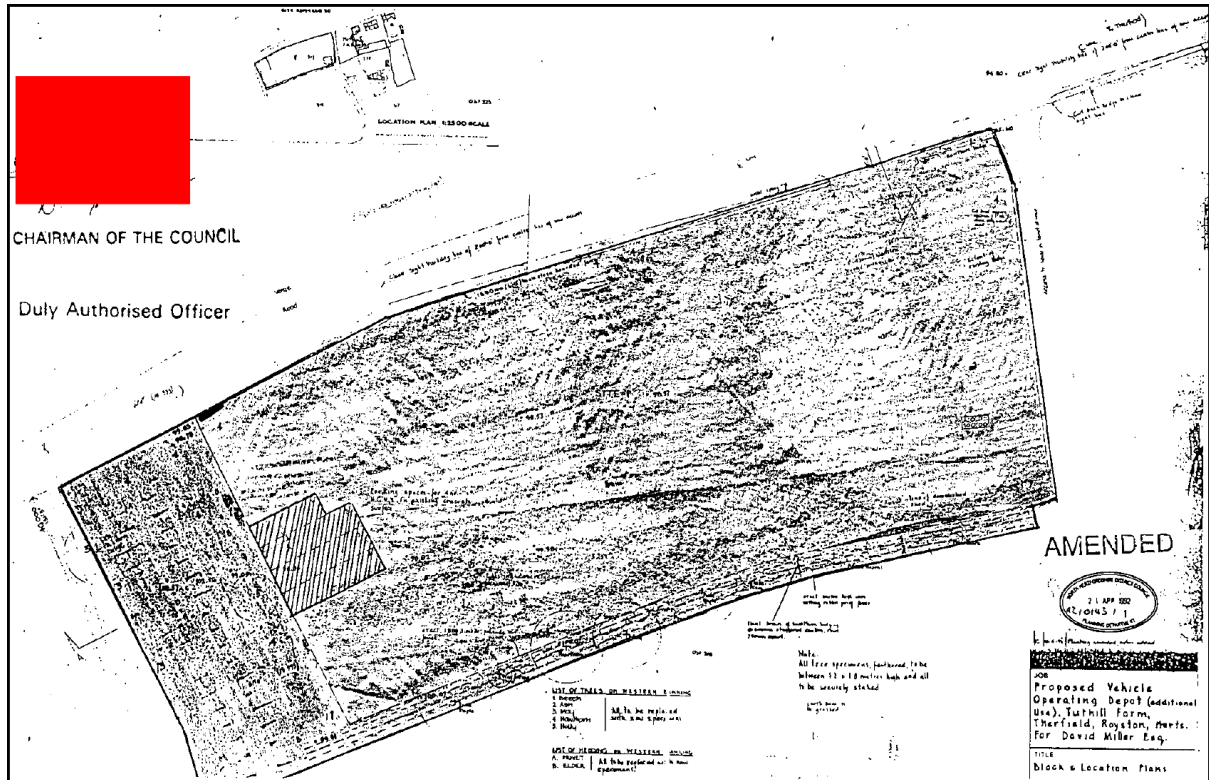
- 4.2.4 The deed of variation will confirm that the covenants contained in the Original Agreement (except as varied by the deed of variation) are to continue in full force and effect. This will mean that the land owned by Mr Croucher that is currently bound by the Original Agreement, will continue to be bound.

New S106 Agreement

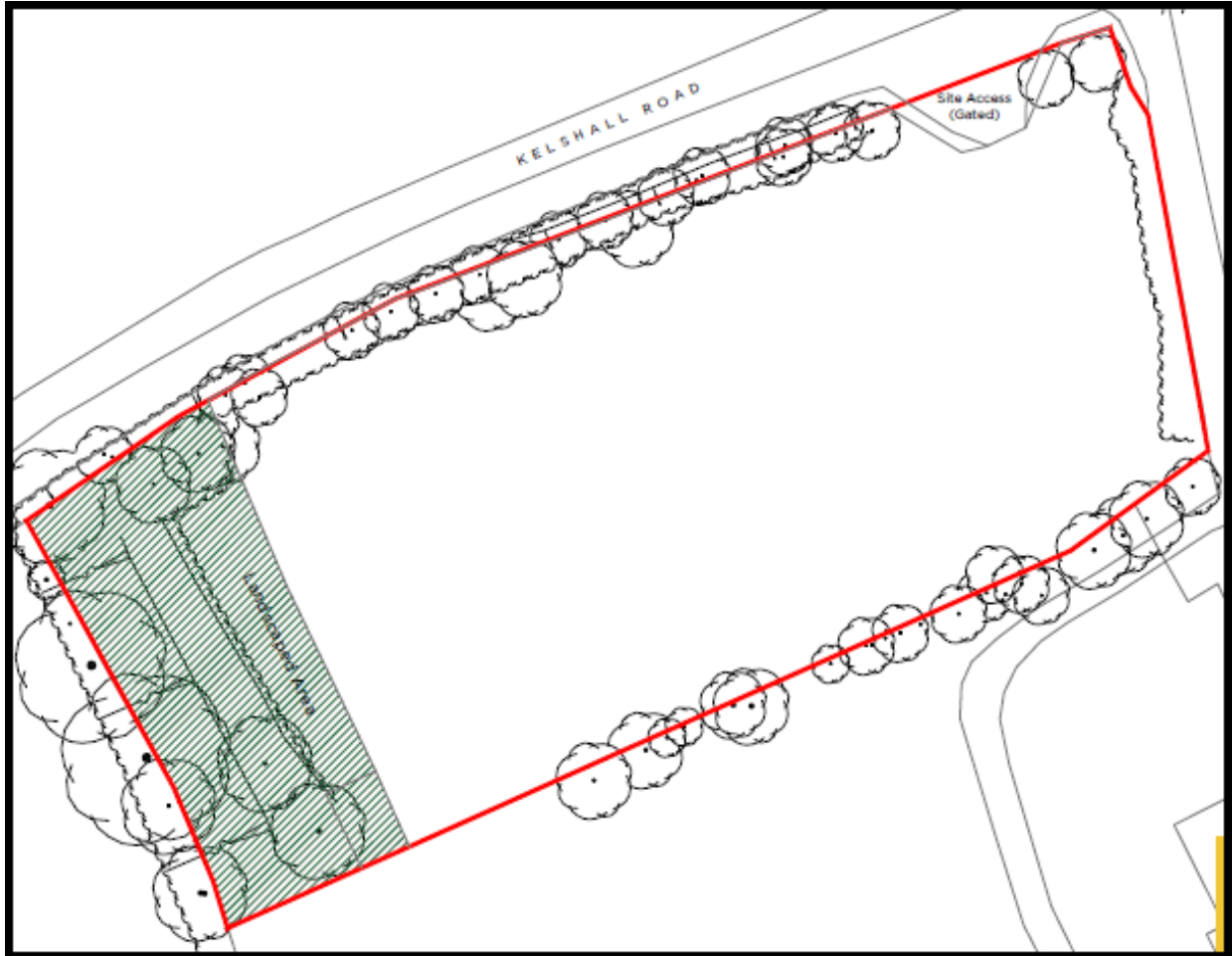
- 4.3 The new S106 Agreement will take effect from the practical completion of the Development. It will secure that part of the Site is to be used for landscaping only. The Owner (and therefore any successors in title) shall covenant not to use the Landscaped Land for any use or purpose other than as a landscaped area. The area of “Landscaped Land” is shown hatched green on the plan proposed to be attached to the S106 Agreement. The proposed plan is appended to this note at Appendix 2.
- 4.4 Drafts of the proposed deed of variation and new S106 agreement are attached as appendix 3 and 4 respectively to this note. These are based on the template draft that is available on the Council’s website.

