

NORTH HERTFORDSHIRE DISTRICT COUNCIL



27 January 2023

Our Ref Planning Control Committee/9 February
2023
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To: Members of the Committee: Val Bryant(Chair), Tom Tyson (Vice-Chair), Alistair Willoughby, Daniel Allen, David Levett, Ian Moody, Morgan Derbyshire, Sean Nolan, Simon Bloxham, Terry Tyler, Tony Hunter and Phil Weeder

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

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

to be held in the

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

On

THURSDAY, 9TH FEBRUARY, 2023 AT 7.30 PM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL
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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 - 1 DECEMBER 2022, 15 DECEMBER 2022	To take as read and approve as a true record the minutes of the meetings of the Committee held on the 1 December 2022 and 15 December 2022.	(Pages 5 - 32)
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. 22/01464/OP LAND BETWEEN CROFT LANE NORTON ROAD, AND CASHIO LANE, LETCHWORTH GARDEN CITY, HERTFORDSHIRE REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	Outline planning application for residential development (all matters reserved)	(Pages 33 - 78)

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|----|---|-------------------------|
| 7. | 22/01810/FP LAND ADJACENT TO UNIT 3 ON THE WEST SIDE OF, CALDWELL LANE, HITCHIN, HERTFORDSHIRE SG4 0SA
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
79 - 98) |
| | Use of land for the siting of 20 No. steel shipping containers for long-term self-storage (Use Class B8) with associated palisade security fencing, vehicular access gates, external lighting, CCTV and hard surface. | |
| 8. | 21/03533/FP LAND WEST OF TUTHILL HOUSE, KELSHALL TOPS, THERFIELD, HERTFORDSHIRE
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER | (Pages
99 - 174) |
| | Erection of three detached dwellings (1 x 4-bed, 1 x 5-bed and 1 x 6-bed) with associated infrastructure and landscaping. | |
| 9. | PLANNING APPEALS
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER. | (Pages
175 -
186) |

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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 THURSDAY, 1ST DECEMBER, 2022 AT 7.30 PM

MINUTES

Present: *Councillors: Councillor Tom Tyson (Chair), Daniel Allen, David Levett, Morgan Derbyshire, Sean Nolan, Nigel Mason, Simon Bloxham, Terry Tyler, Tony Hunter and Phil Weeder*

In Attendance: *James Lovegrove (Committee, Member and Scrutiny Manager), Nurainatta Katevu (Legal Regulatory Team Manager and Deputy Monitoring Officer), Abigail Hamilton (Committee, Member and Scrutiny Officer), Anne McDonald (Acting Development and Conservation Manager), Peter Bull (Senior Planning Officer) and Andrew Hunter (Senior Planning Officer)*

Also Present: *At the commencement of the meeting approximately 60 members of the public, including registered speakers.*

31 APOLOGIES FOR ABSENCE

Audio recording – 1 minutes 14 seconds

Apologies for absence were received from Councillors Val Bryant, Alistair Willoughby and Ian Moody.

Having given due notice Councillor Alistair Willoughby was substituted by Councillor Nigel Mason.

32 MINUTES - 20 SEPTEMBER 2022

Audio Recording – 1 minutes 45 seconds

Councillor Tom Tyson, as Chair, proposed and Councillor Daniel Allen seconded and, following a vote, it was:

RESOLVED: That the Minutes of the Meeting of the Committee held on 20 September 2022 be approved as a true record of the proceedings and be signed by the Chair.

33 NOTIFICATION OF OTHER BUSINESS

Audio recording – 2 minutes 35 seconds

There was no other business notified.

34 CHAIR'S ANNOUNCEMENTS

Audio recording – 2 minutes 42 seconds

- (1) The Chair paid tribute to Councillor Judi Billing MBE, following her death on 24 November 2022 and held a minute's silence in her memory.

- (2) The Chair advised that, in accordance with Council Policy, the meeting would be 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 clarified the speaking procedure for the members of the public in attendance.
- (5) The Chair advised of when comfort breaks would be taken.

35 PUBLIC PARTICIPATION

Audio recording – 5 minutes 25 seconds

The Chair confirmed that the 10 registered public speakers and 5 Member Advocates were in attendance.

36 18/01502/OP Land Between Royston Road And, Cambridge Road, Barkway, Hertfordshire

Audio recording – 6 minutes 18 seconds

The Acting Development and Conservation Manager advised of the following updates:

- Three late letters had been received and circulated to Members ahead of the meeting.
- HCC Growth and Infrastructure Team had requested that monitoring fees be included as well as the Section 106 contributions, following a change in their guidance. They had also requested that the fire hydrants be included as a condition for this application, and this now formed Condition 25.
- Councillor Hill maintained her objection to the application.
- Barkway Parish Council had continued their objection to the application. The response from the Planning Officer to the Parish Council regarding their additional conditions proposed had been published and the Planning Officer had offered support to three of these additional proposals.

Councillor Tony Hunter advised that due to comments made during the Local Plan process he was predetermined on this item and would therefore speak as a Member Advocate before leaving the Chamber for the remainder of the item.

The Acting Development and Conservation Manager presented the report in respect of application 18/01502/OP supported by a visual presentation consisting of photographs and plans.

(At this point of the meeting Councillor Phil Weeder entered the Chamber at 19.48)

The Chair invited Ms Jacqueline Veater and Ms Aimee Cannon to speak against the item.

Ms Veater thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- Objections to the development had come from all areas.
- The new development of housing will remain remote from the village in the near future.
- The Parish Council would support the District Council if the application was refused permission.
- The village was at risk of becoming nothing more than a housing estate, with limited employment opportunities.

- The 140 homes proposed would make a minimal contribution to the housing supply in the district.
- There were amendments to the Levelling Up Bill which aimed to commit developers to offset pollution caused to environments, but the phased sewage plant scheme for this development is not enough to protect the River Quinn.
- Requested that the sewage plant condition be amended to require an upgrade to the sewage plant before commencement of the development.
- Requested additional wording to Condition 19 to ease parking and traffic congestion around the site.
- Further exploration of the proposed shop is required.
- The application should be refused as an inappropriate and unsustainable development.

Ms Cannon thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- Newsells Park Stud farm remain of the view that this development is not suitable, but request measures are put in place to mitigate against harm if permission is granted.
- The parameters needed setting at this stage of the application.
- No noise assessment has been made as part of the application and an acoustic fence should be required around the boundaries of the site and this should be in place before development
- There should be no development until the mature landscaping around the site has been completed.
- There should be a management plan in place, with the onus put on the developer to mitigate against harmful impacts, for example through the prohibition of lanterns and fireworks on this site.

There were no points of clarification from Members and the Chair thanked Ms Veater and Ms Cannon for their presentation.

The Chair invited Councillors Gerald Morris and Tony Hunter to speak against the item, as Member Advocates.

Councillor Morris thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- Newsells Park Stud has detailed that this development would lead to the loss of 35 jobs, with impacts on families, suppliers and contractors involved.
- Signage suggested around the site is not suitable as a mitigation to the impact of the development on the Stud.
- There was no need to create a north-south wildlife corridor as there was already an existing one through the site and the new proposed road would destroy this. This is contrary to NPPF policy, which states developments should not cause a loss of biodiversity or harm natural environments.
- Thames Water have detailed that in Barkway last year there were 734 hours of raw sewage pumped into the River Quinn and it was expected that this would double with this development.
- The Environment Agency had detailed that water companies should be consulted as part of the Local Plan development, in this instance North Herts had not completed this.
- Thames Water have identified an inability of the existing sewage treatment to deal with the housing on this development.
- Needed to send a message to government that this sort of development is not acceptable and should therefore be refused.

Councillor Hunter thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- Provided details of NPPF policies where were not met with this application, including NPPF 6, NPPF 4, NPPF 8 and NPPF 11, amongst other relevant considerations.
- Not a suitable site due to the lack of amenities, including schools and transport.
- There were no mitigation measures included within this proposal.
- As had been detailed, without a school the site would not be sustainable and would see residents travelling neighbouring towns for schools or leisure.
- The Committee should refuse the application and allow an Inspector to make the final decision.

In response to a point of clarification from Councillor Daniel Allen, Councillor Hunter stated that the potential costs of losing an appeal should not be prioritised over supporting the views of residents and the local community.

The Chair thanked Councillors Morris and Hunter for their contribution.

N.B. Following his declaration on this item and having spoken as a Member Advocate, Councillor Tony Hunter left the room at 20.03.

The Chair invited Mr David Fletcher and Mr Rob Rand to speak in support of the item.

Mr Rand thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- The objections raised to the application had been fully addressed.
- As with all new development, infrastructure or services will need to be improved and this site is no different. There is a legal requirement on Thames Water to provide suitable upgrades to the sewage system within two years of the development. Without permission on this site, there would be no requirement for the sewage plant upgrades.
- The potential impact on Newsells Park Stud is minimal and the Inspector had suggested landscaping measures to mitigate against any potential harm, as detailed in the proposed master plan.
- The accusation that the Stud would be unviable if permission was granted was incorrect, as the Stud had been purchased in 2021 following due diligence and impact assessments, and three years after the submission of the planning application.
- The BK3 site was the largest undeveloped site allocated within the Local Plan which was not within existing greenbelt land.
- There had been no objections from statutory consultees.
- The previous affordable housing in Barkway had been sold off and smaller developments did not meet the threshold to require affordable housing to be included. There were 56 affordable dwellings proposed in this development, with 65% being rented.
- BK3 was arguably the most scrutinised site in the Local Plan process and even had a dedicated public meeting to understand concerns and multiple visits from the Inspector, but ultimately the Inspector concluded that this was a sound site for development.

In response to a point of clarification from Councillor David Levett, Mr Fletcher advised that there had been a number of discussions which had taken place with Thames Water over a number of years since the site was allocated within the Local Plan. The applicant was aware of the issues with sewage capacity, however the dates for the upgrade could not formally be agreed until permission was granted. This would be the next stage of the development for the applicant.

In response to the public presentations, the Acting Development and Conservation Manager advised that this was an allocated site within the Local Plan, which means it had been deemed sustainable by the Inspector, and the Local Plan had been formally adopted by Council.

Councillor David Levett noted that this was a site within the Local Plan and it was an outline application with all matters reserved, which meant there would be a while before detailed plans were submitted for consideration and it would take a significant time to agree a sewage plan with Thames Water.

Councillor David Levett proposed to grant permission, with an amendment to Condition 9 to say that 'no development shall commence until'. The Acting Development and Conservation Manager advised this would be a suitable amendment.

Having been proposed, as amended, by Councillor Levett, it was seconded by Councillor Daniel Allen and, following a vote, it was:

RESOLVED: That application 18/01502/OP be **GRANTED** planning permission subject to the reasons set out in the report of the Development and Conservation Manager, with an amendment to Condition 9 to read:

"Prior to the commencement of development, a development and infrastructure phasing plan is to be submitted to and approved in writing by the LPA which must be agreed with the Local Authority in consultation with Thames Water. This plan is to set out the measures / works required to ensure that the local infrastructure has the capacity to serve the development and to allow the development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: Sewage Treatment Upgrades are likely to be required to accommodate the proposed development. Any upgrade works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents."

Following the conclusion of this item there was a short comfort break in proceedings until 20.24, at which point Councillor Hunter returned to the Chamber.

37 22/00927/FP 20 High Street, Baldock, Hertfordshire, SG7 6AX

Audio recording – 49 minutes 30 seconds

The Acting Development and Conservation Manager advised of the following updates:

- There were two applications for this site but the updates would be provided for both, with votes taking place separately.
- A group of objections had been received from nearby schools raising safeguarding concerns with regard to these applications.
- An objection had been received from a neighbouring business.
- A group of residents had submitted an objection.
- A statement from the YMCA had been provided in support of the application.
- A detailed response from the Police Liaison Officer had been received and it detailed that although anti-social behaviour had increased in the town from October 2019 to September 2022, this could not be attributed to 20 High Street.
- Most issues raised in these late representations had been addressed within the report.
- There were no safeguarding concerns raised by consultees.
- There was no reference to the loss of commercial floorspace in the report, but this application is for a temporary change of use and therefore not relevant in this circumstance.
- The Local Plan does contain provision for the support of homeless people.

The Acting Development and Conservation Manager presented the report in respect of application 22/00927/FP supported by a visual presentation consisting of photographs and plans.

The Chair invited Ms Karan Bugler to speak against the item.

Ms Bugler thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- The residents believe that the report is flawed and their objections had been submitted in response to this.
- It is clear than only offences within the building itself have been referenced, when there are wider issues across the town.
- A Freedom of Information request had been made, but a response had not yet been received. In the interim residents had compiled a list of incidents with Police Crime Reference Numbers, with 24 occurrences happening in a 3 month period over summer 2022 all involving residents of 20 High Street.
- There was no police station in Baldock.
- A stabbing had taken place in Stevenage recently and it had been confirmed that the perpetrator was resident at 20 High Street, Baldock.
- The decision should be deferred to allow for time to receive an accurate police report.
- In the report it is detailed by the Police Liaison Officer acknowledges that a high number of the residents are and will be drug users and suggested that this would increase the likeliness of drug dealers in the area.
- The report proposes mitigations to protect residents, but not to protect the vulnerable residents in the community.
- The proximity to local schools, and the position of the site along a key walkway to these, has not been considered in the report. Headteachers from the schools had provided a submission detailing safeguarding concerns.
- Should the extension be granted, Baldock would have more beds to support homeless people than Stevenage, which was a bigger town. Baldock had limited employment opportunities and sporadic access to public transport and therefore did not provide a sustainable site for this service.
- The lack of infrastructure in place and the lack of a detailed police report meant Members did not have suitable information to make a decision on these applications this evening.

In response to a point of clarification from Councillor Daniel Allen, Ms Bugler advised that reference numbers and photographic evidence of crimes recorded by residents could be shared with Members following the meeting.

The Chair thanked Ms Bugler for her contribution and invited Councillor Michael Weeks to speak against the item, as Member Advocate.

Councillor Weeks thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- Members should take in account the document submitted by Ms Bugler which challenged the findings of the Officer and brought into consideration parts of the newly adopted Local Plan.
- The Officer needed to provide a reply to the concerns raised in the document submitted.
- The incidents being referred to are happening now, with only 19 residents on site, but this number will increase by 10 people under proposals.
- The Police clearly did not have the time or resources available to provide accurate records and therefore the residents had submitted a Freedom of Information request.
- A vast majority of the incidents go unreported.
- Three nearby schools have objected to this application.
- There was no reference to the safety of women and girls, which is of national importance.
- Baldock is a small, historic market town and the proposals to 20 High Street put this at risk, especially as the Council Plan detailed that it would put People First.

Councillor Daniel Allen noted that this was a planning meeting and the content of Councillor Weeks' presentation was nothing to do with planning considerations.

The Chair thanked Councillor Weeks for his contribution and invited Mr Euan Courtney-Morgan to speak in support of the item.

Mr Courtney-Morgan thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- He was speaking in support of both applications regarding 20 High Street, Baldock.
- There would be a dedicated set of staff on site on a 24/7 basis to manage the building and support residents.
- There was full support and counselling provided.
- The accommodation was temporary and individuals could be placed here for up to 18 months.
- There was a preferred alternative site on Protea Way, Letchworth and approval had been granted for this and it was currently subject to negotiation and contract.
- He was unaware of any anti-social behaviour issues regarding residents.

The following Members asked points of clarification:

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

In response to points of clarification, Mr Courtney-Morgan advised:

- There would be a dedicated support team on site.
- He was unsure as to what attempts had been made by residents to engage with the community.
- He was unsure at this time what levels of staff would be present on site at one time.

In response to the public presentations, the Acting Development and Conservation Manager advised:

- It was not of the Planning Committee members to tackle anti-social behaviour, this was for the Police to consider and deal with and for the management of the building.
- The vast majority of the objection received from Ms Bulger had already been published and the key issues addressed.
- There were no changes to the recommendations in the report and no reasons identified for deferral.

Councillor David Levett noted that this application was something he would usually support, but he had concerns over this with the main issue regarding whether this would create a safe and accessible place, which would not undermine the quality of life of residents or community cohesion, as detailed in NPPF Section 8. He also had concerns that public opinion was not adequately taken into account and that additional proposed recommendations had not been fully considered. Whilst he recognised there was not sufficient ground to refuse the application, Members had not been provided with enough evidence to approve either.

Councillor David Levett proposed that the application be deferred until sufficient information could be provided by the Police for Members to make a decision. This was seconded by Councillor Morgan Derbyshire.

In response to the proposal to defer from Councillor Levett, the Acting Development and Conservation Manager advised:

- The Police had been contacted several times and the most recent conversation took place 10 days ago to specifically ask about the figures provided.
- There was limited further advice that could be provided by the Police.
- The NPPF paragraphs referred to creating policies for areas where the layout and design was an element of the proposal. This was a change of use application and there were no layout or design considerations.
- There was a requirement to minimise anti-social behaviour through Secure by Design methods.

Councillor Daniel Allen noted that this placed too much emphasis on the anti-social behaviour and crime aspect, which was an issue, but this Committee dealt with planning considerations. Councillor Allen felt there was not enough information provided by Councillor Levett to support deferral.

Councillor Levett noted that the NPPF did not solely apply to layout of proposals, but could take into consideration other aspects including promoting social interaction in communities.

Councillor Tony Hunter highlighted that there were several parts of the NPPF Section 8 which this application did not meet. The Officer was suggesting that there was no answer that can be provided by the Police with regard to the anti-social behaviour, but the Freedom of Information request had been submitted and deferral until a response had been received either way would be sensible.

In response to points raised, the Legal Advisor commented:

- The Officer has spoken to the Police and have not got further information and can only provide information in the report based on the answer that is received.
- We would need to understand further what the wording of the Freedom of Information request and with no knowledge of what the response will be.
- The Council had not submitted the Freedom of Information request.

The Acting Development and Conservation Manager noted that the crime stats provided by the Police were uploaded as an addendum and circulated to Members ahead of the meeting and these provided figure through to September 2022.

Councillor Terry Tyler noted that the Police had provided figures for crimes linked to 20 High Street, Baldock, but the public needed to provide their evidence of incidents to Members and therefore would support deferment.

Councillor Simon Bloxham advised that he could understand the views of both the Officer and Councillor Levett, but it did not appear that we would get further information to what had been supplied. Therefore it would make sense to either approve or refuse, but not defer.

In response to a question from the Legal Advisor regarding the timeframe for deferral and what additional information would be provided, Councillor Levett advised that the Officers should consult the Police on the issues documented by residents and this should then be brought back to the Committee. If the reports of residents are true, then there is a conflict between the reports of the police and residents, therefore a decision could not be adequately taken and must be deferred. He would suggest a Committee meeting in February 2023 to allow for the Freedom of Information request to be answered and presented.

The Acting Development and Conservation Manager confirmed for Members that the planning committee was not responsible for the crime statistics in an area, it is for other statutory bodies to deal with crime.

The Chair noted the issues regarding the crime figures provided, but it is difficult to return to the Police and say their evidence is wrong.

Following the debate, and having been proposed by Councillor Levett and seconded by Councillor Derbyshire, the Chair moved to a vote and it was:

LOST: That application 22/00927/FP be **DEFERRED** to await further details from the Police regarding incidents of anti-social behaviour.

Councillor Bloxham commented that he would vote on the application with a view to represent and look out for the community, including those within the facility itself, whether or not this amounted to breaching planning requirements for refusal.

The Chair noted that should there be a proposal to refuse Members would have to do this based on planning considerations.

Councillor Allen commented that Members soapboxing on the most vulnerable and comments from the public gallery made it difficult for Members to adequately make an impartial decision. He noted that it was important that crime statistics were still provided so that residents could be supported in dealing with any issues.

Councillor Daniel Allen proposed to approve the application and Councillor Nigel Mason seconded.

Councillor Levett advised that he would like to have supported this proposal, as it does support vulnerable people, but there was insufficient evidence to prove this was right for the community.

Councillor Nigel Mason commented that these were hard decisions and commended the public objector for their approach to the Committee and their presentation of points and Members were sympathetic to issues raised by residents. It was important to put people first and the residents in this accommodation are some of the most vulnerable and ultimately these facilities are required for those in need.

Having been proposed to approve by Councillor Allen, Councillor Nigel Mason seconded and, following a vote, it was tied. Therefore the Chair cast the deciding vote and it was:

RESOLVED: That application 22/00927/FP be **GRANTED** planning permission subject to the reasons set out in the report of the Development and Conservation Manager.

38 22/01498/FP 20 High Street, Baldock, Hertfordshire, SG7 6AX

Audio recording – 103 minutes 23 seconds

The Chair advised that the Acting Development and Conservation Manager would not be providing a further update on this second application for 20 High Street, Baldock, as all updates had been provided alongside the first application.

The Chair invited Ms Bugler to provide further comments against this second application and Ms Bugler noted that the incidents referred to in the Police statistics is only incidents within the building, whereas residents were referring to incidents happening in the wider environment.

The Chair invited Councillor Michael Muir to speak against the second application as Member Advocate. Councillor Muir advised:

- He agreed with all points raised by Councillor Weeks with regard to the first application.

- The strength of feeling was evident from public attendees at the meeting.
- Detailed incidents which he had witnessed at the site.

The Chair advised Councillor Muir that anecdotal evidence was not suitable at the Planning Control Committee meeting.

The Chair invited Mr Courtney-Morgan to speak in support of the second application, and Mr Courtney-Morgan advised that he had no further comments.

Councillor Daniel Allen proposed and Councillor Nigel Mason seconded and, following a vote, it was:

RESOLVED: That application 22/01498/FP be **GRANTED** planning permission subject to the reasons set out in the report of the Development and Conservation Manager.

Following the conclusion of this item there was a short comfort break in proceedings until 21.32.

39 21/02796/FP 59 - 61 Walsworth Road, Hitchin, Hertfordshire, SG4 9SX

Audio recording – 117 minutes 52 seconds

The Senior Planning Officer advised of the following updates:

- Two additional responses had been received, one from HCC Growth and Infrastructure Unit and one from the Lead Local Flood Authority (LLFA), and these had been added as addenda to the report.
- The applicant has agreed in principle to the S106 conditions proposed by Herts County Council subject to legal agreement.
- The LLFA had proposed two further conditions to replace Condition 21 in the report.
- No response had been received from HCC Ecology Unit, but a satisfactory response would be required before issuing a Decision Notice.

The Senior Planning Officer presented the report in respect of application 22/02796/FP supported by a visual presentation consisting of photographs and plans.

In response to a question from Councillor Daniel Allen, the Senior Planning Officer advised access to the retail units would be via the three service doors at the rear of the site, and this is where deliveries would be made. There have been no concerns raised by Highways in terms of deliveries to this area.

The Chair invited Dr Georgina Porter and Mr Toby Shelley to speak against the item.

Mr Shelley thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- They did not object to the proposals in principle and support a number of the proposals but believe there are two planning issues which need addressing.
- The first was drainage and this area was already prone to flooding, with Walsworth Road flooded every time it rains and the railway bridge is almost continually flooded during heavy rain.
- There was a recent example where drain covers were popping out due to volume of water in one street nearby.
- Due to climate change, rain is becoming more sporadic and more intense.

- The sewage system in the area is ancient and it is clear that neither the issue of ground water or sewage had been resolved by the relevant agencies. Given the talks had been ongoing for over a year, it demonstrated the complexities of the issues involved.
- The issue of drainage should be addressed and should show that it is durable, with clear responsibility allocated for when issues occur.
- They request deferral of the application until the drainage issue can be resolved.

Dr Porter thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- There was a mains leak in Walsworth Road recently, with traffic control measures put in place to conduct repair works, and this had a huge impact on traffic. This is a key road in the town and wider district, and is the main access to the train station.
- They had objected to the original plans due to their overbearing on neighbours. There have been some changes to the plan and there is no longer a fourth storey, but the roof height has not been reduced and the steep pitch is to remain.
- The social housing behind the site will be impacted by this issue more than those at the front, as the sunlight into their properties would be restricted.
- No objection to the development in principle, but the height of the building should be reduced, and this would be in keeping with other properties on Walsworth Road which had mixed roof heights.

There were no points of clarification from Members and the Chair thanked Dr Porter and Mr Shelley for their presentation.

The Chair invited Councillor Ian Albert to speak against the item, as Member Advocate.

Councillor Albert thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- Both the long running nature of the application and the multiple conditions attached demonstrate the complexity of this proposal.
- The applicant refused to meet with residents, which may have helped to smooth the planning process.
- The proposed frontage had been improved, but there remained concerns about the viability of these premises. Whilst it had been acknowledged that deliveries would be made to the rear, this would block any other access to the car park.
- Walsworth Road was a main thoroughfare and there was no customer parking.
- There needed to be strong conditioning placed on energy, with more specificity with regard to heat pumps and solar panels, as these should not be dealt with at a later stage.
- There was no need for the roof to be brought level with the building next door, as this was part of its character. The loss of light created by the roof height is significant.
- The addendum provided made clear the building would need to be demolished before a drainage plan could be confirmed. This could lead to further delay and presents a lack of transparency in the process.
- Urged Members to think about refusal or deferral until the drainage plans could be determined by the Committee.

There were no points of clarification from Members and the Chair thanked Councillor Albert for his contribution.

In response to points raised during the public presentations, the Senior Planning Officer advised:

- They had been in consultation with LLFA and Anglian Water for some months, primarily due to staffing issues at the LLFA. However, most issues had now been resolved.

- The main issues which remain cannot be dealt with until the building is demolished and the existing drainage information provided.
- The building would meet the height of the adjoining building and in line with existing buildings in the street.
- In terms of light, the existing building covered around 95% of the site, but this would be reduced under these proposals, which would improve light to properties to the rear.
- The commercial units were not proposed to be destination shops, but to serve the local community and therefore it was expected most people would cycle or walk to these.
- It was not typical to know the details of energy on site at this stage, but officers would be seeking good quality energy matters, which would be dealt with by condition.

Councillor Daniel Allen commented that it was for members of the Committee to respect the knowledge and experience in these matters. The proposals did appear to be similar to existing neighbouring properties. He retained concerns on parking and energy but was happy to accept Officer proposals

Councillor David Levett noted that he understood the concerns around drainage and the requirement to knock the existing building down. These proposals would reduce the roof space of the building and was in keeping with newer developments along the road. The issue of parking was not ideal, however it was close to the railway and 10 parking spaces was more than other similar developments.

Councillor Daniel Allen proposed, with the amendments to conditions outlined by the Senior Planning Officer and subject to the Section 106 agreement, and Councillor David Levett seconded and, following a vote, it was:

RESOLVED: That application 22/00170/FP be **GRANTED** planning permission subject to the completion of a satisfactory S106 Legal Agreement and the reasons set out in the report of the Development and Conservation Manager, with the following amendments:

- Removal of Condition 21 as detailed in the report.
- Condition 22 and Condition 23 to become Condition 21 and Condition 22 respectively.
- Additional Conditions 23 and 24 to read:

“Condition 23

The development permitted by this planning permission shall be carried out in accordance with the following documents:

- E-mail response dated 23 August 2022 from Nolan Associates
- E-mail response dated 28 October 2022 from Nolan Associates
- Drainage Strategy carried out by Nolan Associates dated March 2022 reference 2021- 087
- CCTV and Connectivity Survey dated 9 May 2022 carried out by Wrc
- Manhole Survey Report dated 27 May 2022 carried out by Wrc

and the following mitigation measures:

1. Provide minimum surface water attenuation volume of 27m³ to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change (40%) event.
2. Implement drainage strategy based on a tank and permeable paving for attenuation and treatment at a discharge rate of 2l/s into an existing surface water sewer (final details to be confirmed as part of a post demolition condition).
3. Provide water quality treatment using permeable paving on 10 parking bays where all the impermeable areas including the access road will be directed to the permeable paving for treatment prior to discharge.

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

Condition 24

No development shall take place, apart from the demolition of the current building, until the final design of the drainage scheme is completed and is approved by the LPA. The surface water drainage system will be based on the following approved documentation:

- E-mail response dated 23 August 2022 from Nolan Associates
- E-mail response dated 28 October 2022 from Nolan Associates
- Drainage Strategy carried out by Nolan Associates dated March 2022 reference 2021-087
- CCTV and Connectivity Survey dated 9 May 2022 carried out by Wrc
- Manhole Survey Report dated 27 May 2022 carried out by Wrc

The scheme shall also include:

1. Post demolition survey of the existing drainage system to confirm the existing connection into a sewer. Should the survey determine the connection is into an existing combined sewer, the applicant will need to demonstrate that they have considered other options where possible to connect into another surface water sewer.
2. Permission from Anglian Water to connect into their sewer including any required sewer upgrades due to capacity issues at the agreed rate of 2l/s.
3. Detailed engineered drawings of the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance for climate change event.
4. Detailed engineered drawings of the tank and permeable paving parking areas. The drawing should also show proposed levels of how the access road and other hardstanding areas will drain into the permeable paved parking bays.
5. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving, reducing the requirement for any underground storage.
6. Provision of half drain down times for surface water drainage within 24 hours.
7. Silt traps for protection for any residual tanked elements.

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

40 22/01990/PNAA 34 Royal Oak Lane, Pirton, Hitchin, Hertfordshire, SG5 3QT

Audio recording – 142 minutes 08 seconds

The Senior Planning Officer advised of the following updates:

- An extension of time had been agreed until the 5 December 2022.

The Senior Planning Officer presented the report in respect of application 22/01990/PNAA supported by a visual presentation consisting of photographs and plans.

Councillor Simon Bloxham declared that he knew the applicant personally. He was advised by the Legal Advisor that whilst this was not a DPI, this was a declarable interest and he should remove himself from this item.

In response to a question from Councillor David Levett, the Senior Planning Officer advised that the proposal was similar in height to neighbouring properties. The roof height of this property would be 8.48 metres, where number 36 is approximately 8.3 metres and numbers 45 and 43 were approximately 8.5 metres in height.

