

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**



9 Sept 2022

Our Ref Planning Control Committee/20 Sept 22  
Contact. Committee Services  
Direct Dial. (01462) 474655  
Email. [committee.services@north-herts.gov.uk](mailto:committee.services@north-herts.gov.uk)

To: Members of the Committee: Councillors Val Bryant (Chair), Tom Tyson (Vice-Chair), Alistair Willoughby, Daniel Allen, David Levett, Ian Moody, Morgan Derbyshire, Sean Nolan, Simon Bloxham, Terry Tyler and Tony Hunter

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

**NOTICE IS HEREBY GIVEN OF A**

**MEETING OF THE PLANNING CONTROL COMMITTEE**

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES, GERNON  
ROAD, LETCHWORTH, SG6 3JF**

On

**TUESDAY, 20TH SEPTEMBER, 2022 AT 7.30 PM**

Yours sincerely,

Jeanette Thompson  
Service Director – Legal and Community

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

## **Agenda**

### **Part I**

<b>Item</b>		<b>Page</b>
<b>1.</b>	<b>APOLOGIES FOR ABSENCE</b> Members are required to notify any substitutions by midday on the day of the meeting.  Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.	
<b>2.</b>	<b>NOTIFICATION OF OTHER BUSINESS</b> Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.  The Chair will decide whether any item(s) raised will be considered.	
<b>3.</b>	<b>CHAIR'S ANNOUNCEMENTS</b> Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
<b>4.</b>	<b>PUBLIC PARTICIPATION</b> To receive petitions, comments and questions from the public.	
<b>5.</b>	<b>18/01502/OP - LAND BETWEEN ROYSTON ROAD AND, CAMBRIDGE ROAD, BARKWAY, HERTFORDSHIRE</b> REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER  Outline application with all matters reserved other than strategic point of access onto Royston Road and Cambridge Road for the erection of up to 140 dwellings and a new shop.	(Pages 5 - 78)
<b>6.</b>	<b>22/00170/FP - THE LORD LISTER HOTEL, 1 PARK STREET, HITCHIN, HERTFORDSHIRE, SG4 9AH</b> REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	(Pages 79 - 128)

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

7. **22/00171/LBC - THE LORD LISTER HOTEL, 1 PARK STREET, HITCHIN, HERTFORDSHIRE, SG4 9AH** (Pages 129 - 144)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

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

8. **CURRENT ENFORCEMENT NOTICES** (Pages 145 - 146)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

9. **EXCLUSION OF PRESS AND PUBLIC**  
To consider passing the following resolution:

That under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting on the grounds that the following report will involve the likely disclosure of exempt information as defined in Paragraphs 5 and 7 of Part 1 of Schedule 12A of the said Act (as amended).

10. **CURRENT ENFORCEMENT ACTIONS** 147 -  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 158

This page is intentionally left blank

<u>Location:</u>	<b>Land Between Royston Road And Cambridge Road Barkway Hertfordshire</b>
<u>Applicant:</u>	<b>Mr Robert Rand</b>
<u>Proposal:</u>	<b>Outline application with all matters reserved other than strategic point of access onto Royston Road and Cambridge Road for the erection of up to 140 dwellings and a new shop.</b>
<u>Ref. No:</u>	<b>18/01502/OP</b>
<u>Officer:</u>	<b>Anne McDonald</b>

**Date of expiry of statutory period:** 06.09.2018

## **Reason for Delay**

The application was put on hold while the emerging Local Plan 2011 – 2031 continued to progress.

## **Reason for Referral to Committee**

The site area at 7.3 ha is greater than 0.5 ha and as the proposal is for residential re-development, in accordance with the Council's constitution the application is being presented to Planning Control Committee for determination.

### **1.0 Policies**

#### **1.1 National Planning Policy Framework February 2019:**

#### **1.2 In general and with regard to:**

Section 2 – Achieving sustainable development;  
Section 4 – Decision-making;  
Section 5 – Delivering a sufficient supply of homes;  
Section 6 – Building a strong, competitive economy;  
Section 11 – Making effective use of land;  
Section 12 – Achieving well-designed places;  
Section 15 – Conserving and enhancing the natural environment;  
Section 16 – Conserving and enhancing the historic environment

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

Policy 6 - Rural areas beyond the Green Belt;  
Policy 14 – Nature Conservation;  
Policy 16 - Areas of Archaeological Significance and other Archaeological Areas;  
Policy 26 - Housing Proposals;  
Policy 29A – Affordable Housing for Local Needs;

Policy 51 – Development Effects and Planning Gain  
Policy 55 – Car Parking (SPD Car parking);  
Policy 57 – Residential Guidelines and Standards.

#### 1.4 **Supplementary Planning Document.**

SPD – Vehicle Parking at New Developments;  
SPD – Planning Obligations;.

#### 1.5 **North Hertfordshire District Local Plan 2011-2031 'Submission Local Plan and Proposals Map**

SP1 - Sustainable development in North Hertfordshire;  
SP2 - Settlement Hierarchy;  
SP8 - Housing;  
SP9 - Design and Sustainability;  
SP10 - Healthy Communities;  
SP11 - Natural resources and sustainability;  
SP12 - Green infrastructure, biodiversity and landscape;  
SP13 - Historic Environment;  
T2 – Parking;  
HS1 - Local Housing Allocations  
HS2 - Affordable housing;  
HS3 - Housing mix;  
D1 - Sustainable design;  
D3 - Protecting living conditions;  
D4 - Air quality;  
NE1 - Landscape;  
NE5 - New and improvement public open space and biodiversity;  
NE7 - Reducing flood risk;  
NEx – Biodiversity and geological sites;  
NE8 - Sustainable drainage systems;  
HE4 - Archaeology.

#### 2.0 **Site History**

- 2.1 16/02759/1 – Outline application with all matters reserved other than strategic point of access onto Royston Road for the erection of up to 100 dwellings and a new shop (A1 use) with associated public open space, landscaping and drainage. The application was recommended for refusal for four reasons (which are set out below), but was withdrawn before the application was presented to Planning Control committee and determined.

#### 3.0 **Representations**

- 3.1 **Barkway Parish Council** – comments from 2018 - the Planning Statement is entirely reliant on the designation of the site for residential development in the Submission Local Plan, site BK3. However, this plan is not yet concluded and there have been, and continue to be, objections to the designation of this site. The Plan has not yet been found sound or adopted. Consequently the weight which it can be afforded to it remains limited. The application must be considered against Local Plan no.2 and the NPPF.

- 3.2 We have objected to the allocation of BK3 on the basis that it would have a harmful impact on the countryside and environment. The proposals are of an excessive scale

in terms of the size and character of Barkway and is in an unsustainable location, particularly with respect to access to employment, services and facilities without the use of private vehicles. These are all contrary to both the policies in the NPPF and the Local Plan no.2 and the Submission Local Plan.

- 3.3 The absence of the five-year housing land supply does not excuse the developer from applying the core principles of the NPPF which clearly state the 'presumption in favour of sustainable development'. We believe that the proposed development is unsuitable and the adverse impacts outweigh the benefits when assessed against the terms of the Framework as a whole.
- 3.4 The development has not undertaken proper community involvement, but has referred to a document which was submitted with the previous application on just three-fifths of the site to which over 96% of the population objected.
- 3.5 The 2016 application was recommended for refusal. One reason was that the school site separates the houses from the village. This application has not overcome this reason for refusal.
- 3.6 In 2013 SHLAA the site failed to be included for consideration and only two sites in Barkway with an estimate of 31 new dwellings were proposed. That estimate then almost quadrupled in the final draft. No explanation has come forward from the Council as to why the site suddenly became suitable, how it overcome the earlier barriers to inclusion or why it was acceptable to increase the population of Barkway by over 60%. As the Submission Plan has not been approved the site is therefore outside of the Housing Development Boundary and should be rejected.
- 3.7 The development of 140 homes is wholly disproportion in size to the existing village and will lead to a major increase in the use of private vehicles to access the amenities and employment, creating an isolated housing estate on the periphery of the community, a dormitory estate for employment sources elsewhere. The reserved site for a school further separates the development from the village.
- 3.8 The site is on the Chiltern Ridge. This application is in contravention of NHDC's own policy of protecting this area which, if accepted and developed, would come with associated street lighting on the ridge itself. This would be visible for some 30 miles to the north.
- 3.9 A full archaeology study needs to be undertaken and only doing the study on the west part of the site is not sufficient.
- 3.10 Detailed updated comments submitted in August 2022 have been received. The main representation (not its appendices which can be viewed on the Council's website) is attached at Appendix 1. In addition to the comments above objections are raised with regards to the capacity of the local sewage network and concern regarding impact on the River Quin due to raw sewage being 'spilled' into the watercourse.
- 3.11 **Reed Parish Council** – objects to the application for the following reasons:
- The number of proposed houses is grossly disproportionate and not sustainable in a village the size of Barkway with its existing amenities. It is disproportionate given that Barkway is already assimilating new houses on a number of sites already. We raise no objection to new housing on sites which can be suitably absorbed and in numbers which limit damage to the character of the village as a rural settlement;
  - The application should be rejected on the grounds of prematurity;
  - The proposed location is entirely unsuitable for 140 new houses or anything like that number. It would deform and deface the character of a beautiful valley at the end of

the Chiltern ridge. The proposal should be rejected on environmental and aesthetic grounds;

- There would be specific and adverse impact on Reed from the permanent and unsuitable increase in traffic on The Joint, which is the link between Reed and Barkway. A conservative estimate of the number of private vehicles associated with 140 new houses is 200. Such an increase in Barkway itself and on The Joint is not suitable.

A 2022 update has been submitted, which in addition to the above also objects for the following reasons:

- Concern about the over-extraction of water from the local chalk streams as well as the disposal of sewage in the stream.
- Consider that the local road network is not suitable for large numbers of new cars or for the construction traffic which will be a nuisance on the local roads.
- No viability assessment has been submitted for the shop and concern is raised that the shop at Barely will be affected.

3.12 **Cllr's Fiona Hill and Tony Hunter** - comments from 2018 - Barkway is an ancient linear village on the B1368 comprising of approximately 329 dwellings.

3.13 We consider this is an unsustainable site for development due to lack of amenities including education, health, transport and minimal public transport (therefore increasing the carbon footprint). The site breaches NPPF 3 (Supporting a prosperous rural economy), NPPF 4 (Promoting sustainable transport), NPPF 8 (Promoting healthy communities) and NPPF 11 (Conserving and enhancing the natural environment).

3.14 2022 update from Cllr Hill – concern about impact on the River Quin and still objects on the basis of a lack of transport, employment and shops in Barkway resulting in the need for a huge number of additional vehicles to serve the proposed development. This will have a detrimental impact on the carbon footprint. There is also great pressure on the sewage system in Barkway. BK3 is unsuitable and should not have been included in the local plan as a housing site. The site should be refused from the emerging Local Plan and the application should be refused.

3.15 **Cllr Gerald Morris** – objects to the application on the basis that it is premature, the site is isolated from the village due to the reserved school site, the previous application recommended refusal for these reasons and the site is unsuitable and unsustainable. He also raises concern regarding the impact on Newsells Stud.

3.16 **HCC Lead Local Flood Authority** – no objection subject to conditions.