Temple Bright LLP
December 2021

Appendix 1: extract of plan identifying the “Land” in the Original Agreement



Appendix 2: extract of plan of 'Landscaped Area' for proposed 106 agreement



Appendix 3: draft of proposed deed of variation



DATED

202

NORTH HERTFORDSHIRE DISTRICT COUNCIL

and

GRAHAM BULLARD AND JEAN MARGARET BULLARD

and

QUANTA HOMES 6 LIMITED

and

JAMES WILLIAM CROUCHER

DEED

Under Section 106 and Section 106A of the Town &
Country Planning Act 1990

Land at Relating to land at Kelshall Road, Therfield,
Hertfordshire

Legal Services

North Hertfordshire
District Council

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

(Ref: /LL)

THIS DEED OF VARIATION is made the

day of 202

BETWEEN:

- 1 **NORTH HERTFORDSHIRE DISTRICT COUNCIL** of Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF (the "**Council**");
- 2 **GRAHAM BULLARD** and **JEAN MARGARET BULLARD** of 1 The Grange, Therfield, Royston SG8 9QG (the "**First Owner**"); and
- 3 **QUANTA HOMES 6 LIMITED** (Co. Regn. No. 10553092) whose registered office is at Chester House, 81-83 Fulham High Street, Fulham, England, SW6 3JA (the "**Developer**")
- 4 **JAMES WILLIAM CROUCHER** of 101 The Tene, Baldock, Hertfordshire SG6 2NU (the "**Second Owner**")

together the "Parties".

RECITALS

- A The Council is the local planning authority for the Land and for the purposes of the Act.
- B The Council is a principal council for the purposes of the Local Government Act 1972.
- C The First Owner is the registered freehold proprietor of the part of the Land known as the Site registered at HM Land Registry under Title Number HD307468 free from encumbrances that would prevent the First Owner from entering into this Deed.
- D The Second Owner is the registered freehold proprietor of part of the Land registered at HM Land Registry under part of Title Number HD312324.
- E The Developer has an interest in the Site under an option to purchase the Land under Title Number HD307468 in an option agreement dated [].
- F On [] the Developer submitted the Application to the Council for Planning Permission for the Development.

- G The Land is subject to an Original Agreement that binds the Land and contains planning obligations for the purposes of section 106 of the Act.
- H The Council is disposed to grant planning permission in respect of the Development and has agreed to release the First Owner from the restrictive and other covenants in the Original Agreement insofar as they relate to the Site in order to enable the Development to go ahead.
- I The Second Owner consents to the variation of the Original Agreement.

OPERATIVE PROVISIONS:

WORDS AND EXPRESSIONS

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

"Act"

means the Town and Country Planning Act 1990 as amended;

"Application"

means the application for detailed planning permission for the Development submitted to the Council with the application plans and other materials on [] and allocated reference number[];

"Commencement"

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

"Construction Period"

means the period of construction of the Development between Commencement of Development and Practical Completion of the Development;

"Development"

means []

"Dwelling"

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

"Land"

the land known as land at Kelshall Road, Therfield as bound by the original Agreement;

"Original Agreement"

means the Agreement made pursuant to Section 106 of the Act between the Council and David Miller dated 6th August 1993;

"Practical Completion"

means the issue of a certificate of practical completion by the First Owner's architect certifying the completion of any part of the Development so that such part can be used for the purpose and operate in the manner for which it was designed and "Practically Complete" and "Practically Completed" shall be construed accordingly;

"Planning Permission"

means the planning permission granted by the Council in pursuance of the Application;

"Site"

means that part of the Land that is registered at HM LandRegistry under Title Number HD307468 as shown on the plan appended to this Deed at Schedule Two

2. Where the context provides:
 - 2.1 words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa;
 - 2.2 references to any Party means a party to this Deed and in the case of the First Owner and the Second Owner shall include its successors in

title and assigns and any persons deriving title through or under them and in the cases of the Council and shall include successors to their respective functions;

- 2.3 where a Party includes more than one person any obligations of that Party shall be joint and several;
- 2.4 any reference to any statute or any section of a statute includes any statutory re-enactment or modification;
- 2.5 any reference to clauses and schedules are references to clauses and schedules to this Deed;
- 2.6 headings in the Deed shall not form part of or affect its construction;
- 2.7 where a Party is required to give consent or approval by any specific provision of this Deed such consent or approval shall not be unreasonably withheld or delayed;
- 2.8 any provision of this Deed which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Deed; and
- 2.9 any covenant by the First Owner and the Second Owner not to do any act or thing includes a covenant not to permit, allow or suffer the doing of that act or thing.

3. STATUTORY PROVISIONS AND COVENANTS

- 3.1 This Deed and the covenants within it are made pursuant to section 106 and section 106A of the Act. To the extent that they fall within the terms of section 106 and section 106A of the Act the obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council against the First Owner and the Second Owner and each of their successors in title and assigns to each and every part of the Land and any person deriving title to each and every part of the Land through or under the First Owner and the Second Owner.
- 3.2 To the extent that any of the obligations in this Deed are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.
- 3.3 Unless the context otherwise requires the terms and expressions shall have the meanings prescribed by the Original Agreement.

- 3.4 The parties confirm that the covenants contained in the Original Agreement except as varied by this Deed are to continue in full force and effect.

4. LEGAL EFFECT AND CONDITIONALITY

- 4.1 The provisions of clauses [] and [] shall come into effect immediately upon completion of this Deed.
- 4.2 Save for clause 4.1, this Deed is conditional upon:
- a) the grant of the Planning Permission; and
 - b) the Commencement of the Development
- 4.3 For the avoidance of doubt the Parties agree that the Original Agreement (save as otherwise agreed in writing by the Council) shall remain in full effect until Commencement of Development.
- 4.4 Subject to clause 4.5, upon Commencement of Development the Council shall cease to enforce the provisions in the Original Agreement in relation to the Site during the Construction Period of the Development PROVIDED THAT the Site shall only be used for the construction of the Development in accordance with the Planning Permission and any uses ancillary to the construction of the Development.
- 4.5 Upon Practical Completion of the Development the Council releases the First Owner and their successors in title to the Site from the covenants and obligations within the Original Agreement save in respect of clause 2 [revocation of agreement dated 15th September 1978] of the Original Agreement which clause 2 shall remain in effect.

5. EXERCISE OF THE POWERS OF THE COUNCIL

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

6. WAIVER

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

7. CONSENTS

- 8.1 The Developer consents to the execution of this Deed and acknowledges that the Site shall be bound by the restrictions and covenants contained in this Deed and agrees its rights in relation to the Land shall be deferred and that planning obligations in favour of the Council shall have priority and it is acknowledged that the Developer enters into this Deed in order to give consent to its terms only and will not be bound by its terms unless it acquires a freehold or long leasehold interest in the Site.

8. SUCCESSORS IN TITLE

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

9. PLANNING PERMISSION

- 10.1 This Deed shall cease to have effect if the Planning Permission is quashed, revoked, expires, is modified by any statutory procedure without the consent of the First Owner or is otherwise withdrawn;

10. COSTS

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

11. REGISTRATION OF THIS DEED

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

12. THIRD PARTIES

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

13. NOTICE

13.1 The First Owner shall give the Council prior written notice of:

- (a) the Commencement of the Development;
- (b) the Practical Completion of each Dwelling;
- (c) the Practical Completion of the Development; and

13.2 The First Owner and the Second Owner shall give the Council prior notice of any change of any interests in the Land (as applicable to their respective interests) occurring before the completion of the Development such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of Land purchased by reference to a plan.

14. SERVICE OF NOTICES AND DOCUMENTS

Any notice required or authorised to be given by any Party shall be in writing

in the form of proforma set out in Schedule Three and shall contain the Application reference number [] and reference to the date of this Deed and shall be sufficiently given if sent by first class post or facsimile to the following persons

The Council Planning Control and Conservation Manager North
Hertfordshire District Council Council Offices Gernon
Road Letchworth Garden City Hertfordshire SG6 3JF [ref
xxx]

The First Owner [tbc]

The Second Owner [tbc]

17 MISCELLANEOUS

- 17.1 Without prejudice to the Council's statutory rights the First Owner and the Second Owner hereby grants to the Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter any part of the Land to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed provided that the Council gives the Owner two days notice and complies with any reasonable on site health and safety requirements of the First Owner and Second Owner during any such inspection.
- 17.2 Nothing in this Deed shall be construed as affecting prohibiting or limiting any rights to develop any part of the Land in accordance with a planning permission (other than the Planning Permission subject to clause 18) granted whether before or after the date of this Deed by the Council or any other competent authority.
- 17.3 Where any approval, agreement, consent, confirmation or expression of satisfaction is required under the terms of this Deed the request for it shall be made in writing and where a request is made the approval, agreement, consent, confirmation or expression of satisfaction shall not be unreasonably withheld or delayed.