In response to a question from the Chair, the Senior Planning Officer advised that the roof height was partially determined by the requirement for it to be the same pitch as the roof of the existing dwelling.

The Chair invited Ms Diane Burleigh to speak against the item.

Ms Burleigh thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- She was speaking on behalf of Pirton Parish Council who felt that the height would adversely affect this section of the Lane.
- While the height of the roof has been reduced and it would no longer be the tallest, it would still be one of the tallest.
- The differing heights of the dwellings on Royal Oak Lane is part of its charm.
- 28 to 34 Royal Oak Lane are from a similar date and are sat back from the road, but the property would not be hidden from public view all year round.
- Number 34 is clearly part of a distinct group of houses and changing one would be out of character with the other dwellings in the group.
- The property is most comparable to 28, 30 and 32, not number 36 and these neighbouring properties to which it compares would have grounds to claim the proposals would have an adverse impact on their homes.
- The impact on amenity is not limited to overlooking, privacy or loss of light and the impact the height would have on number 32 would mean there was an impact on amenity.
- Should approval be granted, there should be two further conditions included, one to ensure the first floor is in the same brick as other bungalows and an Article 4 direction placed on future developments into the roof space.

There were no points of clarification from Members and the Chair thanked Ms Burleigh for her presentation.

The Chair invited Councillor Claire Strong to speak against the item, as Member Advocate.

Councillor Strong thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- Due to the unusual nature of the application, she felt it was worthwhile calling this into the Committee to consider, specifically with concerns over the height of the expansion.
- Even with the reduction proposed, it is a large extension and it will affect the street scene.
- The views of residents did not match those of the Officer in their report, as has been detailed in residents' objections.
- This application should still be thought of as a planning application and consideration given to the impact of the development.
- The Committee should also take into consideration the Pirton Neighbourhood Plan and they should recognise that proposals should reinforce the rural character of the village and parish, as set out in ways including height, scale and construction materials.
- If the Committee felt there was an impact on this part of Royal Oak Lane by these proposals, then they should refuse.
- Otherwise they should request the Officer return to the applicant and find ways in which the height of the roof could be further reduced.
- Following this a formal planning application should be submitted.

There were no points of clarification from Members and the Chair thanked Councillor Strong for her contribution.

The Chair invited Mr Colin Weatherall Morris to speak in support of the item.

Mr Weatherall Morris thanked the Chair for the opportunity to speak and provided the Committee with a verbal presentation, including:

- He was the agent applicant for this house project.
- The use of cladding does not form part of this proposal and the building will be extended using brick worked as detailed in submitted documents and the Officer report.
- The pitch of the existing roof is 40 degrees, and this revised proposal retains this to meet Class AA requirements. This reduction in height was achieved by reducing the height of the first floor windows.
- This property formed an end of a row of houses, which as referred to by the Officer acted as bookends to other properties on the street.
- The building is not currently in good repair and the proposals would have a benefit to the street scene.

In response to a point of clarification from Councillor Sean Nolan, Mr Weatherall Morris advised that it would be facing brickwork on the exterior to match existing building and no cladding would be used later on in construction. The hatching in the plans was to denote new wall not a specific material.

In response to points raised during the public presentations, the Senior Planning Officer advised:

- He maintained view that this would not have an impact on the Conservation Area, as it is located too far from it and is a fairly small development to a large bungalow.
- The bungalows are not listed buildings and there were no planning reasons to refuse this application based on the height.
- It was comparable to many other two storey dwellings close by.

Councillor Simon Bloxham left the Chamber at 22.24.

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

RESOLVED: That application 22/01990/PNAA be **GRANTED** planning permission subject to the reasons set out in the report of the Development and Conservation Manager.

The meeting closed at 10.28 pm

Chair

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NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

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

ON THURSDAY, 15TH DECEMBER, 2022 AT 7.30 PM

MINUTES

Present: *Councillors: Val Bryant (Chair), Tom Tyson (Vice-Chair), Alistair Willoughby, David Levett, Morgan Derbyshire, Simon Bloxham, Terry Tyler, Nigel Mason, Steve Jarvis, Michael Muir and Tony Hunter*

In Attendance: *Nurainatta Katevu (Legal Regulatory Team Manager and Deputy Monitoring Officer), James Lovegrove (Committee, Member and Scrutiny Manager), Tom Allington (Acting Development and Conservation Manager), Peter Bull (Senior Planning Officer), Alex Howard (Planning Officer), Naomi Reynard (Senior Planning Officer) and Tom Marsh (Electoral Services Manager)*

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

41 APOLOGIES FOR ABSENCE

Audio recording – 1 minute 23 seconds

Apologies for absence were received from Councillors Sean Nolan, Daniel Allen, Phil Weeder and Ian Moody.

Having given due notice, Councillor Nigel Mason substituted for Councillor Sean Nolan, Councillor Steve Jarvis substituted for Councillor Phil Weeder and Councillor Michael Muir substituted for Councillor Ian Moody.

42 MINUTES - 17 NOVEMBER 2022

Audio Recording – 2 minutes 32 seconds

Councillor Val Bryant, as Chair, proposed and Councillor Tom Tyson seconded and, following a vote, it was:

RESOLVED: That the Minutes of the Meeting of the Committee held on 17 November 2022 be approved as a true record of the proceedings and be signed by the Chair.

43 NOTIFICATION OF OTHER BUSINESS

Audio recording – 3 minutes 33 seconds

There was no other business notified.

44 CHAIR'S ANNOUNCEMENTS

Audio recording – 3 minutes 38 seconds

(1) The Chair advised that, in accordance with Council Policy, the meeting would be recorded.

- (2) 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.
- (3) The Chair clarified the speaking process for public participants.
- (4) The Chair advised of a change to the order of the agenda and Item 6 would be taken last, following the conclusion of Item 10.
- (5) The Chair advised of when comfort breaks would be taken.

45 PUBLIC PARTICIPATION

Audio recording – 5 minutes 07 seconds

The Chair confirmed the registered speakers were in attendance.

46 19/01448/FP Former Wyevale Codicote Garden Centre, High Street, Codicote, Hitchin, Hertfordshire, SG4 8XA

Audio recording – 78 minutes 08 seconds

The Senior Planning Officer provided the following updates:

- Herts Ecology had raised concerns of the ability to meet 10% biodiversity net gain and the applicant had been requested to provide further information. This information had now been received and Herts Ecology had confirmed that they believe this can be achieved within the site boundary.
- The proposed section 106 clause in the event 10% biodiversity net gain cannot be achieved on site can be removed.
- Herts Ecology had proposed two further conditions, and these were incorporated into Conditions 7 and 18 and the pre-commencement Condition 7 had been agreed with the applicant.
- An update to the section 106 obligations table was provided, advising that they youth contribution would go to a facility in Hitchin, not Welwyn as written in the report.
- The section 106 monitoring fees had been updated.
- Condition 21.e should refer to drawing no. '6729.MOS PP.4.0 Rev C'.
- One further representation had been made from a local resident following the publication of the report and this was available on the Council website.

The Senior Planning Officer presented the report in respect of application 19/01448/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked questions:

- Councillor David Levett
- Councillor Nigel Mason
- Councillor Michael Muir
- Councillor Tom Tyson

In response to questions, the Senior Planning Officer advised:

- The Car Club Scheme was felt to be more enforceable as a section 106 clause and had previously been included on the Heath Lane proposals.

- The attenuation pond was included within the red line of the site and it would be a basin in the land in case of excess water, but it was expected to be mostly empty. This was part of the sustainable urban drainage features.
- The application was submitted with a Transport Statement which concluded that the development would not have a significant adverse impact on the operation of the highway networks in the vicinity of the site or on road safety.
- Without an objection from the Highways Authority, it would not be recommended to refuse on these grounds.

The Chair invited Councillor Ralph Muncer to speak as Member Advocate against the application, in place of the ward member Councillor Ian Moody. Councillor Muncer thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including:

- Of the four Codicote sites in the Local Plan, the residents view this site as the most appropriate, but that did not mean they did not have concerns.
- It was important for the Council and the developer to work together to find outcomes beneficial for residents.
- The site sits at the end of a national speed limit zone and whilst an alternative is being worked on, not formal consideration to this had been given.
- The site is also located opposite a known dangerous junction.
- The traffic on the road is already bad and this is made worse when the A1(M) is closed, forcing traffic through Codicote. Suitable signage and road layout would be required to mitigate this.
- Residents had made numerous complaints about the continued breaches of conditions on the site, including dust, noise and inconsiderate parking.
- Within the village there were three major sites under construction within a 600m radius. All of these sites were using the High Street for access, which was causing major issues on roads not suited for the HGVs visiting the sites.
- There had been noticeable positive changes since the commencement of the Heath Lane, demonstrating lessons had been learned.
- Some proposed additional conditions included; having a site management plan in place, parking and delivery restrictions, compulsory washing of vehicles before leaving the site, no weekend working, no removal of hedgerows and regular site visits from Officers.

The Chair invited Mr Nick Stafford to speak in support of the application. Mr Stafford thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including:

- The site would provide much needed affordable homes.
- The application had tracked the Local Plan process and considerable interaction had taken place with Officers during the process.
- The applicant had consulted the community in 2019 with detailed proposals and were given feedback from residents.
- The Local Plan had now been adopted and the site had been removed from the greenbelt.
- The work put in during the wait for the adoption of the Local Plan meant that this was a high quality scheme, producing an attractive environment.
- The dwellings would be well spaced and boundary re-planting would only take place where existing plants were dead or dying.
- Section 106 clauses had been agreed with the Council.
- A transport plan was provided with the application, highlighting negligible changes in emission between its use as a residential site and a former garden centre.
- The suds basin would be mostly dry and only required during flooding and would be located on land owned by the developer.
- Every house would have EV charging by condition and where possible new energy technology would be used.
- There would be hedgehog highways, bee bricks and provision for birds and bats to protect wildlife.

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

- Highways had not objected on safety grounds and have recommended conditions be applied, so it would be difficult to refuse on these grounds or place additional highways conditions.
- The construction management was covered by Condition 7. This condition would cover many of the issues raised.
- The conditions applied have to be reasonable and enforceable and a standard informative had been included regarding working hours, and therefore would not be reasonable to place additional conditions on this.
- Deliveries outside of school pick off and drop off had been covered by the construction management plan condition.
- Requested monthly site visits by Officers would not be deemed reasonable or enforceable.
- An Arboriculture Assessment had been provided with the application detailing which trees were to be removed.

Councillor Alistair Willoughby noted that more of the points raised by Councillor Muncer had been addressed in the conditions included within the report.

Councillor David Levett noted that he had no issues with the site for development as it fell within the Local Plan. However, he was concerned that cumulative impact on highways had not been considered. As detailed in 4.1.88 of the report the Inspector had wanted consideration to be given to the wider implications and cumulative effects on the community. He suggested that an additional condition be included to require an updated Transport Assessment, to take into account the cumulative impact of developments in Codicote.

In response to points raised and the proposed additional condition by Councillor Levett, the Acting Development and Conservation Manager advised that two of the four Codicote sites had submitted cumulative impact assessments, and these were found to be acceptable. He confirmed that it could be required by condition on this application prior to commencement.

Councillor Alistair Willoughby proposed, subject to the amendment above, and Councillor David Levett seconded and, following a vote, it was:

RESOLVED: That application 19/01448/FP be **GRANTED** planning permission subject to the completion of a satisfactory legal agreement and the applicant agreeing to extend the statutory period in order to complete the agreement if required, as well as the reasons set out in the report of the Development and Conservation Manager, with the following amendments to Conditions 7 and 18, and an additional Condition 41, to read:

“Condition 7

“No works or development (including any pre-construction, demolition or enabling works) shall commence until a Construction Management Plan/construction phasing and environmental management programme has been submitted to and approved in writing by the Local Planning Authority, including elements of the CLOCS standards as set out in the Highway Authority's Construction Management template. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan/Programme unless otherwise agreed in writing by the Local Planning Authority: The Construction Management Plan/construction phasing and environmental management programme shall include details of:

- Construction vehicle numbers, type, routing.
- Access arrangements to the site.
- Traffic management requirements.

- Construction and storage compounds (including areas designated for car parking, loading /unloading and turning areas).
- Siting and details of wheel washing facilities (for construction vehicles leaving the site).
- Cleaning of site entrances, site tracks and the adjacent public highway.
- Timing of construction activities/hours of construction operations (including delivery times and removal of waste) and to avoid school pick up/drop off times.
- Provision of sufficient on-site parking prior to commencement of construction activities.
- 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.
- 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.
- Phasing Plans.
- Measures to minimise dust, noise, machinery and traffic noise impacts during construction.
- The location of construction traffic routes to and from the site, details of their signing, monitoring and enforcement measures.
- Screening and hoarding details, to protect neighbouring residents.
- 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.
- Storage and removal of building waste for disposal or recycling.
- Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- Ecological method statements to incorporate: MM1 – General Construction Safeguards, MM2 – Hedgerow and Tree Protection, MM7– Badger Construction Safeguard, MM9- Precautionary Habitat Clearance Measures and MM10 -Timing of Works from the Ecological Appraisal April 2019 by Aspect Ecology

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018) and to ensure the correct phasing of development in the interests of minimising disruption nearby residents during construction, minimising any environmental impacts and in the interests of biodiversity."

"Condition 18

No dwelling hereby permitted shall be occupied until a scheme of external lighting has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall be designed to ensure public safety and to minimise the potential effects upon the ecology of the site and its surroundings. The scheme shall include details of external lighting of the pedestrian accesses on the eastern boundary. The strategy shall be designed to minimise the potential adverse effects of external lighting on the amenity and biodiversity of the site and its immediate surroundings. The external lighting scheme should incorporate the considerations outlined within MM6 – Sensitive Lighting within the Ecological Appraisal April 2019 by Aspect Ecology an ecological lighting statement giving detail of definitive measures as to how this has been achieved. The scheme shall be implemented as approved and in accordance with an agreed programme/strategy, and the arrangements shall be maintained and retained thereafter.

Reason: In the interests of biodiversity and local amenity."

"Condition 41

Prior to the commencement of development an updated Transport Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Transport

Assessment shall consider the cumulative impacts of sites CD1, CD2, CD3 and CD5 on the village centre and minor roads leading to/from Codicote and secure necessary mitigation or improvement measures. No dwelling forming part of the development hereby approved shall be occupied until the approved mitigation and/or improvement measures have been implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and traffic management.”

47 22/02450/S73 Odyssey Health Club , Old Knebworth Lane, Knebworth, Hertfordshire, SG2 8DU

Audio recording – 5 minutes 45 seconds

The Acting Development and Conservation Manager advised of the following updates:

- A new amended plan had been received. This did not contain any material changes to the proposal but corrected one of the labels on the floor plans.
- Section 73 amendment to the application approved by Committee in November 2020, to vary Conditions 2 and 17.

The Acting Development and Conservation Manager presented the report in respect of application 22/02450/S73 supported by a visual presentation consisting of photographs and plans.

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

RESOLVED: That application 22/02450/S73 be **GRANTED** planning permission subject to the reasons set out in the report of the Development and Conservation Manager

48 17/01955/1 Ickleford Mill, Arlesey Road, Ickleford

Audio recording – 10 minutes 37 seconds

The Senior Planning Officer advised of the following updates:

- An addendum to the report had been circulated to Members and uploaded to Mod Gov, which updated paragraphs within the report and clarified that the pumping station could be placed in the greenbelt as it was part of the engineering operation of the site.
- Provided a correction to paragraph 4.3.34 of the report, relating to the Public Open Space.
- The Environmental Health Officer had proposed an amendment to Condition 29, to remove the need for the application to provide information already provided.
- Clarified the contributions to the Herts Growth and Infrastructure Unit and updates to where the Section 106 money would be allocated.

The Senior Planning Officer presented the report in respect of application 17/01955/1 supported by a visual presentation consisting of photographs and plans.

The Chair invited Mr Gavin Winter to speak in support of the application. Mr Winter thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including:

- In 2015 the flour business on the site was sold to prioritise the ingredients division, but this had now moved to Biggleswade.
- Therefore the site is now redundant and is not suitable to other employment opportunities.
- The site was previously developed land within a class A village and a site that had been identified in the adopted Local Plan.

- The outline application offered 40% affordable housing, an excess of 10% biodiversity net gain and Section 106 contributions.
- Other than required engineering works, the section of the site included within the greenbelt was planned to remain as open space for use by residents.
- All the issues raised during the consultation period had been dealt with.
- The removal of the existing buildings on hard standing land will aim drainage on site and water from the houses would flow to the Hitchin processing site.
- The Highways Officer had approved the plans for zebra crossings, footpaths and dropped curbs.
- The application conforms with the policies included in the Local Plan, including improving the local environment, drainage and ecology benefits.
- The proposals complement the village character and provides much needed housing.

The following Members asked points of clarification:

- Councillor David Levett
- Councillor Nigel Mason
- Councillor Simon Bloxham

In response to points of clarification, Mr Winter advised that:

- The intention for the access to the site was to reduce this to a size more suited to a residential development, at the moment it was primarily access for HGVs to the site.
- The applicant had engaged with County Highways Officers to ensure that there were adequate crossing points included and the location of this was agreed, with which the Officer was satisfied.

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

- Chalk streams were not currently legally protected. The issues with pollution of chalk streams is usually down to surface water run-off and at the moment the surface water run-off on site goes into the foul water system.
- The proposals would see this changed and reduce the risk of flooding. The LLFA were seeking greenfield run-off that could be imposed by condition.
- There were other options to mitigate against surface water run-off and improve the risk to the chalk streams.
- The conditions outlined in the report deal with a lot of the issues raised during consultation by the Parish Council and neighbours. It was felt that these conditions were robust enough to offer protection at reserved matters stage.

Councillor David Levett noted that he knew the site well and there were vast concreted areas and therefore he could see how this proposal will improve water run off on site. He commented that this was an outline planning application with good conditions applied.

Councillor Tony Hunter echoed the comments made by Councillor Levett.

In response to a question from Councillor Alistair Willoughby, the Senior Planning Officer advised that the area of land proposed to stay as green space was outside of the Parish and therefore could not be adopted by the Parish Council. However, Officers were assured that the protection offered by conditions protected this land.

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

RESOLVED: That application 17/01955/1 be **GRANTED** planning permission subject to the completion of a satisfactory S106 Legal Agreement and the reasons set out in the report of

the Development and Conservation Manager, with the following amendment to Condition 29 to read:

“Condition 29:

- (a) No development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:
 - (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
 - (ii) The results from the application of an appropriate risk assessment methodology
- (b) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (a), above; has been submitted to and approved by the Local Planning Authority.
- (c) This site shall not be occupied, or brought into use, until:
 - (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (b) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
 - (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.
- (d) Any contamination, other than that reported by virtue of condition (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 & natural environment & controlled waters.”

49 22/01229/FP Land Adjacent To Red Brick Cottage, The Street, Kelshall, Royston, Hertfordshire, SG8 9SQ

Audio recording – 30 minutes 12 seconds

The Planning Officer provided the following updates:

- An amended ecological assessment was submitted on 6 December, but this did not change the report.
- A number of emails had been circulated, including a statement from the ecologist, a statement from the agent of the applicant and further details on the plans regarding hedgerows.
- The report details that the hedgerow would be removed, but the amended plans show that of the 55 metres of hedgerow, 12.5m would be removed and 8.3m would be replanted, leaving a space of around 4.2m for access.
- Point 4.3.38 of the report should read that the ‘proposed development would *not* result in an increase in flooding.’
- Councillor Morris, who had called in the application, had emailed Natural England to comment, but no response had yet been received.

The Planning Officer presented the report in respect of application 22/01229/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked questions:

- Councillor Tom Tyson
- Councillor Michael Muir

In response to questions, the Planning Officer advised:

- There was roughly 12m of hedgerow to be removed and around 8.5m would be replanted, with new planting.
- The new hedgerows to be planted total 121m in length, which would be 116.8m more hedgerow than on site currently.
- The pond shown on plans was owned by the applicant, but it was outside of the application area, shown by the red line on the plans.
- It would not be possible to condition the applicant to maintain the pond, as this was outside of the application area.

The Chair invited Mr Peter Gartside to speak against the application. Mr Gartside thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including:

- He was representing the Parish Council and the objections of the parishioners are well documented.
- There was much to like in the adopted Local Plan and they had no objections to the policy of infilling, but this application was on an awkward site squeezed between a footpath and a road.
- The village dated back to Domesday and was popular with walkers.
- For residents this site was the least suitable site for infill and there were concerns that if this application was allowed, much more infill would happen in the village.
- Kelshall was currently made up of 44 houses, with spacing between each dwelling.
- If all infill applications were the size of this application, there would be an additional 38 homes of this size in Kelshall.
- This would drastically alter the character of the village and would not accord with the term 'limited infill' described in the Local Plan.
- If this application was approved it would make infill developments a first-come-first-served basis and developers would be driving policy, not planning officers.
- Kelshall was a category B village in the Local Plan and was one of the smallest for infill possibilities.

The Chair invited Councillor Gerald Morris to speak against the application, as Member Advocate. Councillor Morris thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including:

- The Local Plan allowed for small scale infill.
- He had previously supported an infill application, but this site was different, as it was part of a larger 6-acre field, although the application site had now been fenced off.
- The Planning Officer could not have envisaged a 6-acre field being infill for a £1million house.
- The application would see the partial removal of 65m of hedgerow, which is at least 500 years old. There are conditions protecting ancient hedgerows and this stipulates that those over 30m and 20 years old should not be removed.
- No response had been received from Herts Ecology for this proposal.
- The replacement hedgerow proposed would take generations to be a suitable alternative.
- Herts County Rights of Way and the Environment Agency had not been consulted.

- The site was part of several protected zones and Herts County Council guidelines stated that the patterns of lanes and hedging should be protected.
- If this application was granted permission it would lead to further similar applications in Kelshall and the ancient village character would be harmed.

In response to a point of clarification from Councillor Levett, Councillor Morris advised that the current use of the land was for grazing by livestock. He noted that a section had been fenced off recently to separate it from the wider meadow.

In response to points raised, the Planning Officer noted that:

- Highways were happy with the access, along with proposed signage, following a speed test.
- Due to the nature and scale of this development, it was unlikely Historic England or CPRE would have responded.
- Speculation on future development cannot be used as a reason for refusal.

The following Members took part in the debate:

- Councillor Steve Jarvis
- Councillor Michael Muir
- Councillor Tom Tyson
- Councillor David Levett

Points raised in the debate included:

- The issue with the application was regarding whether or not it represented infill.
- The location plan showed that the plot was opposite 4 other plots, demonstrating the size of the space to be filled.
- The reference to the application in Ashwell approved on appeal was not relevant as this site did not meet the criteria outlined in the now adopted Local Plan. Ashwell and Kelshall were not comparable villages.
- The merit of the hedgerow to be removed is different to a domestic hedge. Whilst it was good to see it would be replaced, it would still represent a loss of a considerable hedge.
- This did not appear to be an infill site.
- One of the deciding factors on a previous application had been whether the site was a paddock or garden, Members needed a clear answer as to what represents infill.
- The use of the site is currently agricultural.
- The site was large and did not appear to be bound, with woodlands and shrubs, further fields, a footpath and agricultural buildings surrounding the plot.
- It was a big plot for one house and could not see how this could meet the infill criteria.

In response to points raised in the debate the Planning Officer and Acting Development and Conservation Manager advised there was no set definition of infill and each application was subjective and to be based on its own merit. It would depend on the land use of the existing plot and the relationship with the surrounding land. In this application the site had developments to the front and each side, albeit these were set slightly away.

Councillor Steve Jarvis proposed that the application be refused on the grounds that it would be detrimental to the character of the village and the street scene. This was seconded by Councillor Michael Muir and, following a vote, it was:

RESOLVED: That application 22/01229/FP be **REFUSED** planning permission due to the following reasons; the scheme is considered contrary to Local Plan policies that inform on appropriate development in Rural Area beyond the Green Belt. The proposal fails to comply with any of the criteria within Policies SP2 and CGB1 of the Local Plan, as the proposal is not

considered to fall within the remit of infill development given the sizable and spacious nature of the plot. Moreover, the scheme would be harmful to the character and appearance of the village and would be at odds with the sporadic pattern of development that makes up the settlement of Kelshall. The proposal is therefore deemed contrary to Policies SP2, D1 and CGB1 of the Local Plan, as well as Section 12 of the NPPF.

50 TPO/00203 (2022) Church of St Peter, Pirton Road, Holwell, Hitchin, Hertfordshire, SG5 3SR

Audio recording – 63 minutes 51 seconds

The Acting Development and Conservation Manager advised of the following updates:

- This application was for a Tree Protection Order (TPO) on a substantial tree.
- The draft TPO was served in September 2022 and following this a 28-day consultation period took place. If objections are received to the TPO in this time then it must be presented to the Committee.
- It was felt that the tree provided a positive contribution to the area.
- The TPO would not mean that no works can take place, but would be subject to a further TPO application.

The Acting Development and Conservation Manager presented the report in respect of application TPO/00203 (2022) supported by a visual presentation consisting of photographs and plans.

Councillor Michael Muir noted that this was a tree he had used on many occasions as a photographer and it would be a shame for this to be refused.

The Chair noted that this was a tree of public amenity and was very prominent in the area. It was in the ownership of the Church and she was supportive of the TPO.

Councillor Michael Muir proposed and Councillor Morgan Derbyshire seconded and, following a vote, it was:

RESOLVED: That the Tree Protection Order (TPO/00203) was **CONFIRMED**.

Following the conclusion of this item there was a short comfort break in proceedings until 20.49.

The meeting closed at 9.37 pm

Chair

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<u>Location:</u>	Land Between Croft Lane Norton Road And Cashio Lane Letchworth Garden City Hertfordshire
<u>Applicant:</u>	Ms Sass Pledger
<u>Proposal:</u>	Outline planning application for residential development (all matters reserved)
<u>Ref. No:</u>	22/01464/OP
<u>Officer:</u>	Peter Bull

Date of expiry of statutory period: 28 February 2023

Reason for delay:

The application stalled pending the outcome of the planning appeal on the same site for a similar development. This has been received. The appeal was dismissed on the grounds that it had not been demonstrated that financial contributions sought were compliant with the Community Infrastructure Levy (CIL) Regulations. The application presented can now be determined.

Reason for referral to Committee

The site area for this application for development is 3.7 ha. Under the Council's scheme of delegation sites over 0.5 ha in area must be determined by the Council's Planning Control Committee. Hence the referral to Members.

1.0 Policies

Herts CC Local Transport Plan

Travel Plan Guidance for Business and Residential Development 2020

2.0 Relevant History

- 2.1 17/00933/1PRE - Pre-app advice for Outline Planning Application: Residential development of up to 39 dwellings – advice given
- 2.2 19/00520/OP - 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) – refused – appeal dismissed

3.0 **Representations**

3.1 **Site Notices: 15/06/2022 Expiry: 15/07/2022**

Press Notice: 23/06/2022 Expiry: 16/07/2022

3.2 **Anglian Water:** no objection subject to informatives being included on any permission.

3.3 **Herts County Council (Archaeology):** no objections subject to a condition requiring the submission of a Written Scheme of Investigation.

3.4 **Herts County Council (Highways):** does not wish to restrict the grant of planning permission subject to conditions.

3.5 **Countryside and Rights of Way:** no response received.

3.6 **Environmental Health Contaminated Land:** no objection subject to conditions.

3.7 **Environmental Health (Noise):** no response received.

3.8 **Environmental Health (Air Quality):** general comments made. Reserved matters application will need to consider this matter in more detail.

3.9 **Growth and Infrastructure:** No objection subject to financial contributions towards local services being provided.

3.10 **Herts County Council (Ecology):** no response received.

3.11 **Hertfordshire Fire and Rescue Services:** no response received.

3.12 **Herts and Middlesex Wildlife Trust:** objects as proposal does not demonstrate measurable net gain to biodiversity.

3.13 **Historic England:** no response received.

3.14 **Housing Supply Officer:** no objection proposal will require 40% affordable housing provision in accordance with policy and guidance.

3.15 **Landscape and Urban Design Officer:** comments provided on previous application remain relevant. Any reserved matters application will need to address concerns about tree impacts and the location of open space.

3.16 **Lead Local Flood Authority:** no response received.

3.17 **Letchworth Garden City Heritage Foundation:** Objections raised in respect to vehicular access, construction traffic, residential amenity, heritage assets, allocation of financial contributions and deliverability of site.

3.18 **Minerals and Waste Authority:** no objection subject to conditions.

- 3.19 **Conservation Officer:** no response although it previously confirmed that the proposed access and wider development would result in less than substantial harm to the significance of heritage assets
- 3.20 **Sport England:** Objects as proposal does not meet exception tests although if either a replacement playing field or an appropriate financial contribution towards playing field mitigation is provided the objection maybe withdrawn
- 3.21 **Waste and Recycling:** general comments on waste matters received
- 3.22 **Site notice/neighbour representations:**

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

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

- 3.23 **Norton Action Group (NAG):** have provided independent technical reports/objections notes on transport, arboricultural impacts Air Quality and Disability Discrimination, as well as general objections which tend to follow the summary of other neighbour responses above.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The site lies within the settlement of Letchworth Garden City some 2.7 km north-east of the town centre. It is an allocated housing site in the recently adopted Local Plan (Policy HS1 – site LG10). The part of the site containing one of the illustrative vehicular access points lies within Croft Lane Conservation Area. The site forming the playing field, in which the proposed dwellings would be located, is immediately on the south boundary of Croft Lane Conservation Area. There are Listed Buildings nearby and adjoining the site, including (Norton Grange Farmhouse - Grade II, The Three Gables - Grade II, Treetops – Grade II, Thatches – Grade II, Norton Edge – Grade II, Paynes Farmhouse – Grade II, Croft Corner – Grade II, The White Cottage – Grade II and 5 and 7 Croft Lane – Grade II). The site contains two buildings formally utilised in association with the vacant former playing field. The site is largely flat in terms of topography.
- 4.1.2 The wider area of the locality is residential in character. Adjacent buildings are large, detached dwellings set on spacious plots with large rear gardens. The surrounding area is mixed in character, with some notably important buildings including those listed above.