3.17 **Thames Water** - August 2022 updated response has identified an inability of the existing sewage treatment works infrastructure to accommodate the needs of this development proposal and therefore requires for the following condition to be recommended:

*No development shall be occupied until confirmation has been provided that either:- all sewage works upgrades required to accommodate the additional flows from the development have been completed; or - a development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow 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.*

3.18 **HCC Ecology** - no response at the time of writing.



- 3.19 **HCC Rights of Way** – the width of Barkway BR17 is currently less than what we would expect for the creation of a new Bridleway. It is likely that the Bridleway will receive increased use by people coming from the housing development. This section of Bridleway 17 as it passes through the proposed development is the narrowest section along this route. Further north it opens up to over 5m in width. The width of the bridleway should be set so that it is in line with the rest of the Bridleway to the north. As a road is planned to cross Bridleway 17 appropriate measures will need to be granted for Bridleway uses to cross the road safely. The British's Horse Society should be consulted by the developers.
- 3.20 **HCC Archaeology** - updated comments received August 2022 states that due to the application site being extended to the east in comparison the site area for the previous 2016 application, it is appropriate to impose a condition requiring pre-commencement investigation works and this condition is recommended.
- 3.21 **HCC Growth and Infrastructure Unit** – contributions are required towards middle and upper education, library services, youth service, SEND and fire hydrants.
- 3.22 **HCC Highways** – no objection subject to conditions and informatives. Contributions are required under the S106 Agreement and S278 Agreement.
- 3.23 **NHDC Principal Policy Officer** – detailed comments are attached at Appendix 2. In summary the comments set out the master planning approach that has been applied to the application and raises no objection to the application.
- 3.24 **NHDC Housing Officer** - detailed comments are attached as Appendix 3. In summary this sets out that 56 affordable dwellings will need to be provided with a mix of dwelling sizes and tenure options including the possibility of First Homes.
- 3.25 **NHDC Waste Services** – no objection, general comments provided.
- 3.26 **NHDC Environmental Health** - no objection subject to conditions and an informative.
- 3.27 **NHDC Environmental Health Air Quality** - EV parking will need to be provided throughout the development.
- 3.28 **NHDC Landscape Officer** – has assessed the proposal and is widely supportive, apart from stating that insufficient planting is proposed along the southern boundary, so that views from Periwinkle Close will be adversely affected. Furthermore, given that the site is on the edge of Barkway it will be seen as the 'gateway' into Barkway and therefore the access points and road frontages should be carefully designed to create a transition between the countryside and the village.
- 3.29 **NHS Cambridge and Peterborough CCG** – the development is not significant in terms of population growth as the proposal is for less than 500 dwellings so S106 contributions are not required.
- 3.30 **CPRE Hertfordshire** – object to the application on the basis that it is inappropriate residential development in the Rural Area beyond the Green Belt. The Planning Statement is entirely reliant on the proposed designation BK3 in the Submission Local Plan. However, this plan is still not concluded. There are outstanding objections to this site and to date this Plan has not been found sound or adopted. The application must therefore be considered against the Local Plan no.2 and the NPPF. The

proposed site BK3 would have a harmful impact on the countryside without adequate justification for doing so. The proposals are excessive in scale in terms of the size and character of Barkway and is in an unsuitable location particularly in respect of access to employment, services and facilities without the use of a car. These are all contrary to the policies of the NPPF.

- 3.31 **Newsells Park Stud** – is located immediately north of the site. It has been operating on this site for over 100 years and employs 35 people. The land immediately to the north is the most established pastures at Newsells and part of the original stud land from the 1920s. It is these paddocks which is the best land at Newsells due to its clay soil over chalk composition, which retains moisture in a hot dry summers providing good turf and grass for the foals. The paddocks around the Obelisk and Manor are used exclusively for mares and foals in the spring and are vital to the operation of the stud. There will be an increase in noise as a result of the proposed development which could have an adverse impact on the tranquil nature of the paddocks, especially those close to the application site. The young thoroughbreds are easily spooked / startled and there is the possibility of an increased risk of accidents and injury as a direct consequence. The proposed 15m landscape buffer would not mitigate this risk and is inadequate.
- 3.32 The works to Bridleway 017 will be likely to increase the use of it and those then going through the Stud land, with the concern there will be increased noise and disturbance to the paddocks and a particular concern is loose dogs. These factors all combine to dramatically increase the risk of injury to the foals / stock with the consequent negative impact on the stud business. There are approximately 250 stables at the stud and there are up to 340 horses on site during the Stud season, conservatively representing over £100 million in bloodstock. An objection to the Local Plan submission from Mr Roger Allman the stud's agronomist states:
- “...a significant housing development immediately to the south of their best pasture can only have a detrimental effect on the Stud's operation. No right minded Stud Manager would risk the safety of a mare and foal (that might be worth a seven figure sum) in a paddock right next to a housing development. ...I have been advising thoroughbred breeders for 38 years. I have come across far too many situations where thoroughbreds have suffered life threatening injury through paddock accidents caused by the unnecessary intervention of people living nearby”.*
- 3.33 Such an impact would be directly contrary to national and local planning policy that seeks to protect and retain important rural businesses, would conflict with the economic aspect of, and also would not represent sustainable development. The application fails to take this risk seriously. We consider that due to the nature of this rural business, the proposed development could have a detrimental impact upon the economic vitality of Barkway as whole.
- 3.34 **Friends of the River Quin** – this application poses severe risk to the River Quin which is a chalk stream which are rare globally. The data recording discharges of raw sewage from the Barkway Sewage Treatment works shows increasing volumes of raw sewage spilling into the chalk stream which strongly suggest that the local infrastructure in Barkway is already inadequate. Further development in the village will surely increase the volume of spill.
- 3.35 **Rt Hon Sir Oliver Heald MP** – supports the concerns of the Friends of the Rib and Quin and the comments of Barkway Parish Council and objects to the application.
- 3.36 **Neighbour Representations**

- 3.37 The application has been advertised with a site notice and neighbour notification letters. Over 260 representations have been received, with some local residents making more than one comment over the lifespan of the application. Comments submitted in 2018. Key points include:

#### Principle

- This application is premature. The site was put forward at the last minute without proper public consultation for inclusion into the submission Local Plan in order to meet Government housing targets. This new Local Plan is still with the Inspector and is un-adopted. There are still many unresolved objections to this site being in the new Local Plan and this application should not be determined until the outcome of the new Local Plan is known.
- We believe this site was included based on a 'desk top' exercise only. Previously it was always excluded and we believe it should still be excluded.
- The 2016 application was withdrawn when it became known it was to be recommended for refusal on the basis of it being both unsustainable and unsuitable. That application was for two thirds of this site. These reasons are still relevant.
- An adjacent site for 25 houses was refused and it was deemed unsuitable and unsustainable by NHDC officers.
- The NPPF stated there should be a presumption in favour of sustainable development. If this development on site BK3 can be proven to be unsustainable then there should be no question of planning permission and it should be refused outright. Just because there is no 5 year housing supply, it does not mean that the core principles of the NPPF should not apply.
- This site cannot have been appraised correctly. There must be other sites closer to towns, facilities and transport links that are better than this.
- The site is outside of the village boundary.
- 140 houses is too many for the site and village.
- What is proposed is of a totally excessive scale in relation to the size and historic character of Barkway. It would overwhelm the village, degrading it rather than enhancing it.
- I do not object to the idea of more housing in Barkway especially if it provides much needed affordable housing. However, I believe the size and location of this development is inappropriate.
- The character of the village would be ruined. The village has many very old houses that characterise the quality charm of Barkway.
- New houses have always been as individual or on a small scale. 140 new houses would totally overwhelm the current village and create a separate village rather than adding to the existing one.
- The village facilities are few and would be unable to cope. The school is split with Barley and would not be able to cope with all the extra children.
- I appreciate that as a country we need to build more houses. But these should be in a more sustainable location and not in an area where household income will have to run to at least one car per household in order to access amenities and employment.
- This is a village not a town. A development of this size should be in a town not a village.
- The proposed school site is empty and this separates the estate from the village.
- This proposal would increase the population of the village by 60%, destroying its character and community.
- The village boundary will be breached.
- It will damage and harm the natural environment.
- This development does not consider the NPPF policies in promoting sustainable communities in any way.

- The development will provide a housing estate where the adverse effects of the development will outweigh the benefit of creating the new homes.
- It will destroy Grade II agricultural land which has always been farmed and provided good crops.
- It will create an unsightly housing development stuck on the crest of a hill in area of natural beauty with street lights causing light pollution in a village where there are hardly any street lights.
- This should be built in a town.
- A very large number of houses are proposed without any new jobs to balance the increase of properties.

### Traffic

- Barkway is a linear village situated on the B1368. We already have a large volume of traffic and heavy traffic through the village, much of it travelling far too fast. The 140 new homes will increase the traffic exponentially thus causing more wear and tear on the already fragile road.
- Many of the houses are old and already bear enough strain on their construction and increased traffic volume will only serve to increase this hazard.
- The roads in and out of Barkway are narrow and bendy and follow the contours of the landscaping making them not suitable for large quantities of traffic.
- Roads cannot cope with any more traffic.
- It does not appear that this application is making any improvements to local roads or public transport links.
- The traffic assessment was done on a very quiet week and makes no reference to the usual agricultural and commercial vehicle movements through the village.
- There is the periodic closure of the High Street when the old culverts which carry the many small streams across the road collapse under the weight of additional cars and lorries.
- There should be only one road onto Cambridge Road as this is the better road.

### Sustainability

- We have few amenities in the village making it necessary to drive to shops, doctors and schools.
- A proposed new shop does not address the lack of doctors, dentist, secondary schools, transport, sewerage and mains water pressures.
- The bus service is inadequate and does not offer sensible help to those wishing to commute to and from work, local towns or the train station at Royston.
- Cycling cannot be considered to be a viable mode of transport from Barkway to other villages and towns due to the distances and the danger from narrow, steep and winding roads with no street lights.
- The Transport Assessment is out of date and misleading. The no. 331 bus no longer goes through Barkway and its replacement, the no. 18 does not meet the needs of commuters needing to get to the station and in to London or Cambridge.
- The car park at Royston station car park is already full. Where are all these extra people to park / how will they get to work?
- How will these people get to work – only by car which would add to the traffic, pollution, time spent, expense incurred and would contravene the Council's own expressed wish not to add to car traffic and carbon emissions.
- Barkway primary school is far too small both for the number of children and for there to be proper amenities for the staff. Only years 1 and 2 are taught at Barkway and 3 and 4 are at Barley with children being travelled to and from by mini-bus. All these extra children will not fit in.

- There is no sixth form in Royston. Secondary children have to go to Royston, Buntingford, Baldock, Saffron Walden or Cambridge all adding to the amount of necessary travel.
- A bus service using Richmond's coaches should be provided.
- A cycle lane should be provided.
- BK1 and BK2 site are supported. And since 2011 there has been some in-fill and about 50 new houses have been built. This is an increase of 15% and is manageable for the village and good for local vitality. This proposed increase of 60% is disproportionate and an inappropriate rate of growth for the village.
- 40% social housing. There are no jobs in the village and poor transport links. Those who cannot afford a vehicle will be stranded.