18 SECTION 73

18.1 In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application made under Section 73 of the Act (or any re-enactment or replacement) in respect of the conditions in the Planning Permission references in this Deed to the Planning Application and the Planning Permission shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and this Deed shall henceforth take effect and be read and construed accordingly.

19 JURISDICTION

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

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

20 EXECUTION

The parties have executed this Deed as a deed and it is delivered on the date setout above.

SCHEDULE ONE

DRAFT PLANNING PERMISSION

SCHEDULE TWO

The Site

SCHEDULE THREE

PROFORMA

EVENT NOTIFICATION AND PAYMENT

PURSUANT TO SECTION 106

AGREEMENT

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE.....

HCC DU REFERENCE

SITE ADDRESS

.....

.....

.....

.....SITE OWNER DETAILS

Name

Contact name

Address

.....

.....

.....Telephone nos.

Main

Mobile

Email

EVENTS BEING NOTIFIED

Commencement Date – date :

Practical Completion of Dwelling (Number if relevant) – date:.....

Completion of Development – date:

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

EXECUTED under the Common Seal
of **NORTH HERTFORDSHIRE**
DISTRICT COUNCIL

in the presence of:

Duly Authorised Officer

EXECUTED AS A DEED by)

GRAHAM BULLARD)

in the presence of)

Witness signature:

Address:

EXECUTED AS A DEED by **JEAN**)

MARGARET BULLARD)

in the presence of)

Witness signature:

Address:

EXECUTED as a **DEED** by

QUANTA HOMES 6 LIMITED

Acting by two Directors/a
Directorand its Secretary

Director

Director/Secretary

EXECUTED AS A DEED by)

JAMES WILLIAM CROUCHER)

in the presence of)

Witness signature:

Address:

Appendix 4: draft of proposed new 106 agreement



DATED _____ **2021**

NORTH HERTFORDSHIRE DISTRICT COUNCIL

and

GRAHAM BULLARD AND JEAN MARGARET BULLARD

and

QUANTA HOMES 6 LIMITED

DEED

Under Section 106 of the Town & Country Planning Act
1990

Land at Relating to land at Kelshall Road, Therfield,
Hertfordshire

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

THIS DEED is made the day of 2021

BETWEEN:

- 1 **NORTH HERTFORDSHIRE DISTRICT COUNCIL** of Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF (the "Council");
 - 2 **GRAHAM BULLARD** and **JEAN MARGARET BULLARD** of 1 The Grange, Therfield, Royston SG8 9QG (the "Owner"); and
 - 3 **QUANTA HOMES 6 LIMITED** (Co. Regn. No. 10553092) whose registered office is at Chester House, 81-83 Fulham High Street, Fulham, England, SW6 3JA (the "Developer")
- together the "Parties".

RECITALS

- A The Council is the local planning authority for the Site for the purposes of the Act.
- B The Council is a principal council for the purposes of the Local Government Act 1972.
- C The Owner is the registered freehold proprietor of the Site registered at HM Land Registry under Title Number HD307468 free from encumbrances that would prevent the Owner from entering into this Deed.
- D The Developer has an interest in the Site under an option to purchase the Site in an option agreement dated [].
- E On [] the Developer submitted the Application to the Council for Planning Permission for the Development.

F This Deed is entered into to make provision for regulating the Development and securing the matters hereinafter referred to which are required in order to enable the Development to go ahead.

OPERATIVE PROVISIONS:

WORDS AND EXPRESSIONS

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

"Act"

means the Town and Country Planning Act 1990 as amended;

"Application"

means the application for detailed planning permission for the Development submitted to the Council with the application plans and other materials on [] and allocated reference number[];

"Commencement"

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

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

and the term "Commence" and "Commences" shall be construed accordingly;

"Development"

means []

"Dwelling"

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

"Landscaped Land"

the part of the Site which is to be reserved for landscaping in accordance with Schedule Two which for identification purposes only is shown shaded [] on Plan 2;

"Practical Completion"

means the issue of a certificate of practical completion by the Owner's architect certifying the completion of any part of the Development so that such part can be used for the purpose and operate in the manner for which it was designed and "Practically Complete" and "Practically Completed" shall be construed accordingly;

"Plan 1"

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

"Plan 2"

means the plan attached to this Deed and numbered Plan 2;

"Planning Permission"

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

"Site"

the land known as land at Kelshall Road, Therfield as registered at the Land Registry under title number HD307468 which for identification purposes only is shown edged red on Plan 1;

2. Where the context provides:

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

3. STATUTORY PROVISIONS AND COVENANTS

- 3.1 This Deed and the covenants within it are made pursuant to section 106 of the Act. To the extent that they fall within the terms of section 106 of the Act the obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council against the Owner and each of their successors in title and assigns to each and every part of the Site and any person deriving title to each and every part of the Site through or

under the Owner.

- 3.2 To the extent that any of the obligations in this Deed are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.
- 3.3 The Owner enters into the obligations for itself and its successors in title with the Council to the intent that the obligations hereunder shall be enforceable not only against the Owner but also against the successors in title of the Owner and any person claiming through or under the Owner an interest or estate in the Site or any part thereof PROVIDED THAT the obligations and restrictions in this Deed shall not be enforceable against a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker or in respect of any easements relating to cables, pipes or other service media running under the Site nor enforceable against any highway authority which may be responsible for any public highway maintainable at the public expense

4. LEGAL EFFECT AND CONDITIONALITY

- 4.1 The provisions of clauses [] and [] shall come into effect immediately upon completion of this Deed.
- 4.2 Save for clause 4.1, this Deed is conditional upon:
- a) the grant of the Planning Permission;
 - b) the Commencement of the Development; and
 - c) the Practical Completion of the Development

5. PLANNING OBLIGATIONS

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

6. EXERCISE OF THE POWERS OF THE COUNCIL

Nothing in this Deed whether express or implied shall prejudice or affect the

rights discretion powers duties and obligations of the Council under any statute, bye-law, statutory instrument, order or regulation in the exercise of its functions as local planning authority or principal council.

7. WAIVER

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

8. CONSENTS

- 8.1 The Developer consents to the execution of this Deed and acknowledges that the Site shall be bound by the restrictions and covenants contained in this Deed and agrees its rights in relation to the Site shall be deferred and that planning obligations in favour of the Council shall have priority and it is acknowledged that the Developer enters into this Deed in order to give consent to its terms only and will not be bound by its terms unless it acquires a freehold or long leasehold interest in the Site.
- 8.2 The Owner warrants and confirms that it has obtained all necessary permissions and consents to it entering into this Deed.
- 8.3 The Owner warrants and confirms that it is the freehold owner of the Site with full power to enter into this Deed.
- 8.4 The Owner warrants and confirms that the Site is free from all mortgages charges or other encumbrances and that no other person apart from the Developer has an interest in the Site whose consent is necessary to make this Deed binding on the Site and all estates and interests in it.

9. SUCCESSORS IN TITLE

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

10. PLANNING PERMISSION

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

11. COSTS

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

12. REGISTRATION OF THIS DEED

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

13. THIRD PARTIES

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

14. NOTICE

The Owner shall give the Council prior written notice of:

14.1 the Commencement of the Development;

14.2 the Practical Completion of each Dwelling;

14.3 the Practical Completion of the Development; and

14.4 any change of any interests in the Site occurring before the completion of the Development such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of Site purchased by reference to a plan.