Heritage Appraisal

- 4.1.3 Consultants for North Hertfordshire Council were commissioned to undertake a Conservation Area Character Statement for Croft Lane Conservation Area. Relevant parts of the Character Statement are quoted below (paragraphs 4.1.4 to 4.1.7) to frame an assessment of the contribution of the site to the significance of, and setting of, the Conservation Area.
- 4.1.4 Croft Lane is historically part of the village of Norton and its two large farm buildings remain as evidence of the area's rural past. Croft Lane was developed as a residential street from around 1905 onwards, though is notably occupied by larger villa type houses than are seen in the surrounding residential streets. Since the principal phase of development between around 1905 and 1911, other plots have been filled with houses of a similar scale and the east end of Croft Lane appears to have been developed more recently, towards the end of the 20th century.
- 4.1.5 Norton Grange Farmhouse (NHLE 1102027), Paynes Farmhouse (NHLE 1174144) and Thatches (NHLE 1347675), of the 17th, 18th and 18th centuries respectively, are the three timber buildings within the Conservation Area, the former two being sat opposite each other on Croft Lane as part of U-shaped farm complexes, each with farmland behind. The Three Gables (1907) (NHLE 1295871) and Croft Corner (1911) (NHLE 1102026) were both designed by Cecil Hignett, famously the architect of The Spirella Building in Letchworth, the former for his own occupation. The former is in roughcast brick with thatched roof with eyebrow dormers and casement windows throughout.

- 4.1.6 All of the buildings in the Conservation Area are set back from the road behind gardens which are themselves separated from the road by tall hedges and other planting, creating a secluded feel from the roadside and presumably also within individual properties.
- 4.1.7 There are noticeably more street trees west of Paynes and Norton Grange farmhouses and this locates the more enclosed-feeling part of the Conservation Area to this part of it, i.e. around the earlier 20th century buildings. There is a pavement on the south side of Croft Lane which has, for the most part, a grass verge between it and the road. The kerbs here are stone.
- 4.1.8 The special interest of Croft Lane Conservation Area lies in its connection to the foundation of Letchworth Garden City and it hosting a series of significant buildings by key Letchworth Garden City architects, Parker & Unwin, Cecil Hignett and Geoffry Lucas. Due to planting in front of almost all properties in the Conservation Area, long views are almost entirely absent, and it retains something of a rural feel, despite being almost entirely surrounded by suburban residential streets of Letchworth Garden City.
- 4.1.9 Croft Lane's significance is considered to lie within its historical development. The Lane served few farm buildings and a single dwelling on the edge of Norton prior to the development of Letchworth Garden City. Parts of the Lane were filled in the early part of the development of Letchworth Garden City, and later infilled with more modern dwellings. All dwellings are detached, of similar sizes, and set back from the lane with verdant frontages, maintaining a relatively rural feel considering the site's edge of settlement wider context.
- 4.1.10 The setting of the Conservation Area is mixed, with agrarian feel to the north, and recently (in built form context) developed residential land to the south. Historically, the area hosted two farm buildings in a U formation either side of the Lane. Part of the significance of the Conservation Area lies in how it has been developed to form the edge of Letchworth Garden City. Given the later development of the area, the significance of the Conservation Area partially lies within the very confined interrelation of houses and the streets lack of long views either through or out of it. The setting of the Conservation Area, by reason of the Lane's confined nature, has a limited contribution to the significance of the heritage asset.

Sites contribution to significance of the heritage assets

- 4.1.11 The site subject to this application contains some buildings which fall within the Conservation Area. The smaller building on the west edge of the site has no architectural merit and does not contribute to the significance of the Conservation Area. The larger building, to the east edge of the site, hosts some architectural merit and seemingly has some historic association with Norton Grange Farmhouse. These buildings are set back from Croft Lane, do not address Croft Lane, and are screened to some extent by the verdant frontage of the site to Croft Lane. These buildings are currently marked as being retained, and in respect to the larger building to the east of the site, this retention is of merit. There is one small access point wide enough for vehicular access, with a small dropped kerb and hard surfacing leading to the site's boundary. Beyond this, the site is green and open, laid to grass, with some trees growing within the part of the site within the Conservation Area.

- 4.1.12 The wider site, outside of the Conservation Area, is laid to grass, with no current functional use. The site is bounded by the rear boundary treatments of dwellings which encompass the site. The site boundaries are largely verdant, with mature trees and hedging.
- 4.1.13 It is considered that the part of the site which lies within the Conservation Area does contribute to the heritage assets significance. This significance is formed from the site's openness, and its exception from historic infill development between historic buildings on the Lane. Further contribution to significance is derived from the sites open and verdant presentation to the street, with hedging and trees.
- 4.1.14 The wider site is open in its nature. Notwithstanding this, by reason of the confined nature of the Conservation Area, alongside the site positioning to the south and surrounding residential development, the site openness only has a limited contribution to the significance of the heritage asset.
- 4.1.15 It is noted that the site is bounded by some Listed Buildings, as described above. These Listed Buildings have varying significances and historic and architectural interest.
- 4.1.16 The farm buildings and Thatches reveal the history of Croft Lane before the development of Letchworth Garden City. Paynes Farmhouse retains some of its historic agricultural setting on the north side of Croft Lane. Given the separation distance and agrarian setting derived from the north side of Paynes Farmhouse, it is not considered that the site contributes to the setting of Paynes Farmhouse.
- 4.1.17 Whilst historically, the site would have formed part of the setting of Norton Grange Farmhouse, the openness of the surroundings have been significantly degraded over time. The sites current contribution to the significance of Norton Grange Farmhouse as part of its setting is considered limited by the changes in character and function of the listed building itself and its surroundings over time. It is not considered that the site contributes to the significance of Thatches as the other pre-Garden City listed building adjacent to the site.
- 4.1.18 The other listed buildings which directly adjoin the site are Treetops and The Three Gables. These buildings are self-evidently architecturally significant, and historically significant in that they were designed by prominent Garden City architects, and form part of the history of Letchworth Garden City. Pursuant to this, it is not considered that the open, playing field, nature of the area to the rear of these properties contributes to the historic significance of these heritage assets.
- 4.1.19 In addition to the listed buildings, the following adjoining premises are registered as Buildings of Local Interest –
- **46 Norton Road.**
1906. Designed by Parker and Unwin. A simple square house with large steeply pitched roof with weatherboarded infill. The front elevation has a broad veranda with hipped roof. The building is designed by notable architects and is of particular local and historic interest.

- **54 and 56 Norton Road.**
1906. Geoffrey Lucas. The building has a complex multi-gabled roof and is well designed with high quality chimney detailing. The building is designed by notable architects and is of particular local and historic interest.
- **68 Norton Road.**
1911. Designed by Bennett and Bidwell to a high architectural standard, in the vernacular style characteristic of Letchworth. The building is designed by notable architects and is of particular local and historic interest.

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

- **Norton Road**
52, 54, 56, 66, and 68.

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

4.2 Proposal

4.2.1 The application seeks outline planning permission for residential development of the site with all matters reserved for future consideration. In relation to plans, the only one of relevance is the site location plan. All other plans are indicative and do not form part of the consideration for the purpose of this outline application.

4.3 Key Issues

Preliminary matters

4.3.1 The application is for outline planning permission with all matters - *means of access, appearance, scale, landscaping and layout* - reserved for future consideration. Notwithstanding the outline nature of the application, some indicative details, including the means of access, have been received to assist in deciding the proposal. The considerations of *means of access, appearance, scale, landscaping and layout* remain relevant, however, only to the extent that the site may be capable of accommodating the proposed development in the context of these considerations.

4.3.2 The 2019 application for residential development on the same site with all matters reserved except for means of access was refused permission for the following reason –

“In the opinion of the Local Planning Authority the proposed vehicular access associated with this development would generate additional traffic onto Croft Lane which has a substandard road width. Such additional traffic would be to the detriment of highway safety in the locality, contrary to Policies T1, SP6 and SP7 of the Emerging North

Hertfordshire District Local Plan (2011-2031) and to paragraphs 109 and 127 (f) of the National Planning Policy Framework (NPPF)."

4.3.3 Although the subsequent appeal was dismissed, this was only due to a procedural matter relating to whether the financial contributions sought were compliant with the Community Infrastructure Levy (CIL) (a statutory requirement). In relation to highways reasons for refusal, the Inspector found that the proposal would not prejudice highway safety. This is considered further in the latter parts of this report. A copy of the appeal decision is attached at Appendix 1.

4.3.4 Supporting documents relating to the application comprise –

- Built Heritage Statement
- Tree Survey
- Phase 1 Geo Environmental Report
- Planning Design and Access Statement
- Flood Risk Assessment
- Service Investigations Report
- Transport Statement
- Archaeological Assessment
- Ecological Appraisal
- Statement of Community Engagement
- Travel Plan Statement
- Design Brief

Principle

4.3.5 The 2011-2031 Local Plan has been adopted recently following examination by the Secretary of State. The site is identified as a Local Housing Allocation under Policy HS1 as LG10. This allocation was modified during examination to remove the requirement for re-provision of the loss of open space as the site is not open to the public.

4.3.6 Under the policy, the site is allocated for the provision of an estimated 37 homes. The policy stipulates that the development hosts appropriate access arrangements to minimise impact upon heritage assets; sensitive design and lower density development to minimise harm to the Croft Lane Conservation Area and setting of the Grade II Listed Buildings along Cashio Lane, Croft Lane and Norton Road; and to provide an archaeological survey prior to development. These matters are considered later within this report, in line with specific professional advice sought from consultees. However, the principle of residential development of the site is supported by policy HS1.

4.3.7 Given the residential use of the site is supported by Policy HS1, it is considered that the proposal is acceptable in principle. Although this is an outline application with all matters reserved for future consideration, it is useful and appropriate to consider technical matters in a broad sense so there is greater certainty and understanding as to what a reserved matters application should include and deliver. These matters are considered in the following parts of this report.

Highways impacts

- 4.3.8 The means of access to and from the site is reserved for future consideration and does not therefore form part of the considerations on this application. However, in such circumstances The Town and Country Planning (Development Management Procedure) (England) (Order) 2015 requires that 'where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated'. The points of access into the site have been illustrated to be from Cashio Lane (pedestrian and cycles) and Croft Lane (vehicular and other traffic). These are the only possible options available to access this site. They are also identical to those considered as part of the 2019 application and as illustrated on the adopted Local Plan proposals map.
- 4.3.9 Although the illustrative layout shows 42 units (as was also proposed as part of the 2019 application) and the supporting Transport Assessment provided by the applicant has assessed traffic impacts for up to 50 units, the description of the proposal does not propose a specific number of residential units. However, the application form indicates that 42 dwellings are proposed. The Council must therefore be satisfied that the site is capable of accommodating a residential use of the site in general terms and, if necessary and reasonable for highway safety reasons, imposing conditions to limit the number of units.
- 4.3.10 The Local Plan site allocation – Policy HS1 (site LG10) - requires appropriate access arrangements to minimise impact upon heritage assets. The illustrative plan shows a proposed vehicular access and egress on Croft Lane to the north of the site and through Croft Lane Conservation Area. This illustrative means of vehicular access could accommodate two-way traffic with a road width of circa 5.5m. An additional access is illustrated for pedestrians and cycles onto Cashio Lane.
- 4.3.11 By way of background information it should be noted that the Highway Authority provided advice and guidance into the formulation of Policy HS1 site LG10 in the recently adopted Local Plan. Since the previous application was considered, several new planning/highways policies have emerged including the government's Decarbonising Transport 2021, LTN1/20 cycle guidance, Inclusive Mobility 2022 and the Transport Decarbonisation Toolkit. These all place even greater emphasis on the need for sites to be highly sustainable and accessible for all people particularly more vulnerable users (e.g. those with disabilities, sight-impairment, parents with buggies, children and the elderly). With this in mind, and overall to ensure the development complies with paragraphs 110 to 112 of the NPPF, wider highway works will need to be focussed on these issues when preparing the reserved matters proposals. As part of this process, the Highway Authority would expect the developer to reconsider the illustrated access arrangements at the reserved matter stage in the event that outline planning permission is granted. This should include the reassessment to ensure proposed access designs and approaches comply with latest policy and guidance. Whilst this may still result in the provision of accesses as currently detailed on the illustrative plan and which have been found to be acceptable by the Inspector when considering the recent appeal, it could also necessitate some changes to the access arrangements. In terms of the trip generation and vehicle capacity details in the Transport Statement, these are acceptable, and in a wider highway context the residential use of the site is not considered to have a significant effect on the free flow of traffic.

- 4.3.12 Although the access arrangements are not considered as part of this outline application, there is a high probability that the Croft Lane access point - due to its greater width compared to the narrower Cashio Lane access point - will provide some sort of vehicular access to/from the site. In relation to this matter the Inspector, in considering the 2019 scheme, concluded that -

"I acknowledge that the proposed scheme would increase traffic movements along Croft Lane and within the immediate vicinity of the site but that the increase would not be of such a scale that highway safety would be seriously prejudiced. The measures included in the Section 278 Agreement are sufficient to balance concerns in respect of highway safety. For these reasons, I conclude that the proposed scheme does not conflict with the emerging policies T1, SP6 and SP7 or Paragraphs 130(f) and 111 of the Framework."

- 4.3.13 Officers previously opined that an access on Croft Lane would be the least harmful means of achieving the development proposed in heritage terms. This and other concerns over the means of access have been raised by local residents and the Norton Action Group. However, as this matter is not part of the considerations on this application, this would need to be raised and weighed as part of any reserved matters submission.
- 4.3.14 Having regard for the advice of Hertfordshire County Council as Highways Authority and the recent findings of the Inspector's highway matters relating to the previous application, it is considered that, subject to conditions and legally secured contributions, the proposal is broadly acceptable from a highway perspective. Other off-site highways mitigation works needed to facilitate an acceptable residential development use of the site would need to be detailed as part of the reserved matters submission and secured by way of a S278 agreement under the Highways Act 1980.
- 4.3.15 In relation to S106 contributions, the County Council sets out a headline figure of £6826 per dwelling to go towards CIL compliant sustainable transport schemes in the vicinity. Based on 50 dwellings being proposed at reserved matters stage, this would equate to £341,300. Packages 11 and 12 of the adopted North Central Growth and Transport Plan include schemes which are CIL compliant in this case. As the work covered under conditions 8 (new and improved footways) and 9 (bus stop improvements) would have a wider public benefit, it would be reasonable to deduct the implementation costs of these from the headline s106 figure. This means a final Heads of Terms sustainable transport contribution would be – total number of units x £6826 less £186,692. This matter is set out in the latter section of this report along with a summary of the other S106 matters.

Appearance

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

- 4.3.17 Appearance is clarified within policy D1 of the adopted Local Plan and the Design Supplementary Planning Document. Appendix 5 of the Local Plan sets out design principles for Letchworth Garden City. Generally, the policies aim for the design of buildings or places to reflect the character of the sites surroundings. The SPD goes into more detailing as to the materials used in the development of Letchworth Garden City and their rational (particularly paragraph 196 of the SPD). Adopted Policy HE1 – Designated Heritage Assets - also provides some guidance on development affecting the setting of heritage assets. These policies are not of particularly relevance in relation to this application, as appearance is a reserved matter. The policy basis is only important in that it would be possible to achieve the desired appearance on the site with the proposed development.
- 4.3.18 The submitted Design Brief set out the broad parameters of all the reserved matters including appearance. Given the amount of high-quality designed buildings in the immediate surroundings of the site, it is considered that the proposal would be more than capable of accommodating buildings of an appropriate appearance in any future reserved matters application. No further information is considered to be required at this outline stage in respect to appearance. No parameters have been proposed in any of the documents submitted, and consequently, the Council will have freedom to assess a reserved matters application in respect to appearance on its merits and seek the highest architectural quality. The proposed development could thereby provide a high-quality appearance which would preserve the significance of the heritage asset and meet the relevant design based criteria of the adopted Local Plan and NPPF.

Landscaping

- 4.3.19 Landscaping is defined as *“the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes -*
- (a) screening by fences, walls or other means;*
 - (b) the planting of trees, hedges, shrubs or grass;*
 - (c) the formation of banks, terraces or other earthworks;*
 - (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and*
 - (e) the provision of other amenity features.”*
- 4.3.20 Policy NE1 of the adopted Local Plan advises that proposals would be granted so long as they do not cause unacceptable harm to the character and appearance of the surrounding area taking account of any suitable mitigation measures necessary to achieve this, are designed and located to ensure the health and future retention of important landscape features and have considered the long-term management and maintenance of any existing and proposed landscaping.

- 4.3.21 Some landscaping details have been provided within an illustrative plan and as part of the Tree Survey and Tree Constraints Plan although as landscaping is a reserved matter, these are indicative only. The site contains some trees along the boundary as well as two class C trees towards the east of the site which are not on the boundary. The illustrative site plan shows the majority of those trees to be retained.
- 4.3.22 The indicative retention of category B and a large proportion of category C trees is welcomed. The illustrative site layout plan does not position any dwellings such that any trees are clearly threatened by proximity, daylight issues, or root protection concern. In the situation where the means of access is proposed from Croft Lane, there are some potential implications for existing trees including ones outside of the application site. Previously officers opined that the removal of three trees to facilitate the means of access from Croft Lane was justified due to the proximity other trees, poor quality and/or their contribution towards the significance of the Conservation Area. In the event the reserved matters application identifies trees for removal, these would need to be assessed for their value and health in the normal way. Off site trees within the public realm affected by any proposed means of access would be a matter for the applicant to resolve separately with the Council's Tree Officer as the 'landowner'. For clarity, this matter is addressed by way of an informative as part of this recommendation.
- 4.3.23 The landscaping shown in the indicative details, in terms of the planting of trees along the outer and inner side of the circular access road shows that a good level of tree planting could be achieved. Further consideration of perimeter screening planting should be considered in future landscaping reserved matters applications where that planting would benefit the amenity of the occupiers of future and that of adjoining premises.
- 4.3.24 As a result, it is considered that the indicative layout shows that the site could accommodate the proposed development while maintaining a high-quality landscape. The proposed removal of trees would not impact the contribution of the site to the significance of the Conservation Area, subject to later reserved matters application to improve landscaping to the entrance of the site along Croft Lane, which is clearly achievable.

Layout

- 4.3.25 Layout *"means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development"*.
- 4.3.26 Layout is considered to be an important aspect of Letchworth Garden City Design Principles. Policy D1 and Appendix 1 of the adopted Local Plan set out the expectations in this regard and Policy HE1 will necessitate consideration of layout insofar as it impacts on the setting of heritage assets. Creating vistas, closure and accents within group design breaks the monotony of built form. Stepping of building lines with differing block designs with similar materials allows for the creation of accents. Vistas are best formed by tree lined streets and closure represented by feature buildings at key points.
- 4.3.27 The illustrative layout and the broad parameters set out in the submitted Design Brief are useful in-so-much as they provide some evidence that the amount of development proposed could be accommodated on the site in respect to layout.

- 4.3.28 It is considered that future site layout will need to improve vistas and accents currently shown on the illustrative plan. Work is also required in respect to buildings addressing corners and orientation of the built form to make best use of natural light and solar gain. Based on the illustrative plan, it is demonstrated that occupiers of any proposed dwellings would enjoy satisfactory living conditions (outlook, open space, accessibility). In terms of open spaces, it is considered that the grouping of open space around the edges of the site is not a particularly attractive or inclusive strategy. However, it does allow for some spacing from sensitive adjoining premises in terms of heritage value and residential amenity (along Norton Road where landscape screening is less prevalent). The details of open space and its management would typically be provided and agreed as part of the S106 agreement. For the avoidance of doubt, the re-provision of the loss of the site as an open space is not necessary as the site is not open to the public. This matter was addressed during the Local Plan examination.
- 4.3.29 Care will need to be taken in any reserved matters application in respect to layout (and landscaping) to ensure that harm to adjoining premises in terms of overlooking and outlook does not occur. Care should be taken particularly around plots 25, 28-32 in terms of distance to existing rear boundaries and supplementary planting as potential mitigation. Further consideration must be had to views into the site or views into or from any adjoining heritage assets as a starting point for any layout supplementing future reserved matters applications. Due to the limited size of rear gardens shown on the illustrative plan, it is considered appropriate to remove permitted development rights relating to additional buildings within each dwelling plot. This would enable control to be in place to avoid overdevelopment of a plot, with the consequential impact on the living conditions, the character and appearance of the area, and heritage significance of the adjacent conservation area through development within its setting. This matter can be secured by condition in the event of approval.
- 4.3.30 In terms of reflecting the character of the site's surroundings, it is noted that the buildings are separated some distance from the street or driveway which they address. Shared driveways should be minimised in future reserved matters applications as it is unreflective of the linear pattern of development of the surrounding area. Notwithstanding the above suggestions, with some configuration, it is considered that an acceptable layout, not unlike the indicative plan, would award sufficient spacing to accommodate the proposed development without harm to the significance of nearby heritage assets and living conditions of the occupiers of adjoining premises, while representing high-quality design.

Scale

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

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

Ecology

- 4.3.35 Policies SP12 - Green infrastructure, biodiversity and landscape, Policy NE4 - Biodiversity and geological sites and NE6 - Designated biodiversity and geological sites - seek to protect, enhance and manage the natural environment. The 2021 Environment Act introduced an automatic requirement for every planning permission granted to achieve a Biodiversity Net Gain (BNG) from November 2023. This means that, before any development begins, developers need to measure the existing and proposed biodiversity values of their sites.
- 4.3.36 An updated Ecological Appraisal including a range of Phase One Habitat Surveys has been provided as one of the supporting documents. Although no formal response has been received from Herts Ecology, given the updated Appraisal did not find any changes from the one previously submitted the response on the 2019 application is considered still to be relevant. A summary of findings relation to existing species and habitats is as follows -
- Bats – any work to a single walnut tree which had some bat activity (feeding and foraging) would need to be considered further (watching brief by licensed bat ecologist) at reserved matters stage. Providing the former highways buildings adjacent the Cashio Lane entrance are retained then there are not considered to be risks to bats or their habitats. Hedgerows should be retained and sensitive site lighting delivered as part of the development.
 - Nesting birds –development works should avoid bird breeding season if possible. Informative recommended.
 - Hedgehogs – there is known to be activity within the area. Informative recommended.

- Badgers – no evidence of activity or denning was found. There is considered to be negligible impact on badger population from the development. Informative recommended.
- Reptiles – no adverse impacts likely.
- Grassland – considered to be species poor and unlikely to be valued habitat.

Overall, these impacts are not significant to justify the withholding permission although appropriate mitigation together with the provision of sensitive site wide lighting should be sought by way of conditions.

- 4.3.37 In relation to biodiversity, the application site's baseline habitats have been calculated to provide 14.24 Habitat Units and 1.26 Hedgerow Units (using the Biodiversity Metric 3.0). Although the site is currently of low biodiversity value, habitat retention, enhancement and creation including existing site trees and hedgerows will be necessary to satisfy recently adopted LP policy. From November 2023, such enhancement will need to be at least 10% over existing baseline. Within the communal open spaces, it is recommended that the planting of a small orchard and a wildflower meadow. New tree, shrub and hedgerow planting within the development should be either native species or species of known wildlife value. Any biodiversity enhancements should be considered at an early stage to avoid potential conflict with any external lighting plans. These matters can be secured by condition including a Landscape Management Plan (LEMP) to ensure that appropriate biodiversity net gain will be delivered as part of the development.

Flood risk

- 4.3.38 A Strategic Flood Risk Assessment was undertaken in 2018 and this informs the submitted Flood Risk Assessment (2021) provided as a supporting document to the application. In relation to surface water drainage, the assessment demonstrates that the proposed Sustainable Drainage System (SuDS) features provide sufficient storage to avoid flooding during the 1 in 100 year storm event plus 40% allowance for climate change. All surface water runoff from the development would pass through a swale and a detention basin which would provide adequate treatment for the potential pollution hazards generated by the land uses.
- 4.3.39 In relation to foul water flows from the development, the submitted Detailed Drainage Strategy presented as part of the Flood Risk Assessment confirms that the site can be drained adequately.
- 4.3.40 The site is not considered to be at risk of flooding from fluvial, surface water, groundwater, sewers or artificial source. Although the Lead Local Flood Authority have not responded in relation to the current application, they previously raised no objection to the development of the site for residential development subject to conditions which are recommended in the event that permission is granted.

Housing mix

4.3.41 The illustrative plans show the following housing mix –

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

Table 1

4.3.42 Recently adopted Policy HS3 requires that new home sites achieve the overall targets of the plan; the findings of the most up-to-date evidence including the most recent Strategic Housing Market Assessment (SHMA), the Council's Self-Build Register and other relevant evidence of housing need; the location and accessibility of the site; and recent completions, existing permissions and sites in the five-year supply. Policy HS3 also requires that proposals should provide a density, scale and character of development appropriate to its location and surroundings.

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

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

Table 2

4.3.44 The applicant acknowledges that the omission of a specific number of units from the application description is due to the fact that in considering the 2019 application officers identified the site would require more smaller units, which would potentially increase the total number of units on site to over the 42 shown on the illustrative masterplan. It is anticipated that any reserved matters application will reflect the housing mix suggested by officers. In the event that it does not, evidence will be required to be submitted to demonstrate the housing mix proposed is both sought and justified. As the housing layout and types are illustrative and a matter reserved for future consideration, the indicative housing mix does not give rise to any reason for refusal at this stage.

Affordable housing

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

needs of the area. The other policy requirements have been secured within the legal agreement in the form of the S106 agreement.

- 4.3.46 The Council's Housing Supply Officer has recommended the mixes best meets housing needs, as identified in the 2016 SHMA Update and these are set out in the tables below. The delivery should include the provision of a three, four or five bedroom M4(3) wheelchair accessible standard bungalow or house for rent to meet this need and the requirements of Policy HS5: Accessible and adaptable housing.

Social/affordable rented	Total (%)
1 bed flat	21
2 bed flats	12
2 bed houses	26
3 bed houses	35
4 bed houses	6
Total	100

Table 3

Intermediate	Total (%)
1 bed flat Intermediate	8
2 bed flats Intermediate	8
2 bed houses Intermediate	20
3 bed houses Intermediate	54
4 bed houses Intermediate	10
Total	100

Table 4

Archaeology

- 4.3.47 Following a thorough review of all available information for the site, Hertfordshire County Councils Historic Environment team consider the archaeological potential of the site falls just below the threshold for requiring further intrusive evaluation predetermination. Consequently, conditions requiring a Written Scheme of Investigation are recommended to ensure the archaeological value of the site is preserved.

Energy and carbon emissions

- 4.3.48 The Council passed a Climate Emergency motion in 2019 which pledged to do everything within the Council's power to achieve zero carbon emissions in North Hertfordshire by 2030. The Council has adopted a Climate Change Strategy to promote carbon neutral policies. Adopted Policy DE1 – Sustainable Design – requires developments to consider a number of criteria including the need to reduce energy consumption and waste. In relation to residential development this will typically include features such as - low carbon technologies such as air or ground source heat pumps, solar or PV panels, Sustainable Drainage Systems (SuDS) and exceeding Building Control standards on thermal insulation.

- 4.3.49 Given the outline nature of the application, no detailed carbon reduction measures are yet known. However, a detailed Energy Statement will need to be provided once the site design is formalised and this should set out a broader range of sustainable building methods and technologies around energy and water use as. Typically, this would focus on the energy consumption of the dwellings and set out measures such as improving the that the efficiency of dwellings thermal envelope and utilising low carbon and renewable technologies.
- 4.3.50 In the event that planning permission is granted, a pre-commencement condition should be included requiring specific details to be submitted to and agreed in writing.

Sustainability assessment

- 4.3.51 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.
- 4.3.52 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.
- 4.3.53 In terms of the social objective, several community benefits would accrue from this development. Firstly, it would provide valuable housing, including 40% percentage of affordable housing that meets local housing need. A range of house types and tenures would assist in meeting this need.
- 4.3.54 Secondly, the proposal would deliver a high-quality and inclusive residential development. The development would be well connected to the existing community and by public transport and existing and new public footpaths. Thirdly, a financial contribution towards improvements to a local community church which supports the wider community has been agreed. Overall, 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.
- 4.3.55 In terms of the environmental objective, it has been concluded above that the proposed development would likely deliver a 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
- 4.3.56 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.

S106 Legal agreement matters

- 4.3.57 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.
- 4.3.58 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, local community facilities, Norton Methodist church and financial contributions towards education, sustainable transport/highway facilities and other services provided by the County Council. All of the S106 obligations are listed in the table below -

Category (Authority)	Figure (£)	Infrastructure Project(s)
Primary Education (HCC)	Based on final delivery (index linked to 1Q2020 – BCIS All in TPI)	towards the expansion of the Garden City Academy school by 1 FE
Secondary Education (HCC)	Based on final delivery (index linked to 1Q2020 – BCIS All in TPI)	towards the expansion of Fearnhill School by 1FE
Library (HCC)	Based on final delivery (index linked to 1Q2020 – BCIS All in TPI)	towards increasing the capacity of Letchworth Library or its future re-provision
Youth Services (HCC)	Based on final delivery (index linked to 1Q2020 – BCIS All in TPI)	towards increase capacity by sourcing a new exclusive or shared use young people's centre serving Letchworth and the surrounding area
Special Educational Needs and Disabilities (SEND)	Based on final delivery (index linked to 1Q2020 – BCIS All in TPI)	Provision towards the new Severe Learning Difficulty school in the east of the county.