#### Other

- The air quality is already adversely affected by the amount of traffic and this would only get worse.
- The walking route between BK3 and Barkway school is not safe as it crosses the junction opposite the war memorial which does not have good sight lines.
- Newsells is the largest local employer employing about 30 – 35 people. The noise from the new houses could spook the horses, making the site unviable, and affecting a profitable business and local employment.
- The drains / sewage system will not be able to cope.
- The proposed shop may result in making the shop in Barley unviable / close.
- Local doctors and dentists are already over capacity.
- The recent application for 25 houses on land next to Royston Road was partly refused on the basis that the roads could not take the extra traffic from 25 houses. So how can it take the traffic from 140?
- Some of the units should be live / work units.
- The bridleway network in the area is disconnected and fragmented. It is impossible for horse riders in the area to avoid roads. On the narrower lanes it is difficult to give riders enough room around the horse and many vehicles pass too close. Lorries from Anstey quarry can be found on all roads and this is very intimidating to horses. The increase in traffic has the potential for a serious accident.
- The bridleway is not wide enough and should have a width of at least 4m.
- Many houses in the village are listed and / or within the Conservation Area and this application does not respect the linear character of the village.
- The development would detract from the countryside and ruin it for walking through and around.
- The horrific negative and permanent impact on the environment would remain long after the appalling construction phase of the development has been completed.
- The site is a roosting area for at least two types of bats, the common pipistrelle which is listed as endangered and the brown long eared. It is also used by herds of fallow deer.
- Development should be on the eastern side of the site only so that the lovely view of the countryside is not blocked.

3.38 2022 consultation update – new points submitted in addition to the above from 2018:

- North Herts Climate Change Emerging is not addressed in this application.
- The impact on the rare chalk stream the River Quin will lead to pollution and continued over extraction puts this at risk. (Officer note – this is not a consideration of the application as the extraction rates from rivers and streams is controlled by the Environment Agency and this application is not proposing any extraction from this stream).

- The continuing increase in discharging raw sewage into the River Quin is a local concern.
- Thames Water state that they have no plans to increase capacity at the Barkway Water Treatment Plant.
- Is a shop in this location viable?
- The village has been extended by 15% in recent years and no more new housing is needed.
- Its inclusion in the local plan is not yet confirmed. This is still premature.
- The application does not deliver a 10% net gain in bio-diversity.
- This is an insular development that will not integrate into the village.
- The transport survey shows 64 movements for 140 houses whilst the application at BK2 shows 24 vehicles movements for 24 houses.
- The proposed horse crossing is not safe for horses.
- This development does not trigger to need to use the reserve school site so this development will not be part of or feed into the community.

#### 4.0 **Planning Considerations**

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

- 4.1.1 The application site is 7.62 ha in size and is arable land situated between Royston Road and Cambridge Road with an existing bridleway running north / south through the site. The Chiltern Ridge runs east – west along the north site boundary with Newsells Estate lying to the north and the Cokenach Estate off to the north east.

##### 4.2 **Proposal**

- 4.2.1 Outline application for the re-development of the site for the erection of up to 140 dwellings and one new shop. All matters reserved apart from point of access onto Royston Road and Cambridge Road.

- 4.2.2 Submitted in support of the application are the follow documents:

###### Submitted in 2018:

- Design and Access Statement;
- Planning Statement;
- Heritage Statement;
- Statement of Community Involvement;
- Transport Assessment;
- Archaeological Desk Based Assessment;
- Archaeological Trial Trench Evaluation;
- Flood Risk Assessment;
- Geophysical Survey;
- Phase 1 Geophysical Assessment;
- Extended Phase 1 Habitat Survey;
- LVIA Report;

###### Submitted in 2022:

- Bio-diversity Metric 3.0 Calculation tool;
- Bio-diversity Net Gain Design Stage Report;
- Education Impact and Mitigation Assessment;
- Design and Access Statement rev. E;
- Masterplan Summary Document rev. A;
- SP9 Design Assessment;

- Urban Design Parameter Plan;
- Planning Statement Addendum 2022;
- Arboriculture Impact Assessment 2022;
- Extended Phase 1 Habitat Survey 2022.

4.2.3 All the above documents are viewable in full on the Council's website. Key points from some documents are:

#### Design and Access Statement

4.2.4 This sets out the strengths and weaknesses of the application site and the factors that have been taken into account when designing the proposal. It states that the proposal consists of up to 140 well designed family sized homes, a local shop, public open space and pedestrian, cycle and bridleway links. It states that the planning history has been taken into account, and that the site is an allocated housing site (BK3) in the emerging Local Plan, so there is no objection in principle to residential development on this site. It sets out that the character of Barkway is in two halves. The older 'Conservation Area' part and the new post war part, and that this proposal is within the newer post war part of the village and will not be contrary to local character. It states that the plan has:

- 15m deep landscape buffer along the northern boundary to protect the Chiltern Ridge and Newsells estate;
- a main village 'street' running east to west through the site connecting Royston Road and Cambridge Road;
- a proposed village square with equestrian crossing at the point where the bridleway meets the proposed 'village street';
- two areas of higher density family houses on the west side of the site;
- one area of lower density larger properties set within the woodland edges;
- a commercial area, fronting Cambridge Road, with a shop and a mixed use community 'cluster'.

4.2.5 A traditional townscape character is planned, based on elements of Barkway's local architectural vernacular with pitched roofs and local materials such as red brick and weatherboarding. The commercial building is to be timber clad to match it to local existing community facilities.

#### 4.2.6 Planning Statement

- sets out the policy background for the application. It states that the emerging Local Plan identifies land where development should be built, and that the application site has been allocated within the Local Plan as a proposed housing site BK3 for up to 140 houses. It states that whilst the application is in outline form, the illustrative plans show how the site could be developed, sensitively planned and designed with regard to the context of the local area. The development would contribute significantly to the supply of housing within the District, in accordance with local and national planning policy and would provide other environmental, social and economic benefits.
- Barkway has a population 775 (2011 census) and that the village benefits from a range of facilities including a public house, a petrol station, a primary school, a church, a village hall and a social club.
- The site is bordered by hedgerows on its northern, western and eastern boundaries. These are to be largely retained.
- The reasons for refusal of the 2016 scheme were not in relation to the principle of the proposed development but more to the piecemeal nature of the development and have been overcome in the proposal.
- The Council is unable to demonstrate a current 5 year supply of housing land.

- The site is in a sustainable location and meets the NPPF tests of sustainable development.
- The proposal should be considered in accordance with the presumption in favour of sustainable development as defined under paragraph 14 of the NPPF.
- The principle of the development is strongly supported in planning policy terms.
- Analysis of the criteria of BK3 and concludes that the application is fully compliant.
- A S106 Legal Agreement has been agreed and is being prepared.
- A footpath will be provided along the eastern side of Royston Road and the existing footway along Cambridge Road will be widened.
- Discussions have taken place between the applicant's and HCC regarding the 'school site'. HCC have confirmed that the school site would need to be independently accessed from Royston Road and they would prefer only one access into the development from Royston Road. HCC Education set out support for a pedestrian route from the development to the school, which is proposed within the indicative layout.

#### 4.2.7 Heritage Statement

- No detailed historical research into the development of the area has been undertaken, as a detailed analysis of historical development on site is not considered to be relevant.
- The aim of this report is to assess the effect the development on the setting of the Conservation Area.
- The most northern part of the Conservation Area is some 200m to the south of the application site.
- The report concludes that the character and context of the immediate site environs will experience a degree of change occasioned by the proposal. However, this area is sufficiently remote from the Conservation Area for it to have no appreciable direct effect.

#### 4.2.8 Landscape and Visual Impact Assessment

- The proposed development site consists of greenfield land on the northern edge of Barkway. The gently sloping topography, its current land use and strong boundary hedgerows are typical of the wider landscape of the Barkway Plateau.
- 15m wide treed landscape buffer along the ridge line that define the northern boundary. This will include native tree planting and grassland to link wooded areas along the ridge. Visually this will allow the development to be set below the ridge.
- Creation of a north-south green corridor along the PRoW017 and the existing hedgerow through the centre of the site.
- Provision of attenuation ponds and swales to provide strategic semi—natural open space to link to the wider green infrastructure network.
- From the wider landscape the Eastern Field is quite visually enclosed because of a combination of the topography and vegetation along Public Rights of Way.
- Long distance views from higher ground to the south and west of Barkway are available. However, the proposed development will be barely visible because of the topography and the screening effect of the intervening vegetation.
- In these views the proposed site is a minor component of a wide panoramic view in the context with the existing settlement of Barkway.
- The overall character of the site will permanently change from a greenfield site to a construction / built site which will have a noticeable, localised moderate adverse effect on the site and the surrounding area.
- The effects of permanent development on the features within the site are considered to be predominantly minor adverse at year 1 changing to negligible by year 15 once strategic planting has established.
- The proposed development will be appropriate in character in / to the surrounding context of the adjacent settlement of Barkway.



#### 4.2.9 Archaeological Desk-Based Assessment and Trial Trench Evaluation

- To determine the location, date, extent, character, condition, significance and quality of any surviving remaining 'finds' to be threatened by the proposed development.
- Some finds were found on site.
- The proposed development is likely to have a significant impact on archaeological remains which are known to exist at least in the eastern and central sectors of the site and likely extend eastwards. Mitigation for archaeology would be determined by HCC.

#### 4.2.10 Tree Assessment

- The tree population across the site / survey area comprises young to mature broadleaves around the peripheries of the site with hedgerows within the site.
- Four trees are shown to be either wholly or part removed due to design layout and a further two trees will have roof protection zones impacted and will either need special construction techniques or the trees removing.
- Protective fencing will be used around all retained trees during the construction phase.

#### Planning Statement Addendum 2022

4.2.11 The Local Plan 2011-2031 Proposed Submission Plan (October 2016) was submitted to the Secretary of State on the 9th June 2017 for examination. Hearing Sessions commenced in 2018, and following a period of consultation on the Main Modifications in 2019, further Hearing Sessions were held in 2020 and 2021.

4.2.12 Within the NHLP, the application site (considered under reference Policy BK3 – Land between Cambridge Road and Royston Road) is proposed for inclusion within the settlement boundary of Barkway, with an allocation for 140 dwellings and provision for a shop. This included a specific hearing session on the site in February 2021, following which the allocation was retained as an allocation within the Main Modification Consultation held during the spring of 2021.

4.2.13 As part of the BK3 allocation, the application site is allocated for up to 140 dwellings and provision for a shop. This planning application is in full accordance with the site area and quantum of development as allocated within emerging Policy BK3.

4.2.14 The NHLP is at the most advanced stage of preparation, with the Inspectors Final Report expected imminently. The policies of the emerging plan are consistent with the policies of the Framework. Taking all of these factors into account, in accordance with paragraph 48 of the NPPF, significant weight should be given to the relevant policies in the emerging plan.

#### Arboriculture

4.2.15 The updated AIA confirms that the proposals will require the removal of one tree, the part removal of a tree group, and the removal of four parts of hedgerow within the site. The retention of existing hedgerows will also maintain the alignment and integrity of Bridleway Barkway 018.

#### Ecology

4.2.16 A Preliminary Ecological Assessment (PEA) was submitted with the planning application in 2018. An updated PEA (Rev B) (June 2022) has been prepared and submitted in support of the planning application. The updated PEA should be read in

conjunction with the Biodiversity Net Gain (BNG) Assessment, which was submitted to the Council on 4th March 2022.