15. SERVICE OF NOTICES AND DOCUMENTS

Any notice required or authorised to be given by any Party shall be in writing in the form of proforma set out in Schedule Three and shall contain the Application reference number [] and reference to the date of this Deed and shall be sufficiently given if sent by first class post or facsimile to the

following persons

The Council Planning Control and Conservation Manager North
Hertfordshire District Council Council Offices Gernon
Road Letchworth Garden City Hertfordshire SG6 3JF [ref
xxx]

The Owner [tbc]

17 DETERMINATION OF DISPUTES

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

- 17.1 The parties shall use their reasonable endeavours to resolve the dispute by agreement
- 17.2 If agreement cannot be reached the matter in dispute shall be referred to and settled by some independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person shall act as an expert on the application of either party after giving notice in writing to the other party to this Deed
- 17.3 The person to be appointed pursuant to clause 17.2 shall be a person having ten years or more post qualification experience of projects comprising works of the scale and nature of the Development
- 17.4 Reference to the expert shall be on terms that determination shall take place within 28 working days of the expert accepting his instructions
- 17.5 The expert shall have the power to award costs of the determination in favour of either party to the dispute at the expense of the other party and failing such determination such costs shall be borne by the parties in equal shares
- 17.6 The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision
- 17.7 The findings of the expert shall (other than in the case of a manifest material error) be final and binding on the parties to the dispute

18 MISCELLANEOUS

- 18.1 Without prejudice to the Council's statutory rights the Owner hereby grants to the Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter any part of the Site to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed provided that the Council gives the Owner two days notice and complies with any reasonable on site health and safety requirements of the Owner during any such inspection.
- 18.2 At the written request of the Owners at any time after the planning obligations have been fully and satisfactorily discharged/performed, the Council may issue the Owner with written confirmation of the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 18.3 Nothing in this Deed shall be construed as affecting prohibiting or limiting any rights to develop any part of the Site in accordance with a planning permission (other than the Planning Permission subject to clause 19) granted whether before or after the date of this Deed by the Council or any other competent authority.
- 18.4 Where any approval, agreement, consent, confirmation or expression of satisfaction is required under the terms of this Deed the request for it shall be made in writing and where a request is made the approval, agreement, consent, confirmation or expression of satisfaction shall not be unreasonably withheld or delayed.

19 SECTION 73

- 19.1 In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application made under Section 73 of the Act (or any re-enactment or replacement) in respect of the conditions in the Planning Permission references in this Deed to the Planning Application and the Planning Permission shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and this Deed shall henceforth take effect and be read and construed accordingly.

20 JURISDICTION

- 20.1 This Deed is to be governed by and interpreted in accordance with the

laws of England.

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

21 EXECUTION

The parties have executed this Deed as a deed and it is delivered on the date setout above.

SCHEDULE ONE
DRAFT PLANNING PERMISSION

SCHEDULE TWO

OWNER'S COVENANTS TO THE COUNCIL

Landscaped Land

1. The Owner covenants with the Council:

- 1.1 not to use the Landscaped Land for any use or purpose other than as a landscaped area.

SCHEDULE THREE

PROFORMA

EVENT NOTIFICATION AND PAYMENT

PURSUANT TO SECTION 106

AGREEMENT

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE.....

HCC DU REFERENCE

SITE ADDRESS

.....

.....

.....

.....SITE OWNER DETAILS

Name

Contact name

Address

.....

.....

.....Telephone nos.

Main

Mobile

Email

EVENTS BEING NOTIFIED

Commencement Date – date :.....

Practical Completion of Dwelling (Number if relevant) – date:.....

Completion of Development – date:

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

EXECUTED under the Common Seal
of **NORTH HERTFORDSHIRE**
DISTRICT COUNCIL

in the presence of:

Duly Authorised Officer

EXECUTED AS A DEED by)
GRAHAM BULLARD)
in the presence of)

Witness signature:

Address:

EXECUTED AS A DEED by **JEAN**)
MARGARET BULLARD)
in the presence of)

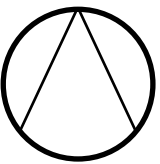
Witness signature:

Address:

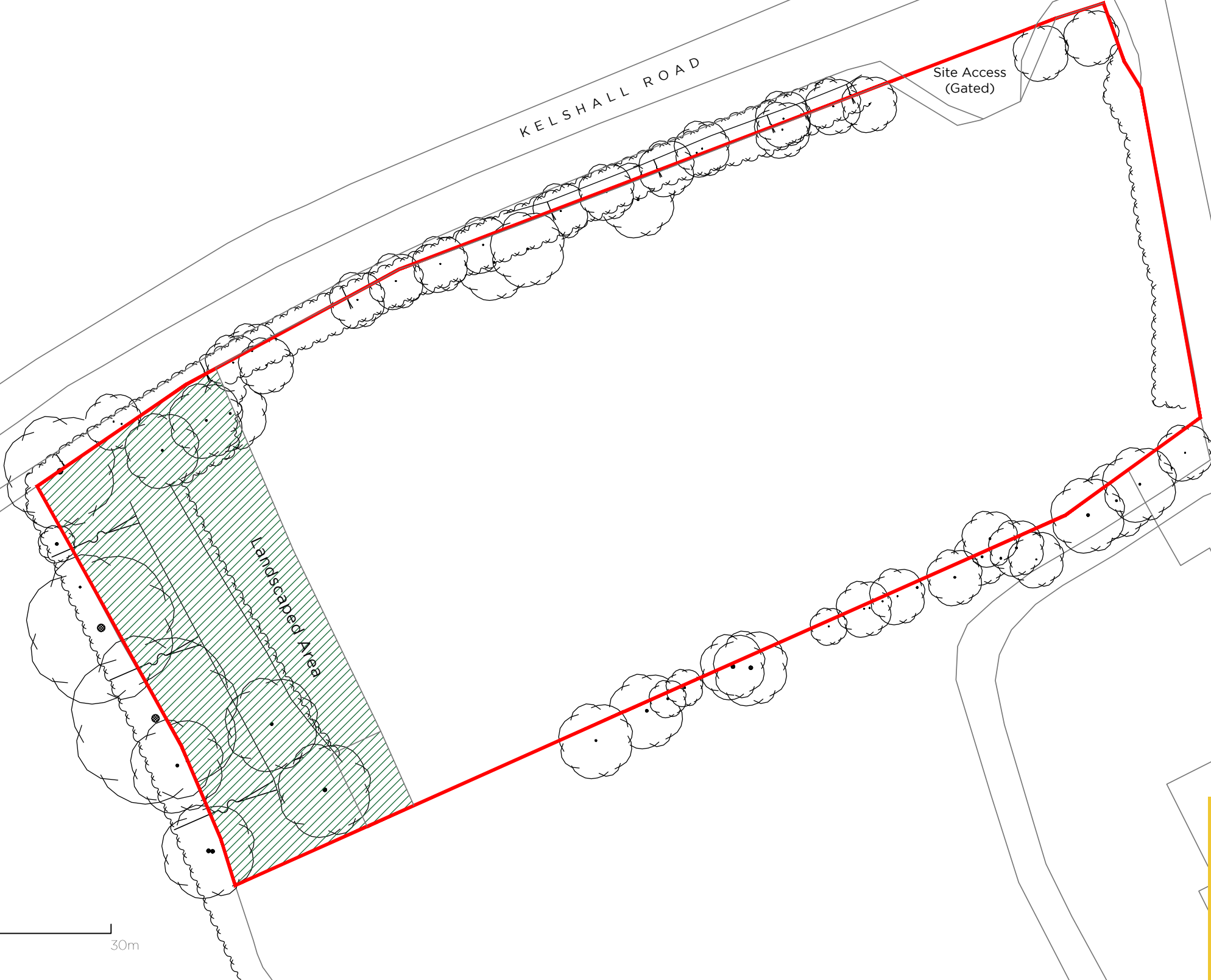
EXECUTED as a **DEED** by
QUANTA HOMES 6 LIMITED
Acting by two Directors/a
Directorand its Secretary

Director

Director/Secretary



S106 Plan



TUTHILL'S YARD
S106 PLAN
TUTHILL'S YARD
THERFIELD, ROYSTON
SG8 9TT
QUANTA HOMES 6 LIMITED
26.07.2021 1:500 @ A3 PROJECT 1549
103.01
www.daparchitecture.co.uk

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PLANNING CONTROL COMMITTEE**DATE: 23 June 2022****PLANNING APPEALS DECISION**

APPELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APPEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Beck Homes (UK) Ltd	Residential development of 28 no. dwellings and landscaping including pond, wildflower meadow and woodland and associated infrastructure.	Land Development Site Off Station Road Ashwell	20/03070/FP	Appeal Allowed on 08 April 2022	Committee	<p>The Inspector stated that the proposal would provide the following range of benefits. The appeal site is a relatively short drive and walk from the centre of Ashwell, and so village facilities are likely to be accessible to a range of residents. Socio-economic benefit during and after construction would include custom for local facilities, businesses and services, which would contribute towards sustaining them, including through new bus stop provision. Moreover, the appeal scheme would provide some new publicly accessible green space. And the new pond, wildflower meadow area and additional tree and hedge planting would provide some biodiversity value.</p> <p>Furthermore, the proposed development would contribute 28 new dwellings, within the context of a significant shortfall in the district's housing land supply. The development would comprise a mix of housing, including one, two and three bedroom dwellings as well as some larger properties. The scheme</p>

						would also include 11 affordable dwellings, of which seven would be for affordable rent and four for shared ownership. As such, the proposed development would deliver a mix of new homes that would help provide for a variety of accommodation needs in the neighbourhood, including for smaller and affordable dwellings. The above together amounts to a substantial combination of benefits.
CK Hutchison Networks (UK) Ltd	Proposed 18.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.	Land At Evangelistic Church York Way Royston Hertfordshire SG8 5HJ	21/02179/TD	Appeal Dismissed on 21 April 2022	Delegated	The Inspector concluded that the proposed monopole would significantly detract from the character and appearance of the area in conflict with Policies SP9 (Design and sustainability) and D1 (Sustainable design) of the emerging North Hertfordshire District Local Plan which require development to be well located and seek to minimise the visual impact of street furniture.
Mr Neave	First floor extension to create two storey dwelling	Trees London Road Langley SG4 7PQ	21/00783/FPH	Appeal Dismissed on 24 May 2022	Delegated	The Appeal Planning Officer stated that despite the removal of the car shed, the first-floor extension would, together with the existing and approved extensions, cumulatively amount to a disproportionate addition over and above the size of the original building. The proposal

						would therefore be inappropriate development which is, by definition, harmful to the Green Belt. In addition, the Appeal Planning Officer stated that the proposed extension would increase the visual and spatial bulk and massing of the dwelling and would therefore result in a reduction in the openness of the Green Belt.
Mrs Kira Lindsey	Two storey side extension, rear dormer window, alteration to front entrance porch, front rooflight and single storey rear extension following demolition of existing garage	31 Broom Grove Knebworth Hertfordshire SG3 6BZ	21/03287/FPH	Appeal Withdrawn On 01 June 2022	Delegated	Appeal Withdrawn

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PLANNING CONTROL COMMITTEE

DATE: 23 June 2022

PLANNING APPEALS LODGED

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mr Mike ONeill	19.04.2022	Insertion of roof lights to existing front elevation roofslope and dormer to existing side and rear elevation roofslopes to facilitate conversion of loftspace into habitable accommodation (as a resubmission of planning application 21/02703/FPH, withdrawn on 11.11.2021)	8 Baliol Road Hitchin SG5 1TT	22/00199/FPH	Householder Appeal Service
Hertfordshire County Council	20.04.2022	Outline planning application for residential development of up to 42 dwellings, all matters reserved but access (as amended by plans and information received 09-06-2020, 23-07-2020 and 10-12-2020).	Land Between Croft Lane Norton Road And Cashio Lane Letchworth Garden City	19/00520/OP	Written Representations
Mrs Kira Lindsey	20.04.2022	Two storey side extension, rear dormer window, alteration to front entrance porch, front rooflight and single storey rear extension following demolition of existing garage	31 Broom Grove Knebworth SG3 6BZ	21/03287/FPH	Householder Appeal Service
Mr Phillip Fowler	20.04.2022	Erection of single storey side elevation conservatory with glass balustrade	Shooters Lodge Putteridge Park Luton LU2 8LD	21/03308/FPH	Householder Appeal Service
MiHomes	26.04.2022	Erection of one detached 1-bed bungalow including the laying of hardstanding, boundary treatments and associated works following demolition of existing garage	Land To The Rear Of 159-161 Baldock Road Letchworth Garden City SG6 2EH	21/02937/FP	Written Representations

Dr L Hadley And Mr R Hadley	27.04.2022	Development A: Single storey rear extension and Development B: detached single garage (as amended by plans received 11.03.2021 and 31/08/21)	The Cottage High Street Hinxworth SG7 5HH	20/01026/FPH	Written Representations
Mr S Allan	29.04.2022	Extensions and alterations to existing building and change of use to residential to form 3no. 3 bed dwellings; erection of 1no. detached 4 bed dwelling with detached garage; and associated residential curtilages and parking provision.	Lakewood Rushden Road Sandon SG9 0QR	20/01946/FP	Written Representations
Mr S Allan	29.04.2022	Extensions and alterations (including some demolition) to existing building to facilitate conversion to 3no. 3 bed dwellings.	Lakewood Rushden Road Sandon SG9 0QR	20/02206/LBC	Written Representations
Mr Deo	03.05.2022	Erection of one detached 2-bed dwelling including creation of new vehicular access off Loves Lane, landscaping and ancillary works.	Meadow View Loves Lane Ashwell SG7 5HZ	21/01745/FP	Written Representations



Appeal Decision

Site visit made on 12 April 2022 by Darren Ellis MPlan

Decision by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2022

Appeal Ref: APP/X1925/D/21/e

Trees, London Road, Langley SG4 7PQ

- 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 Gloria Neave against the decision of North Hertfordshire District Council.
 - The application Ref 21/00783/FPH, dated 24 February 2021, was refused by notice dated 7 July 2021.
 - The development proposed is a first floor extension.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The reason for refusal refers to policy SP5 of the emerging North Hertfordshire District Council Local Plan 2011-2031 (October 2016) (LP). The LP has not yet been adopted by the Council as part of their development plan, although the appellant states that, at the time the appeal was made, the Council were awaiting the examining Inspector's final report. However, no details have been provided regarding the examination the LP or whether any modifications have been proposed for policy SP5, and as such I can only afford very limited weight to LP policy SP5 in this case.

Main Issues

4. The appeal site is within the Green Belt and so the main issues are:
 - whether the proposal would be inappropriate development for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Whether the proposal would be inappropriate development

5. The Framework establishes that new buildings in the Green Belt are inappropriate except in certain circumstances, including where they involve the extension of an existing building. This is provided that the extension does not result in a disproportionate addition over and above the size of the original building. The Framework defines 'original building' as 'a building as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally.'
6. Saved policy 2 of the North Hertfordshire District Council District Local Plan No.2 with Alterations (1996) (DLP) is consistent with the Framework in that it seeks to protect the Green Belt but allows extensions which are appropriate in the Green Belt and which would not result in significant visual impact. Policy SP5 of the emerging LP permits development proposals in the Green Belt where they would not result in inappropriate development. Neither of these policies nor the Framework define 'disproportionate'.
7. The appeal property is a detached bungalow that has previously been extended and is set in a generous plot with several outbuildings including a car shed. A Certificate of Lawful Development was obtained in 2020 for single-storey side and rear extensions and a roof conversion¹ and a larger single-storey rear extension² had prior approval granted later that year, however these extensions have not yet been built. The appeal proposal would see the addition of a first-floor extension above the main dwellinghouse to create a second storey.
8. The Council asserts that the proposed first-floor together with the existing extension would increase the floor area of the original property by 297%. The appellant contests this figure on the grounds that the Council have used a different and smaller interpretation of the 'original building' than they used for the granting of the extensions under the Certificate of Lawful Development and prior approval. Based on the 'original building' as used in those applications, the appellant calculates that the increase in floor space would be 39.62% above the original building. The appellant further states that the existing car shed would be removed as part of this proposal and that this would result in an overall reduction in floor space and footprint of the buildings on the site.
9. However, the appellant calculates that the recently granted extensions would increase the footprint of the original building by around 177% and the floor area by approximately 128%. The appellant states that these extensions form a fall-back position should the appeal proposal be dismissed and suggests that a condition could be used to remove permitted development rights and therefore prevent the side and rear extensions from being built. However, such a condition would only come into force once the planning permission for the first-floor extension has been implemented, and therefore such a condition would not prevent permitted development extensions being added before the permission is commenced.
10. The Framework resists additions over and above the size of the original building. Size is more than a function of floorspace and volume and can include bulk, mass, and height. The proposed extension, although it would be partly

¹ Planning application ref. 20/01583/LDCP

² Planning application ref. 20/02286/NCS

screened by the existing landscaping and boundary treatment, would considerably increase the massing at the first-floor level and would significantly add to the visual and volumetric impact of the building. Consequently and despite the removal of the car shed, the first-floor extension would, together with the existing and approved extensions, cumulatively amount to a disproportionate addition over and above the size of the original building. The proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

Openness

11. Openness is an essential characteristic of the Green Belt. The Planning Practice Guidance states that openness is capable of having both spatial and visible aspects, so that both the visual impact of the proposal and its volume may be relevant.³
12. The proposed extension would increase the visual and spatial bulk and massing of the dwelling and would therefore result in a reduction in the openness of the Green Belt. However, given the backdrop of the surrounding industrial use and existing mature planting to the boundaries of the site, that harm would be limited. Nonetheless, one of the fundamental aims of Green Belt policy is to keep land permanently open and, having regard to the Framework, I afford this harm substantial weight.