Waste Provision	Based on delivery (index linked to 3Q2020 – BCIS All in TPI)	Provision towards Recycling Centre provision serving the development
Monitoring Fees	£340 (adjusted for inflation against RPI July 2021)	HCC will charge monitoring fees. These will be based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of £340. For further information on monitoring fees please see section 5.5 of the Guide to Developer Infrastructure Contributions
Sustainable Transport (HCC)	Based on final delivery. Note: £186,692 to be deducted as improvements will have wider community benefit (subject to indexation)	towards: Package 11 of the North Central Hertfordshire Growth and Transport Plan To increase active transport provision between the centre of Letchworth Garden City and the Industrial Estate by providing a signposted and connected active transport network. Package 12 of the North Central Hertfordshire and Transport Plan
Leisure (NHDC)	£29,852 (subject to indexation)	towards refurbishment of gymnasium and changing facilities to provide the dual use of the facilities within Fearnhill School
Open Space (NHDC)	£15,348.80 (subject to indexation)	towards repairs to footpaths, formalisation of BMX trails and improved interpretation/signage at Norton Common
Community Centre (NHDC)	£38,670 (subject to indexation)	towards the community hall improvements at Norton Methodist Church, including new boiler and lighting system
Play Space (NHDC)	£28,395 (subject to indexation)	towards play space provision at Howard Park play area to refurbish and replace equipment in Letchworth
Sports Pitch (NHDC)	£14,005 (subject to indexation)	towards the on-going maintenance of sports pitch provision at Baldock Road sports pitches, Letchworth
Waste and Recycling	£2,622 (subject to indexation)	towards the cost of providing waste collection and recycling facilities serving the Development

Table 5

Overall Planning Balance and Conclusion

- 4.3.59 The site is an allocated housing site in the recently adopted Local Plan – policy HS1 site LG10. The residential use of the site is therefore acceptable in principle. There are no technical matters identified in the foregoing sections of this report that cannot be mitigated or controlled by appropriately worded conditions. The proposals would be a sustainable form of development and would comply with national and local planning policy and guidance.
- 4.3.60 The application is in outline form with all matters reserved for future consideration. Future reserved matters application will therefore address issues relating to means of access, layout, design, scale and landscaping. Other technical matters that require further consideration or details to be submitted are recommended to be dealt with by conditions.
- 4.3.61 Subject to the completion of the S106 legal agreement and the schedule of conditions set out below, the application is recommended for permission.

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 Pre-commencement conditions

- 6.1 It is confirmed that the applicant agrees to the pre-commencement conditions that are proposed.

7.0 Recommendation

- 7.1 That planning permission be **GRANTED** subject to the completion of a satisfactory S106 agreement delivering the infrastructure requirements detailed within this report and the applicant agreeing to extend the statutory period in order to complete the agreement if required and the following conditions:
1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting, approved documents and plans, together with the reserved matters approved by the Local Planning Authority, or with minor modifications of those details or reserved matters which previously have been agreed in writing by the Local Planning Authority as being not materially different from those initially approved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The scheme shall include:

- 1. An assessment with an appropriate evidence to discharge surface water runoff from the development site into the ground via infiltration or into a public surface water sewer. If discharge into the sewer will be considered, an evidence will have to be provided why infiltration into the ground cannot be achieved.**
- 2. If the drainage proposals for the access road are to infiltrate, then evidence of permeability should be provided, and test must be conducted in accordance with BRE Digest 365. Tests will have to be undertaken at the exact locations and depth of the proposed infiltration features.**
- 3. If a pumped discharge into a wider drainage on site will be considered, any potential to promote more sustainable design and to limit the pumped network length should be considered. An appropriate evidence should be provided.**
- 4. Final, detailed drainage layout plan showing all piped networks and SuDS features, identified invert levels, as well as a final discharge point into a public sewer.**
- 5. Details in relation to the proposed conveyance swales.**
- 6. Full assessment of the final proposed treatment train for any proposed access roads or driveways.**
- 7. Final network modelling based on an appropriate discharge mechanism for all rainfall events up to and including the 1 in 100 year rainfall including 40% for climate change allowance. As the final discharge into a public sewer rate of 5 l/s should be considered.**
- 8. Detailed engineered drawings of the proposed SuDS (lined permeable paving, swales, basins) and drainage features including cross and long section drawings, size, volume, depth and any inlet and outlet features details including any connecting pipe runs. For the proposed attenuation basins cross section drawings identifying ground levels of the neighbourhood properties should also**

be provided. This is to minimise any negative impact on the existing neighbourhood residential properties.

9. Details regarding any areas of informal flooding to be shown on a plan with estimated extent areas, flooding volumes and depths based on the proposed layout and topography of the site.

10. An assessment of any surface water runoff flows exceeding the designed 1 in 100 year event including 40% for climate change allowance.

11. Maintenance and management plan to include the final land ownership plan, arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

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

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

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

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

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

12. **No development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:**

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

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

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

13. **No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of 13, above; has been submitted to and approved by the Local Planning Authority.**

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

14. This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition 14 above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

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

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

15. Any contamination, other than that reported by virtue of condition 13 encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.

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

16. Prior to the first occupation of the development, new and improved footways at the junction of Croft Lane / Norton Road, which link to a new footway provision along the northern side of the Norton Road carriageway shall be provided to the satisfaction of the Local Planning Authority. The new footway should itself link to a new signalised pedestrian crossing over Norton Road to the north of the Norton Road / Croft Lane junction. Detailed engineering drawings of these works shall be submitted and agreed as part of the s278 works.

Reason: So that all users of the development can conveniently, safely and sustainably access the closest primary school, in compliance with paragraphs 110 and 112 of the NPPF, and policy 1 of HCC's LTP4, and in the interest of sustainable travel for all users.

17. Prior to the first occupation of the development, improvements to the two closest bus stops along Norton Road (which may require relocation of the northbound stop), to include raised Kassel kerbing at each, better access to the waiting area to the front of the southbound stop, and a pedestrian dropped kerb / tactile paved crossing point between the two stop shall be provided to the satisfaction of the Local Planning Authority. Detailed engineering drawings of these works shall be submitted and agreed as part of the s278 works.

Reason: So that all users of the development can conveniently, safely and sustainably access the nearest bus stops, in compliance with paragraphs 110 and 112 of the NPPF, and policy 1 of HCC's LTP4, and in the interest of sustainable travel for all users.

18. At least three months prior to the first occupation of the development, a revised Travel Plan Statement in line with Hertfordshire County Council's Travel Plan Guidance 2020 shall be submitted to and approved in writing by the Local Planning Authority. Implementation of the Travel Plan Statement shall follow the approved details thereafter.

Reason: To encourage, regulate, and promote sustainable travel measures for owners, occupiers, and visitors to the Development in accordance with the provisions of the County Council's 'Travel Plan Guidance for Business and Residential Development 2020'.

19. Prior to the 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' shall identify details of:
 - the phasing of construction and proposed construction programme.
 - the methods for accessing the site, including wider construction vehicle routing.
 - the numbers of daily construction vehicles including details of their sizes, at each phase of the development.
 - the hours of operation and construction vehicle movements.
 - details of any highway works necessary to enable construction to take place.
 - details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
 - details of any hoardings.
 - details of how the safety of existing public highway users and existing public right of way users will be maintained.
 - management of traffic to reduce congestion.

- control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels, and how it will be ensured dirty surface water does not runoff and discharge onto the highway.
- the provision for addressing any abnormal wear and tear to the highway.
- the details of consultation with local businesses or neighbours.
- the details of any other Construction Sites in the local area.
- waste management proposals.
- signage

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

20. The detailed plans submitted in connection with approval of reserved matters shall show, to the satisfaction of the Local Planning Authority:
- (i) The details of all vehicle and pedestrian/cycle access points into and out of the site directly, and all supporting works necessary upon approach to these accesses along Cashio Lane and Croft Lane. This should include a report documenting the consideration of a range of access and approach options, to establish the most suitable designs in this respect.
 - (ii) The details of all hardsurfaced areas within the site. This includes, but is not limited to, all roads, footways, forecourts, driveways, parking and turning areas, and foul and surface water drainage.
 - (iii) The level of footway and carriageway visibility from each individual vehicle access, and the level of visibility from and around each main junction within the site, within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.
 - (iv) That service vehicles, including refuse and emergency vehicles, can safely and conveniently access and route through the site, to include the provision of sufficient turning and operating areas.
 - (v) The provision of sufficient facilities for secure cycle storage in accordance with adopted standards.

All these feature as approved shall be provided before first occupation and maintained in perpetuity.

Reason: To provide adequate visibility for drivers within the site, to promote alternative modes of travel, and for the overall free and safe flow of all site users.

21. **No development shall commence until a Construction Management Plan (or Construction Method Statement) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan / Statement shall include details of:**
- a. Construction vehicle numbers, type, routing;**
 - b. Access arrangements to the site;**

- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
- h. Provision of sufficient on-site parking prior to commencement of construction activities;
- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- j. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

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

22. The landscape details to be submitted as reserved matters shall include the following :

- a) which, if any, of the existing vegetation is to be removed and which is to be retained;
- b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting;
- c) the location and type of any new walls, fences or other means of enclosure and any hardscaping proposed;
- d) details of any earthworks proposed;
- e) the use of native species plants and trees as required by the Landscape, Ecology Management Plan (LEMP) condition.

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

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

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

24. **Prior to the commencement of the development, a pre-construction energy and sustainability statement to be submitted to and approved in writing by the Local Planning Authority setting out specific ways in which the energy usage of the development will be reduced. Thereafter, all measures set out and agreed shall be implemented in accordance with the approved plans.**

Reason: to ensure that the development is energy efficient and minimises energy use.

25. None of the trees and hedges identified in the submitted Tree Assessment as being retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed without the prior written agreement of the Local Planning Authority.

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

26. Before the commencement of any other works on the site, trees and hedges to be retained shall be protected by the erection of temporary chestnut paling or chain link fencing of a minimum height of 1.2 metres on a scaffolding framework, located at the appropriate minimum distance from the tree trunk in accordance with Section 4.6 of BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations, unless in any particular case the Local Planning Authority agrees to dispense with this requirement. The fencing shall be maintained intact for the duration of all engineering and building works. No building materials shall be stacked or mixed within 10 metres of the tree. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to trees.

Reason: To prevent damage to or destruction of trees and hedges to be retained on the site in the interests of the appearance of the completed development and the visual amenity of the locality.

27. 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 residential units are covered.

28. Prior to the commencement of development, full details of the on-site storage facilities for waste including waste for recycling shall be submitted to and approved in writing by the local planning authority. 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 shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

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

29. A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall deliver a net gain in habitat units from a combination of on and offsite measures to achieve a measurable net gain to biodiversity and include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate creation and management options for achieving the required number of ecological units as detailed in approved metric (including species mixes).
- e) Prescriptions for management actions which must correspond with and directly reference the habitat and condition scores in the approved metric.
- f) Preparation of a 5 year work schedule (including an annual work plan) capable of being rolled forward in perpetuity i.e. 30 years, with habitats clearly marked on plans.
- g) Ongoing monitoring and reporting schedule, with assessment and triggers for remedial measures.
- h) Required actions should habitat areas fail to reach stated condition in the approved metric.
- i) Details of the body or organisation responsible for implementation of the plan.
- j) Details of integrated bird and bat boxes, make, model and location.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details. Reason: in the interests of biodiversity.

30. No development shall commence until full details of the following have been submitted to and approved in writing by the local planning authority:
- (i) a site wide wildlife-sensitive lighting scheme;
 - (ii) hedgehog friendly boundary treatments;
 - (iii) the provision of bat boxes as recommended in the supporting Ecological Appraisal.

Thereafter, the development shall be implemented in accordance with the approved details and retained in perpetuity.

Reason: In the interests of wildlife and habitat protection and enhancement.

31. The reserved matters application shall include the provision of at least one 3, 4 or 5 bedroom M4(3) wheelchair accessible standard bungalow or house to meet identified housing need.

Reason: To ensure compliance with *Policy HS5: Accessible and adaptable housing* in the adopted Local Plan.

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. AN1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
2. AN2) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network

becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047.

3. AN3) 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. AN4) Construction standards for works within the highway. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
5. AN5) Highway to remain private: The applicant is advised that all new highway routes within the development site are likely to remain unadopted and the developer should put in place a permanent arrangement for long term maintenance. At the entrance of the new estate the road name plate should indicate that it is a private road to inform purchasers of their future maintenance liabilities. Further information is available via the website
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
6. AN6) Section 106 Agreement: Planning permission granted subject to the completion of a Section 106 Agreement between the applicants, North Herts District Council, and Hertfordshire County Council to secure a Sustainable Transport & Highway Accessibility Contribution of £100,000, index linked by SPONS to January 2019 towards measures and schemes outlined in the North-Central Growth & Transport Plan under packages 11 and 12, with the intention of increasing sustainable travel opportunities and/or improving accessibility for all users of the highway and right of way

7. Within any future reserved matters applications detailing the layout and access details, further details of the circulation route for refuse collection vehicles need to be included. The required details shall include a full construction specification for the route, and a plan defining the extent of the area to which that specification will be applied. No dwelling forming part of the development shall be occupied until the refuse vehicle circulation route has been laid out and constructed in accordance with the details thus approved, and thereafter the route shall be maintained in accordance with those details.
8. In the interests of clarity, please note that the freighter used for any analysis informing future reserved matters applications in respect to bin collections are -
 - (i) Width: 2,500mm (without mirrors)
 - (ii) Height: 3,400mm (without hazard beacons)
 - (iii) Turning circle: 22,800mm
 - (iv) Overall length: 12,100mm (from front to rear of bin lift)
9. The applicant is hereby notified of the following informative to inform any future reserved matters applications in these respects -

Flats:

- (i) Doors to bin stores should be sufficient in widths to allow the movement of bins at their widest and prevent entrapment of limbs. This is likely to be a minimum of 20cm in addition to the widest bin contained in the bin store.
- (ii) Walls and doors should have protection strips to prevent damage and a mechanism for holding doors open should be available.
- (iii) Doors should ideally be keypad entry or standard fire brigade keys. We do not support the use of electronic key fobs.
- (iv) Roller shutters on bin stores can be considered to save space however the additional noise impacts should be considered.
- (v) Dropped kerbs should be provided to allow for ease of movement of bins to the collection vehicle and the pathway should be 1.5m in width taking the most direct route avoiding passing parked cars.
- (vi) We do not advise the use of bin compactors, as they often cause excessive damage to bins or cause waste to get stuck inside bins. If bin compactors are used on site you should advise your waste collection contractor.
- (vii) Bins in communal bin stores should be manoeuvrable to the refuse collection vehicle without the need to move other bins.
- (viii) The surface to the collection point should be uninterrupted, level with no gravel or similar covering, and have a width to enable the easy passage of wheeled bins. For two-wheeled bins this should be 1 metre for four-wheeled bins this should be 1.5 metres wide (including doorways), with a maximum gradient of 1:12.

- (ix) Consideration should be given to parking arrangements alongside or opposite the access to individual streets. If car parking is likely in the vicinity of junctions then parking restrictions may be required to ensure access is not inhibited.
- (x) For flats, bins should be ordered direct from the Council's contractor 10 weeks in advance of first occupation to ensure they arrive in time for the first residents moving in.

General:

- (i) Separate internal storage provision for waste should be provided in kitchen areas to support the recycling of different waste streams to support the National Planning Policy for Waste's requirements to support driving waste up the waste hierarchy.
- (ii) Storage areas should be conveniently located with easy access for residents -residents should not have to take their waste and recycling more than 30metres to a bin storage area, or take their waste receptacles more than 25metres to a collection point, (usually kerbside) in accordance with Building Regulations Approved Document H Guidance.
- (iii) Consideration should be given to parking arrangements alongside or opposite the access to individual streets. If car parking is likely in the vicinity of junctions then parking restrictions may be required to ensure access is not inhibited.
- (iv) For infill applications consideration should be given to parking arrangements alongside or opposite the access to the site. If car parking is currently permitted the consideration of parking restrictions may be required to ensure access is not inhibited.
- (v) For houses, bins should be ordered direct from the Council's contractor 2 weeks in advance of first occupation to ensure they arrive in time for the first residents moving in.
- (vi) Pull distances from the storage point to the collection point should not be within close proximity to parked cars.
- (vii) The gravel drive makes pulling bins difficult and consideration should be given to whether this surface is the most suitable or whether bins stored closer to the collection point would be more preferable.
- (viii) The applicant should note that collections occur from the kerbside and residents will be required to present their bins in this location on collection day.

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

10. Any external lighting scheme should be designed to minimise light spill, in particular directing light away from the boundary vegetation to ensure dark corridors remain for use by wildlife as well as directing lighting away from potential roost sites. It should follow guidance from the Bat Conservation Trust and CIE 150:2003. Warm-white (long wavelength) lights with UV filters should be fitted as close to the ground as possible.

Lighting units should be angled below 70° and equipped with movement sensors, baffles, hoods, louvres and horizontal cut off units at 90°

11. Any excavations left open overnight should be covered or have mammal ramps (reinforced plywood board >60cm wide set at an angle of no greater than 30 degrees to the base of the pit) to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120mm must be covered at the end of each working day to prevent animals entering / becoming trapped.
12. To avoid killing or injuring of hedgehogs it is best practice for any brash piles to be cleared by hand. It is also possible to provide enhancements for hedgehogs by making small holes (13cm x 13cm) within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site but will be too small for most pets.
13. Keep any areas of grass as short as possible up to, and including, the time when the works take place so that it remains unsuitable for amphibians (including Great Crested Newts) to cross cleared areas should be maintained to prevent re-colonisation prior to works commencing; and potential hibernacula or refugia such as loose stones or dead wood should be removed by hand.

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

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

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

14. Any vegetation clearance should be undertaken outside the nesting bird season (March to August inclusive) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than two days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest
15. Sustainable Design, Construction and Demolition requires all relevant construction projects to be supported by a Site Waste Management Plan (SWMP). This aims to reduce the amount of waste produced on site and should contain information including types of waste removed from the site and where that waste is being taken to. Good

practice templates for producing SWMPs can be found at: <http://www.smartwaste.co.uk/> or <http://www.wrap.org.uk/category/sector/waste-management>.

16. It is expected that the scheme to be submitted in line with condition 10 of this permission will provide a significant number of EV charging points. The Council will consider any details submitted on its merits, however, are of the mind that at least one EV charging point should be provided for each dwelling.

17. EV Charging Point Specification:

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

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

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

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

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

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

18. Any reserved matters applications should consider how means of access(es) impact on existing trees outside the application site on the adjacent highway. Where trees are affected, details of appropriate construction methods, methodology and protection

measures in accordance with *BS5837: Trees in relation to construction* should be considered to ensure the protection of trees within Croft Lane Conservation Area. Details of works should be set out and specified as part of any S278 highway works in consultation with North Herts Council's Tree Officer.

8.0 **Appendices**

8.1 Appeal decision letter relating to 19/00520/OP.

Appeal Decision

Site visit made on 12 July 2022

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2022

Appeal Ref: APP/X1925/W/21/3289940

Land between Croft Lane, Norton Road and Cashio Lane, Letchworth Garden City, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hertfordshire County Council against the decision of North Hertfordshire District Council.
 - The application Ref 19/00520/OP, dated 26 February 2019, was refused by notice dated 16 July 2021.
 - The development proposed is for residential development of up to 42 dwellings, all matters reserved apart from access.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Hertfordshire County Council against North Hertfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of proposed development included in the banner heading above reflects minor drafting changes from that included in the application form; these allow clarity.
4. The appeal has been accompanied by a completed Unilateral Undertaking dated, 16 June 2022. The appeal was not accompanied by a CIL compliance schedule. Accordingly, I decided to make the validity of the Undertaking as a main issue and consulted both parties.
5. The sole reason for refusal includes references to paragraphs in the National Planning Policy Framework (the Framework). Although the most recent version is cited, the paragraph numbers are incorrect. I accept that this was a drafting error. I refer to the correct paragraphs in this decision.
6. Finally, the appeal is for an outline scheme with only the means of access being determined at this stage. For this reason, although the appeal was accompanied by several plans, these are to be considered for illustrative purposes apart from the details of the proposed access and highway measures.

Main Issues

7. The appeal raises the following main issues:

- The effect of the proposal on highway safety, and
- Whether or not the completed Unilateral Undertaking is valid.

Reasons

8. The appeal site comprises a former playing field surrounded on 3 sides by large detached residential properties. Part of the site was used as a depot by the County Council with access from Croft Lane. This access point is proposed for this scheme.
9. Croft Lane (the lane) is a narrow and does not include pedestrian footways along part of its length. Although its width varies there are sections where it reduces to below 4m. This is below the carriageway width required by the Hertfordshire Design Guide for a shared surface.
10. Croft Lane is well treed and the area around the proposed access to the appeal site is included in the Croft Lane Conservation Area (the CA). A central feature of the CA is the form and alignment of the lane enhanced through the extent of tree coverage. Whilst for its most part the lane is surrounded by housing this includes large detached properties which have historical and architectural connection to the foundation of the Garden City. Four of these are listed and share a rear boundary with the appeal site with the listed Paynes Farm lying opposite the site of the proposed access to the site. There are other non designated heritage assets along Norton Road which also back on to the site. Many of the more recent residential properties along the Lane, being set well back and in spacious gardens, retain this character.
11. The TA¹ included with the appeal identifies that during the morning and evening peak hours Croft Lane carries around 27 and 41 vehicles respectively. Traffic modelling on around 50 dwellings proposed for the site indicates that these would increase to around 57 and 69 vehicle movements in the same periods.
12. The difference between the parties on this main issue is the extent to which the projected increase in traffic can be accommodated without prejudicing pedestrian safety. Representations from interested parties indicate that the lane is important both in its historical function as a country lane and also in terms of its use as an important route for school children and other vulnerable users. The lack of footways, narrow width and alignment suggest that Croft Lane could not take the projected increase in traffic without prejudicing highway safety.
13. Furthermore, a related matter, which I address later in this decision, is the whether the character and appearance of the CA, as a designated heritage asset, would be prejudiced both by the works to create the new access and the increase in volumes of traffic.
14. As part of the site allocation work for the emerging local plan (ELP) access options were considered which determined that the access design included in the appeal scheme was the only one which balanced safety with the

¹ Transport Assessment

requirements to protect the CA as a designated heritage asset. My understanding is that the need to balance these considerations resulted in the officer comment during the Committee report that additional traffic management measures were not possible. However, the overriding comment from the County as Highway Authority is that it had no objection to the proposed scheme.

15. I acknowledge that in the context of the existing traffic flows along both Croft Lane and Cashio Lane the increased traffic arising from the scheme would be significant. However, this reflects the extremely low amounts of traffic which currently use these routes. Overall the total anticipated flows would not be excessive for Croft Lane which could still operate as a shared surface.
16. Interested parties have sent in images of large vehicles blocking Croft Lane. Whilst these demonstrate the lane's narrowness they are also an indication of how such hazards could reduce the average speed of traffic. This is supported by appellants evidence². This is likely to reduce further with an increase the increase in traffic from the appeal scheme.
17. Furthermore, the scheme includes a series of measures included in a Section 278 Agreement to 'manage' traffic speed and flow. These include raised speed tables at the proposed access, localised footway and carriageway widening along Croft Lane where possible³, an uncontrolled pedestrian crossing in Cashio Lane by the shared access and at its western end, with a speed table at the junction of Norton Road/Croft Lane.
18. Although interested parties⁴ identify that Croft Lane does not adhere to the standards required for an access road to be used as a shared surface, this range of measures would protect highway users. For this reason, I consider that additional traffic could be accommodated without unduly impacting on highway safety.
19. The report⁵ commissioned by the interested parties makes reference to other road schemes within the County where the Highway Authority (HA) has responded differently from how it has addressed similar issues in this appeal. I do not know the full details of each of these schemes and whether mitigation such as that in the Section 178 Agreement for this scheme was also required. However, it is evident that the HA allows discretion from design standards if site characteristics require that. I am satisfied that the suggested measures included in this scheme would adequately address highway safety.
20. The proposed access includes visibility splays of 2.5metres by 43metres along Croft Lane designed to reduce the possibility of conflict between road users and road uses and other highway users. Interested parties acknowledge that there has been no recent record of PIAs⁶ although some accidents have still occurred with traffic running into boundary hedges. However, the proposed access arrangements were tested as part of a RSA⁷ and I am satisfied that the access would not prejudice highway safety.

²² Stomer Transport Assessment

³ Ibid

⁴ Report of TPA May 2022

⁵ TPA report for Norton Action Group

⁶ Personal Injury Accidents

⁷ Road Safety Audit

21. Interested parties have raised concerns over the adequacy of the swept path in demonstrating how the movement of service vehicles could be entirely kept on the highway. I accept that this would be tight but the suggested alignment included in the ST-2571-22 Option 7B would allow adequate movement without compromising safety or over running of the road verges⁸.
22. Whilst there would be a loss of several trees around the proposed access these do not contribute significantly to the distinctive character of the Croft Lane CA.
23. Although interested parties state that the existing road junction with Croft Lane and Cashio Lane does not meet adopted standards it is an existing junction and no evidence has been presented to me that it is an accident point or that the increase in traffic arising from this development poses a significant risk to highway safety.
24. The Council identified that the proposed scheme conflicts with Policies T1, SP6, and SP7 of its ELP. A common theme running through each of these is a requirement that development will not compromise highway safety problems and that accessibility improvements and infrastructure is provided to accommodate additional demands arising from new development.
25. The Framework advises that places should be made safe (paragraph 130(f)) and that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe (Paragraph 111). The proposal would not affect safety and neither of the matters referred to in Paragraph 111 prevail in this instance.
26. I acknowledge that the proposed scheme would increase traffic movements along Croft Lane and within the immediate vicinity of the site but that the increase would not be of such a scale that highway safety would be seriously prejudiced. The measures included in the Section 278 Agreement are sufficient to balance concerns in respect of highway safety. For these reasons, I conclude that the proposed scheme does not conflict with the emerging policies T1, SP6 and SP7 or Paragraphs 130(f) and 111 of the Framework.

Validity of the Undertaking

27. Planning law requires planning obligations, in the case of this appeal, those included in the Unilateral Undertaking dated 16 June 2022, to be supported by a CIL⁹ compliance statement. This justifies each obligation within the requirements of adopted policy and is required to meet the statutory tests included in the CIL Regulations which are also identified in the Framework. These tests require that obligations are necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.
28. The officers report refers to various planning obligations included in the Undertaking in respect of affordable housing, education, libraries, youth services, sustainable transport, leisure, open space, the community centre, play space, sports pitches, waste and recycling. Some of these are County matters but others are covenants in the Undertaking in favour of the Council.

⁸ Stomer – Technical Report June 2022

⁹ Community Infrastructure Levy

29. The officer report provides policy support for the contributions for affordable housing and includes a statement¹⁰ that the Undertaking is compliant with the CIL Regulations.
30. However, as the policy justification based on adopted policies in the Development Plan is not before me I am not satisfied that the tests are met.
31. For this reason, I conclude that the planning obligations included in the Undertaking do not comply with the tests as required by the CIL Regulations and Paragraph 57 of the Framework.
32. For these reasons, on this main issue I conclude that the Unilateral Undertaking, dated 16 June 2022 is not valid.

Planning balance

33. The extent of harm on the CA, the listed buildings and non designated heritage assets, arising directly from the appeal scheme would be less than substantial. Although I must give considerable importance and weight to even such limited harm, in the wider context of the appeal scheme this has to be set against the considerable public benefits including the provision of up to 40% of all dwellings being affordable and the provision of market housing. This would make an important contribution to the Council's housing land supply position which both parties acknowledge is around 1.47 years supply¹¹.
34. There would also be other economic benefits arising from employment in construction and the additional spend power of residents in local services.
35. In respect of the issue of highway safety I am satisfied that the amount of traffic generated by the site would not prejudice highway safety.
36. However, the appellant has included with the appeal a Unilateral Undertaking containing a range of measures designed to mitigate for the impacts of the development. In the absence of a reasoned policy justification for each of these, the Undertaking does not comply with Regulation 122 of the CIL Regulations and Paragraph 57 of the Framework.
37. For this reason, the appeal is dismissed.