- 4.2.17 The updated PEA confirms that site conditions are largely consistent with previous site visits, and site habitats are considered to be of low ecological value. The BNG Assessment shows a biodiversity net gain of 1.05% for non-linear area habitat features and 57.95% net gain for hedgerows.
- 4.2.18 The PEA also confirms that any potential adverse impacts from the proposed development can be mitigated in line with the relevant policy. With appropriate mitigation and targeted enhancements, a positive change in the biodiversity could be achieved in line with the NPPF.

#### Masterplan summary Report March 2022

4.2.19 The land use arrangement is:

- Up to 140 residential dwellings on 5.29 hectares of land located in the western and eastern parts of the site
- hectare commercial area incorporating a commercial building of approximately 190 sqm gross floor area, suitable for use as a local convenience store, located adjacent to the eastern boundary of the site close to the existing community facilities on Cambridge Road
- Multi-functional public open space on 1.96 hectares of land incorporating space for children's play, informal recreation, footpaths and bridleways, woodland planting and hedgerows, drainage attenuation features. Corridors of green space are located at the northern, western and north eastern edges of the site and running centrally through the site following the existing bridleway.
- Access to the site is proposed from two new junctions onto Royston Road and Cambridge Road. These are linked by a village street running broadly east-west across the development

### 4.3 **Key Issues**

4.3.1 The key areas for consideration are:

- Policy context and principle of development;
- Unresolved objections;
- Emerging Policy SP9 and the master planning process
- Sustainability considerations;
- Planning history;
- Loss of agricultural land;
- Impact on character and Conservation Area and wider landscape;
- Access and highways issues;
- Layout;
- Ecology;
- Technical objections;
- Planning Obligations;
- Barkway and Nuthampstead Neighbourhood Plan;
- Planning balance and conclusion.

#### **Policy context and principle of development**

- 4.3.2 The development plan for North Hertfordshire consists of the saved policies of the North Hertfordshire District Local Plan no. 18 with Alterations (1996). Saved Policy 6 - Rural areas beyond the Green Belt, is applicable as the proposed development site is

outside of the village boundary of Barkway. Saved Policy 6 is a rural restraint policy which seeks to prevent new development in rural areas outside of existing settlements.

4.3.3 The application site has been identified in the NHDC emerging Local Plan 2011 - 2031 as a housing site BK3 under the emerging Policy SP2. This policy was specifically considered at an EiP session in February 2021 where the suitability of this site remaining in the emerging Local Plan was considered. In May 2021 the updated Modifications Document was received from the Local Plan Inspector which retained site BK3 as a housing allocation. The Modifications document has been published on the Council's website since it was received in May 2021.

4.3.4 Paragraph 13.37 of the emerging Local Plan states that this housing site is identified for up to 140 homes with the following policy criteria:

- o *Development should be set back from the road;*
- o *Lower density houses would be appropriate on the eastern part of the site;*
- o *Incorporation of Bridleway Barkway 017 as a north-south green corridor through the site;*
- o *Appropriate treatment of northern boundary to maintain alignment and integrity of Bridleway Barkway 018;*
- o *Explore opportunities for connecting road from 'Royston Road to Cambridge Road having regard to heritage considerations;*
- o *Sensitive integration into existing village, particularly in terms of design, building orientation and opportunities of pedestrian and cycle access;*
- o *Provision of local convenience shop;*
- o *Approximately 1.5 hectares of land at the south-west of the site secured as a reserve site for primary education;*
- o *Site layout designed to integrate with any future use of land identified for school site;*
- o *Development should include extensive tree planting, maintenance of the existing boundaries and hedgerows;*
- o *Development should include measures to minimise impact on Newsells Park Stud, in terms of proximity of built development, noise and increased activity;*
- o *Sensitive design to respect setting of Cokenach Registered Park and Garden and listed buildings within Newsells estate to include:*

*Reinforcing of hedgerows and landscaping along site boundaries; and  
Access arrangements designed to minimise harm to heritage assets.*

4.3.5 Although in the Rural Area beyond the Green Belt under the Saved policies of the 1996 Local Plan, this site is identified in the emerging Local Plan as a housing site at a time when the Local Planning Authority cannot demonstrate a five year deliverable supply of housing land, which is currently estimated to be less than 1.5 years. Paragraph 59 of the NPPF emphasises the importance of ensuring that a sufficient amount of housing land can come forward where it is needed, and paragraph 73 of the NPPF advises that local authorities should identify and update annually a supply of specific deliverable sites, sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies.

4.3.6 Paragraph 48 of the NPPF advises that emerging plans can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that can be given)

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to this Framework, (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

4.3.7 The emerging Local Plan is at an advanced stage as all rounds of public examination and consultation are completed. It is anticipated that the final report will be shortly issued and therefore significant weight can be given to the emerging policies contained within it.

4.3.8 Paragraph 49 of the NPPF states that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) The emerging plan is an advanced stage but is not yet formally part of the development plan of the area.

4.3.9 The emerging Local Plan (over the plan period 2011 – 2031) identifies the need to deliver at least 14,000 new homes for North Hertfordshire's own needs. Policy SP8 of the emerging plan sets out that 4,860 of these homes are to be provided through local housing allocations that will provide homes on:

- further sites within the adjusted settlement boundaries of the towns;
- land within the adjusted settlement boundaries of the five villages identified for growth and
- sites identified within the defined settlement boundaries of the Category A villages.

4.3.10 This site is proposing 140 of these 4,860 new homes and the delivery of these houses, when combined with the other allocated housing sites, will make a meaningful contribution to meeting future housing needs of the district.

4.3.11 Policy SP2 sets out the criteria that was taken into account when the Category A villages were allocated. A 'Category A' village is a village where general development will be allowed within the defined settlement boundaries. Paragraph 4.13 states *"The Category A villages, normally containing primary schools, also have defined boundaries within which development will be allowed and sites have been allocated to meet the District's overall housing requirement. These villages are excluded from the policy designations (either Green Belt or Rural Area Beyond the Green Belt) which affects the surrounding countryside"*.

4.3.12 At the EiP the Inspector commented that the list of Category A villages was long, and within the list there was no distinction between villages with more than 200 houses allocated, such as Barkway, and those with no housing sites allocated, such as Barley. As a result, five villages within the district that have sites which, if all developed, would provide more than 200 new homes, were put into a separate category as 'five villages identified by the Plan for growth'. These villages are Barkway, Codicote, Ickleford, Knebworth and Little Wymondley.

4.3.13 In addition to the sections of the NPPF set out above supporting the policies contained within the emerging Local Plan, due to the existing Local Plan 1996 being considered to be 'out of date' paragraph 110 of the NPPF is also triggered. This requires for decision takers to apply a tilted balance in favour of supporting new housing schemes

that are in sustainable locations, unless any adverse impact of doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. This assessment is the 'planning balance' and is set out below following the discussion of all other matters.

### **Unresolved objections**

- 4.3.14 A number of parties made objections to the allocation of BK3 in the emerging Local Plan. 81 such objections were received. These covered the same issues as consultee's and neighbour's have raised in the consultation section above, and in summary can be stated to be objections regarding the lack of facilities in the village, the size of the proposed development and the harm this would have on the character of the countryside and on the conservation area, concerns regarding traffic and noise, objections to the loss of high quality agricultural land and that Barkway is considered to be an unsuitable location for new development of this scale.
- 4.3.15 Given the advanced stage of the Local Plan with it having gone through all rounds of examination, publication and consultation on modifications, and given that this site was specifically debated and retained as a housing allocation in the May 2021 Modifications, I am of the view that there are now no longer any unresolved objections outstanding as all matters have been considered by the Local Plans Inspector and the site has been retained as a local plan allocation.

### **Emerging Policy SP9 and the master-planning process**

- 4.3.16 Emerging Policy SP9 requires for developments with more than 100 dwellings proposed to be master planned. Attached at Appendix 4 is a note from the Local Plans Manager setting this process out in more detail. However, in summary the key issue to note is that emerging Policy SP9 requires for the whole of the allocation area to be master planned. This application does not include all of the land inside the allocation area for BK3, with the area of land to the south, known as the 'reserve school site' being outside of the red line application site and within the land ownership of HCC education and not the applicant. (HCC education compulsorily purchased this land off the applicant in the 1980s).
- 4.3.17 The master planning process has ensured that consideration is given to the flow through and layout of the development, the maintaining of the bridleways and the possible layout of the development. However, given that the master planning plans are indicative due to this application being outline with all matters expect access reserved, there may be changes to the layout at the reserved matters stage.
- 4.3.18 It is acknowledged that this application is not in strict accordance with the aims of emerging Policy SP9 due to the area of the land forming the reserve school site being outside of the application site area. HCC were approached during the application timespan to see if they wished to either be part of the application, or land swap the school site to the northern part of the site or to agree to landscaping within their land area to help with the setting of the site. HCC education refused all possible options, stating that the development of the houses does not trigger the need for a school at the same time as there is sufficient capacity within the local school system. They refused to land swap to the north side of the site (even though the applicant offered them an increased land area in size) on the basis that they wished to protect their own assets and to be independent of the applicant. The applicant also refused to allow any landscaping on their land as they do not wish to have costs added to the land in the event that the

planted trees would need to be removed to allow the development of a future school. They also refused to take part in the master planning process as they did not consider it to be in their interest. Given that the reserve school site is part of the allocation and on site is part of the open field area with no landscape demarcation feature separating the two different land ownership areas, the fact that the application fails to comply with the full requirements of emerging Policy SP9 due to the southern land mass not being within the application site area has to be acknowledged.

4.3.19 However, whilst emerging Policy SP9 does require for all of the allocation area to be master planned, the criteria of the BK3 allocation does not require for the whole of the allocation area to be developed at the same point in time and thus does not require for the whole of the allocation area to be within the red line application site area. This is a conflict within the policies and a view has to be taken on a pragmatic way forward. Given that a future school would be a fenced building and grounds for child safety, and that the indicative plans for the housing show footpath connections to the school site area, effort has been made to 'connect' these two different land use areas. As a result, in my view it can be concluded, that the master planning process would have had very little effect if the reserve school site were to be within the application site and thus master planned area, on the basis that landownership within the allocation area is split, and the possible re-allocation of the school site (which the master planning process may have advocated on the basis that the housing is then on the southern part of the site to link with the existing development in the village) has been investigated and refused.

4.3.20 Therefore, the application has to be considered on the basis of the known facts contained in it. That is, the reserve school site is not within the application site area and not part of the master planned area. The BK3 specific policy does not require for the two parts of the site to be developed at the same point in time and given that the master planning process and the possible land swap option has been exhausted and at the same time the BK3 site has been left as an allocation in the emerging Local Plan, more material weight has to be given to the BK3 allocation policy over and above the master planning process. Therefore, an objection can be lodged against the application on the basis of not strictly complying with emerging Policy SP9, but in the balance of the application this is a small / low objection and no material weight is given to it to outweigh the delivery of 140 new homes which is considered to be a meaningful and material contribution to the Districts' housing supply. Therefore, no objection is lodged against the application on this basis.

### **Sustainability considerations**

4.3.21 The NPPF is underpinned by the principle that new development should be sustainable. This means considering new development in terms of economic (to help build a strong economy and ensuring that sufficient land of the right type is available to support growth), social (to support strong, vibrant and healthy communities) and environmental (to protect and enhance the natural, built and historic environment, making effective use of land, improving biodiversity and mitigation and adapting to climate change) objectives.