Other Considerations

13. I note that the proposal would assist with meeting the needs of the disabled friend of the appellant although it is not clear if the appellant's friend is a resident at or visitor to the appeal property. I must also have due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability. It does not follow from the PSED that the appeal should succeed. However, I am required to have due regard to the duty in arriving at my decision.
14. I do not doubt that the proposals would provide more space at the property. Nonetheless, this must be balanced with the significant adverse impacts of the proposal identified earlier. I am not persuaded that there are no alternatives to the proposal, including the permitted development extensions, that could deliver substantially the same benefits without conflict with the development plan. Therefore, while I acknowledge the personal circumstances of the appellant's friend, I conclude that these are not matters which outweigh the harm that would be caused by the proposal in respect of the main issue.
15. The proposal would also provide additional space for occupiers of the appeal property, including space for an art studio. I have no evidence before me that the required space could not be provided through the permitted development extensions. Furthermore, I note that the submitted floorplans show the proposed first-floor containing bedrooms and bathrooms and does not show any space for an art studio. I therefore attach limited weight to this matter.

³ Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

16. The proposal would see the removal of the car shed which is in poor condition, although the shed is well screened by the existing boundary treatment and is only partly visible when the entrance gate is open. Given the modest scale and limited visibility of the car shed I attach moderate weight to the improvement of the appearance of the appeal site that would result from the removal of the car shed.

Whether very special circumstances exist

17. The proposed extension would cause harm to the Green Belt by way of inappropriateness and reduction in openness, to which I afford substantial weight.
18. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The other considerations identified above do not clearly outweigh the totality of the harm. Consequently, the very special circumstances necessary to justify the front extension do not exist.

Conclusion and Recommendation

19. Accordingly, the proposal would conflict with saved policy 2 of the DLP, policy SP5 of the emerging LP and with the Framework. There are no material considerations which indicate that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and I agree with the recommendation that the appeal should be dismissed.

Chris Baxter

INSPECTOR



Appeal Decision

Site visit made on 7 March 2022

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2022

Appeal Ref: APP/X1925/W/21/3284014
Land at Old North Road, Royston, SG8 5DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by C K Hutchinson Networks (UK) Ltd against the decision of North Hertfordshire District Council.
 - The application Ref 21/02179/TD, dated 9 July 2021, was refused by notice dated 1 September 2021.
 - The development proposed is an 18.0 metre Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The proposal is permitted development under Part 16 Class A of the 2015 Order but prior approval is required for its siting and appearance under paragraph A.3(3). The main issue is therefore the effect of the proposal on the character and appearance of the area.

Reasons

3. The proposal is for a 18 metre slimline monopole with associated ground level cabinets on the grass verge immediately alongside the northbound exit from the Old North Road/York Way/Burns Road roundabout in Royston. The site lies adjacent to the single storey Royston Evangelical Church with housing estates on the opposite side of the road and to the south and an industrial estate with superstore to the north-west beyond the church.
4. The appellant is in the process of building an upgraded 5G telecommunications network and claims a new mast site is required in the north Royston area to improve digital connectivity in the neighbourhood. However, the only evidence for this in the appeal statement is the small scale and poor resolution Figure 5, which is said to show an overloaded or congested cell like the illustrative example in Figure 4, where mast PLY041 shows one of the sectors shaded red. However, Figure 5 does not show such a cell in Royston, with mast NHE012 near the centre of the town only showing green sectors. Paragraph 3.15 of the statement claims the coverage 'hole' extends into a residential area and land owned by The Chalk Hills Academy, however the latter is situated in Luton, not Royston. The part of the town, if any, with poor connectivity has not therefore been established in the evidence submitted to date.

5. There is also no evidence to support the assertion that the new mast should be sited in or near the search area shown on Figure 5, a small area of housing centred on Grays Close east of the selected site. No diagram, calculation or explanation is provided as to why the search area is so restricted in size and located in this particular area as opposed to any other part of the town.
6. The tall, 18 m high monopole would be sited on a narrow roadside verge beside the busy Old North Road where it would be visually intrusive and obvious to all road users, particularly slow-moving pedestrians. The monopole would also be clearly visible from nearby residential properties, most seriously in the direct view of the rear facing ground and first floor windows and rear gardens of Nos 10-14 and 19-23 Isherwood Close, six two-storey houses which back onto Old North Road opposite the appeal site.
7. The appellant argues that the chosen location benefits from screening provided by tall, large, mature trees which paragraph 4.1.7 claims would provide 'near complete screening'. However, in reality there is only one modest 5 m high tree and a bush on the church boundary with the other only medium sized trees being located on the opposite verge or on the roundabout some distance away. Two newly planted trees in the church grounds will take years to grow to any significant height. The 18 m high monopole would not therefore be screened in any meaningful way and would remain a stark feature in the street scene. Whilst there are several thin lampposts in the area, these are widely spaced and only just over 10 m high. Drawing no. NHE17239_M001 Issue A shows clearly how the monopole would be much thicker and taller than the adjacent lamppost, demonstrating the discreet design of the latter rather than the similarity and visual acceptability of the former.
8. In addition, the claim that the monopole would be the minimum possible height to be clear of surrounding clutter is not supported by any technical evidence nor 360° panoramic views at different heights. The ground rises noticeably to the north, west and south of the chosen site where a lower monopole might be feasible, indeed to the north-west a large industrial estate and superstore may offer alternative sites in a less sensitive location.
9. For these reasons the proposed monopole would significantly detract from the character and appearance of the area in conflict with Policies SP9 and D1 of the emerging North Hertfordshire District Local Plan which require development to be well located and seek to minimise the visual impact of street furniture.

Conclusion

10. The strong policy support for advanced and high-quality communications set out in NPPF paragraphs 114-118 is fully recognised. The numerous technical and locational requirements that limit the availability of sites for an installation are also appreciated. However, paragraph 117 states that applications for such development (including prior approval) should be supported by the necessary evidence to justify it. Persuasive evidence to support the need for a site in the area and the precise location chosen is lacking in this case. Consequently, the undoubted public benefits of improved digital communications do not outweigh the significant harm to the character and appearance of the area that has been identified in this instance. The appeal should therefore be dismissed.

David Reed INSPECTOR



Appeal Decision

Site visit made on 22 March 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2022

Appeal Ref: APP/X1925/W/21/3279843

Land at Station Road, Ashwell, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Ben Wilkinson, Beck Homes (UK) Ltd against the decision of North Hertfordshire District Council.
 - The application Ref: 20/03070/FP, dated 18 December 2020, was refused by notice dated 27 May 2021.
 - The development proposed is residential development of 28 no. dwellings and landscaping including ponds, wildflower meadow and woodland.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development of 28 no. dwellings and landscaping including ponds, wildflower meadow and woodland at Land at Station Road, Ashwell Hertfordshire in accordance with the terms of the application, Ref: 20/03070/FP, dated 18 December 2020, and the plans submitted with it, subject to the conditions in attached Schedule A.

Preliminary Matters

2. A new version of the National Planning Policy Framework (the Framework) has been published since the Council's decision. The parties have had opportunity to comment on the engagement of the Framework in relation to the appeal, and so will not be disadvantaged by my consideration of it.
3. Since their decision, the Council have confirmed that affordable housing provision, and open space and sustainable urban drainage (SuDS) management and maintenance can be satisfactorily covered by planning conditions. Also, a Planning Obligation by way of Unilateral Undertaking has been submitted by the appellant. This covers provision for secondary education, special educational needs and disabilities, youth and library services. In the light of this, the Council indicates that these matters, which were the basis of the second reason for refusal (RFR) have been acceptably addressed, so that this RFR is overcome, which I accept.