Stephen Wilkinson

INSPECTOR

¹⁰ Paragraph 4.3.59

















¹¹ Statement of Common Ground

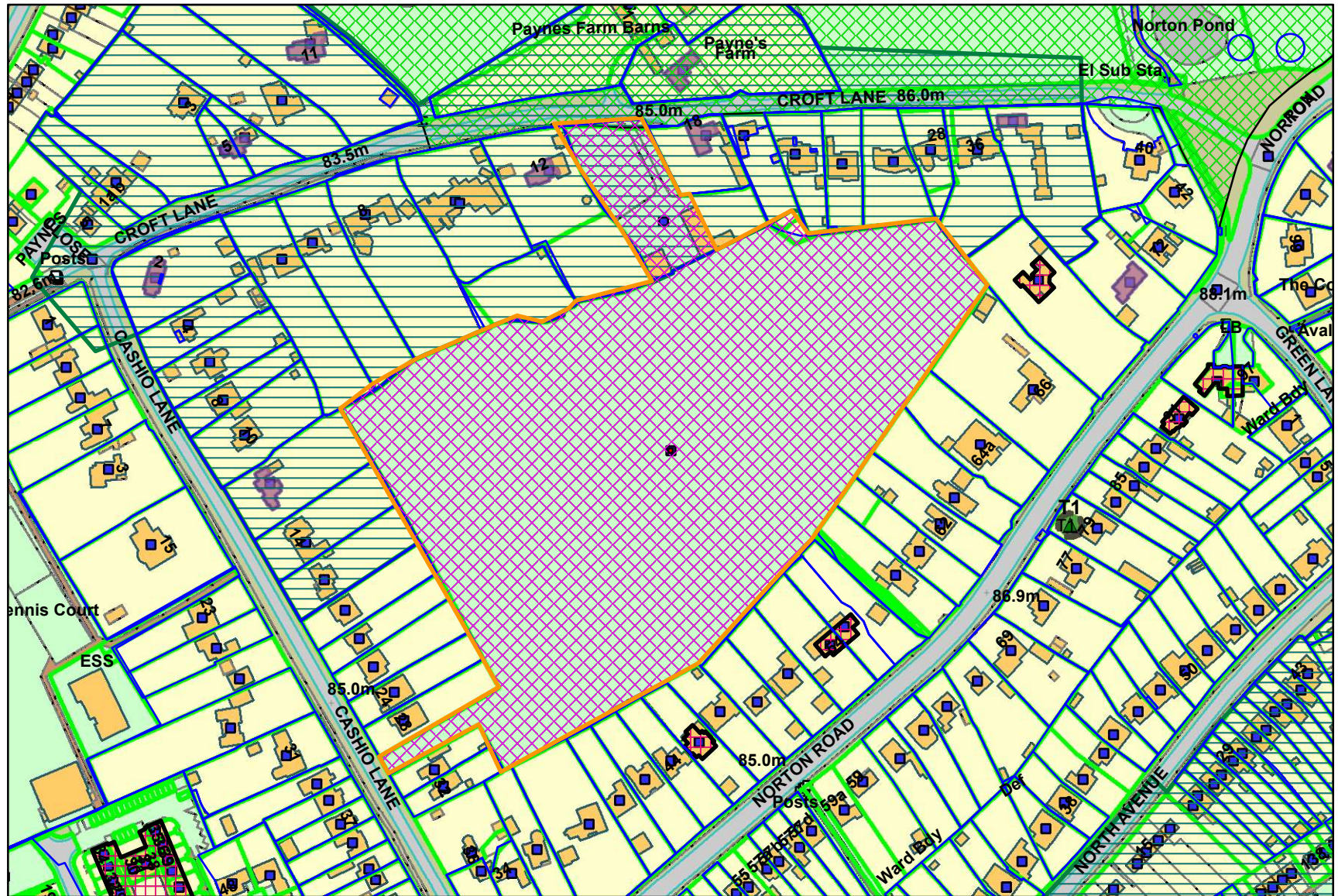
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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

22/01464/OP Land Between Croft Lane Norton and Cashio Lane, Letchworth Garden City, Hertfordshire

-  Acolaid Land Parcel
Property.shp
-  Acolaid Address Point
ap.shp
-  Planning Application (1999)
Prapps99.shp
-  Area of Outstanding Natural Beauty
Pranob.shp
-  Listed Buildings
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
Prjnzshp
-  Landscape Conservation
Prlandca.shp
-  Ward Boundary
Prwardcd.shp
-  Noise Nuisance Indicators
Prnnis.shp
-  Indicative Flood Plain
Prifpm.shp



Scale 1:2,500

Date: 23/01/2023

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<u>Location:</u>	Land Adjacent To Unit 3 On The West Side Of Cadwell Lane Hitchin Hertfordshire SG4 0SA
<u>Applicant:</u>	Mr I Turness
<u>Proposal:</u>	Use of land for the siting of 20 No. steel shipping containers for long-term self-storage (Use Class B8) with associated palisade security fencing, vehicular access gates, external lighting, CCTV and hard surface (amended plans received 21/10/2022 and 20/01/2023).
<u>Ref. No:</u>	22/01810/FP
<u>Officer:</u>	Harriet Sanders

Date of expiry of statutory period: 01/09/2022

Reason for delay

Time taken to seek clarification of issues raised during the determination period. Revisions have been made to the proposed scheme and further reconsultation following the amendments to the scheme.

Reason for referral to committee

This application has been called into Planning Control Committee by Cllr Albert for the following reasons:

"My grounds for call in are related to size and appearance - it will dominate neighbouring Recreation Ground.

There will be disturbance to neighbours from noise (24/7 use) but more particularly right to light from the height of the containers, impacting on neighbouring industrial unit.

While this is a busy road, there will be additional traffic problems, with an entrance opposite Wallace Way.

I do think there are safety issues also on an unmanned site being used 24/7 with the mobile stairs."

Cllr Albert also raises concerns regarding potential parking rights on the land and boundary matters.

Plan Numbers

2204-00A Location and Site Plans

2204-01A Existing Block Plan

2204_02B Proposed Block Plan

2204_03B Proposed Plan Elevations

2204-04B Proposed Street Scenes

Supporting Documents

Planning, Design and Access Statement, July 2022

1.0 Policy

1.1 National Planning Policy Framework, 2021

1.2 The relevant sections of the Framework are:

- Section 2: Achieving sustainable development
- Section 6: Building a strong, competitive economy
- Section 8: Promoting healthy and safe communities
- Section 9: Promoting sustainable transport
- Section 11: Making effective use of land
- Section 12: Achieving well-designed places
- Section 15: Conserving and enhancing the natural environment

1.3 North Hertfordshire District Local Plan 2011-2031

Policy SP1: Sustainable Development in North Hertfordshire

Policy SP3: Employment

Policy SP6: Sustainable Transport

Policy SP9: Design and Sustainability

Policy ETC1: Appropriate Uses in Employment Areas

Policy T1: Assessment of Transport Matters

Policy T2: Parking

Policy D1: Sustainable Design

Policy D3: Protecting Living Conditions

Policy NE4: Biodiversity and Geological Sites

1.4 Supplementary Planning Document

SPD – Vehicle Parking at New Developments, September 2011

2.0 **Site History**

- 2.1 22/01334/FP - Use of land for the siting of 40 No. double-stacked steel shipping containers for self-storage (Use Class B8) with associated palisade security fencing, vehicular access gates, external lighting, CCTV and hard surface – withdrawn 06/07/2022.

3.0 **Representations**

3.1 **Consultee Responses**

- 3.1.1 *Hertfordshire County Highways* – does not wish to restrict the grant of permission and makes the following comments:

- The proposed access gate to the site will be set back over 13m from the highway and open inwards so will not obstruct access from the highway.
- The site is intended to be used for long-term storage - the proposed 20 single containers are therefore unlikely to have an adverse effect on the highway.
- The site is located within a large industrial estate suited for a high number of vehicle trips.
- The containers will be positioned around the perimeter of the site leaving a 5.6m wide corridor through the centre of the site. This will be used as an access road and will leave ample space for passing vehicles while others are loading/unloading. There is also a large turning space close to the entrance which ensures that even larger vans will be able to leave the site in a forward gear.
- A parking area for six vehicles will be provided at the eastern end of the site. This is slightly low based on the LPA's parking standards that suggest one parking space per 75m² for B8 storage.
- However, there is ample space within the storage facility for at least a few parked vehicles.
- The parking spaces are adequately sized but they are a little lacking in turning space.
- Concern is raised that the access road also serves a parking area for the neighbouring unit and these spaces will be left with an access road and turning spaces of just 2.8m making these spaces almost impossible to use.
- Although the Highway Authority looks to encourage the use of cycling as a sustainable form of transport, it is accepted that few customers are likely to deliver or collect items from storage on a bicycle. Customers could take their bicycles into the secure storage facility.

- 3.1.2 *Environmental Health (Contaminated Land)* – no objection and makes the following comments:

- The application comprises a proposal for provision of hardstanding and siting of shipping containers for storage.
- It is considered to be a low sensitivity end-use with respect to potential contamination on land.
- Not aware of any potentially contaminative land use, either past or present, on the site, and so the risk of development works causing mobilisation of contamination in the soil, is considered to be low.
- Therefore no investigation is required relating to potential contamination on land.
- No requirements for the imposition of planning conditions, in the event that permission may be granted.

3.1.3 *Environmental Health (Noise and Other Nuisances)* – no formal response received at time of writing this report. However, the Planning Officer and Environmental Health Officer have spoken and it has been confirmed that there is no objection raised to the scheme on the basis of noise disturbance. A formal response will be submitted by the Environmental Health Officer prior to committee and any additional points will be reported verbally by the Planning Officer at the committee meeting. The Environmental Health Officer noted that:

- The use is unlikely to generate significant noise disturbance;
- The layout of the containers would create a noise barrier in themselves;
- It would be reasonable to require a Noise Impact Assessment to assess potential acoustic harm of night-time noise between 11pm and 7am.

3.1.4 *Environmental Health (Air Quality)* – no adverse EH comments.

3.1.5 *Waste and Recycling Services Manager* - no comment.

3.1.6 *Hitchin Forum* – raised a strong objection to the initial scheme of 40 containers on the grounds of appearance and size, disturbance to neighbours from noise and lighting, traffic, safety and screening. Following the revision to the scheme, they noted that the revisions are a significant improvement visually and will halve the resulting traffic accessing and leaving the facility and that no upper level reduces risk to users.

3.2 **Comments Received**

3.2.1 The application has been advertised with site notices and neighbour notification letters. 20 objections have been received. The key points include:

- *Notifications* - question whether notice has been posted and neighbours notified.
- *Land ownership* - question land ownership within the red line.
- *Area is currently a car park* - designated in around 1958 as car parking for factory units in Cadwell Lane and Wallace Way.
 - Staff would have to park along Cadwell Lane and Wallace Way, restricting access to the industrial area beyond.
 - Local landowner has legal and historical right to parking vehicles on the site.
- *Impact of traffic, road access and parking*
 - Cadwell Lane and Wallace Way already suffer with the parking of lorries attending the two local recycling facilities – would cause further potential problems.
 - Cadwell Lane already very busy with frequent traffic jams – increase in traffic generation lead to risk to residents and businesses.
 - Would cause problems with lorries queuing at peak times of the day.
 - Parking displacement
 - no control over number of visits to the site – traffic already at critical level
 - How accommodate large vehicles with deliveries – how police vehicle size
 - Increase risk of traffic to young people and local residents
- *Visual Impact*
 - Double stacked containers will be unsightly when viewed from the recreation field and not appropriate next to the playing field
- *Impact on Recreation Ground*

- This area was considered to be maintenance access for the hedging along the recreation ground Not in keeping with green open space
- 2016 initiative Cadwell Lane Playing Field GAP 2016 – to improve overall welcoming appeal to the area – not in line with these principles
- *Impact on Unit 3*
 - Double stacked containers will dramatically affect sunlight/daylight to Unit 3.
 - Privacy and security issues for Unit 3.
 - Loss of privacy – imposing development create dark and secluded environment for access to the unit
 - Irregular access times make it harder to monitor for anti-social behaviour posing a security risk
 - Would encourage anti-social behaviour and loitering.
 - Security aspects over items stored in containers.
- *Noise and disturbance* – Already disturbed by traffic to recycling centre at end
 - 24hr lighting – unacceptable light pollution
 - Impact riverside walk behind due to 24hr operation
 - Steel doors loud – particularly at night
- *Impact of lighting* - More lighting unacceptable
 - Security lighting from nearby unit illuminate residential windows and light up gardens and wooded areas impact wildlife
- *Impact on wildlife and nature* - wildlife to rear of site would be impacted
 - Bats impacted by external night lighting
 - Impact on other wildlife including badgers, deer and various birds and animals
 - Limit natural growth of hedge would be unacceptable
- Was previously a landfill site – high levels of methane – concerns development would release methane
- Security fencing a risk to children and animals along the boundary
- Waste disposal
- Increase in crime – The UK Government launched an initiative in 2021 aimed at targeting criminals using these types of storage facilities for counterfeit goods, Tick Box initiative
- CCTV – GDPR concerns

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

Application Site

4.1.1 The application site is broadly rectangular in shape, located to the west side of Cadwell Lane. The site is part of an existing industrial area, albeit on the edge of the industrial estate. It is currently used as a car park. The site has an existing access onto Cadwell Lane. The site access is shown to be under the ownership of the applicant and included within the application red line. The adjacent industrial unit to the north, Unit 3, it understood to have a right of access through the access from Cadwell Lane to Unit 3. This has been verbally confirmed by the owner of Unit 3 during a telephone conversation.

4.1.2 The site is bounded to the north by Unit 3 and associated hard standing. It is bounded to the east by Cadwell Lane and to the west by vegetation and trees with the River

Purwell and railway beyond. To the south is the recreation ground. The boundary between the site and the recreation ground is formed by a moderate sized hedge.

- 4.1.3 The site slopes gently down to the south towards the recreation ground and to the west from Cadwell Lane down towards the river and railway.
- 4.1.4 The site is covered in a mix of hard standing, gravel and compacted earth and scrubby vegetation.
- 4.1.5 The site is clearly visible driving towards the industrial estate along Cadwell Lane due to the open views across the recreation ground and its location on the edge of the industrial estate.
- 4.1.6 The site falls within a designated employment area.

Surrounding Area

- 4.1.7 Surrounding uses include extensive industrial uses to the north and east, including recycling facilities, recreation uses to the south and residential to the southeast. The adjacent unit, Unit 3, is modest in height with a taller element at the rear of the Unit. There is parking on the hard standing to the front of the unit. Opposite the site is a two-storey building and yard areas enclosed with palisade fencing and gates.
- 4.1.8 The overall character of the area is mixed industrial and employment uses with a variety of unit styles, heights and designs with some yard areas with security fencing and enclosures. The entry to the industrial area along Cadwell Lane is characterised by residential properties with a 3 plus roof accommodation apartment block nearest to the site and the open recreation ground. Off street parking is available on Cadwell Lane adjacent to the recreation ground. There is on street parking on the streets nearby.
- 4.1.9 During the site visit, it was noted by the officer that the area was moderately busy with traffic and larger vehicles including lorries. Several lorries were parked on Cadwell Lane with others turning into and out of Wallace Way.

Constraints

The site lies within the designated employment area when Policy ETC 1 applies.

4.2 Proposal

- 4.2.1 Consent is sought for:

“Use of land for the siting of 20 No. steel shipping containers for long-term self-storage (Use Class B8) with associated palisade security fencing, vehicular access gates, external lighting, CCTV and hard surface.”

- 4.2.2 The key elements of the proposal are:

- *Siting and design* - The units will be sited on the western part of the site, with parking to the east.
 - The contains will sit largely along the edges of the site, forming the boundaries.
 - each storage unit/container will measure approximately 6m in length, 2.4m in width and 2.6m in height.
 - The containers will be painted dark green.
 - The additional boundaries will be formed by 2.1m palisade fencing, also painted in dark green to match the containers, and an access gate 2.1m in height.
 - The parking area will provide 6 parking spaces.
- *Levels and groundworks* - due to the slope of the site both towards the river and railway to the west and the recreation ground to the southeast, some ground works are proposed to partially level the site and sink the containers into the ground slightly.
 - No groundworks are proposed along the boundary with the recreation field or the boundary with the river/railway at the rear of the site as these are the lowest points of the site.
 - The ground will be levelled away from these boundaries towards Unit 3 and Cadwell Lane.
 - The containers will be sunk into the levelled ground.
 - A retaining wall will be used but will not be visible.
- *Additional development* - 3 lighting poles are shown in the proposed plans. Details of the height, design or luminance has not been included.
 - A fob key operated security gate is proposed – this will open inwards.
 - CCTV is proposed – no detail provided.
 - An emergency telephone is proposed – no detail provided.
- *Operation* - The proposed use is a self-storage facility with individual units available for rent by members of the public. It is proposed that the units be accessible 24 hours a day 7 days a week.
 - There will be no staff on site. The units will be managed remotely from the applicant's office, close to the site.

Red Line Boundary and Land Ownership

- 4.2.3 Comments have been submitted raising concerns about the extent of the application red line and land ownership. This matter has been discussed with the applicant and the North Herts District Council estates team. The relevant land registry plans for the site and the recreation ground have been reviewed and the relevant application plans show the extent of the boundaries. All land within the application red line falls within the ownership of the applicant. The Local Planning Authority is satisfied that this issue has been satisfactorily addressed.

4.3 Key Issues

- 4.3.1 The key issues for the consideration of this application are:

- The principle of the development.
- The effect on the character and appearance of the area.
- Highways, access and parking.
- Impact on neighbouring amenity.
- Environmental and ecological effects.

- Other considerations.

The principle of the development

- 4.3.2 The application site falls within the designated employment area Wilbury Way HE1 on the Local Plan policies map. Policy ETC1 applies and states that within such areas:

“planning permission will be granted for office, research and development, industrial processes, industrial and storage and distribution uses provided:b) Any Use Class B8 development is easily accessible from the primary road network.”

- 4.3.3 The proposed B8 use is therefore acceptable in principle subject to sub clause b of the policy above. The site is located on Cadwell Lane which is an unclassified road but has access to the wider road network. This criterion is therefore met.
- 4.3.4 It is noted that concerns have been raised regarding traffic generation from the site and existing congestion in the area. This is addressed in the Highways, Access and Parking section below.
- 4.3.5 The proposal complies with Local Plan policies SP3 and ETC 1. The principle of the proposal is therefore acceptable.

The Effect on the Character and Appearance of the Area

- 4.3.6 Consideration needs to be given to the siting, design and layout of the proposal and its potential impact on the character and appearance of the area.
- 4.3.7 Section 12 of the NPPF places great emphasis on the quality and design of new development, with the aim to ensure that new development is sited appropriately and would be appropriate in terms of local character and context. These aims are reflected in Local Plan policies SP9 and D1.
- 4.3.8 The site is located within an existing, designated industrial/employment area, albeit on the edge of the designated area. The site forms part of the transition zone from the residential and recreational uses to the south, transitioning to the industrial uses to the north and east. It is particularly visible on the approach from the south along Cadwell Lane with clear views of the site across the open recreation ground.
- 4.3.9 The original proposal for the application was for 40, double stacked containers. Concerns were raised with the applicant regarding overdevelopment of the site and the visual impact of the scheme on the recreation ground and approach from the south. In response, the applicant has revised the scheme to 20 single height containers.
- 4.3.10 Overall, the siting, design and appearance of the proposal is acceptable. The development is sited appropriately in a designated industrial/employment area. It will have an industrial appearance but this is acceptable in a designated industrial area. Similar styles of security and palisade fencing are present opposite the site and on other premises nearby.
- 4.3.11 The main storage compound will set back from the road. The proposed parking at the front of the site is similar to the existing situation and maintains the more open feel of the site at the front closest to the road.

- 4.3.12 The height of the containers is modest and relates comfortably to the height of Unit 3 and surrounding units. This provides an acceptable transition between the openness of the recreation ground and the taller, bulkier industrial units beyond.
- 4.3.13 The 'sinking' of the units into the ground will help to reduce the overall visible height of the units when seen from Unit 3 and the road. The containers will also be staggered in height slightly away from Cadwell Road, following the natural gradient of the slope down towards the railway/river.
- 4.3.14 It is noted that the full height of the containers at 2.6m and the fencing at 2.1m will run along approximately two thirds of the boundary with the recreation ground. Whilst this will be more imposing than the existing situation, it is an acceptable boundary treatment, particularly for an industrial site. This will not have an unacceptably imposing feel for users of the recreation ground.
- 4.3.15 The units and fencing will be painted dark green to help reduce their visual impact and create a cohesive visual appearance.
- 4.3.16 Comments have been submitted regarding the need to screen the containers. The containers cannot be screened as they are sited right up to the boundary. It is noted that the hedge close to the boundary with the site along the edge of the recreation ground may in future provide screening as it matures. However, as the hedge lies beyond the red line of the application, this cannot be relied on to provide screening as it falls outside the control of the applicant. However, the visual impact without screening is acceptable at single storey height and in a designated industrial area.
- 4.3.17 Due to concerns about the long-term weathering of containers and their visual appearance over time, particularly in this transition site into the industrial estate, it is considered necessary and reasonable to impose a condition restricting the permission to a 5 year period. This will allow the Local Planning Authority to review the appearance of the proposal in 5 years and assess its ongoing visual appearance and impact on the character and appearance of the area.
- 4.3.18 In addition, whilst lighting poles are shown on the plans, no details of the height, design or luminance has been included. It is considered reasonable to condition further details of this to ensure no harm is caused to local amenity or wildlife.
- 4.3.19 Overall, the development relates adequately to the industrial character of the designated area and is acceptable in terms of design and appearance. The proposals comply with Section 12 of the NPPF, and Policies SP9 and D1 of the Local Plan.

Highways, Access and Parking.

- 4.3.20 Local Plan policies SP6, T1 and T2 state that planning permission will be granted provided that development would not lead to highway safety problems or cause unacceptable impacts upon the highway network and that proposals are assessed against the relevant parking standards.
- 4.3.21 Hertfordshire County Highways do not wish to restrict the grant of permission.

- 4.3.22 Hertfordshire County Highways comment that as the site is intended to be used for long-term storage with 20 single containers, the proposal is unlikely to have an adverse effect on the highway. They also note that the site is located within a large industrial estate suited for a high number of vehicle trips.
- 4.3.23 A number of objections have been received regarding further congestion in the area arising from the proposal. The development will generate a number of new trips, using Cadwell Lane to access the site. However, as supported by the comments from County Highways, it is not considered that the storage facility will be a high trip generating use. On average, most users of the containers would visit the site infrequently and would be unlikely to visit on a daily basis. There could be a concentration of use during the initial occupation of the container and emptying of the facility. However, this in itself is likely to be an infrequent event and would not cause unacceptable harm.
- 4.3.24 The proposed use is in fact likely to generate fewer trips than other uses that could be sited within an industrial and employment area.

Layout of Compound

- 4.3.25 The proposed layout of the development is acceptable to Hertfordshire County Highways. They note that the containers will be positioned around the perimeter of the site leaving a 5.6m wide corridor through the centre of the site. This will be used as an access road and will leave ample space for passing vehicles while others are loading/unloading. There is also a large turning space close to the entrance which ensures that even larger vans will be able to leave the site in a forward gear.
- 4.3.26 The proposed access gate to the site will be set back over 13m from the highway and will open inwards. It will not obstruct access from the highway.
- 4.3.27 Concerns have been raised about an increase in larger vehicles and trucks accessing the site. The applicant states that given the small scale nature of the proposed storage units, larger vehicles will not be required or permitted to access the site. Therefore turning of larger vehicles has not been provided on site. It is not clear how the applicant proposes to monitor or restrict vehicle size accessing the site. However, concerns have not been raised by County Highways and therefore it is not considered that the lack of turning space for larger vehicles is sufficient to warrant refusal of the scheme.

Parking Standards

- 4.3.28 A parking area for six vehicles will be provided at the eastern end of the site. The council's SPG *Vehicle Parking at New Developments 2011* sets out the following parking requirements for B8 uses:
- 1 car parking space for every 75M2
 - 1 cycle space for every 500m2
 - 1 visitor space every 1000m2
- 4.3.29 The proposed facility will provide approximately 295m2 of floorspace, giving rise to a requirement for 4 parking spaces. This requirement is met on site. It is noted that the response from County Highways states that the provision is slightly low based on the

Local Planning Authority's parking standards. It is thought that this assessment refers to the initial scheme for 40 containers. The amended scheme meets the required parking standards. In addition, there is ample space within the storage facility for at least a few parked vehicles.

4.3.30 Although the Highway Authority and Local Planning Authority look to encourage the use of cycling as a sustainable form of transport, it is accepted that few customers are likely to deliver or collect items from storage on a bicycle. Customers could take their bicycles into the secure storage facility. Therefore secure cycle parking is not being sought.

4.3.31 The proposed parking is acceptable.

Existing Parking on Site

4.3.32 It is understood that the site is currently used for parking for employees of a neighbouring business. Objections have been submitted raising concerns about a legal right to park on the land and the negative impact on the neighbourhood of displacing this parking.

4.3.33 Any existing agreement to park cars at the site is a civil matter and not a material planning consideration. This does not therefore form part of the assessment of this proposal. Confirmation has been given by the applicant that the site is within the applicant's ownership and therefore the correct certificates have been served.

4.3.34 The current use of the site is not a formal car park. Therefore, whilst the current parking on the site may need to be relocated, this does not form part of the formal planning assessment for the site. Parking provision for existing neighbouring businesses should be met at those premises.

Existing Parking and Access at Unit 3

4.3.35 Hertfordshire County Highways has commented that the development will narrow the access road serving the area to the side of Unit 3 to 2.8m, making any parking in this location difficult. Although access may currently be gained to this area for parking, Part of the land does in fact fall within the ownership of the applicant and the current situation may be operating over land outside the ownership of Unit 3. The proposal to enclose the applicant's land and any restriction this may place on the exiting arrangement is acceptable.

4.3.36 Whilst the proposal may reduce parking opportunities at the side of Unit 3, there is adequate parking and turning space for the Unit in the front of the premises by Cadwell Lane. The site access is under the ownership of the applicant but it is understood that the right of access across this is to be maintained for Unit 3.

4.3.37 Overall therefore, the proposal meets the policy requirements of the NPPF, Local Plan policies SP6, T1 and T2 and the SPG.

Impact on neighbouring amenity.

- 4.3.38 Both the NPPF and the Local Plan Policy D3 seek to protect the amenity of neighbouring occupiers.
- 4.3.39 Planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions. The Council will consider whether there are mitigation measures that can be taken to mitigate any harm to an acceptable level.

Potential Impact on Neighbouring Residential Properties

- 4.3.40 The closest residential occupiers are approximately 80m to the south of the site on the opposite of Cadwell Lane in an apartment block set back from the road. Given the distance between the apartment block and the site, and the low intensity of the proposed use, it is considered that no unacceptable harm would be caused to the amenity of the occupiers of the apartments. Comments raised that residents in the area are already affected by noise and disturbance have been taken into consideration. However, the site falls within the industrial estate where noisy activities and HGV movement are part of the operations of the industrial estate.
- 4.3.41 It is noted however, that noise arising from the opening and closing of the steel containers and accessing the site could cause disturbance during the night. In order to mitigate against noise disturbance at night, it is considered reasonable and necessary to require the submission of a Noise Impact Assessment if the units are to be used during the hours of 10pm and 7am.

Potential Impact on the Occupiers of Unit 3

- 4.3.42 The site is bounded to the north by Unit 3. The unit has a number of windows and a door on the side elevation facing the site. The side elevation of the storage units will be set in excess of 9m from the side elevation of Unit 3 and no more than 2.3m in height. As such, the proposal would not appear unacceptably overbearing or dominating from the side facing windows. The outlook would be acceptable in a designated employment and industrial area. There would be no overlooking.
- 4.3.43 The change in use from the existing parking use to the proposed storage use may result in an increase in noise, activity and lighting on the site. However, this would be to a level that would be acceptable in an industrial location and would not cause unacceptable harm to the occupiers of Unit 3.
- 4.3.44 Concerns have been raised by the owner of Unit 3 and other neighbours/occupiers regarding privacy and security issues and a potential increase in crime, anti-social behaviour and loitering as a result of the proposal. With the reduction in height of the containers to single storey, the area to the side of Unit 3 will have a less enclosed feel. However, it is noted that the area will become more enclosed than the existing situation and hidden from view.
- 4.3.45 The applicant has specified that lighting and CCTV will be provided but no details have been provided. In order to address concerns regarding anti-social behaviour, loitering and crime, it is considered that CCTV and appropriate lighting would help to mitigate this. Details of the provision of these measures has been imposed by condition. Matters relevant to GDPR concerns raised by a resident would be considered once the details are received when discharging the condition.

- 4.3.46 Objections have also been raised regarding security aspects over items stored in containers. The items to be stored are not a material planning consideration and do not form part of the assessment of this application.

Potential Impact on Recreation Ground Users

- 4.3.47 Concerns have been raised about the poor visual impact of the containers along the boundary of the recreation ground and their overbearing presence and that this could diminish the enjoyment of the recreation area. Reference is made to the Cadwell Lane Playing Field GAP 2016 initiative.
- 4.3.48 As outlined above, whilst the containers and fencing will be more imposing than the existing situation, it is an acceptable boundary treatment, particularly for an industrial site. It is not considered that this would have an unacceptably imposing feel for users of the recreation ground.
- 4.3.49 Concerns regarding the safety of the fencing for wildlife and children is noted. However, the proposed fencing is an acceptable boundary treatment.

Environmental and Ecological Effects

Ecology, Wildlife and Biodiversity

- 4.3.50 Local Plan Policy NE4 states that planning permission will only be granted for development proposals that appropriately protect, enhance and manage biodiversity in accordance with the hierarchy and status of designations and features listed in elsewhere in the Plan. The policy continues that all development should deliver measurable net gains for biodiversity and geodiversity, contribute to ecological networks and the water environment, and/or restore degraded or isolated habitats where possible.
- 4.3.51 The existing site is partially covered in hard standing, compacted earth and gravel. The 'status of the asset' as noted in Policy NE4 is therefore of low value given the existing state and use of the site. The site has no protection in terms of ecological or biodiversity value.
- 4.3.52 The proposal will result in the loss of some vegetation as the site is cleared and developed. No replacement provision is proposed. The development is therefore in conflict with Local Plan Policy NE4 which requires net gains for biodiversity. However, mitigation measures can be provided and the policy notes that the acceptability of providing adequate mitigation measures should be commensurate with the value of the asset likely to be affected by the application.
- 4.3.53 It is considered that any loss would be minimal and acceptable. The site is not significant in terms of biodiversity value. Two areas of vegetation will remain at the site - the grassed triangular area the front of the site adjacent to Cadwell Lane and a rectangular area to the rear of the container compound, adjacent to the River Purwell and railway boundary. This area is currently overgrown with trees and scrubby vegetation.
- 4.3.54 In order to mitigate against the loss on the site, it is considered reasonable and necessary to condition the provision of landscaping details prior to commencement of

development. Landscaping details required are: a) to enhance the landscaping at the front of the site adjacent to Cadwell Lane to improve the visual impact to the entrance of the site and b) to protect and enhance the biodiversity of the overgrown area to the rear behind the container compound. With protection and management, this area could continue to provide an area of biodiversity for wildlife and ecology and maintain a link between the open recreation ground and the habitat adjacent to the river.

4.3.55 With additional planting and protection/management of the undeveloped green spaces at the site, it is considered that the conflict with Policy NE4 is acceptable, can be mitigated against and does not warrant refusal of the proposal.

4.3.56 Concerns raised about the impact of the proposed use and associated lighting on local wildlife including bats are noted. The design and luminance of the proposed lighting will be controlled by condition. These measures will help to mitigate against any potential harm caused. The site falls within the existing industrial area and the proposed level of activity and development is acceptable in this context.