4.3.22 Looking at the specifics of this application, Barkway has been categorised as a category A village due to it having a primary school and bus route service. While most of North Herts has the 'two tier school' system, with primary education being nursery, reception and years 1 – 6 (a total of 8 years of primary education) the Royston area is operated under the 'three tier system' and at the time of allocation the school in Barkway was a first school. A first school provides primary education for nursery, reception and years 1 – 4 (a total of 6 years of primary education) with children then moving to a middle school for years 5, 6, 7 and 8 and a senior school for the remaining

years. Barkway school has now become federated with Barely school with one head teacher covering both schools. As a result, since September 2018 only the years of nursery, reception and year 1 are now being taught in Barkway, with years 2, 3 and 4 being taught at the school in Barley. Initially the children were mini-bused between the two school sites, but this stopped during the social distancing restrictions imposed during the Covid 19 pandemic and the school does not intend to re-start this system.

- 4.3.23 Barkway does not have a shop and since the site was allocated the bus service has also changed. The number 331 was stopped in summer 2018. The 331 bus service used to run either hourly (at peak times) or every other hour through the day Monday – Saturday and connected Barkway with Royston and Buntingford. This has been replaced with the no.18 bus. This still runs from Buntingford to Royston but with only six buses a day going north to Royston and only five going south to Buntingford in a day. In addition, there is the number 27 between Bishops Stortford and Royston with one bus in each direction each day. Barkway is also under the HCC dial-a-ride bus service scheme.
- 4.3.24 I note that many objections against the application are on the basis Barkway is considered not to be a sustainable location for a development of 140 homes nor a fair village for growth as the other four villages in the North Herts area that have been categorised as villages for growth in the emerging Local Plan (which are Codicote, Knebworth, Ickleford and Little Wymondley) all have a primary school up to and including year 6 and a range of shops and public transport links. Whilst I have sympathy to this view and note that it was on this basis that site BK3 was specifically discussed at the Local Plan EiP, by retaining the site as an allocation in the May 2021 Modifications it can be regarded that the Inspector has concluded that the allocation is sound and the site is retained in the emerging Local Plan as an allocation.
- 4.3.25 The policy requirement for the BK3 allocation, as set out above, includes the requirement for the provision of a convenience shop and the provision of land reserved for a primary school. This is an outline application, but within the red line application site the description of development states that a shop is to be provided (and a condition is recommended preventing this from being used for other uses within the E use class) and the land to the immediate south of the application site is land within the allocation area, owned by HCC and held as a reserve school site. On this basis, the proposal is considered to meet the criteria requirements for the allocation of BK3.
- 4.3.26 It is unfortunate that even with the recent housing development within Barkway and with this proposed site, the need for a new school on the reserve school site is not triggered. This is due to there already being surplus capacity within the Barkway and Barley schools. A new school on the reserved school site would help to integrate the development within the village as well as providing a fuller range of education within the village. However, the allocation criteria does not require for the school to be delivered alongside the housing and HCC have confirmed that they wish to retain the land in that location in case it is needed in the future. A refusal on the basis of the school site not being needed to be built at the same time as the housing could not be defended as the policy does not require for it to be.
- 4.3.27 Arguments can be put forward to defend the three objectives of sustainability as set out in the NPPF. With regards to an economic role, the building process will boost local employment opportunities, socially friendships will form between neighbours and new local residents can join existing village groups and environmentally the houses will be built with high levels of insulation and using low flow water fittings, efficient boilers, double glazing and each dwelling will be provided with an EV parking space. I note objections on the basis that future residents will drive to access supermarkets, shops, employment and services outside of the village. The SP2 Category A allocation

criteria requires for some local facilities and services to negate the need to travel for all trips out from the home. I accept that yes, future occupiers will generate vehicle trips from and to the site. However, this is the reality for all housing, even for sites within or on the edge of larger towns, and the result that some residents will need to travel for some trips is not justification to refuse the application when the emerging Local Plan process has considered site allocation, suitability and future sustainability as part of the allocation process. Therefore, on the basis of the site being allocated, and on the basis that the application is considered to comply with the policy criteria for BK3, no objection is raised against the application on the basis of sustainability.

### **Planning history**

4.3.28 Application 16/02759/1 proposed up to 100 houses on land off Royston Road, which was for two thirds of the land now proposed in this current application. The 2016 application was recommended for refusal for four reasons but was withdrawn before its determination at planning committee. These reasons were:

1. *In the opinion of the Local Planning Authority due to the relatively isolated nature of this planning application site, separated from the main body of Barkway village by a reserved school site and indeed from any wider area development scheme between Royston Road and Cambridge Road, if developed in isolation a development scheme of up to 100 dwellings on this site would appear divorced from and poorly integrated with Barkway village. Such a piecemeal form of development would as a result harm the character and appearance of the locality. The proposal therefore conflicts with saved Policy 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations, Policy D1 of North Hertfordshire Submission Local Plan (2011-2031) and paragraphs 57 and 64 of the National Planning Policy Framework.*
2. *The piecemeal nature of the development proposal is not capable of delivering key objectives of proposed land allocation BK3, as set out in the North Hertfordshire District Submission Local Plan (2011-2031). As the site only covers part of the proposed land allocation it is not possible to explore possibilities for connecting Royston Road to Cambridge Road; No realistic proposals have been put forward in the application to secure the delivery and long term sustainability of the proposed convenience store; no improved pedestrian and cycle linkages are proposed outside the site. As a consequence the proposed development fails to take the opportunities available for improving the character and quality of an area and the way it functions. On this basis the proposed development fails to comply with site allocation Policy BK3 set out in the North Hertfordshire District Submission Local Plan (2011-2031) and paragraph 64 of the National Planning Policy Framework (NPPF).*
3. *The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing the provision of affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF).*



4. *The submitted and revised Flood Risk Assessment does not overcome the stated objections from the Lead Local Flood Authority as set out in their consultation response of 24 November 2016 to the local planning authority. As a consequence of the insufficient information contained in the applicants' submission the Lead Local Flood Authority has been unable to advise the local planning authority that sufficient flood mitigation measures can be designed and implemented in association with this development proposal.*

- 4.3.29 In my view this proposal overcomes the previous reasons for refusal and can be supported. With regards to reason 1, I consider that this reason is no longer applicable. The red line application site area now includes the land on the Cambridge Roadside so all of the housing and shop area can be considered as a comprehensive scheme. The BK3 allocation policy requires for the provision of land as a reserve school site, and this is provided on the south side. I accept that until the reserve school site is built out this area of land remaining undeveloped after the houses are developed will result in gap in the built form in the village. However, in my view this does not form a reason to object to the application due to the fact that the BK3 policy does not require for the two elements of the site to be built at the same time. Furthermore, this site will be built out at some point in time, and then this issue will not exist. Whilst this temporary gap in the built area of the village is not ideal, it does not form a reason for objection against the application that could be substantiated to justify the refusal of the application when the benefit of the delivery of 140 new homes is considered. On this basis, no objection is raised to this issue.
- 4.3.30 With regards to reason for refusal 2 of application 16/02759/1, the long term deliverability of the shop is a matter that can be fully addressed at the reserved matters stage by which time a shop operator can also become involved. The policy requirement for BK3 only requires for the provision of a convenience shop and not that it will be viable in the long term or not have harm on the viability of other shops in other villages. Therefore, the application meets this policy requirement.
- 4.3.31 Reason for refusal 3 states that the 2016 application had not been submitted with a valid S106 Legal Agreement. A S106 has been submitted with this application and is in the final stages of being prepared. This application is being recommended for conditional permission subject to the completion of the S106 Legal Agreement so this matter is now considered to be overcome.
- 4.3.32 Reason 4 from the 2016 application is no longer applicable and the Lead Local Flood Authority is recommending no objection subject to conditions which are recommended.

#### **Loss of agricultural land**

- 4.3.33 Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:
- a) *Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with the statutory status of identified quality in the development plan).*
- 4.3.34 Agricultural land is graded by the Agricultural Land Classification (ALC) which grades land to assess and compare the quality of the agricultural land at national, regional and local levels. It assesses the potential for land to support different agricultural uses, such a growing crops for food and does not consider the land's current use. Land is

graded from 1 – 5 with Best and Most Versatile (BMV) agricultural land being land in the grades of 1, 2 and 3a. Grade 2 land (on the Natural England Guide to assessing development proposed on agricultural land) is land that is described as being: *“Land with minor limitations which affect crop yield, cultivation or harvesting. A wide range of agricultural and horticultural crops can usually be grown. On some land in the grade there may be reduced flexibility due to difficulties with the production of the more demanding crops, such as winter harvested vegetables and arable root crops. The level of yield is generally high but may be lower or more viable than grade 1”*.

- 4.3.35 The application comprises grade 2 agricultural land and therefore is regarded as BMV land for agriculture. At 7.6 ha the site area is lower than the 20 ha threshold that would require Natural England to be consulted. It can be accepted that the loss of some high grade agricultural land will be necessary to achieve the District’s housing need, which cannot be met within existing urban areas. The context of the landscape is one of a wider agricultural landscape and the loss of this amount of agricultural land is considered to be proportionality acceptable. Therefore, I do not raise an objection to the loss of BMV land in this instance.

#### **Impact on the character of the village, Conservation Area and wider landscape**

- 4.3.36 Barkway can be described as a linear village, with the older part of the village being along the High Street on the B1368. All of this part of the village (excluding a few properties in Burrs Lane and Townsend Close) are within the Conservation Area. The newer part of Barkway, formed by Periwinkle Close and Windmill Close are to the south-west of the application site, but as two ‘spur roads’ off Royston Road, are not inconsistent with the linear form of the village.
- 4.3.37 I note that this application is outline with all matters reserved apart from access. The indicative plans show a modern style housing estate, with looping roads and small cul-de-sacs off the main ‘street’ through the proposed estate. Its form is circular and likely to be similar to the layout that will come forward under the reserved matters scheme.
- 4.3.38 It cannot be denied that the addition of 140 homes in this location on a slight hill and with a largely circular layout, will be visually apparent in the locality. However, the allocation of the site accepts that this will be the end result and during the reserved matters stage consideration will be given to layout and design issues as well as strategic landscaping to help to screen the development. The possible adverse impact of the built form in the locality cannot be given any weight in my view.
- 4.3.39 Section 16 of the NPPF requires for the conserving and enhancing of the historic environment with paragraph 202 stating that where development will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. The Conservation Area has linear form, and even though the layout of the new housing is likely to be ‘circular’, given the Conservation Area at its closest point is 200m to the south of the application site, I conclude that there will be no harm on the character of the Conservation Area as the northern point of the Conservation Area does not immediately join the south of the application site area and therefore this ‘test’ requirement of paragraph 202 is not applicable.
- 4.3.40 Lying to the north and north-west there are listed buildings within the grounds of Newsells Stud and the registered park of Cokenach. These listed buildings are not immediate neighbours to the application site edge, but are located some distance away and the Chiltern Ridge which is the high point on the north side of the application site forms a clear northern boundary to the site. As a result, I cannot conclude that there

would be harm on the context or setting or these listed buildings / heritage assets from the proposal.