Main Issue

4. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and appearance

5. The appeal site comprises a wedge-shaped area of field, situated in countryside on the south-eastern approach to Ashwell village. The site is located in a modest dip within gently rolling landscape, and slopes down towards its Station Road frontage.
6. A couple of houses to the north-west look over the site, and the road leading into the village from the site is characterised by mainly two-storey pitched roof dwellings, of twentieth century style, with some more recent residential infill development. Hedging, some of which includes trees, along boundaries including at the front of properties, is a noticeable characteristic of the residential area along Station Road that leads up to the site. This helps contribute to a verdant and visually relaxed 'edge of village' feel to the western foreground of the site. The hedging theme then segues and evolves into field boundaries in the countryside, including around much of the appeal site.
7. Within this context, the proposal's introduction of built form to the site, with consequent reduction in openness and verdancy, would modestly extend the built-up area of the village in a south-easterly direction, with associated urbanising impact.
8. However, that said, the development would be located on a relatively lower lying site within the gently rolling landscape. This topography, together with the dense, established deciduous and evergreen tree and shrub buffer strip along the south-eastern boundary of the site would substantially contain views of the proposal from countryside to the east.
9. Also, the locality's distinctive hedgerow theme would be continued by the proposed retention of hedging along much of the site's perimeter, and new structural hedge and tree planting along the meandering roadway within the development. The set-back of houses from the hedge-lined perimeter would lessen the visual impact of proposed housing, viewed from Station Road. And the proposed on-site green space would include a naturalistic pond, meadow and additional woodland planting. Together these elements would to some extent visually soften the interface of the proposed development and village edge.
10. Furthermore, the proposed development site would adjoin a stretch of Station Road that contains the village entrance sign, lighting columns on one side, and a combination of speed calming measures in the form of chicane road layout, speed signs and road markings. Together these elements to some extent dilute the rural character of this part of the south-eastern approach to the village, and result in a somewhat transitional feel between the village edge and the wider countryside beyond.
11. Together, the above factors would help visually soften the proposed development's presence, contained mainly to viewpoints within the site itself, around its access and in the immediate vicinity of its perimeter.
12. Also, the depth of development in the locality on the north-eastern side of Station Road, including the recent Philosophers Gate residential development, and the caravan site beyond, would go some way to contextually limit the discordance of the depth of proposed housing.

13. Moreover, the extent of green open space around three sides of the 'farmstead' style cluster of housing would help avoid an overly cramped sense of place within that part of the development.
14. While in 2018 the previous Inspector for a larger appeal scheme on land including the current appeal site¹ found significant harm to village and countryside character, from what I have seen and read in the current case the above combination of factors would moderate the visual impact of this edge-of-village development, while preserving much of the fundamental character of the village and wider landscape.
15. In conclusion, the proposal would result in localised reduction of countryside character of part of the south-eastern setting of the village. This moderate harm to the character and appearance of the area would conflict with saved Policy 6 of the North Hertfordshire District Local Plan, which seeks to maintain countryside character.
16. In this respect, the proposal would also conflict with Policies CBG1 And D1 of the proposed new North Hertfordshire Local Plan which together seek to ensure that development complements countryside context, including its open nature.

Other Matters

17. Concerns have been expressed by some members of the local community about agricultural land, primary school capacity, traffic, parking pressure and sewage infrastructure in the locality. These matters go beyond the reasons for refusal. The appeal site is a proportionately modest part of a larger countryside area, and so the proposed development is unlikely to significantly reduce the supply of high quality agricultural land in the area. Also, since the Council's decision, Hertfordshire County Council have stated that in the light of updated forecasts showing some surplus capacity, sufficient primary education provision is available to mitigate the proposed development, which I accept.
18. The scale of proposed development would not significantly increase traffic volume, such as to harm highway safety. This is reflected in the no objection position of the Local Highway Authority. Furthermore, several planning conditions are attached to help secure safe highway access to and from the development. Also, off-street parking at proposed properties would help avoid pressure on parking elsewhere in the locality. While I do not underestimate local concern about sewage treatment capacity, Anglian Water's consultation response indicates that Ashwell Water Recycling Centre would have sufficient wastewater treatment capacity for the proposed development.
19. As such, these matters do not constitute grounds to dismiss this planning appeal.

Conditions

20. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. I have found them to be broadly reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interests of precision.

¹ Appeal Ref: APP/X1925/W/17/3192151, for a 46 dwellings scheme.

21. Conditions relating to approved plans, the submission and implementation of reserved matters and associated time limits are necessary to provide certainty. Conditions relating to materials, landscape and ecology are required to safeguard the character and appearance, and biodiversity of the area. A condition is attached to ensure suitable standards of open space management. I attach conditions relating to construction management, bin storage and waste collection and contaminated land to safeguard residents' living conditions.
22. Conditions relating to the site access and construction highways safety are attached in the interests of highway safety. Conditions regarding bus stop provision and electric vehicle charging infrastructure are required in the interests of sustainable transport. A condition is attached to safeguard archaeological assets. Conditions regarding flood risk and drainage are necessary to ensure sustainable water management. A condition relating to affordable housing is necessary to provide an inclusive mix of housing. A condition about fire hydrants is attached in the interests of fire safety.

Planning Balance and Conclusion

23. The Council confirms that it cannot demonstrate a five year supply of deliverable housing sites. Judging by the finding of the Inspector in the 2021 appeal decision² on another site in the district, I consider that, for the purposes of my decision, the housing land supply shortfall is in the region of 3.5 years.
24. The proposal would provide the following range of benefits. The appeal site is a relatively short drive and walk from the centre of Ashwell, and so village facilities are likely to be accessible to a range of residents. Socio-economic benefit during and after construction would include custom for local facilities, businesses and services, which would contribute towards sustaining them, including through new bus stop provision. Moreover, the appeal scheme would provide some new publicly accessible green space. And the new pond, wildflower meadow area and additional tree and hedge planting would provide some biodiversity value.
25. Furthermore, the proposed development would contribute 28 new dwellings, within the context of a significant shortfall in the district's housing land supply. The development would comprise a mix of housing, including one, two and three bedroom dwellings as well as some larger properties. The scheme would also include 11 affordable dwellings, of which seven would be for affordable rent and four for shared ownership. As such, the proposed development would deliver a mix of new homes that would help provide for a variety of accommodation needs in the neighbourhood, including for smaller and affordable dwellings. The above together amounts to a substantial combination of benefits.
26. The harm to the area's character and appearance would be moderate, and the resultant conflict with the development plan as a whole carries moderate weight.
27. As a result of the housing land supply shortfall, policy which is most important for determining the appeal is out of date. Consequently, the tilted balance, under the terms of paragraph 11 of the Framework, is engaged. This tells us

² Appeal Ref: APP/X1925/W/21/3273701, cited by the appellant.

that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

28. The moderately adverse impact on the area's character and appearance would not significantly and demonstrably outweigh the substantial totality of planning benefits, when assessed against the policies in the Framework taken as a whole.
29. As such, the proposal benefits from the presumption in favour of sustainable development. I find that this consideration is of sufficient weight to indicate that planning permission should be granted, notwithstanding the conflict with the development plan. I therefore conclude that the appeal succeeds.