4.3.57 The applicant has sought to minimise any impact on the adjacent trees and hedge by ensuring no substantial groundworks will take place along the boundary with the recreation ground and hedge adjacent to the recreation ground and southwest elevation. It is also proposed to have free flowing gravel under the containers to accommodate run off from the hard standing.

Potential Land Contamination

4.3.58 Concerns raised by a resident about potential land contamination have been noted. However, Environmental Health as a statutory consultee has been consulted and no concerns raised. The Local Planning Authority is therefore satisfied that no conditions are required to investigate this matter.

Other considerations

Waste and Refuse Collection

4.3.59 The applicant has not made any reference to details of waste disposal. However, there is adequate space within the site to accommodate bins and for collection.

Drainage

4.3.60 It is proposed that the site surface will be a hardstanding in concrete or crushed tarmac and have a camber so surface water will drain to the margins. The margins will be under the containers, which will be permeable. The drainage proposed is acceptable.

Safety

4.3.61 The safety and operating of the site is not a material planning consideration. However, the site will be unmanned but reduced to single storey with no mobile staircase as previously proposed. The applicant proposes to provide an emergency telephone and CCTV.

Objections Received

- 4.3.62 The proposal has raised a number of objections and the Local Planning Authority is sympathetic to local concern. It is considered that the objections raised have been addressed in the report above.

4.4 **Conclusion**

- 4.4.1 No objection. Grant conditional permission.

4.5 **Alternative Options**

- 4.5.1 None applicable

4.6 **Pre-Commencement Conditions**

- 4.6.1 The agent has agreed the pre-commencement condition regarding landscaping and biodiversity.

5.0 **Legal Implications**

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

6.0 **Recommendation**

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

1. The use hereby permitted is for a temporary period only and must cease on or before 5 years from the date of this consent.

Reason: To allow the Local Planning Authority to assess the weathering of the containers and their visual appearance over a 5 year period.

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. The use hereby approved shall only take place between the hours of 7.00am and 10.00pm. The facility may not be used between the hours of 10pm and 7am, unless a Noise Impact Assessment has been submitted to and agreed in writing by the Local Planning Authority.

Reason: The use is located nearby to residential properties. An assessment of noise impact on the residents of these properties is required prior to any night time use.

4. Prior to the first occupation of the containers, full details of the proposed lighting of the site including times of operation, luminance and appearance is to be submitted to and approved in writing by the Local Planning Authority and the approved details are to be implemented on site before the first use is implemented and is thereafter retained for the duration of this use.

Reason: To ensure the amenity of neighbouring occupiers is protected and that no unacceptable harm is caused to the local environment and wildlife.

5. Prior to the first occupation of the containers, full details of a CCTV system monitoring the site is to be submitted to and approved in writing by the Local Planning Authority and the approved details are to be implemented on site before the first use is implemented and is thereafter retained for the duration of this use.

Reason: To design out the potential for crime.

6. Prior to commencement of the development hereby approved, details of landscaping to protect and enhance the visual appearance of the site and its biodiversity shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To enhance the appearance of the entrance to the completed development and to protect and enhance the biodiversity of the site at the rear of the container compound.

7. The approved details of landscaping in Condition 6 shall be carried out before the end of the first planting season following either the first occupation of any of the containers 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, the visual amenity of the locality and the biodiversity of the site.

Proactive Statement

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

Informative/s:

1. AN) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.

Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. 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 and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

AN) Avoidance of surface water discharge onto the highway: The applicant is advised that the Highway Authority has powers under section 163 of the Highways Act 1980, to take appropriate steps where deemed necessary (serving notice to the occupier of premises adjoining a highway) to prevent water from the roof or other part of the premises falling upon persons using the highway, or to prevent so far as is reasonably practicable, surface water from the premises flowing on to, or over the footway of the highway.

2. EV CHARGING POINT SPECIFICATION INFORMATIVE:

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

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

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

3. It is drawn to the attention of the applicant that the issue of planning consent does not override any legal constraints that may be present on the land.

NORTH HERTFORDSHIRE DISTRICT COUNCIL

Application Validation Sheet

22/01810/FP Land Adjacent to Unit 3 on the West Side of Cadwell Lane, Hitchin, Herts, SG4 0SA

-  Acolaid Land Parcel
Property.shp
-  Acolaid Address Point
ap.shp
-  Planning Application (1999)
Prapps99.shp
-  Area of Outstanding Natural Beauty
Pranob.shp
-  Listed Buildings
Prlistbd.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
Prjnzzone.shp
-  Landscape Conservation
Prlandca.shp
-  Ward Boundary
Prwardcd.shp
-  Noise Nuisance Indicators
Prnnis.shp
-  Indicative Flood Plain
Prifpm.shp



Scale 1:1,250

Date: 24/01/2023

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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>	Germaine Asabere

Date of Statutory Expiry Period: Agreed extension to 08.11.2022

Reason for Delay:

Ongoing negotiations with the agent on an existing Section 106 agreement overlapped with the adoption of the Council's Local Plan in November 2022. A copy of the original Committee report is attached as Appendix A to this report.

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)

Flood Risk Assessment and Surface Water Management Statement (parts 1-3)

Planning Statement

Legal Note on Original Agreement and draft DoV and new S106 Agreement

Background to the application

The application is for the development of three detached dwellings and associated infrastructure on this site referred to above. The site is located outside the settlement of Therfield in an area designated as Rural Area beyond the Green Belt. It is bounded by the Therfield Conservation Area and in proximity to a scheduled monument.

Similar back-to-back proposals for the residential development of the site were refused in July 2020 by Members at a Committee meeting. However, the subsequent application (this application currently under consideration) was recommended for approval by Officers and presented to Members at their sitting on 23 June 2022. Members resolved to approve the development proposal due to the concluding planning balance presented by Officers; weighing the merits of the development against the potential harm in light of the Council's lack of sufficient housing land supply. This report is attached at Appendix 1.

This decision is currently pending the variation of an extant legal agreement covering the site.

It is established that no planning decision has been legally made until a notice of that decision has been formally issued. No such decision was issued to the applicant due to delays in reaching an agreement on the legalities of the application meaning, there is currently no valid decision on the application.

Since Members resolved to grant planning permission in June 2022, there has been a material change in the Council's planning policy. Consequently, to reach a final decision this application must be assessed against the new Local Plan and determined in accordance with the Local Plan unless there are clear material reasons for departing from the Plan. No such material reasons other than the change in the development plan has been identified. The application is therefore being presented back to Members for consideration with no change in Officer recommendation.

The application has now been considered in respect of the current development plan policies and relevant planning legalisation. Material planning considerations such as design, layout, heritage impact, principle of developing housing on the site have been duly assessed and

considered to be tolerable within the site context by Officers. Currently under consideration is an assessment of whether the principle of the development is still considered to be acceptable due to the Council's housing land supply position.

ADDITIONAL REPRESENTATIONS

Since the resolution of the Committee to grant planning permission, the Council has received one additional representation from a local resident querying the lawfulness of the Council's agreement to vary an existing legal document pertaining to the land without consultation.

Comments were also received from the Flood Risk Team raising no flood related concerns in relation to the proposed development.

OFFICER RECOMMENDATION

Officers have maintained the previous recommendation and suggested conditions and reasons with informatives for the applicant are set out Section 6 of this report.

1.0 Policies

1.1 North Hertfordshire Local Plan (2011-2031) (Nov 2022):

Section Two – Spatial Strategy and 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;
NE4 – Biodiversity and geological sites;
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

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

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 at New Development Supplementary Planning Document (Sept 2011)

Design Supplementary Planning Document (July 2011)

North Hertfordshire Transport Strategy (2018)

Planning Obligations Supplementary Planning Document (November 2006)

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.
- 3.2 Hertfordshire County Council (Lead Local Flood Authority): No comment.
- 3.3 Hertfordshire County Council (Historic Environment – Archaeology): No objection subject to conditions.
- 3.4 Hertfordshire County Council (Ecology): Nothing received within the consultation period.
- 3.5 Environment Agency (Contaminated Land and Controlled Waters): No objection subject to conditions.
- 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.
- 3.10 NHDC Environmental Health (Air Quality): No objection subject to conditions.
- 3.11 NHDC Environmental Protection (Contaminated Land – Human Health): No objections subject to condition
- 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 Under the provisions of section 70(2) of the Town and Country Planning Act 1990, section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. paragraph 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the North Hertfordshire District Council Local Plan (LP) (Adopted November 2022) and the associated housing sites allocation plan.
- 4.3.2 Taking into account of the relevant development plan policies and other material considerations, together with the representations listed above and resolution already reached by Members to grant permission for this proposal pending a revised s106 agreement; it is considered the main material planning matter to be addressed in the determination of this planning application are:
- The principle of development on the site and the overall policy basis in light of material change in circumstances since the previous decision to grant planning permission was reached; and
 - Whether the proposal is in a suitable location for housing, with regard to the spatial strategy of the development plan and accessibility.
- 4.3.3 All other material planning considerations as previously assessed remain and are detailed in the report attached at Appendix 1.

4.4 Principle of development including consideration of the extant s.106 agreement

- 4.4.1 The Local Plan Policy SP2 sets out the hierarchy for new residential development within the District, with the main housing being to allocated sites and then with general development allowed within the category A villages, in-filling within category B villages and development for limited affordable housing and facilities for local community needs meeting the requirements of policy CGB2 in category C settlements.
- 4.4.2 The application site is located outside the settlement boundary of Therfield. This is in an area protected by the designation of Policy CBG1, Rural Areas beyond the Green Belt where there is a presumption against new development, most certainly if for market housing.
- 4.4.3 The criteria of Policy CGB1 states:

In the Rural Areas beyond the Green Belt, as shown on the Policies Map, planning permission will be granted provided that the development:

a) Is infilling development which does not extend the built core of a Category B village;

b) Meets a proven local need for community facilities, services or affordable housing in an appropriate location;

c) Is strictly necessary for the needs of agriculture or forestry;

d) Relates to an existing rural building;

e) Is a modest proposal for rural economic development or diversification; or

f) Would provide land or facilities for outdoor sport, outdoor recreation and cemeteries that respect the generally open nature of the rural area.

4.4.4 The current proposal is for the provision of 3 market housing on land not allocated in the LP for housing. From the site location plan, this proposal does not comply with any of the above criteria. Nevertheless, the site is brownfield land and positioned in an edge of village location. The site relates well to existing dwellings, the proposed dwellings would be well contained within well landscaped domestic settings and would not physically encroach into the surrounding countryside. Physical and visual separation between the site and the nearest settlement is such that the proposed dwelling would not result in the expansion of the nearby village.

4.4.5 It must also be reiterated that the previous Officer assessment noted that this site which consists largely of a concrete apron on an admittedly elevated site has very limited contribution to the intrinsic value of the countryside. The site is not an open green space but rather brownfield land dominated by concrete hard standing and it was concluded that in terms of protecting the countryside, the proposed development does not unduly harm the character of the countryside in this location.

4.4.6 In a recent appeal outcome (APP/X1925/W/22/3290692 – Loves Lane, Ashwell), an Inspector found a similar proposal to be in accordance with the objectives of the development plan even though it was accepted that the proposal which was under consideration did not meet the terms of Policy criteria which controls development within the Rural Area beyond the Green Belt.

4.4.7 In summary, the proposed development for the provision of 3 residential units at the application site whilst not policy compliant represents a positive benefit to the area as well as the delivery of three new homes. All planning applications are considered on merit and this site already has Officers and Members approval for development. The individual characteristics of this particular site would enable the proposed development to be accommodated without harm to the wider area and there is no reason to suppose that a decision to grant planning permission in this case would set a precedent.

4.4.8 To this end, Officers do not wish to raise an objection to the principle of the proposed development having reassessed it in light of the new local plan, previous appeal outcomes and site-specific circumstances.

4.5 Existing S106 Agreement

4.5.1 It has been established that the existence of the controlling legal agreement was not itself a reason for refusal of previous applications for housing, rather it was the planning harms that were identified. The existing restrictions 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. This matter is not a material consideration that effects the merits of the current planning application for the provision of residential dwellings on the site and therefore does not amount to a reason for refusal of planning permission.

- 4.5.2 On the other hand, to develop the site for housing without revoking or changing the controls in the extant S106 agreement would be a breach of it, as currently worded. There is however a mechanism available to ensure that the current controls on the land remain until any 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 acceptable in planning terms.

4.6 Other material planning considerations

- 4.6.1 **For consistency and to avoid duplicity, the previous assessment by Officers when this application was last deliberated on by Members are broadly relied upon and will not be repeated. Kindly find original report at Appendix 1. The previous recommendation to approve the development by Officers was made against the backdrop of prior refusals detailed above in the 'Site History' section of this report.**

5.0 Conclusion

- 5.1 The current development proposal successfully overcomes previous reasons for refusal at the site and the NPPF at paragraph 12 states –

'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

- 5.2 Under the current circumstances, the Council has an up-to-date local plan and the Development Plan defines what constitutes sustainable development on a local level. The site is admittedly outside of a settlement boundary and there remain some harm that would be caused by this development most notably the lack of access to local services and the reliance on the private car. The NPPF however notes at paragraph 105 that policies and decisions should play an active role in guiding development towards sustainable solutions and acknowledges that opportunities to maximise sustainable transport will vary between urban and rural areas, and that this should be taken into account in decision-making.

- 5.3 Furthermore, the recent appeal decision at Ashwell, referred to above, states at paragraph 7:

" The site is approximately 1 mile from the nearest village, Ashwell, which would provide the necessary services for day-to-day living. This is not a significant distance to travel to services within a rural area, although I acknowledge that such journeys are more likely to be undertaken by private vehicle than by walking or cycling. However, it is to be expected, as the Framework indicates, that some travel by private vehicle is likely in rural areas such as this and Ashwell is not so distant that long journeys would occur. Moreover, the distances involved do not preclude some

journeys being undertaken on foot or by cycle and the site cannot be considered isolated”.

- 5.4 Given that Therfield, like Ashwell, is also a category A village, this conclusion can also be applied to this site and in my view no objection can be sustained against the application with regards to sustainable transport considerations.
- 5.5 The opinion of Officers remains that the current site, which comprises of a large hardstanding area that can be used for HGV parking, contributes very little the character of the area. The grant of planning permission 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. The addition of trees and landscaping in the development is considered to enhance local setting in comparison to the existing situation as well as provide benefits of local biodiversity in accordance with the aims of Policy NE4.
- 5.6 This 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 the benefits of the proposal and on this basis in terms of planning merits, the scheme can be supported.
- 5.7 Turning to the issue of housing land supply, this Council is of the view that due to the adoption of the Local Plan there is now the suitable provision of housing land. The justification of housing based on the lack of a five-year land supply is not required to be made as part of the considerations of the case. Paragraph 4.13 of the Local Plan acknowledges that new housing delivery as a result of schemes coming forward on unallocated or windfall sites, such as this, make a positive contribution to housing delivery over the plan period, and even though the five year land supply consideration as previously required by paragraph 11d) of the NPPF is no longer applicable, the delivery of three new homes on a windfall site is still a welcomed planning gain that can be awarded material weight in the consideration of this case. As a result, officers are able to support the principle of the development due to site specific circumstances as discussed above.

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 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 here 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 Prior to the commencement of the development hereby permitted full details of a comprehensive hard and soft landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. All approved hard standing shall be completed prior to the first occupation of the development and thereafter retained and maintained to the satisfaction of the Local Planning Authority. The approved soft landscaping / planting details shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To ensure that the full landscaping scheme set out in the application is improved and implemented in full in a timely manner in the interests of phasing and to ensure the development is comprehensively landscaped in the interests of visual amenity.

5. Prior to the commencement of the development hereby permitted 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.

15. Prior to the commencement of the development hereby permitted a scheme of surface water disposal shall be 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 cause a risk to ground water quality. The development shall be carried out in accordance with the approved details.

Reason: Infiltration through contaminated land has the potential to impact on ground water 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>

7.0 **Appendices**

7.2 Appendix 1 – Previous Case Officer Report

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

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)
Flood Risk Assessment and Surface Water Management Statement (parts 1-3)
Planning Statement
Legal Note on Original Agreement and draft DoV and new S106 Agreement

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)

1.6 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. *****).

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. *****).

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 nos. *****).

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. ****).

3.10 NHDC Environmental Health (Air Quality):

No objection. Recommend condition regarding EV charging points associated with the development (**see recommended condition no. ****).

3.11 NHDC Environmental Protection (Contaminated Land – Human Health):

No objections. Suggested condition (**see recommended condition ****).

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 the existing planning controls contained in the current S106 agreement that relate to this site are maintained continuously post any grant of planning permission up until the establishment of new land use on this which would remove the requirement for the current controls by making them unnecessary?

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 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 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. Therefore, the Saved Policies of the 1996 Plan represent the current Development Plan for North Hertfordshire. For point d), there are no policies in the Framework listed in the footnote to 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 in their entirety.

- 4.3.5 On this basis any assessment of development on this site is firmly within the test set out in the NPPF paragraph 11 (d) (ii). To refuse planning permission the Council must demonstrate with evidence that any harm identified as a result of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

4.3.6 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.
- 4.3.7 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.'
- 4.3.8 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.
- 4.3.9 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.'

4.3.10 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.

4.3.11 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.'

4.3.12 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.'

4.3.13 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.

- 4.3.14 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.
- 4.3.15 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.
- 4.3.16 In my opinion reason for refusal 4 of the earlier application has been overcome.
- 4.3.17 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.'
- 4.3.18 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.
- 4.3.19 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.'

4.3.20 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.

4.3.21 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.

4.3.22 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.

4.3.23 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 planning and timing can be secured by suitably worded planning conditions which are set out in the recommended conditions below.

- 4.3.24 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.
- 4.3.24 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 to regulate 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 removing, revoking or changing the controls of the S106 agreement would be a breach of the currently worded agreement. 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.
- 4.3.25 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 attached 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.
- 4.3.26 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.
- 4.3.27 To summarise this point, and to counter 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 the 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 this development there is a mechanism available to ensure 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 development on this site that it considers is acceptable in planning terms.

4.3.28 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

4.3.30 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.

4.3.31 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.

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

Reason: To ensure that the full landscaping scheme set out in the application is improved and implemented in full in a timely manner in the interests of phasing and to ensure the development is comprehensively landscaped in the interests of visual amenity.

5. Prior to the commencement of the development hereby permitted 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. Before first occupation of the approved development, the new vehicle access serving the development shall be completed in accordance with the approved in-principle plan, drawing number 196660-005 Rev A, and constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction. This shall include the permanent provision of visibility splays of 2.4 metres x 59 metres to the west, and 2.4 metres x 57 metres to the east, within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.

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

7. Before first occupation of the approved development, a 2 metre wide pedestrian link from the site onto the adjacent public right of way (Therfield 034 Footpath) shall be provided and permanently maintained to the Local Planning Authority's satisfaction, as shown on the in-principle drawing 300.06 and referenced in paragraph 3.12 of the Transport Statement.

Reason: In the interest of sustainable travel, to reduce the reliance on the private motorcar and ensure a safe and suitable alternative route for pedestrians and cyclists to the village centre.

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

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

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

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

11. No development shall take place until the final design of the drainage scheme is completed and sent to the Local Planning Authority for their approval in writing. The surface water drainage system shall be based on the submitted Flood Risk and Surface Water Management Report, produced by Ardent Consulting Engineers, Project No. 19660, Rev A, dated March 2021. The scheme shall include:

1. Full details of the drainage plan including location of all the drainage features;
2. Where infiltration is proposed, evidence of ground conditions / underlying geology and permeability including BRE digest compliant infiltration tests at the precise location of the proposed infiltration features. Where deep bore soakage is proposed, falling head tests should be provided with associated ground investigation and assessment;
3. If infiltration is not feasible, the applicant will need to provide an alternative surface water discharge mechanism. If discharge to the local sewer network is proposed, confirmation from the relevant water company that they have the capacity to take the proposed volumes and run off rates is provided. With discharge from the site should be at an agreed rate with the water company. This should be at Greenfield run off rate; justification will be needed if a different run off rate is used;
4. Detailed engineering drawings of the proposed SuDs management and treatment and inclusion of above ground features such as permeable paving and basin;
5. Demonstrate appropriate SuDs management and treatment and inclusion of above ground features such as permeable paving and basin;
6. Provision of half drain down times within 24 hours;
7. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime,

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

12. 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.

13. 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.

14. Prior to the commencement of the development hereby permitted a scheme of surface water disposal shall be 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 cause a risk to ground water quality. The development shall be carried out in accordance with the approved details.

Reason: Infiltration through contaminated land has the potential to impact on ground water quality.

15. Piling or any other foundation designs and investigation boreholes using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site which it has to be demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Contamination can still be missed by an investigation and this condition gives the Local Planning Authority the ability to require a new, or amendments to an existing, remediation strategy to address any previously unexpected contamination.

16. 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.

Informatives

1. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
2. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047.
3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
4. During the construction phase the guidance in BS5228-1: 2009 (code of practice for control and construction on open sites) should be adhered to. During the construction phase no activities should take place outside the following hours: Monday to Friday 0800 to 1800 hours; Saturdays 0800 to 1300 and no work on Sundays or bank holidays.
5. **EV Charging Point Specification:**

A charging point shall be installed by an appropriately certified electrician/electrical contractor in accordance with the following specification. The necessary certification of electrical installation should be submitted as

evidence of appropriate installation to meet the requirements of Part P of the most current Building Regulations.

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

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

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

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

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

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

DATED

2022

NORTH HERTFORDSHIRE DISTRICT COUNCIL

and

GRAHAM BULLARD AND JEAN MARGARET BULLARD

and

QUANTA HOMES 6 LIMITED

DEED

Under Section 106 and Section 106A of the Town & Country
Planning Act 1990 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:21/03533/FP/LL14405)

THIS DEED is made the _____ day of _____ 2022

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 authorities 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 LandRegistry 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 27 September 2018.
- E On 24 December 2021 the Developer submitted the Application to the Council for Planning Permission for the Development.
- F The Council is disposed to grant planning permission in respect of the Development and has agreed to confirm that the restrictive and other covenants in the Original Agreement (as amended by the First Deed of Variation) shall cease to be enforced insofar as they relate to the Development Land in order to enable the Development to go ahead.
- G The Owner enters into this Deed to confirm that the Owner consents to the restrictive and other covenants relating to landscaping, planting and

maintenance in relation to the part of the Landscaped Area that is within the Site as secured in the Original Agreement (as amended by the First Deed of Variation) shall continue in full force and effect.

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 24 December 2021 and allocated reference number 21/03533/FP;

"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 the development authorised by the Planning Permission and described as the erection of three detached dwellings (1 x 4-bed, 1 x 5-bed and 1 x 6-bed) with associated infrastructure and landscaping within the Application;

"Development Land"

means that part of the Site other than the Landscaped Area;

"Dwelling"

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

"First Deed of Variation"

means the first deed of variation made pursuant to Section 106 and Section 106A of the Act between the Council and David Miller dated 4 March 1996 that varied the Original Agreement a copy which is attached at the Annex of this Deed;

"Landscaped Area"

the land which is reserved for landscaping in accordance with Clause 3(a) of the Original Agreement (as amended by the First Deed of Variation) and the First Schedule and Second Schedule of the First Deed of Variation which is shown coloured red on Plan 1 in the First Deed of Variation (relating to the Site and land outside the Site) as attached in the Annex of this Deed;

"Original Agreement"

means the agreement made pursuant to Section 106 of the Act between the Council and David Miller dated 6th August 1993 as varied by the First Deed of Variation a copy which is attached at the Annex of this Deed;

"Plan 1"

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

"Planning Permission"

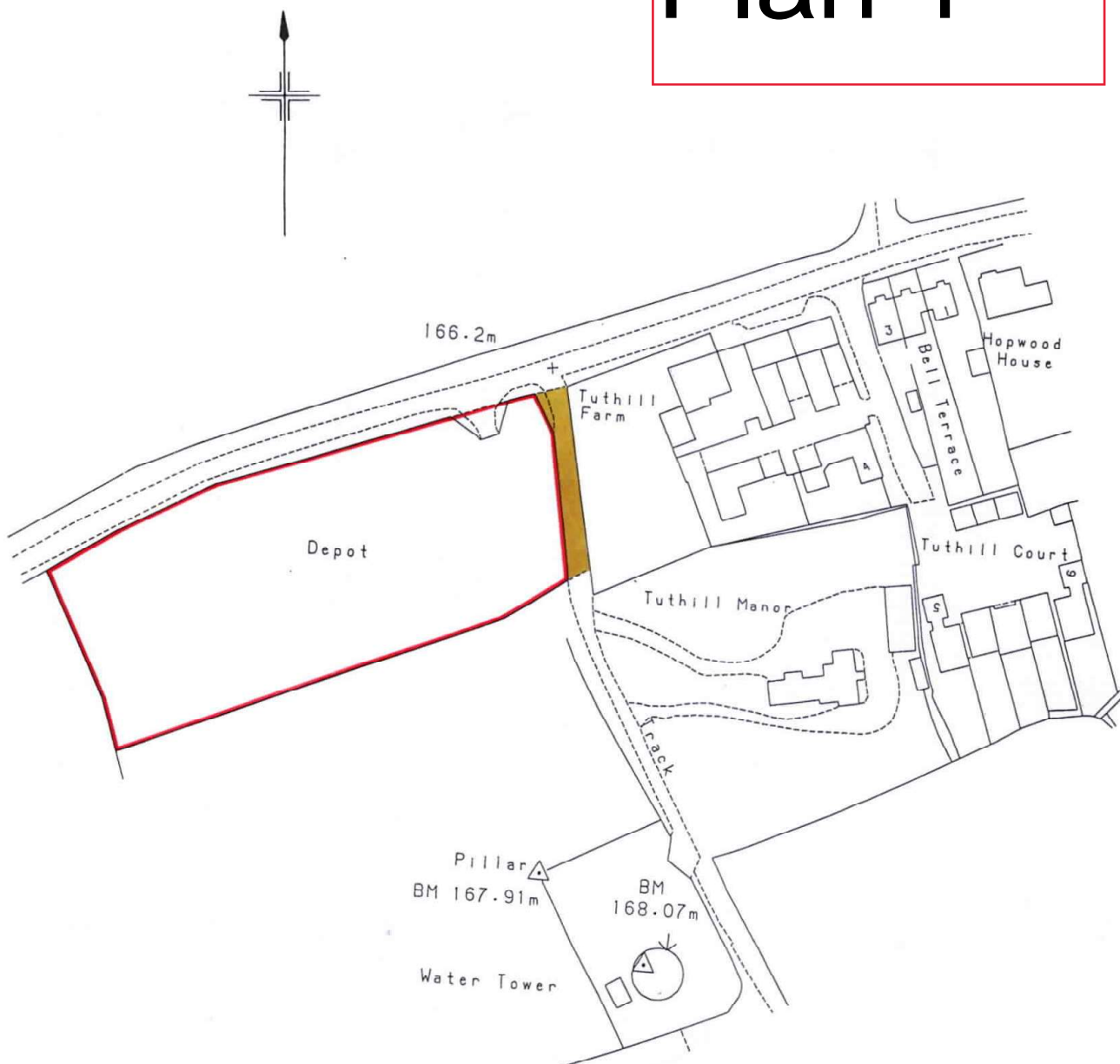
means the planning permission granted by the Council in pursuance of the Application a draft of which is attached at Schedule One;

"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

H.M. LAND REGISTRY		TITLE NUMBER
		HD 307468
ORDNANCE SURVEY PLAN REFERENCE	TL 3337	Scale 1/1250 Enlarged from 1/2500
ADMINISTRATIVE AREA	HERTFORDSHIRE: NORTH HERTFORDSHIRE	© Crown copyright

Plan 1



construed accordingly;

"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 case of the Council shall include successors to their respective functions;
 - 2.3 where a Party includes more than one person any obligations of that Party shall be joint and several;
 - 2.4 any reference to any statute or any section of a statute includes any statutory re-enactment or modification;
 - 2.5 any reference to clauses and schedules are references to clauses and schedules to this Deed;
 - 2.6 headings in the Deed shall not form part of or affect its construction;
 - 2.7 where a Party is required to give consent or approval by any specific provision of this Deed such consent or approval shall not be unreasonably withheld or delayed;
 - 2.8 any provision of this Deed which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Deed; and
 - 2.9 any covenant by the 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.
- 3.4 The parties confirm that nothing in this Deed effects the Original Agreement (as amended by the First Deed of Variation) in relation to land that is bound by the Original Agreement (as amended by the First Deed of Variation) that is outside of the Site and the covenants that relate to that land shall continue in full force and effect.

4. LEGAL EFFECT AND CONDITIONALITY

- 4.1 The provisions of clauses 11, 12 and 14.4 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 Upon Commencement of the Development:

a) in respect of the Development Land, the Council shall cease to enforce the provisions in the Original Agreement (as amended by the First Deed of Variation) during the Construction Period that relate to the Development Land PROVIDED THAT the Development Land 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;

b) in respect of the Landscaped Area within the Site, the Owner agrees and confirms that the restrictive and other covenants in the Original Agreement (as amended by the First Deed of Variation) that relate to the Landscaped Area within the Site shall continue in full effect in relation to the Landscaped Area within the Site;

4.4 Upon Practical Completion of the Development:

a) in respect of the Development Land, the Council confirms to the Owner and their successors in title to the Development Land that the covenants and obligations within the Original Agreement (as amended by the First Deed of Variation) that relate to the Development Land shall cease to be enforced in perpetuity PROVIDED THAT clause 2 of the Original Agreement (revocation of agreement dated 15th September 1978) shall remain in effect;

b) in respect of the Landscaped Area within the Site, the Owner covenants with the Council to observe the restrictions and to perform the obligations and activities in Original Agreement (as amended by the First Deed of Variation) that relate to the Landscaped Area within the Site and confirms that those covenants shall continue in full effect in relation to the Landscaped Area within the Site.

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 Owner 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 of this Deed.