### **Access and highways issues**

- 4.3.41 I have no objection to either of the proposed accesses, which Hertfordshire Highways raise no objection to subject to conditions and informatives which are recommended. The application also sets out that a new pavement would be provided along Royston Road on the side adjacent to the application site, and the pavement on Cambridge Road would be widened.

### **Layout**

- 4.3.42 It is noted that the application is outline but that an indicative layout is proposed. I have minor concern regarding the close proximity of some of the dwellings to important landscape features, including hedgerows and the trees along the bridle path. Emerging Policy NEx, supporting text paragraph 11.xx sets out that new developments are required to demonstrate how existing wildlife habitats such as trees and hedgerows will be retained, safeguarded and managed during and after development. It states that 'buffers' along these important landscape features may well be required, and in the event that they are, a 'buffer' should be a minimum of 12m of complementary habitat. The indicative site layout plan shows compliance by providing a 6m buffer on either side of this central hedgerow area, so a 12m buffer in total not 12m on each side. Full consideration of the layout will be undertaken at the reserved matters stage.

### **Ecology**

- 4.3.43 Within section 15, Conserving and Enhancing the natural environment, the NPPF sets out that new development should minimise impacts on and provide net gains for biodiversity. This aspiration was made law in Autumn 2021 by The Environment Act which sets binding targets for air quality, biodiversity and waste reduction. For biodiversity the long-term target is that the species abundance indicators are increased by 10%. There is currently a two year transition period while secondary legislation is passed to make these targets mandatory. Under the provisions of the emerging Local Plan, emerging Policy NEx states that all developments should seek to deliver net gains for biodiversity.

- 4.3.44 A Biodiversity Net Gain Design Stage Report dated March 2022 has been submitted in support to address this issue. This report, under part 7 states:

*"..the metric calculation currently indicates a net change of 0.02 non-linear habitat units, a net gain of 1.05% and a net change of 2.58 linear habitat units, a net gain of 57.95%. Therefore, non-linear habitats fall short of the desired 10% gain.*

*However, whilst 10% should be an aspiration for BNG the recent Malmesbury Appeal Decisions (The Planning Inspectorate, 2022) held that although The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is not yet law and is not applicable. The North Hertfordshire District Council Local Plan and Paragraph 174 of the Framework both seek a net gain in biodiversity without identifying a specific percentage. A net gain of 1% was held to be compliant in the Malmesbury Appeal Case".*

- 4.3.45 Therefore, this proposal which will provide a 1% net gain in biodiversity for non-linear habitats and a net gain of 58% for linear habitats and can be considered to be policy compliant at this current point in time prior to the 10% biodiversity net gain becoming

mandatory, as a net gain is achieved overall so no objection is raised on the basis of biodiversity.

### Technical objections

4.3.46 The NPPF, paragraph 83, sets out the Government's support for the rural economy and paragraph 84 states that development should be sensitive to its surroundings. As set out under the Newsells comments above, Newsells are a large local business, and are the largest local employer in the area employing around 35 staff.

4.3.47 I note Newsells overall objections. In summary they are concerned that the housing development in close proximity to their best fields could result in some of their land not being able to be used or foals getting hurt in paddock accidents that then affect their viability as a rural businesses. The application has attempted to mitigate this harm by showing a 15m wide landscape buffer along the northern edge of the application site in the indicative plans. I note that Newsells' state that this is not a wide enough buffer. Again due this being an outline application this matter, regarding the depth of the buffer and the strategic landscaping of the site are issues that will be considered at the next stage and no objection can be substantiated against the application on this basis.

4.3.48 I note that concern is also raised about those walking in the countryside through the Newsells estate not having dogs on leads or trying to feed or pet the foals. I note Newsells concern that whilst this could happen now, the likelihood of this would increase following the increased number of houses and population living close to their land. Whilst I have sympathy with this concern, this is a matter outside the scope of the application and Newsells are entitled to erect signage on their own land stating do not feed or pet the horses.

4.3.49 Neighbour's have objected on the basis that they consider the introduction of street lights along the Chiltern Ridge would be contrary to the character of the countryside and the setting of the Chiltern Ridge in this location. Technical details such as landscaping and lighting, which will be able to help to mitigate against such impacts / concerns, will be considered at the reserved matters stage.

4.3.50 Concern has been raised to the width and possible works to the existing bridleway that crosses the site. Again, this is an issue that would be taken into account at the reserved matters stage.

### Planning Obligations

4.3.51 The applicant has agreed to pay the following contributions and a S106 Legal Agreement has been submitted and is well progressed. In the event that Members wish to approve this application, I recommend that such a resolution would be subject to the completion of the S106 Legal Agreement. The terms of which are:

Element	Details	Justification
Affordable housing	40% affordable housing. 56 units. This should be 65% rented (36 units) and 35% other intermediate tenure (20 units). Based on the SHMA the best mix to meet this is: Rented: <b>Page 28</b>	Policy HS2 of the North Hertfordshire Submission Local Plan (2011 – 2031).  Planning Obligations SPD  As required by the Housing

	<p>1 bed flats (6)  1 bed bungalows M4(3)  standard (2)  2 bed flats (4)  2 bed bungalow M4(3)  standard (1)  2 bed houses (10)  3 bed bungalow M4(3)  standard (2)  3 bed houses (9)  4 bed houses. (2)</p> <p>Intermediate:  1 bed flats (2)  2 bed bungalow (1)  2 bed houses (6)  3 bed houses (9)  4 bed houses (2)  (Unit size is not known and flats are not shown on the indicative layout plan. This may change in the event of a reserved matters application).</p>	Enabling Officer
To support the building of a single court community sports hall via Barkway Parish Council	<p>Play Space - £93,903.01;  Pitch Sport - £46,317.04;  Open space - £50,758.40;  Community Halls - £59,641.12;  Leisure - £98,745.61  As these figures are all for one project they can be stated as one contribution of £349,365.18.  (All figures need to be indexed linked)</p>	Planning Obligations SPD
Waste collection and re-cycling	£71 per dwelling. (Figures need to be indexed linked).	Planning Obligations SPD
HCC First School Education	No contribution required as sufficient local capacity.	
HCC Middle and Upper School Education	<p>£1,318,092.00 (indexed linked to 1Q2020 BICS ALL in TPI) towards the expansion of King James Academy, Royston.  £697,297.00 middle and £620,794.00 upper education.  Revised trigger has been agreed for this contribution.</p>	HCC Guide and Planning Obligations SPD
HCC Library Service	£12,898.00 towards enhancements works at Royston Library (figures to be indexed linked)	HCC Guide and Planning Obligations SPD
HCC Youth Services	£34,312.00 towards increasing capacity at Royston Youth Centre	HCC Guide and Planning Obligations SPD

	Centre. (figures to be indexed linked)	
HCC SEND	£146,712.00 towards the EAST Severe Learning Difficulty school (figures to be indexed linked).	HCC Guide
HCC requirement	Provision of fire hydrants across the site.	HCC Guide
HCC Highways	£139,250.00 for sustainable transport. (figures to be indexed linked).	Planning Obligations SPD and requirement of HCC Highways.
Open Space	Delivery, phasing, creation and long term management and maintenance arrangements for on site open space	Planning Obligations SPD and Policy SP9 of the Emerging Local Plan

### **Barkway and Nuthampstead Neighbourhood Plan**

4.3.52 This is in the early stages of being produced. To date the Neighbourhood Plan has not been 'made'. It therefore does not hold any weight in the consideration of this application.

### **Planning balance and conclusion**

4.3.53 The application is recommended for conditional planning permission, subject to the completion of the S106 legal agreement, for the primary reason that it is an allocated housing site in the emerging Local Plan. The concerns that the site was no longer sufficiently sustainable due to the federation of the first school and the reduction in the bus service, and the site should be removed as an allocation from the plan were discussed at the EiP and these objections were not supported as the site was retained as an allocation in the updated Local Plan Modifications received in May 2021. On this basis, there is no objection to the principle of residential development of up to 140 homes on this site.

4.3.54 Under the provisions of the Local Plan 1996 the site is outside of the settlement boundary area and contrary to the provisions of Saved Policy 6. However, the NPPF, paragraph 11(d) requires for the 'tilted balance' in favour of granting planning permission for sustainable new residential development in situations where the local plan is out of date. The Council is currently unable to demonstrate a five year housing land supply, with less than 1.47 years currently available, and therefore the delivery of 140 homes, which is a material contribution to the housing figures in the District, on a site on the edge of a Category A village where there is a first school, a public house and some public transport options available locally, is in accordance with the aims of the NPPF with the application of the 'tilted balance' in favour of granting planning permission for new housing in such locations.

4.3.55 The application is in outline, apart from access, and consideration will be given at the reserved matters stage to layout, design, external materials, parking, bin storage, lighting and landscaping to ensure that the final built development will have an acceptable appearance in the context of the locality. Therefore, no objection can be lodged against this application for these reasons.

4.3.56 It is noted that the reserve school site forms part of the allocation land area but is outside of the red line application site area and ownership of the applicant. Whilst it is not ideal for this area to be left undeveloped as it is on the south/village side of the allocation area, the criteria for BK3 does not specify in which land areas the uses should go nor that the school and houses have to be delivered at the same time, only that within the allocation the reserve school site should be provided for, which it is. On this basis there is no ability to object to the application.

4.3.57 For the above key reasons the application is considered to be acceptable and to comply with the provisions of the NPPF and the emerging Local Plan and is recommended for conditional permission, subject to the completion of the S106 legal agreement.

#### **List of appendices**

Appendix 1 – Barkway Parish Council 2022 objection response.

Appendix 2 – NHDC Housing Officer comments.

Appendix 3 – NHDC Policy Officer comments.

Appendix 4 – Master planning note from Local Plans Manager.

#### **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:

- a) receiving a response of no objection from Herts Ecology;
- b) the completion of the S106 legal agreement; and
- c) the following conditions:

1. Before the development hereby permitted is commenced, approval of the details of the siting, design and external appearance of the development, the means of access thereto and the landscaping of the site (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 1995 as amended.

2. 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.

3. 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.

4. 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 and / or levels changes;

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

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

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

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

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

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



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

8. Prior to occupation, each dwelling shall incorporate one Electric Vehicle (EV) ready domestic charging point and it shall thereafter be retained.

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.

9. No development shall be occupied until confirmation has been provided that either:- all sewage works upgrades required to accommodate the additional flows from the development have been completed; or - a development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow 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.

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

B The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (A)

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

Reason: To protect the historic environment.

11. Prior to the first occupation of the development hereby permitted the access and principal access road offset from the Royston Road (west access) shall be provided

6.0 metres wide complete with 10 radius kerbs and 2.0 m footway extended around the radii onto Royston Road, thereafter the accesses roads and footways shall be retained at the position shown on the approved site layout plan number 163462-006 revision A

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

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

12. Prior to the first occupation of the development hereby permitted the access and principal access road offset from the Cambridge Road (east access) shall be provided 6.0 metres wide complete with 12 radius kerbs and 2.0 m footway extended around the radii and along Cambridge Road, thereafter the accesses roads and footways shall be retained at the position shown on the approved site layout plan number 163462-007 revision A in conjunction with footway connections and associated works shown on drawing number 163462-004 revision B and the Royston Road Crossing junction improvements identified on drawing number 163462-002 revision A.