William Cooper

INSPECTOR

Schedule A) Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 9802/P/001 Location Plan; 9820/P/002 Plot 1 Floor Plans; 9820/P/003 Plot 1 Elevations; 9820/P/004 Plot 2 Floor Plans; 9820/P/005 Plot 2 Elevations; 9820/P/006 Plot 3 Floor Plans; 9820/P/007 Plot 3 Elevations; 9820/P/008 Plot 4 Floor Plans; 9820/P/009 Plot 4 Elevations; 9820/P/010 Plot 5 Floor Plans; 9820/P/011 Plot 5 Elevations; 9820/P/012 Plot 6 Floor Plans; 9820/P/013 Plot 6 Elevations; 9820/P/014 Plot 7 Floor Plans; 9820/P/015 Plot 7 Elevations; 9820/P/016 Plot 8 Floor Plans; 9820/P/017 Plot 8 Elevations; 9820/P/018 Plot 9 Floor Plans; 9820/P/019 Plot 9 Elevations; 9820/P/020 Plot 10 Floor Plans; 9802/P/021 Plot 10 Elevations; 9802/P/022 Double Garage - Floor Plans and Elevations; 9820/P/023 Plots 11-14 Floor Plans; 9820/P/024 Plots 11-14 Elevations; 9820/P/025 Plots 15-17 Floor Plans; 9820/P/026 Plots 15-17 Elevations; 9820/P/027 Plots 18-21 Floor Plans; 9820/P/028 Plots 18-21; 9820/P/029 Plot 22 and 23 Floor Plans; 9820/P/030 Plots 22 and 23 Elevations; 9820/P/031 Plot 24 Floor Plans; 9820/P/032 Plot 24 Elevations; 9820/P/033 Plot 25 Floor Plans; 9820/P/034 Plot 25 Elevations; 9820/P/035 Plot 26 Floor Plans; 9820/P/036 Plot 26 Elevations; 9820/P/037 Plot 27 Floor Plans; 9820/P/038 Plot 27 Elevations; 9820/P/039 Plot 28 Floor Plans; 9820/P/040 Plot 28 Elevations; 9820/P/041 Northern Edge. Plots 1 and 2 street scene; 9820/P/042 Station Road. Plots 27 and 28 street scene; 9820/P/043 Farmstead Cluster. The Farmhouse Plots 18-21 street scene; 9820/P/044 Site Sections; M3239-PA-01-V5 Landscape Layout; M3239-PA-02-V3 Landscape Layout; Tree Plan.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority details and samples of materials to be used on all external elevations and roofs of the proposed buildings. The materials as approved shall be installed.

- 4) A) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a comprehensive hard and soft landscaping scheme. The landscaping scheme shall include: i) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas; ii) seed mixes; iii) details of the existing trees and hedgerows to be retained as well as any to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation; and iv) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.
- B) The approved soft landscaping/planting details for each dwelling shall be carried out prior to occupation or before the end of the first planting season following occupation of that dwelling. All other approved soft landscaping/planting details shall be carried out no later than the end of the first planting season following completion of the development. 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.
- C) Prior to first occupation of the development hereby permitted, the estate road and footpaths shall be constructed to base course stage. Driveways shall be completed prior to the occupation of each dwelling. Hard standing shall be implemented as approved, and retained and maintained thereafter to the satisfaction of the local planning authority.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a landscape and biodiversity management and maintenance plan (LBMMP). Thereafter the LBMMP shall be carried out as approved, unless otherwise agreed in writing by the local planning authority.
- 6) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a detailed open space management and maintenance scheme (OSMMS). This shall include provision for on-site open space and public areas, and long term management and maintenance of on-site sustainable urban drainage (SuDS) provision. Thereafter the OSMMS shall be carried out as approved, unless otherwise agreed in writing by the local planning authority.
- 7) No development apart from the access road into the development shall commence until the proposed access has been constructed to base course for the first 12m, and the join of the existing carriageway has been constructed to the current specification of Hertfordshire County Council, and the local planning authority's satisfaction. Arrangements shall be made for surface water drainage from or onto the highway carriageway. The gradient of the access shall not be steeper than 1 in 20 for the first 12m from the edge of the carriageway.

- 8) Prior to occupation of the development hereby permitted, the main access road shall be constructed to a minimum of 5.5m wide with the kerb radii being 8 metres complete with improved footways 2m wide to Station Road along the frontage of the site. Thereafter the access and highway shall be retained as illustrated on drawing number BDLASHWELL.1/08 revision A, in conjunction with the layout drawing number M3239-PA-01-V5. Arrangements shall be made for surface water drainage from or onto the highway carriageway.
- 9) Before the access is first brought into use, vehicle to vehicle visibility splays 2.4m by 43m to both directions shall be provided and permanently as identified on drawing number BDLASHWELL.1/09. Within which, there shall be no obstruction to visibility between 600 mm and 2m above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and to the intersection of point along the edge of the carriageway.
- 10) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a construction phasing and environmental management programme (CPEMP) for the development, including any pre-construction or enabling works. The CPEMP 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; ix) no construction 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.

The CPEMP shall be implemented as approved, unless otherwise agreed in writing by the local planning authority.

- 11) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a Construction Traffic Management Plan (CTMP). The CTMP shall include the following details: a) construction vehicle numbers, type and routing, agreed with the Local Highway Authority; b) traffic management measures; c) access arrangements to the site; d) construction traffic management requirements; e) construction and storage compounds (including areas designated for parking, loading/unloading and turning areas); f) siting and

details of wheel washing facilities; g) timing and delivery arrangements for construction vehicles; h) 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 l) hours of operation and deliveries to and from site. Construction of the development shall be carried out in accordance with the approved CTMP.

- 12) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority full details of the on-site storage facilities for waste including waste for recycling. Such details shall identify the specific positions of where wheeled bins will be stationed and walk distances for residents, including the specific arrangements to enable collection from the kerbside of the adopted highway/refuse collection vehicle access point (or within 5m). The approved facilities shall be provided prior to the commencement of the use hereby permitted and retained thereafter, unless alternative arrangements are agreed in writing by the local planning authority.
- 13) Prior to the commencement of the development hereby permitted, additional bus stops shall be provided along Station Road adjacent to the development's footway. The stops shall be provided with real-time information screens, easy access kerbs and appropriate shelters. Such works shall be secured through the implementation of a S278 Agreement with the Local Highway Authority.
- 14) Each dwelling shall have an Electric Vehicle (EV) ready domestic charging point installed prior to its occupation.
- 15) A) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority an Archaeological Written Scheme of Investigation (AWSI). The AWSI shall include an assessment of archaeological significance and research questions and a) the programme and methodology of site investigation and recording; b) the programme and methodology of site investigation and recording as required by the evaluation results; c) the programme for post investigation assessment; d) provision to be made for analysis of site investigation and recording; e) provision to be made for publication and dissemination of analysis and records of the site investigation; f) 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 approved AWSI. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the approved AWSI, and provision made for analysis and publication where appropriate.

16) 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.

17) A) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It shall identify the current and past land uses of this site (and adjacent sites) with a view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

B) If the local planning authority is of the opinion that the report which discharges part A) above indicates a reasonable likelihood of harmful contamination, then no development shall commence until there shall have been submitted to and approved in writing by the local planning authority a Site Investigation (Phase II environmental risk assessment) report 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) If a Remediation Method Statement report (RMS) is required as a result of part B) above, no development other than that necessary for the discharge of this condition shall be commenced until the RMS has been submitted to and approved in writing by the local planning authority. The development shall not be occupied or brought into use until: i) all works which form part of the RMS have been completed, and if required a formal agreement has been 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 in writing by the local planning authority.

D) Any contamination encountered during the development of this site, other than that reported by under parts A) and B) 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 in writing by the local planning authority and subsequently fully implemented prior to the occupation of the development.

18) A) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by Sutcliffe, Ref: LRD3112 issue 3, dated December 2020, and the following mitigation measures detailed within the FRA: i) limiting surface water run-off generated by critical storm events, so as to not exceed surface water run-off during a 1 in 100 year event + 40% climate change event;

ii) provide storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 years + climate change event; iii) discharge of surface water from the private network into the ground.

B) The mitigation measures shall be fully implemented prior to occupation of the development, 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.

- 19) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a detailed surface water drainage scheme (SWDS) for the site, based on the approved drainage strategy and sustainable drainage principles. The drainage strategy should demonstrate that the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall events.

The SWDS shall include: i) final detailed infiltration tests to be conducted to BRE Digest 365 Standards at exact locations and depths where the infiltration basin is proposed; ii) detailed engineering drawings of the proposed SuDs features including cross-section drawings, their size, volume, depth and any inlet and outlet features including any connection pipe runs; iii) final detailed surface water modelling calculations for all rainfall events up to and including 1 in 100 years + 40% climate change event; iv) a final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

The SWDS as approved shall be implemented before the development is completed.

- 20) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a full scheme of affordable housing provision on site, to achieve 40% affordable housing as approved. The scheme shall detail the dwelling mix and tenure breakdown, including provision of transfer to a Registered Provider, and phasing of the overall development to include delivery of affordable housing in a timely manner. The development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the local planning authority.
- 21) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority full details of fire hydrant provision across the development site. The approved provision shall be installed prior to the first occupation of the development.