12. REGISTRATION OF THIS DEED

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

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 written notice within 7 days 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 the 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 Two and shall contain the Application reference number 21/03533/FP and reference to the date of

this Deed and such notice shall be sufficiently given if sent by first class post or facsimile to the following persons

The Council Development Control and Conservation Manager North
Hertfordshire District Council Council Offices Gernon Road
Letchworth Garden City Hertfordshire SG6 3JF
ref:21/03533/FP

The Owner at the address on the page 2 of this Deed

16 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:

- 16.1 The parties shall use their reasonable endeavours to resolve the dispute by agreement
- 16.2 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
- 16.3 The person to be appointed pursuant to clause 16.2 shall be a person having ten years or more post qualification experience of projects comprising works of the scale and nature of the Development
- 16.4 Reference to the expert shall be on terms that determination shall take place within 28 working days of the expert accepting his instructions
- 16.5 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
- 16.6 The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision
- 16.7 The findings of the expert shall (other than in the case of a manifest material error) be final and binding on the parties to the dispute

- 17.1 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 carried out or to be carried for the purposes of the Development and any materials used or 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.
- 17.2 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.
- 17.3 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 18) granted whether before or after the date of this Deed by the Council or any other competent authority.
- 17.4 Where any approval, agreement, consent, confirmation or expression of satisfaction is required under the terms of this Deed the request for it shall be made in writing and where a request is made the approval, agreement, consent, confirmation or expression of satisfaction shall not be unreasonably withheld or delayed.

18 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.

19.1 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

NORTH HERTFORDSHIRE DISTRICT COUNCIL

Town and Country Planning Act 1990
Town and Country Planning (General Development Procedure) Order
2015

DRAFT DECISION NOTICE

Correspondence Address:

Phase 2 Planning And Development Ltd
270 Avenue West
Skyline 120
Great Notley
CM77 7AA

Applicant:

Mr R Du Toit And Mr And Mrs G Bullard

PARTICULARS OF DEVELOPMENT

Application: 21/03533/FP

Proposal: Erection of three detached dwellings (1 x 4-bed, 1 x 5-bed and 1 x 6-bed) with associated infrastructure and landscaping.

Location: Land West Of Tuthill House, Kelshall Tops, Therfield, Hertfordshire,

Plan Nos: 1549_101.00 1549_102.00 1549_300..01 1549_301.00
1549_302.00 1549_303.00 1549_304.00 1549_305.00
1549_306.00 1549_310.00 1549_311_00

PARTICULARS OF DECISION

In pursuance of its powers under the above Act and the associated Orders and Regulations, the Council hereby **GRANT PERMISSION** for the development proposed by you in your application received with sufficient particulars on 24 December 2021, subject to the following condition(s):

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:
- Construction vehicles, number, type and routing;
 - Access arrangements to the site for construction vehicles;
 - Traffic management arrangements;
 - Construction and storage compounds (including areas designate for parking, loading and turning areas);
 - Siting and details of wheel washing facilities;
 - 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.

15. Development shall not commence (other than demolition works) until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- a) Sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event, to include modelling to demonstrate the impact of long term storage to offset the increased volumes of water leaving the site as a result of the development;
- b) Final modelling and calculations for all areas of the drainage system;
- c) The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753;
- d) Detailed engineering drawings of each component of the drainage scheme;
- e) A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features;
- f) A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall be implemented prior to occupation in accordance with the approved details.

Reason: To ensure the development is serviced by a Sustainable Urban Drainage System (SUD) and in the interest of preventing surface water floor risk on site.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant at the pre-application

stage and during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Informative/s:

1. 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.

Signed:



Development Management
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth
Herts
SG6 3JF

Development & Conservation Manager

Date: xxxxx

The Council's Privacy Notice is available on our website: <https://www.north-herts.gov.uk/home/council-data-and-performance/data-protection/information-management-gdpr>

NOTES

- 1 **Failure to satisfy conditions may invalidate this permission and/or result in enforcement action. Particular attention should be paid to the requirements of any condition in bold.**
- 2 Applicants will need to pay a compliance fee where they request confirmation in writing of any planning consent, agreement or approval (commonly known as discharge of conditions) required by one or more conditions or limitations attached to a grant of planning permission.

- 3 The fee is £116 per request or £34 where the permission relates to an extension or alteration to a dwellinghouse or other development in the curtilage of the dwellinghouse.

The request can be informal through the submission of a letter or plans, or formal through the completion of an application form and the submission of plans. Any number of conditions may be included on a single request. The form is available via the Council's website:

www.north-herts.gov.uk/home/planning/planning-applications/submit-planning-application

- 4 If the development hereby permitted is one that will require a new postal address/es then please contact the Council's **street naming and numbering service** on 01462 474431 or email SNN@north-herts.gov.uk who will advise you on how to apply for the new address/es.

Any proposed sales and/or marketing name to be adopted by the developer should be forwarded to the **street naming and numbering service**, prior to any publication of the site details and sales information.

- 5 If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely

because the local planning authority based their decision on a direction given by him.

6 **Purchase Notices**

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

- 7 The District Council and County Highway Authority wish to ensure that, in the implementation of the development, hereby approved, the highway verge adjacent to the property is not damaged or does not become unsightly due to the stationing of skips, parking of vehicles, storing of building materials etc thereon. Your attention is, therefore, drawn to the provisions of Section 131 of the Highways Act 1980 and to the Hertfordshire County Council Bylaws 1955 (specifically relating to grass margins and verges in Letchworth Garden City) by virtue of which such actions, unless authorised by the prior grant of a licence, constitute a prosecutable offence. Persons responsible for undertaking the development and any associated works are, therefore, strongly encouraged to take appropriate steps to ensure that no breach of the said legislation occurs during the course of such activities. In the event of any damage being caused it will be expected that suitable reinstatement is undertaken upon completion of the development. Failure to do so could also result in legal action being pursued. To obtain information regarding the issue of licences, contact Hertfordshire Highways, Hertfordshire County Council, County Hall, Pegs Lane, Hertford, SG138DQ or telephone 0300 1234 047.

8 **Cadent Gas Informative:**

Cadent Gas own and operate the gas infrastructure within the area of your development. Contact our Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email plantprotection@cadentgas.com Alternatively you can register on www.beforeyoudig.cadentgas.com This service is free of charge.

THIS PLANNING PERMISSION DOES NOT CONSTITUTE APPROVAL UNDER BUILDING REGULATIONS AND IS NOT A LISTED BUILDING CONSENT OR

CONSERVATION AREA CONSENT. IT DOES NOT CONVEY ANY APPROVAL OR CONSENT WHICH MAY BE REQUIRED UNDER ANY ENACTMENT, BYE-LAW, ORDER OR REGULATION OTHER THAN SECTION 57 OF THE TOWN AND COUNTRY PLANNING ACT 1990.

SCHEDULE TWO

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:.....

Practical Completion of the 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

ANNEX

Original S106 Agreement and First Deed of Variation

J.D.C./TUTHILL

THIS AGREEMENT is made the *6th* day of *August* 1993
BETWEEN **DAVID MILLER** (the Owner) of 3 Bell Terrace, Therfield, Royston,
Hertfordshire of the first part and **NORTH HERTFORDSHIRE DISTRICT COUNCIL**
of Council Offices, Gernon Road, Letchworth, Hertfordshire (the Council)
of the second part

W H E R E A S :

(1) The Council is the Local Planning Authority for the land hereinafter mentioned for the purposes of the Town and Country Planning Act 1990 (the Act)

(2) The Owner is the estate owner in fee simple in possession of the land (the Land) situate at Tuthill Farm, Kelshall Road, Therfield, Royston, Hertfordshire and shown edged red on the attached plan for the purposes of identification only

(3) An application for planning permission has been made to the Council dated the 10th day of February 1992 Reference Number 92/0143/1 to use the Land as an operating depot for heavy goods vehicles (the Development)

IT IS AGREED AS FOLLOWS

1. THIS Agreement is made pursuant to Section 106 of the Act which section shall apply to the covenants hereinafter contained

2. The Agreement dated 15th September 1978 made between the

North Hertfordshire District Council and R.D. Miller Esq and F.E.C. Miller Esq. and D.F. Miller and Sons Limited pursuant to Section 52 of the Town and Country Planning Act 1971 relating to the land is hereby revoked

3. The Owner covenants with the Council as follows:-

- (a) Not to use that part of the Land coloured red on the attached plan for any purpose other than as landscaped area
- (b) Not to use that part of the Land coloured blue on the attached plan for any purpose other than the storage of agricultural vehicles machinery and equipment which are used by the Owner in connection with the business carried out on the Land
- (c) Not to use that part of the Land hatched black on the attached plan for any purpose other than for parking of four heavy goods vehicles owned and operated by the Owner of the Land coloured blue

4. In the interpretation of this Deed (a) all references to the Owner shall where the context so admits be deemed to include their respective successors in title and assigns and (b) so far as the context requires

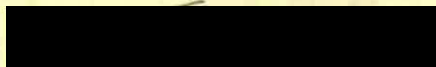
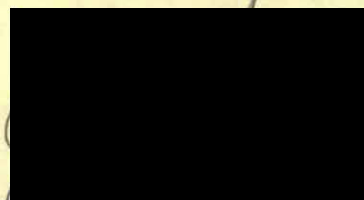
- (i) all references to the Owner and the Licensee in the singular shall include the plural
- (ii) words importing the masculine gender shall include the feminine and
- (iii) the persons named as Owner (if more than one) shall be treated as jointly and severally liable in respect of the above covenant

IN WITNESS whereof the Owner has signed this instrument as a Deed and the Council have caused its Common Seal to be hereunto affixed the day and year first before written

SIGNED as a DEED

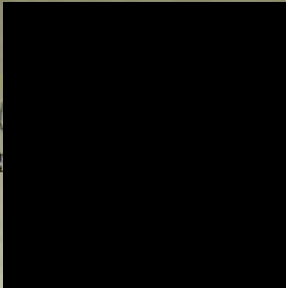
by the said DAVID MILLER

in the presence of:-

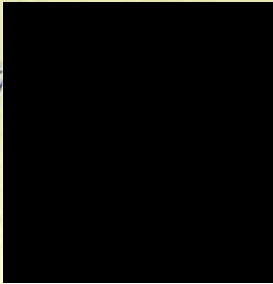


walkers solicitors
113 Lower King Street
Rayster Nets
Legal Assistant

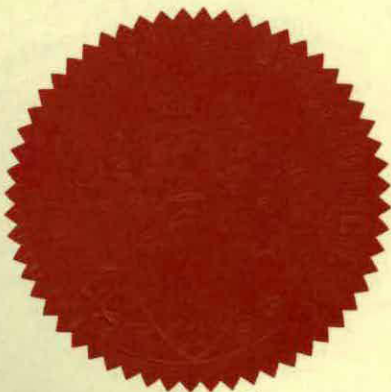
~~SIGNED as a DEED~~
~~by the said R.D. MILLER~~
~~in the presence of:-~~



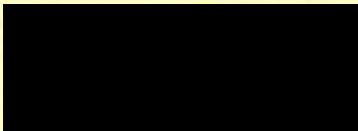
~~SIGNED as a DEED~~
~~by the said D.F. MILLER AND SONS~~
~~LIMITED in the presence of:-~~



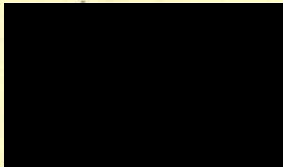
THE COMMON SEAL of
NORTH HERTFORDSHIRE DISTRICT
COUNCIL was hereunto affixed
in the presence of:-



121587



Vice-Chairman

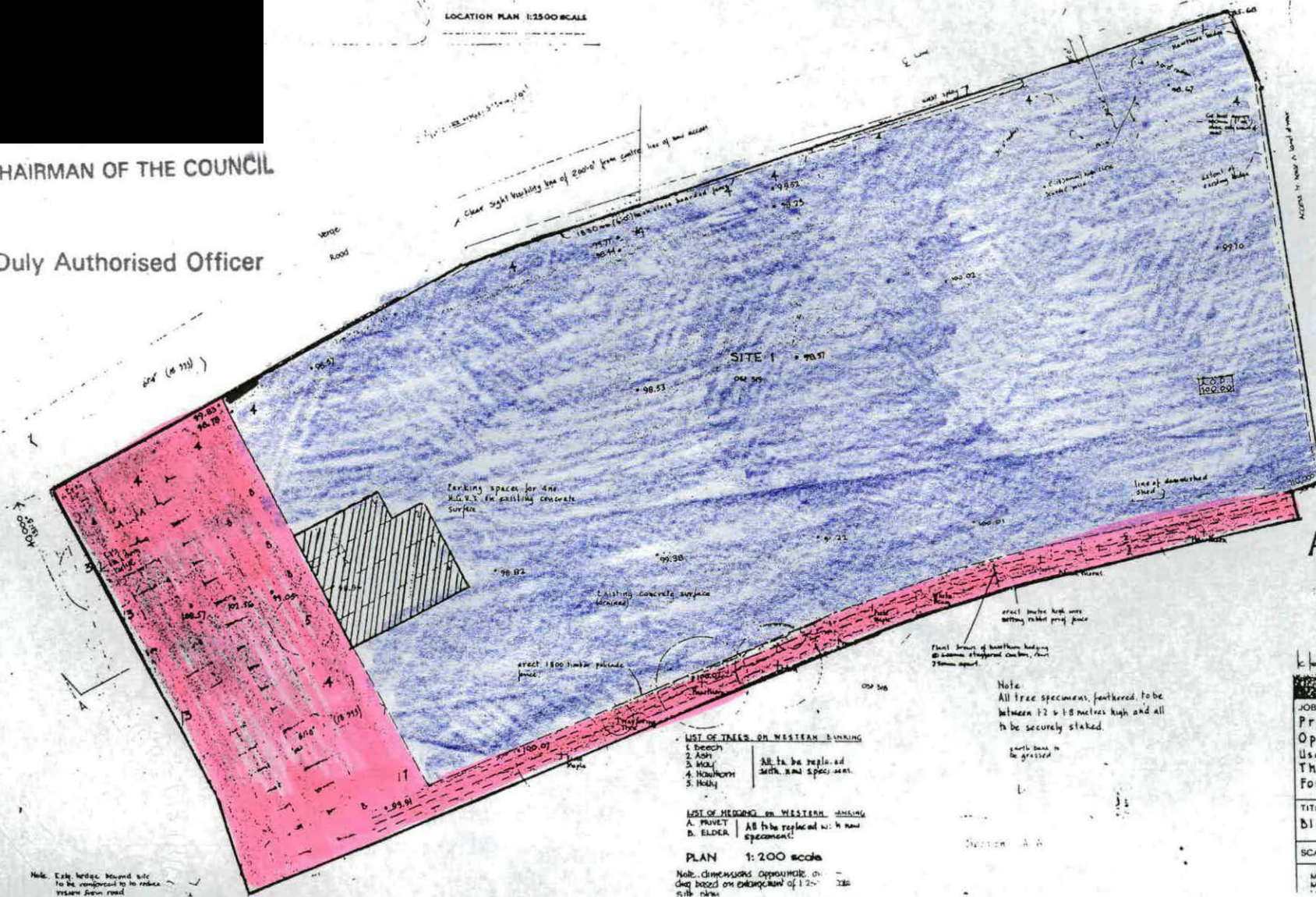
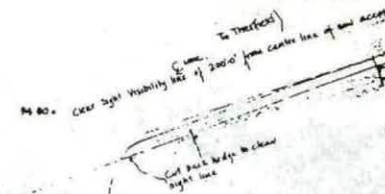


Duly Authorised Officer

✓165- CHAIRMAN OF THE COUNCIL

Duly Authorised Officer

Page 164



AMENDED



K | 10.4.71 | Meeting attended, notes added

Proposed Vehicle
Operating Depot (additional
Use). Tuthill Farm,
Therfield, Royston, Herts.
For David Miller Esq.

TITLE
Block & Location Plans

SCALE: 1:200, 1:350	DWG No 9201/010
---------------------	-----------------

M.J. Wareham M.B.I.A.T.
Moycullen, Blacksmiths Lane, Flood, Royston.

• LIST OF TREES ON WESTERN BANKING

1. Beech	All to be replaced with same spec. trees.
2. Ash	
3. May	
4. Hawthorn	
5. Holly	

LIST OF MEDICINE on WESTERN ANGEL
A. PRIVET | All to be replaced w: a new
B. ELDER | specimen!

PLAN 1: 200 scale

Note: dimensions approximate on
diag based on enlargement of 12-
size film

Note
All tree specimens, feathered, to be
between 1.2 to 1.8 metres high and all
to be securely staked.

earth bank
on grass

Note. Ealy bridge beyond site
to be reinforced to reduce
vibration from road

DATED

6th August

1993

NORTH HERTFORDSHIRE DISTRICT
COUNCIL

and

DAVID MILLER

AGREEMENT

under Section 106 of the Town and Country
Planning Act 1990

in respect of land at Tuthill Farm Kelshall Road
Therfield Royston Hertfordshire

THIS DEED OF VARIATION is made the 4th March 1996
BETWEEN David Miller of 3 Bell Terrace Therfield Royston Hertfordshire ("the Owner") of the one
part and North Hertfordshire District Council of Council Offices Gernon Road Letchworth
Hertfordshire ("the Council") of the other part

WHEREAS

- (1) This deed is supplemental to an Agreement dated the 6th August 1993 and made between the Owner of the one part and the Council of the other part ("the Agreement") and relating to land at Tuthill Farm Kelshall Road Therfield Hertfordshire shown edged red on Plan number 9201/01H and thereafter known as plan number 1 ("Plan 1") ("the Land")
- (2) The Owner desires to site a telecommunications mast upon the Land which would have permitted development rights under the Town and Country General Development Order 1988 (as amended) as shown in Plans numbered 30/HRT0046/PH3/01 and 02 respectively and thereafter known as plans numbered 1 and 2 annexed hereto ("Plans 2 and 3")
- (3) The Owner has made an application for planning permission (Dated: 18 November 1993 Reference No: 93/1303/1) to site a portable storage unit on the Land in the position indicated in brown on Plan 1
- (4) The parties have agreed that the Agreement should be varied in the terms hereinafter contained and that the plans 1 2 and 3 annexed hereto (the plans) shall be substituted for the plan annexed to the Agreement

NOW THIS DEED WITNESSETH as follows

1. This Deed is made pursuant to Section 106 and 106A of the Town and Country Planning Act 1990 which sections shall apply to this Deed
2. The plans shall be substituted for the plan annexed to the Agreement

3. Clause 3(a) of the Agreement shall be varied to permit the siting of a telecommunication mast not exceeding a height of 15 metres (excluding lightning spikes) as shown in Plans 2 and 3 and on the area coloured green on Plan 1 and not upon any other location on the Land and subject to the planting and maintenance requirements contained within the First Schedule hereto
4. Clause 3(b) of the Agreement shall be varied to allow the use of that part of the Land coloured blue on Plan 1 to include the siting of a portable storage unit (measuring 7.2 x 2.6 x 2.3 metres) on the area coloured brown on Plan 1 and not upon any other location on the Land and subject to the conditions contained within the Second Schedule hereto.
5. In all other respects the Agreement (dated the 6th August 1993) and every part thereof shall continue in full force and effect and be binding on the respective parties and their successors in title

Page 167
WITNESS whereof the Owner has signed this instrument as a Deed and the Council has caused its Common Seal to be hereunto affixed the day and year first before written

FIRST SCHEDULE

1. The 6 trees and 130 hedging plants on the earth embankment at the western end of the Land and the 6 additional trees adjacent to the southern boundary of the Land and shown coloured red on Plan 1 shall be planted within a period of 6 months of the date of this Deed, or such longer period as may be agreed in writing by the Council, in accordance with the details specified on Plan 1 and thereafter this planting together with the existing 12 trees and three rows of hawthorn hedging adjacent to the southern boundary shall be maintained for a period of five years from the date of this Deed or of the original planting whichever is the later in compliance with the following operations:-

- (i) The hedge planting beds and an area at least one metre square around the bases of all trees shall be cleared of weeds at least five times during each calendar year at not less than intervals of 6 weeks
- (ii) Stakes and ties shall be adjusted as necessary and be removed on establishment of the trees
- (iii) All trees and hedging plants shall be irrigated as and when required to ensure proper establishment
- (iv) Any tree or hedging plant which dies or fails to establish during the said maintenance period shall be replaced with another of the same species and planting size as soon as reasonably practicable.
2. None of the trees or hedging plants shown on Plan 1 and referred to above shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed other than with the agreement, in writing, of the Council.

SECOND SCHEDULE

1. The portable storage unit shall remain on the Land only during the use of the adjacent area of the site for the parking of four heavy goods vehicles in accordance with the terms of planning permission reference no. 92/0143/1. Upon the cessation of that use the portable storage unit shall be removed from the Land unless the Council has expressed in writing its agreement for the unit to be retained thereon.
2. The portable storage unit shall not be used otherwise than for the storage purposes wholly ancillary to the lawful uses of the Land.

[Redacted]

(Signed as a DEED
(by the said David Miller
(in the presence of:-

Name

Address

Occupation BUILDER

(THE COMMON SEAL OF
(NORTH HERTFORDSHIRE
(DISTRICT COUNCIL

(was hereunto affixed
(in the presence of:-

[Redacted]

Chairman

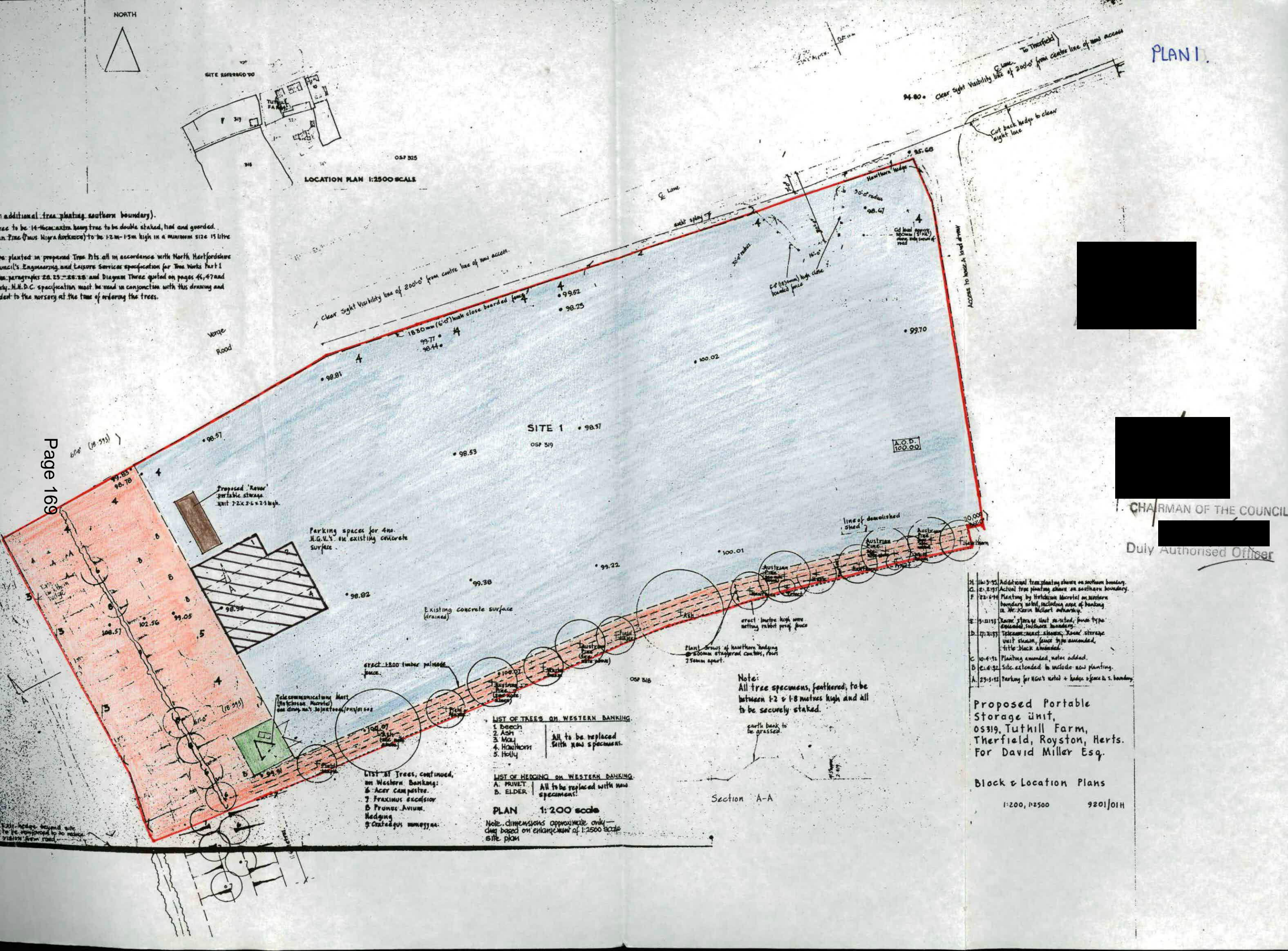
[Redacted]

Duly Authorised Officer



122714

additional tree planting southern boundary).
 tree to be 14 Nos extra heavy tree to be double staked, tied and guarded.
 in Pine (Pinus nigra Arvensis) to be 12m-15m high in a minimum size 15 litre
 re: planted in prepared Tree Pits all in accordance with North Hertfordshire
 Council's Engineering and Leisure Services specification for Tree Works Part 1
 paragraphs 2.8.25-2.8.28 and Diagram Three quoted on pages 46, 47 and
 etc. N.H.D.C. specification must be read in conjunction with this drawing and
 sent to the nursery at the time of ordering the trees.



- LIST OF TREES ON WESTERN BANKING
1. Beech
 2. Ash
 3. Holly
 4. Hawthorn
 5. Holly
- All to be replaced with new specimens.

- LIST OF HEDGING ON WESTERN BANKING
- A. PRIVET
 - B. ELDER
- All to be replaced with new specimens.

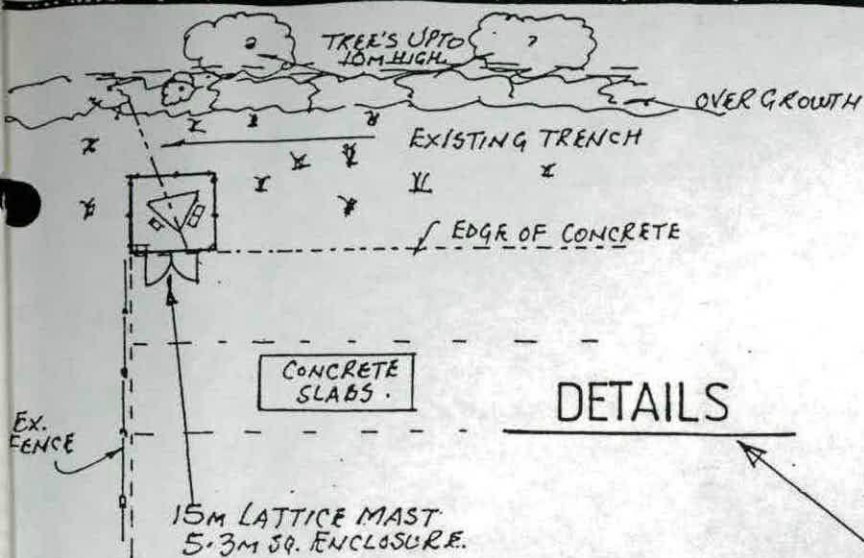
PLAN 1:200 scale
 Note: dimensions approximate only -
 checked based on enlargement of 1:2500 scale
 site plan

- A. 23.1.12 Parking for Kewer's unit + hedge & fence to S. boundary.
- B. 21.4.92 Site extended to include new planting.
- C. 10.4.93 Planting amended, notes added.
- D. 17.1.93 Telecomm mast shown. Kewer storage unit shown, fence type amended, title block amended.
- E. 3.11.93 Kewer storage unit re-sited, fence type amended, title block amended.
- F. 22.1.94 Planting by Hutchison Mervel on western boundary noted, including area of banking in Mr. Kevin Millard's authority.
- G. 21.8.97 Actual tree planting shown on southern boundary.
- H. 16.3.95 Additional tree planting shown on southern boundary.

Proposed Portable Storage Unit,
 OS 319, Tuthill Farm,
 Therfield, Royston, Herts.
 For David Miller Esq.