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

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

13. Prior to occupation a system of footways shall be provided to connect the new development with the existing bus stops in Royston Road as part of the application. These will need to be connected to the development's footpaths and easy access kerbs and shelters should be provided as appropriate. The exact location and accommodating works will need to be agreed in conjunction with appropriate parties. These works shall be secured and undertaken as part of the s278 access works.  
Reason: In order to meet accessibility requirements for passenger services for the development in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

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

14. Prior to the first occupation of the development hereby permitted visibility splays measuring 2.4 metres x 70 metres to both directions along the Royston Road shall be provided to each side of the access where it meets the highway as identified on the approved site layout plan number 163462-006 revision A and such splays shall always thereafter be maintained free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

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

15. Prior to the first occupation of the development hereby permitted visibility splays measuring 2.4 metres x 90 metres to the south westerly direction and 2.4 metres x 215 metres to the north easterly direction shall be provided along the Cambridge

Road to each side of the access where it meets the highway as identified on the approved site layout plan number 163462-007 revision A and such splays shall always thereafter be maintained free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

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

16. Prior to the commencement of development details of the redundant points of access to the site from Cambridge Road and Royston Road and reinstatement of the verge or/and footways where relevant shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and permanently retained.

Reason: To provide safe and accessible linkages for pedestrians and cyclists and to confine vehicle movements to the permitted points of access in accordance with Policy 5 of Hertfordshire's Local Transport Plan .

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

- I. Roads, footways, foul and on-site water drainage.
- II. Proposed access arrangements including, accurate radius kerbs at the main access to the site, visibility splays, with acceptable Stage 1 Road Safety Audit;
- III. Servicing areas, loading areas and turning areas for all vehicles.

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

18. The gradient of the access roads shall not exceed 1:20 as measured from the existing carriageway.

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

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

The Construction Management Plan of:

- 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

20. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment carried out by Ardent Consulting reference 163461-02a dated June 2018. The surface water drainage scheme should include;

1. Implementation of the appropriate drainage strategy based on infiltration into using appropriate above ground SuDS measures and indicated on Surface Water Drainage drawing.

2. Provision of storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event. The mitigation measures shall be fully implemented prior to full site occupation and 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.

21. Before each phase of development approved by this planning permission no development of that phase shall take place until the final design of the drainage scheme has been submitted to, and approved in writing by, the local planning authority. The surface water drainage system will be based on the submitted Flood Risk Assessment carried out by Ardent Consulting reference 163461-02a dated June 2018.

The scheme shall also include;

1. Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.

2. Detailed surface water calculations and modelling for all rainfall events up to and including the 1 in 100 year + climate change event for the whole site.

3. All calculations/modelling and drain down times for all storage features.

4. Confirmation of which SuDS features will be infiltrating and specific infiltration rates for each feature.

5. Demonstrate an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage.

6. Silt traps for protection for any residual tanked elements.

7. Details regarding any areas of informal flooding (events those exceeding 1 in 30 year rainfall event), this should be shown on a plan with estimated extents and depths.

8. Details of final exceedance routes, including those for an event which exceeds to 1:100 + climate change rainfall event.

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

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

The plan shall include;

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

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

23. Despite the provisions of the Use Classes Order 2020 the 'shop use' hereby permitted shall be used for convenience type shopping and for no other use within the E class category unless planning permission for a change of use is first obtained from the LPA.

Reason: It is a requirement of the BK3 emerging Local Plan policy that a 'shop' is provided within the BK3 allocation area.

24. Prior to the commencement of the development hereby permitted, a detailed development phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include details of each phase of the development, in terms of sequencing and infrastructure delivery, land use implementation plan including a clear plan for the delivery and long term retention of the proposed convenience retail store. The proposed development shall thereafter be carried out in complete accordance with the approved details and particulars of the phasing plan unless otherwise agreed in writing by the Local Planning Authority.

Reasons: To ensure the proper planning and phasing of the development in the interest of good planning and implementation and to ensure the delivery of the convenience store in a timely manner in relation to the wider housing development in accordance with the terms of Policy SP9 of the Emerging North Hertfordshire Local Plan (2011-2031).

**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. Thames Water Informative:

1. The developer can request information to support the discharge of this condition by visiting the Thames Water website at Development Planning Department (telephone 0203 577 9998) prior to the planning application approval. Should the Local Planning Authority consider the above recommendation inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with

Thames Water Development Planning Department (telephone 0203 577 9998) prior to the planning application approval.

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. Highways Informatives:

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

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

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

- (ii) Directly related to the development;

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

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

The above financial contribution has been based on the HCC Financial Obligations Toolkit towards bus service improvements realising for 140 dwellings = £139,250 (see

table below) for the sustainable transport contribution.

The toolkit specifies the following breakdown in costs related to the proposed development: estimated tenure as follows;

- o 1 bedroom dwellings: £625/dwelling (14 x £750=£8,750)
- o 2 bedroom dwellings: £750/dwelling (49 x £750=£36,750)
- o 3-bedroom dwellings: £1125/dwelling (58 x £1125=£65,250) and:
- o 4-bedroom dwellings: £1500/dwelling (19 x £1500=£28,500)

This approach is consistent and relate to the scale and impact of development.

The sustainable contribution means the sum of one hundred and seventy six thousand and two hundred and fifty pounds (£139,250) (Index Linked) as a contribution towards the upgrading to DDA standards for the improvements to the closest bus stop along Cambridge Road (plated as Village Hall) shall be upgraded to include raised Kassel kerbing and a bus shelters and two further stops along Royston Road (plated as Windmill Close) shall be upgraded to include raised Kassel kerbing, installed to the Highway Authority's satisfaction. The items at the stops that are in need of improvement: Bench approx 1x£8000, Shelter approx 1x£8000, Kessel kerbs approx 3x£8000  
Totalling £40,000 for bus stop improvements, these works shall be secured through the s106 agreement.

This financial contribution would also be in respect of public transport initiatives such as Demand Responsive Transport [DRT] service in the area to encourage users of the Development to travel to and from the Development by means of transport other than the private car, this would enable the development site be served by bus services when and where is needed therefore, the bus service contribution would last longer and residents would benefit more from bus services, a financial contribution of £100, 000 has been calculated in similar development, (Royston Briars Lane) in consultation with the HCC Transport, Access and Safety Team to determine financial contributions towards improved bus services and facilities to provide a DRT to serve the development which the County Council determines will contribute to the improvement of highway conditions on parts of the network affected by traffic associated with the Development shall be secured through the s106 agreement

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

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

3. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website;

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

4. Lead Local Flood Authority Informatives:

1. The site is located within a source protection zone, therefore we would advise the LPA is consult the Environment Agency for any requirements they may have in relation to water quality.

2. As this is a greenfield site, we would not accept the use of below ground attenuation features. At detail design stage we would expect above ground measures such as permeable paving, swales etc. could be used on impermeable sites and utilised within green space and areas of landscaping. Prioritising above ground methods and providing source control measures can ensure that surface water run-off can be treated in a sustainable manner and reduce the requirement for maintenance of underground features.

3. We would strongly recommend that soakaways serving multiple properties should not be located within private curtilage. There is a high uncertainty that individual house owners will have the means to undertake the maintenance required by drainage features within their property. As the drainage system is serving more than one property, the lack of maintenance would affect several properties.





Anne McDonald – North Hertfordshire District Council

05.08.2022

Dear Anne

**Outline Application: 18/01502/OP**

**Outline application with all matters reserved other than strategic point of access onto Royston Road and Cambridge Road for the erection of up to 140 dwellings and a new shop (A1 use) with associated public open space, landscaping and drainage. Land Between Royston Road And, Cambridge Road, Barkway, Hertfordshire.**

**Comments on further supporting information and updated supplementary documents.**

1. Thank you for providing an opportunity to comment on the further supporting information and updated supplementary documents in relation to this planning application.

**Introduction**

2. Barkway Parish Council have consistently objected to the application and the allocation of the site in the emerging North Herts Local Plan (BK3) and continue to do so. We note your comments that the issue of BK3 staying in the emerging Local Plan, or not, will be discussed in the committee report. Therefore, the application should not be decided until the future of the emerging Local Plan is clearly set out, unless the decision is for it to be refused.
3. A significant proportion of residents of the village actively object to this planning application. In addition, the District Councillor (Gerald Morris), the County Councillor (Fiona Hill) and our MP (Sir Oliver Heald) also object. Sir Oliver Heald is particularly concerned about the impact on the River Quin, a matter about which he is very well aware in his capacity as President of the Friends of the Rib and Quin. The most significant employer in the village, Newsells Park Stud, maintains its ardent objection to the development to a housing estate on the edge of its grounds.
4. This letter of objection should be added to all previous objections to the development proposed on site BK3. The objection laid out below provides support for refusing the planning application

## **Reasons for Objection**

### **The Emerging Local Plan**

5. The applicants Planning Statement Addendum (para's 2.2 – 2.7) says that the BK3 site allocation has been retained throughout the Examination of the Local Plan. Although this is factually correct, the protracted and unexplained delay in the issuing of the Inspectors Fact Check report must throw some doubt on his opinion of the soundness of the emerging Local Plan, and therefore the likely imminent adoption of a Local Plan which includes BK3 as a site allocation.
6. Site BK3 is not a site allocation in an adopted Local Plan. It would be contrary to the saved policies of the District Local Plan No.2 (1996). There is no proven need for the development and the option of refusing the application and not developing the site would have no impact on the overall housing land supply for the district. The application should be refused.

### **Principle of Development & the NPPF**

7. The Planning Statement Addendum adds nothing to reassure residents or Barkway Parish Council, that granting planning permission for this outline planning application can be supported by a reasoned argument.
8. The Planning Statement Addendum falls back on the presumption in favour of sustainable development in the NPPF. This is where the applicant's argument falls down. This outline planning application does not constitute sustainable development evidenced by the District Council's own request to remove it from the Local Plan, among very many other reasons.
9. The fact that Barkway is a sustainable location just because it is beyond the Green Belt, reiterated in para 2.14 of the Planning Statement Addendum, is not a criterion of sustainability. Barkway is not a sustainable location, evidenced by all the previous submissions by Barkway Parish Council to both the planning application and the objections to BK3 being included as a site allocation in the Local Plan.
10. In an attempt to justify the proposals, the Planning Statement Addendum refers to Paragraph 48 of the National Planning Policy Framework. This paragraph gives three criteria for giving weight to relevant policies in emerging plans. The second criterion relates to the extent to which there are unresolved objections to the relevant policies. Barkway Parish Council maintains its strong and well evidenced objection to the allocation of site BK3 (Policy BK3) in the emerging Local Plan. The strength of the parish council objection and the fact that it remains unresolved should reduce the weight given to that policy and its role in supporting this application.
11. Paragraph 73 of the NPPF refers to how new homes can often be best achieved by significant extensions to existing villages provided they are well located and designed and supported by necessary infrastructure. This application represents

the growth of Barkway by about one third making paragraph 73 relevant. The paragraph text mentions the caveats of being well designed, well located and supported by necessary infrastructure.