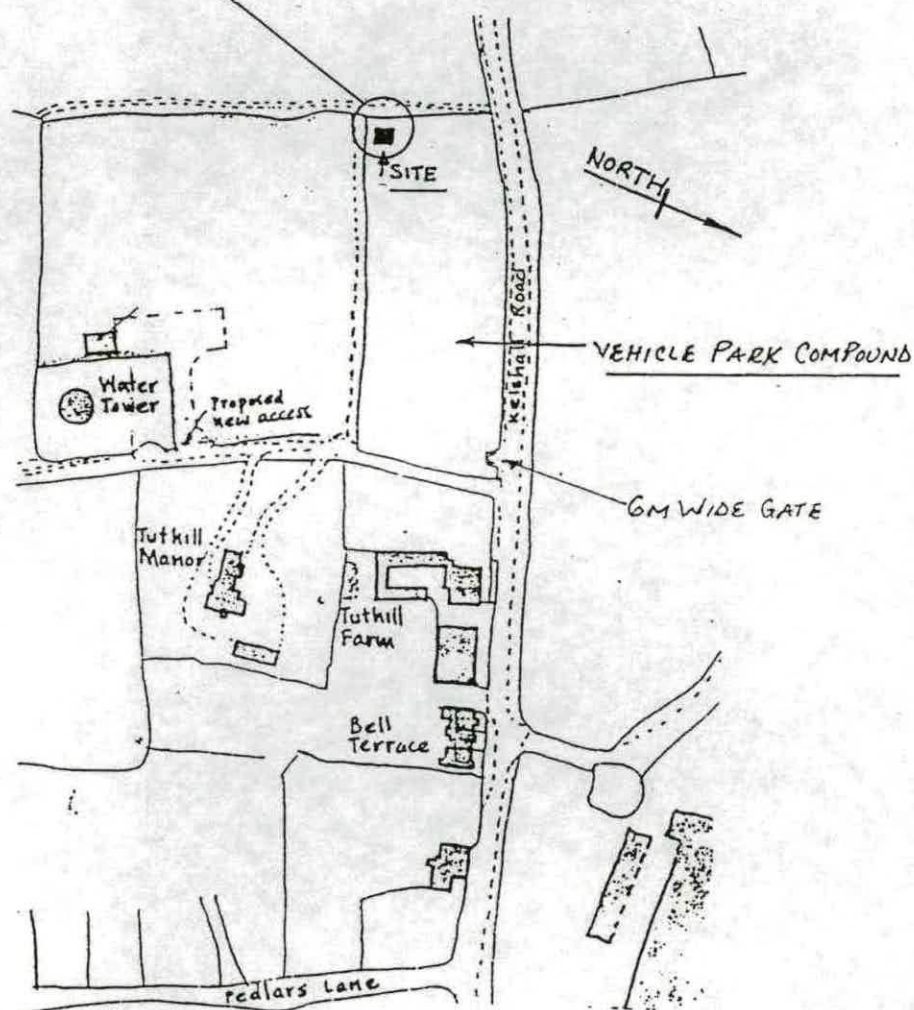
Block & Location Plans
 1:200, 1:2500 9201/01H

CHAIRMAN OF THE COUNCIL
 [Redacted]
 Duty Authorised Officer



NOTE:
EXISTING TRENCH CONTAINS
POWER & WATER SUPPLY (ASSUMED
NOT CONNECTED) WHICH IS TO BE
SUITABLY RE-ROUTED AND BOXED-IN
FOR FUTURE CONNECTION.

DETAILS



SITE PLAN

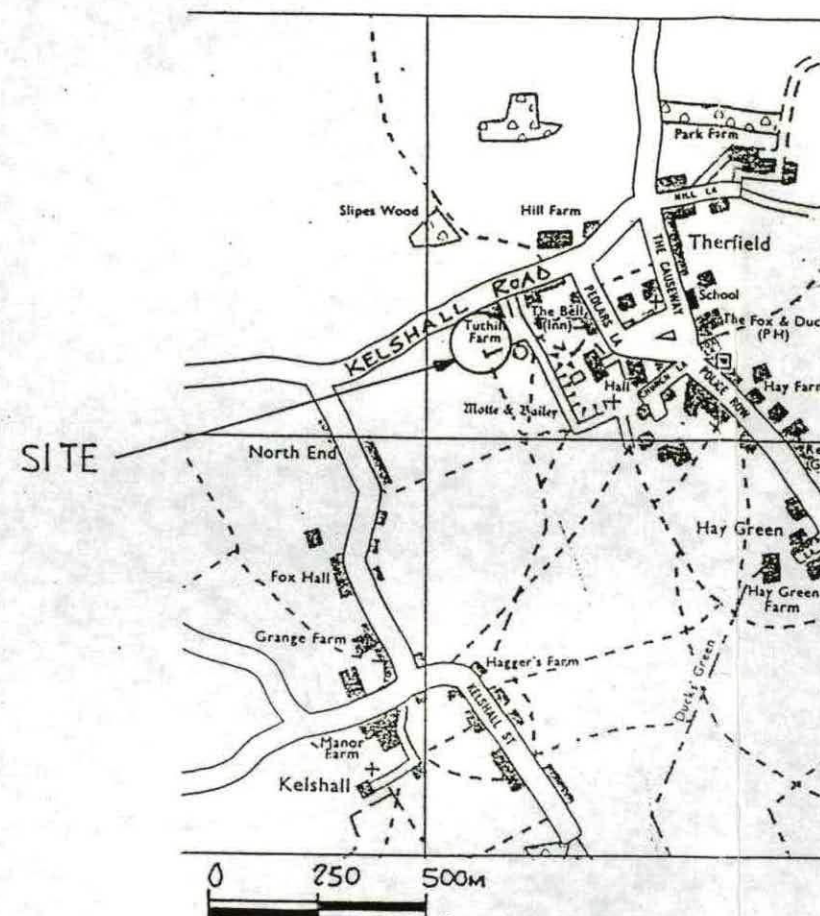
(1:2500)



PLAN 2.

NOTES

See drawing no. 02



LOCATION PLAN

CHAIRMAN OF THE COUNCIL

Duly Authorised Officer



COMMERCIAL IN CONFIDENCE

NOT SCALE 4444 / 218

LEVANT BS STANDARDS BS 308 BS 3429

OSCAR FABER

Oscar Faber Consulting Engineers Limited
Marlborough House, Upper Marlborough Road
St Albans, Herts. AL1 3UI
Tel: 081-784 5784 Fax: 081-784 5700

REV	DESCRIPTION	BY	DATE	CHKD
1	ISSUED FOR COMMENTS	188	6.93	

TITLE TUTHILL FARM, THERSFIELD
ROYSTON, HERTS.

LOCATION AND SITE PLAN

CELL N° HRT0046 ARTEMIS N° 2527

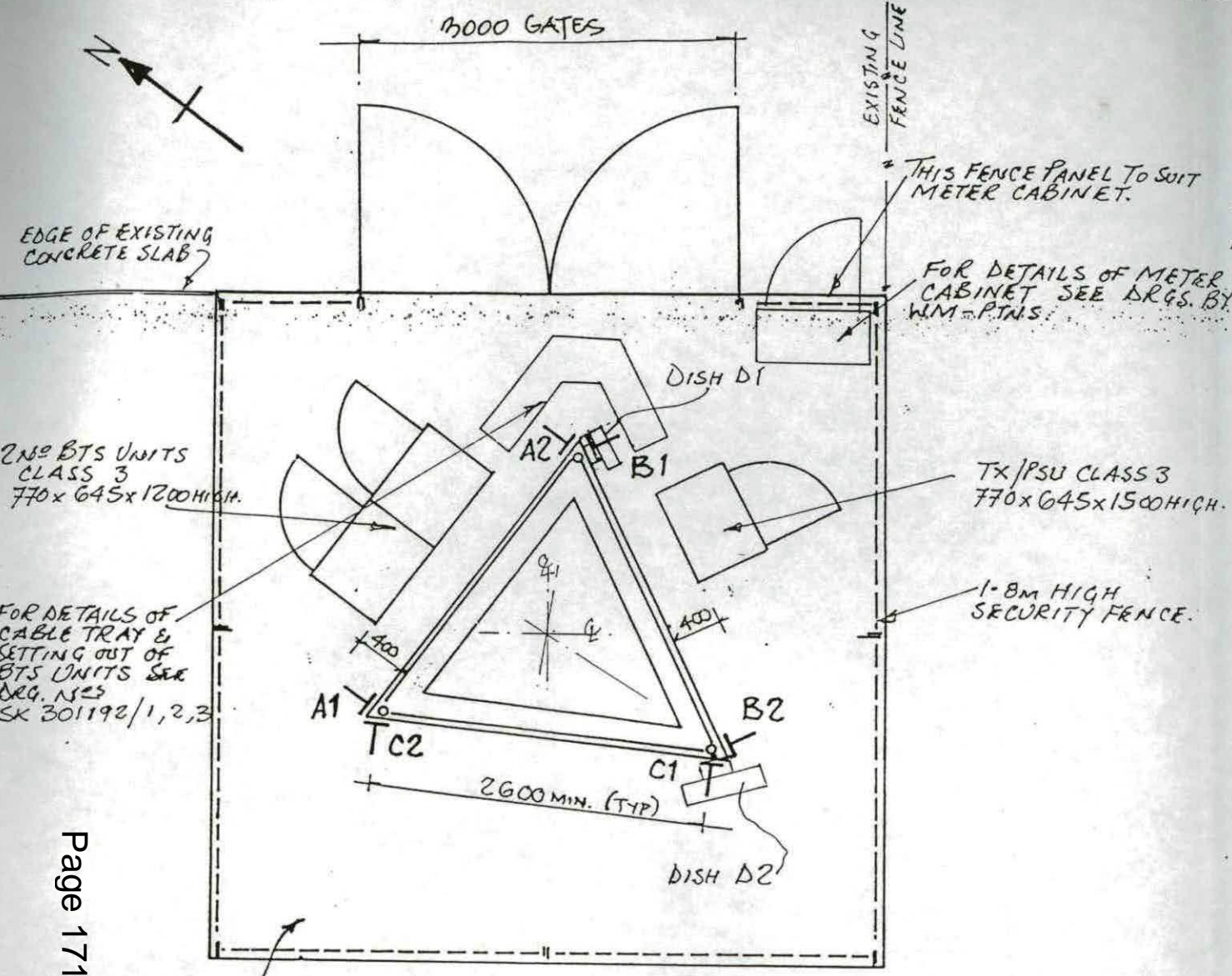
SCALE	DRAWN	CHECKED	APPROVED
AS NOTED	188	188	188
DATE	JUNE '93	DATE	JUNE '93
DATE	JUNE '93	DATE	JUNE '93

Hutchison ©
Microtel

St JAMES COURT
GREAT PARK ROAD
ALMONDSBURY
BRISTOL BS12 4QJ

TEL. 0454 618500
FAX 0454 618501

DRAWING NUMBER
30/HRT0046/PH3/01



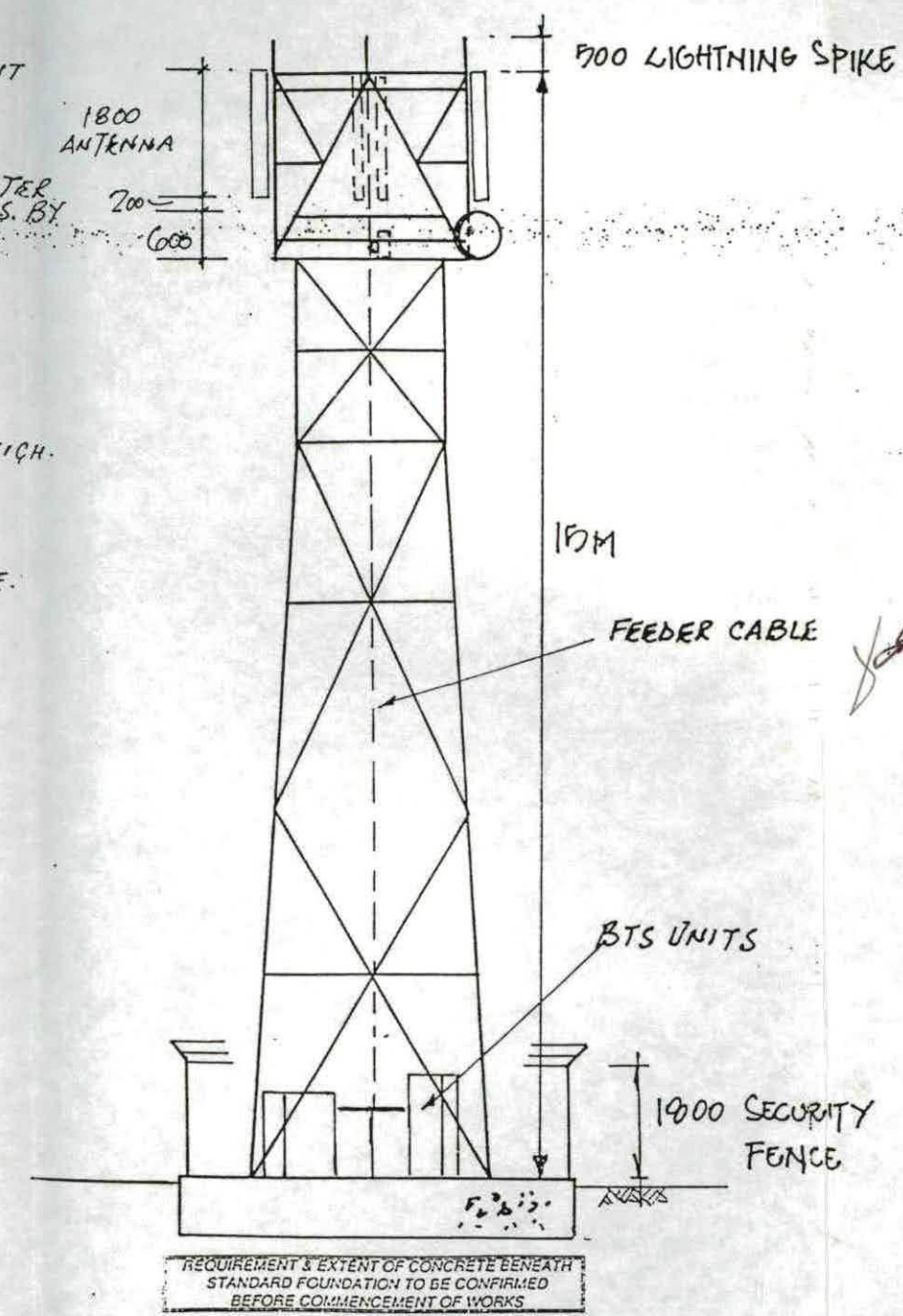
PLAN ON ENCLOSURE (1:50)

5.3m x 5.3m CONCRETE BASE.

ANTENNAS A1 & A2 AT 0°
B1 & B2 AT 120°
C1 & C2 AT 240°

DISHES - D1 AT 120°; 300mm DIA.
D2 AT 220°; 600mm DIA.

MAXIMUM LENGTH OF FEEDER CABLE RUN = 20M.



WEST ELEVATION (1:100)

- NOTES
- 1 All work to be carried out in accordance with the specification.
 - 2 All dimensions in mm. Work to figures dimensions only. All dimensions to be checked on site prior to construction.
 - 3 Painting and preparation of steelwork to be in accordance with the specification.
 - 4 For grades of concrete and steelwork refer to the specification.
 - 5 Fixings to be installed in accordance with manufacturer's instructions.
 - 6 For details of antennas refer to drawing no. 10/1174/1X and 10/1175/1X.
 - 7 For details of transmission dishes refer to drawing no. 10/1170/1X
 - 8 For details of standard antenna mounting pole refer to drawings no. 10/1235/4X.
 - 9 For details of BTS Units refer to drawings nos. 10/1231/2X, 10/1229/1X and 10/1321/1X.
 - 10 For details of security fence refer to drawing no. 10/1156/1X
 - 11 For details of cable ducts, isolator and meter cabinet refer to M & E drawings by W-M Partnership. Where meter cabinet is set into security fence refer to drawing no. 10/1224/1X.
 - 12 For details of mast and foundation refer to BTS..... series of drawings by John Allen Associates for R & T Swann Ltd. Also see Recommended Procedure for the Assembly of Foundation Stub/Grillages booklet by R & T Swann Ltd.
- Other Oscar Faber drawings which are relevant to this site:
- 30/HRT0046/PH3/01

CHAIRMAN OF THE COUNCIL DISTRICT COUNCIL

Duly Authorised Officer

25 OCT 1993

91 6743 1 100

Hutchison
Microtel

St JAMES COURT
GREAT PARK ROAD
ALMONDSBURY
BRISTOL BS12 4QJ

TEL. 0454 618500
FAX 0454 618501

COMMERCIAL IN CONFIDENCE

DO NOT SCALE 4444 / 218

RELEVANT BS STANDARDS BS 308 BS 3429

OSCAR FABER

Oscar Faber Consulting Engineers Limited
Marlborough House, Upper Marlborough Road,
St Albans, Herts. AL1 3UJ
Tel: 081-784 5784 Fax: 081-784 5700

REV	DESCRIPTION	BY	DATE	CHECKED
1	ISSUED FOR COMMENTS	ES	6-93	CE

TITLE TUTHILL FARM, THERSFIELD
ROYSTON, HERTS,
MAST PLAN & ELEVATION

CELL NO HRT0046 ARTEMIS NO 2527

SCALE	DRAWN	CHECKED	APPROVED
AS NOTED	ES	CE	MM
DATE	DATE	DATE	DATE
JUNE '93	JUNE '93	JUNE '93	JUNE '93

DRAWING NUMBER
30/HRT0046/PH3/02

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PLANNING CONTROL COMMITTEE**DATE: 09 February 2023****PLANNING APPEALS LODGED**

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mrs Sarah Flain	08 December 2022	First floor front extension over existing ground floor and insertion rooflights in front and side roofslopes	4 Tall Trees St Ippolyts Hitchin SG4 7SW	22/00812/FPH	Householder Appeal Service
Mr and Mrs A Wilson	13 December 2022	Development A: Insertion of rooflights to existing front roof slope Development B: Dormer to existing rear roofslope to facilitate conversion of loftspace into habitable accommodation.	3 Masefield Way Royston SG8 5UU	22/01609/FPH	Written Representations
Hurstcourt Investments Limited	09 January 2023	Erection of one 3-bed and one 2-bed bungalows including associated car parking.	Land To The Rear Of 23 Conquest Close Hitchin	21/00354/FP	Written Representations

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PLANNING CONTROL COMMITTEE**DATE: 09 February 2023****PLANNING APPEALS DECISION**

APPELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APPEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Mr J Sapsed	Erection of agricultural storage building and formation of agricultural track	Land At Mill End Sandon SG9 0RN	22/00586/AG	Appeal Dismissed On 06 January 2023	Delegated	The Inspector concluded that despite the design and external appearance of the proposed building being typical of its form and function, its siting would be remote from residences and other buildings in Mill End. It would also be prominent within its immediate surroundings in the field and from further south, where visible from the public right of way. The building would therefore stand out as a prominent built incursion into the countryside, which would be harmful to the rural character of this part of the district. Accordingly, while the access track would function as an extension of the existing hardstanding near to Mill End, the siting of it and the hardstanding would be inappropriate, as they are proposed to serve the agricultural building.

Mr Brian Major	Erection of one detached 3-bed dwelling and single detached garage.	Slip Cottage Slip Lane Old Knebworth Knebworth Hertfordshire SG3 6QG	21/02684/FP	Appeal Dismissed On 11 January 2023	Delegated	The Inspector concluded that the proposal would be inappropriate development in the Green Belt in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Inspector also stated the proposed development would be contrary to North Herts Local Plan Policies SP2 (Settlement Hierarchy and Spatial Distribution) and SP5 (Countryside and Green Belt) and there are no material considerations that indicate a decision should be taken other than in accordance with the development plan.
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Appeal Decision

Site visit made on 17 October 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/X1925/W/22/3294232

Slip Cottage, Slip Lane, Old Knebworth SG3 6QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Brian Major against the decision of North Hertfordshire District Council.
 - The application Ref 21/02684/FP, dated 16 September 2021, was refused by notice dated 16 February 2022.
 - The development proposed is erection of a detached dwelling-house.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. It has been brought to my attention that the North Hertfordshire Local Plan 2011-2031 (NHLP) was adopted on 08 November 2022. This plan replaces the saved policies of the North Hertfordshire District Local Plan Second Review with Alterations, and I have therefore dealt with the appeal on this basis. The parties have been afforded opportunity to comment on the adoption of the NHLP, and as a result would not be prejudiced.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - whether the proposed development would be situated in an appropriate location having regards to the local development strategy.

Reasons

Whether inappropriate development

4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. One of the exceptions set out at Paragraph 149(e) is where development comprises limited infilling in villages.

5. Policy SP5 of the NHLP states that development proposals in the Green Belt will only be permitted where they would not result in inappropriate development or where very special circumstances have been demonstrated. This approach conforms with the provisions of the Framework in this respect.
6. In order to benefit from the exception set out at Paragraph 149(e) of the Framework, the proposed development must comprise "limited infilling", a term which is not defined within the Framework. It must also be located in a "village", which is again not defined within the Framework. Accordingly, each case must be considered on its individual circumstances.
7. Both parties acknowledge that there is no established settlement boundary to Old Knebworth. Therefore, in establishing whether the site lies within a village, consideration of the physical location of the site and its visual relationship to its surroundings is necessary.
8. Old Knebworth is a scattered linear settlement, with houses located on both sides of the main road (Park Lane). Intermittent gaps are evident which leads to development appearing clustered in form. The appeal site lies on Slip Lane, a smaller road which branches away from Park Lane, which, along with the appeal site, contains other residential properties and a horticultural nursery.
9. My attention has been brought to the approval of a residential dwelling¹ at a site at the junction of Slip Lane and Park Lane, where the Council acknowledged that the site was located within Old Knebworth village for the purposes of Paragraph 149(e) of the Framework. I have also been provided with details of a previous appeal decision² at Nup End, located to the southwest of the appeal site, where the Inspector reached a similar conclusion with regard to that particular site. I afford these decisions considerable weight as material considerations.
10. The circumstances of both of the sites in the examples presented differ to an extent from the appeal site in that they are both located closer to the main road, and thus the greatest concentration of development. However, the positions taken by both the Council and the Inspector in those cases indicates that the extent of Old Knebworth, taking account of its character of smaller clusters of development, can be considered to be wide and not restricted to the main area only. Whilst the appeal site does not lie within the main area of the settlement and is at the fringe of development, I nevertheless consider it to be within the extent of the village.
11. Turning to the matter of whether the proposed development would comprise limited infilling, the appeal site lies between Slip Cottage and a horticultural nursery to the west. A large, open agricultural field lies beyond Slip Lane to the north, and to the south of the appeal site is open countryside. Buildings within the neighbouring nursery are focussed towards the west of that site, and as a result, there is a substantial break in development between built development at the neighbouring property and the appeal site.
12. Open countryside exists to the north and south of the appeal site, and the proposed development would not expand the built envelope of the settlement beyond its current extent in these directions. However, the appeal site and neighbouring properties to the east are clearly separated from the horticultural

¹ 20/02474/FP

² APP/X1925/W/21/3274409

nursery to the west, and a large part of this gap in built development would remain following the construction of the proposed dwelling. Therefore, the proposed development would only be closely related to existing built development on its eastern edge. Accordingly, it would not constitute infilling.

13. I am aware that the Council, in approving³ a new dwelling in the locality, considered that that proposal amounted to infill development. However, the circumstances of that instance differed from those now before me, particularly in relation to the relationship of that site to surrounding development, where the site is sits between built development on two boundaries, as well as immediately opposite further development across a road on a third boundary.
14. As I consider that the proposed development would not comprise limited infilling within a village, and no other exception identified in Paragraph 149 of the Framework would apply, I consider that the proposal would comprise inappropriate development in the Green Belt which is, by definition, harmful.

Openness

15. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The site is previously developed in that it currently partially comprises a tennis court surrounded by link fencing. Although the existing structure has some effect on the openness of the Green Belt at present, the nature of this development is relatively lightweight. The proposed dwelling would represent a development of increased size and massing.
16. Accordingly, it would have a significantly greater harmful effect upon the openness of the Green Belt in this location, eroding the visual separation of the existing dwelling from others, and the openness of its surroundings. I afford substantial weight to this harm.

Appropriate location for housing

17. NHLP Policy SP2 makes provision for new housing development in category B villages, such as Old Knebworth, where it comprises infill and does not extend the built core of the village. I have concluded that the proposed development would not comprise limited infilling amounting to a single dwelling, and although it would be located within the village, it would not be within the main area of the settlement. Accordingly, the proposed development would be contrary to the approach to the location of new development set out in LP Policy SP2.

Other Considerations

18. The main parties agree that the proposed development would not result in harm to the significance of Old Knebworth Conservation Area (OKCA) or the setting of other heritage assets in the local area, and I have been presented with no evidence which would lead me to disagree with this assessment.
19. The proposed development would represent a new dwelling of appropriate scale and design and sited such that it would reflect the general character of traditionally designed and proportioned dwellings which forms the significance of the OKCA. In reaching this conclusion, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the

³ 20/02474/FP

conservation area, and other heritage assets in accordance with the relevant duties in the Planning (Listed Buildings and Conservation Areas) Act 1990.

20. Although the character or appearance of the OKCA would be preserved, this is a neutral factor, and does not weigh in favour of the proposal.

Conclusion

21. In summary, the proposal would be inappropriate development in the Green Belt in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. Therefore, it should not be approved except in very special circumstances. The Framework requires that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
22. I give moderate weight to the contribution that the proposal would make to rural housing in an area where there is currently a shortfall, and the contribution it would make to the viability of local services. I also afford modest weight to the short-term economic benefits that would result during the construction process. However, for the reasons set out above, the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated.
23. The proposed development would be contrary to NHLP Policies SP2 and SP5, and there are no material considerations that indicate a decision should be taken other than in accordance with the development plan. For the reasons given above, the appeal is dismissed.

C Harding

INSPECTOR



Appeal Decision

Site visit made on 28 November 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/X1925/W/22/3298494

Millbury Farm, Mill End, Sandon SG9 0RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr J Sapsed against the decision of North Hertfordshire District Council.
- The application Ref 22/00586/AG, dated 24 February 2022, was refused by notice dated 24 March 2022.
- The development proposed is agricultural storage building and agricultural track. Track to be 2.5 metres x 280 metres. Hardstanding 50m². Total - 974 m².

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council did not consider the siting, design, and external appearance of the proposal in its decision, so I invited the main parties to comment regarding the implications of such matters and I have had regard to the responses received.

Main Issues

3. The proposal is for determination as to whether prior approval is required for an agricultural building, access track and hardstanding, so relates to Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). The main issues are therefore:
 - whether or not the proposal would comply with the conditions and limitations of Class A of Part 6 to Schedule 2 of the Order, with particular regard to whether or not they would be carried out on agricultural land, within an agricultural unit, and are reasonably necessary for the purposes of agriculture within the unit; and
 - if so, whether or not prior approval can be given having regard to the siting, design, and external appearance of the proposal.

Reasons

Agricultural Land, Unit and Whether Reasonably Necessary

4. In order to benefit from the rights presented in Class A of Part 6 to Schedule 2 of the Order, works for the erection, extension, or alteration of a building; or any excavation or engineering operations, have to be carried out on

- agricultural land comprised in an agricultural unit exceeding 5 hectares in size; and be so used for the purposes of a trade or business.
5. There is no dispute between the main parties that the land at Millbury Farm is used for anything other than the process of agriculture, in this case the growing of grass for silage and grazing; and extends to 21 Hectares in size. The land therefore meets the requirements of the Order in both respects.
 6. Paragraph D.1(2)(a) in Class A of Part 6 to Schedule 2 of the Order explains that any other building, structure, works, plant, machinery, ponds, or tanks constructed within the same unit which are being provided or have been provided within the preceding two years should be taken into account in establishing the size of a proposal, but only in relation to any part within 90 metres of the proposed development. The building at Slate Hall Farm was permitted in July 2021 but is 2.5 miles away, so is not included.
 7. The evidence before me confirms Slate Hall Farm is a smaller parcel of land, within the agricultural unit. The appellant states it is a base all year round, but is only suitable for storage out of season, not for the items of machinery and equipment required to farm the larger parcel of land at Millbury Farm. The appellant proposes to also store fertilisers, other equipment, materials and feed used in connection with grazing of the land.
 8. The appellant may well have argued the building at Slate Farm was intended to meet these requirements, one course of action may therefore see him work Millbury Farm from the building at Slate Farm. While the proposal would result in buildings at both locations, it would be an alternative course of action that a reasonable person could choose to take, as it would avoid movements between farms, and it would be of a size and nature reasonably necessary for the purposes of agriculture within the unit.
 9. The proposed building and hardstanding would be linked, by a hardcore access track, to the existing hardstanding at Mill End. It would have a surface finish similar to the latter and its width would exceed requirements of Government¹ guidance. The new hardstanding would enable vehicles to access the gated entrance of the enclosed part of the building and the remainder would be open sided and accessible from surrounding land. There is no fit for purpose test in the Order and the practical reality of the hardstanding or track exceeding the dimensions set out in the proposal is a matter for the Council to investigate in circumstances where an appeal is successful. In the proposal, the access track and hardstanding would be reasonably necessary for the purposes of agriculture within the unit.
 10. For the reasons given, the proposed building, hardstanding and access track would be situated on agricultural land comprised in an agricultural unit of five hectares or more. They would also be reasonably necessary for the purposes of agriculture within the unit. As such, they would comply with these particular conditions and limitations of Class A of Part 6 to Schedule 2 of the Order.

Siting, Design, and External Appearance

11. Paragraph A.2(2)(i) of the conditions to Class A of Part 6 to Schedule 2 of the Order explains that "the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior

¹ Department for Environment Food and Rural Affairs.

approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be”.

12. Development in Mill End is generally situated within close proximity of the route leading through it and it is enveloped by fields enclosed by mature hedgerows and trees, all of which contribute positively to the rural character of this part of the district. The appellant’s land is typical of these fields and extends someway from Mill End behind the neighbouring equestrian site.
13. The proposed building, access track and hardstanding would be close to the southern boundary of the field and the Public Right of Way (PROW) leading from Mill End adjacent to the neighbouring equestrian site and further south beyond it. While the boundary includes some mature trees, it primarily consists of a patchy hedge of varying height.
14. Despite the design and external appearance of the proposed building being typical of its form and function, its siting would be remote from residences and other buildings in Mill End. It would also be prominent within its immediate surroundings in the field and from further south, where visible from the PROW. The building would therefore stand out as a prominent built incursion into the countryside, which would be harmful to the rural character of this part of the district. Accordingly, while the access track would function as an extension of the existing hardstanding near to Mill End, the siting of it and the hardstanding would be inappropriate, as they are proposed to serve the agricultural building.
15. The characteristics of the site of the building also undermine the notion that it would be important for its security, as it would be some distance from the visibility of neighbouring occupiers in Mill End, and accessible to the PROW.
16. In light of the above, I conclude that the proposal fails to meet condition A.2.(2)(i) to Class A of Part 6 to Schedule 2 of the Order.

Conclusion

17. Prior approval of the siting, design and external appearance of the building is required and, for the above reasons, the siting of the proposal would be unacceptable. Accordingly, prior approval is refused, the proposal is not permitted development under the provisions of Class A of Part 6 to Schedule 2 of the Order and the appeal is dismissed.

Paul Thompson

INSPECTOR

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