12. Well designed: Despite the District Council's attempts to improve design through a Masterplanning exercise, design will only be judged when a full application is submitted, or through reserved matters applications.
13. Well located: The Masterplan Summary Report containing Illustrative Masterplan Revision D, shows clearly how the proposed development fails to integrate with the village. The location of the site, separated from the settlement by land held in reserve for a school site that is not needed, is a poor location. The residential development on site BK3 does not trigger a need to use the reserve school site and there is no evidence that it will do in the near or medium term future. The new housing estate will represent a form of development unsuitable for a small village and fails to meet the criterion of being well located.
14. Supported by necessary infrastructure: Previous objections by Barkway Parish Council have detailed the issue with transport infrastructure. There is also a fundamental issue with Sewerage infrastructure in Barkway.
15. The impact on the River Quin is subject of a comprehensive report submitted with this objection. (Please see Appendix A)

#### Impact on the River Quin

16. The detailed report prepared for Barkway Parish Council by [Case Environmental](#) is summarised in the paragraphs below:
17. The Problem: The River Quin, which runs through Barkway, is a rare and ecologically important chalk stream, supporting a diverse range of species which is under threat. Since 2013 the river has been categorized as being in a poor condition by the Environment Agency owing to over-abstraction of water and overflows of untreated sewage into it from the Barkway Sewage Treatment Works (STW). The volume of water flowing along the river is variable and at certain times of the year it virtually dries up upstream from the sewage works ensuring that what is sent downstream from there is concentrated sewage. The risk of the River Quin becoming little more than a nature open sewer is very real and would be an environmental catastrophe for an endangered chalk stream.
18. Nationally, unacceptable levels of discharge/spillage of untreated sewage into waterways are acknowledged by government agencies and water companies. Barkway has a problem bigger than most and the problem is growing. In 2021, untreated sewage was discharged into the river for 734 hours. This equates to untreated sewage being discharged continuously into the River Quin for a whole month.
19. The Future: There is no provision in Thames Water's Five-Year-Plan to increase capacity at Barkway STW. The 140+ homes proposed in Barkway on site BK3

equate to a 30% increase in existing housing and a consequent discharge of approximately 30% more raw sewage into the River Quin. There is a major threat of a collapse of the wastewater treatment works in Barkway. This would result in the catastrophic and irreversible loss of the waterway and its unique eco-system (flora and fauna) below the STW. There is a compelling and valid argument that no further development should occur within Barkway Village until the fundamental and current issues discussed in Case Environmental Report afflicting the River Quin have been addressed.

20. The Solution: There should be a halt to further large-scale development in Barkway (including BK3) until the fundamental issues at Barkway STW that are afflicting the River Quin are resolved. The House of Commons Select Committee – Environmental Audit Committee (EAC) recommends that, in the process of approval of any new development in England, water companies ought to be empowered to require that any Community Infrastructure Levy payable by developers is used to enable separate surface water and foul sewers, in cases where provision has not already been made for such arrangements.
21. Action should be taken by both the Environment Agency and Thames Water. The Environment Agency should develop flow strategies including organisation of the maintenance of the River Quin upstream of the STW; monitor water quality and river flow rates downstream of Barkway STW; and organize frequent visual monitoring of the drainage ditch. Thames Water should investigate increasing the capacity and refurbishing of the reed filter beds at the STW.

### Archaeology

22. The outline application seeks to establish the principle of 140 homes on the site. The important further work undertaken by a local archaeologist on the site indicates that the site is more important than the appraisals submitted with the planning application suggest, despite the site being outside any of Barkway's Areas of Archaeological Significance. The [Barkway Local History Group](#) have been very active in further investigating the motte and bailey site on Periwinkle Hill, using drone flights and LiDAR technology. This new information must be taken into account prior to the decision on the outline application and the indicative Masterplanning that has been prepared without archaeological investigation.
23. We conclude that the potential impact on designated and non-designated heritage assets has not been properly considered.

Please refer to:

<https://www.britishmuseum.org/collection/search?keyword=Barkway&keyword=Hoard>

The Barkway Hoard – Roman artifacts now on permanent display at the British Museum.

(Also please see Appendices B, C & D)

### Village Store

24. The description of development includes the provision of a new shop (A1 use). The Town and Country (Use Classes Order) 1987 (as amended), most recently in April 2021, no longer includes such a use. There is now only a Commercial, Business and Service use (E). The description of development is incorrect.
25. At no point has the need for a village shop been addressed, despite repeated requests from the Parish Council for the applicant to demonstrate how this has been researched. The updated documents do not provide evidence that the provision of a village store within the development would be viable and that it would not impact on the popular village store and post office in Barley. If a village store in Barkway were to cause the closure of the village store in Barley, the village would also lose access to a local post office.
26. Granting outline permission for the principle of a village store as part of this development could result in the loss of facilities for the village making the development even less sustainable than it already is.

### Public Open Space

27. Public open space is included in the description of development. Despite it technically being reserved matter, the Design and Access Statement which was submitted in March 2022 (but which there has been no opportunity to comment to date) includes a land use plan on page 20. This shows that public open space has been located on the edges of the development to try and soften the impact of a housing estate up against an internationally renowned stud farm and to hide the development from the road on the southwestern approach to the village. Whilst the parish council agree that this is necessary, the principles of good design, to integrate public open space within a development, have been ignored.
28. The results of the Masterplanning exercise appear to confirm that most of the open space will be peripheral to the development. The only open space within the development is along the line of the existing public right of way.

### Public Right of Way

29. Bridleway, Barkway 018, is shown on the proposed masterplan as having to cross the primary traffic route through the development requiring walkers and riders to cross a road constitutes a significant reduction in amenity. The character of Public Rights of Way should be preserved or improved, not dissected and urbanised.
30. The National Planning Policy Framework (NPPF) paragraph 100 says "Planning ... decisions should protect and enhance public rights of way and access, ...". This section of the NPPF derives from the [Defra Circular 1/09 Public Rights of way – Guidance for Local Authorities](#). Paragraph 7.2 of the circular says "The effect of development on a public right of way is a material consideration in the

determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered." Paragraph 7.8 says "In considering potential revisions to an existing right of way that are necessary to accommodate the planned development ... preference should be given to ... paths through landscaped or open space areas away from vehicular traffic." The clear intention is that the character of Public Rights of Way should be retained and that the effect of urbanisation in rural areas should be minimal.

### Arboriculture

31. The updated Arboricultural Impact Assessment (rev A) (July 2022) confirms the removal of a group of trees and four lengths of hedgerow. We have no comment to make on this other than its contribution to the governments project target of a 10% biodiversity net gain in terms of hedgerows is underwhelming. It confirms that the application requires the part removal of 4 hedges.
32. At no point is the detail of the hedgerow to be removed discussed. It is merely glazed over. What is the length of the hedgerow to be removed? Despite the landscape plan being quoted as illustrative, there is a considerable amount of detail about trees and virtually nothing about hedgerows or the impact on the four breaks in the hedgerow that are created on the illustrative landscape plan.

### Ecology

33. The updated Preliminary Ecological Assessment (Rev B) (June 2022) records a Biodiversity Net Gain of only 1.05% for non-linear habitats. No attempt is made to achieve the governments projected target of 10% net gain in biodiversity. The conclusions of the report state that the proposed development achieves [by 0.05%] the measure by which applications are currently judged as acceptable, pending the bringing into force of the legislation to implement the Environment Act 2021.
34. The Ecological Assessment claims that planting of new hedgerows (linear habitats) will achieve a net gain of 57.95%. Hedgerows take years to mature, and the application includes the loss of mature hedgerows where access routes are cut into them.
35. The North Herts Climate Change Emergency is not mentioned in the planning submissions. The development of this site will immediately worsen the Climate Change Emergency declared in North Hertfordshire.

### Conclusion

36. There is nothing in the recently submitted documents that helps to support the applicant's claim that their application is sustainable. This renders the application contrary to the NPPF.

37. The impact on climate change and infrastructure is not addressed. The vital issue of failing sewerage infrastructure and how the discharge of excessive untreated sewerage from the Barkway Water Treatment Plant into the protected River Quin will worsen is completely absent, with no solution offered, NPPF.
38. The impact on archaeology is unknown and the impact on the public right of way is unacceptable in accordance with best practice and the NPPF.
39. The description of development for this planning application seeks to establish the principle of not only a quantum of development (and mixture of housing) but also the provision of a village store without the necessary evidence or infrastructure to support new homes or the need for a shop, NPPF.
40. Despite the attempts at Masterplanning, the location of the public open space predominantly on the edges of the development seeks to hide the development rather than providing usable space for residents, NPPF.
41. The Arboriculture and Ecology reports show the inadequacies of the development to improve biodiversity, NPPF.
42. Finally, the application should not be decided until the future of the emerging Local Plan is clearly set out, unless the decision is for the application to be refused.

Yours sincerely,

Catharine Toms  
 Clerk to Barkway Parish Council  
 The Reading Room  
 12 High Street  
 Barkway  
 Royston  
 Hertfordshire SG8 8EE

01763 849671

07763 167116

Appendix A – Impact of BK3 on the River Quin  
 Appendix B – Extracts from emails regarding Archaeology  
 Appendix C – LiDAR photos  
 Appendix D – Evaluation Trenching Report BK3

Cc: Mr Simon Ellis (NHC Development & Conservation Manager), NHC Planning Control, Dist. Cllr. Gerald Morris, County Cllr. Fiona Hill, Mr John Grossart (Representing Newsells Park Stud), Jacqueline Veater (Govresources Ltd), Cllr. Paul Clark (NHC Exec. Member for Planning & NHC Deputy Leader), Cllr. Elizabeth Dennis-Harburg (NHC – Leader of the Council), Cllr. Steve Jarvis (NHC Exec. Member Environment & Leisure), Sir Oliver Heald (MP for North Herts)

This page is intentionally left blank



**Date:** 29 July 2022  
**To:** Anne McDonald  
**From:** Nigel Smith  
**File No:** 18/01502/OP

**Re** Land between Royston Road and Cambridge Road, Barkway

**Outline application with all matters reserved other than strategic point of access onto Royston Road and Cambridge Road for the erection of up to 140 dwellings and a new shop with associated public open space, landscaping and drainage.**

1. The case officer has requested policy comments specifically in relation to draft Policy SP9 of the emerging North Hertfordshire Local Plan 2011-2031 ('Policy SP9'). Other policy matters such as general principles relating to the development or requirements relating to (e.g.) affordable housing are not discussed other than where they necessarily overlap with the interpretation of Policy SP9.
2. The weight to be given to these comments and Policy SP9 should accord with advice in Paragraph 48 of the National Planning Policy Framework (NPPF, July 2021) on emerging plans. At the time of writing, the Council is awaiting publication of the Inspector's final report into the examination of the Local Plan. This may be received prior to the determination of the application and this should be considered as relevant / required.
3. Any references to criteria, paragraphs etc. in the Plan are as shown in the [May 2021 illustrative working version of the Local Plan](#) on the Council website. These may change in any final version of the plan to ensure the document reads sequentially and sensibly.

### **General application of Policy SP9**

4. Policy SP9 is the emerging Plan's strategic policy on Design and Sustainability. Through the examination process, the Council has proposed significant changes to this draft policy when compared to the version that was submitted for examination in 2017 and that was in effect when this application was submitted in 2018.
5. Significant alterations and additions to Policy SP9 were proposed by the Council and considered by the examining Inspector during the re-opened hearing sessions that took place in 2020/21. Proposed alterations to the policy were including in the Further Proposed Modifications to the Plan that were approved for consultation by Cabinet in March 2021 and subject to public consultation in June / July 2021.
6. In summary, these introduce a requirement on certain developments for *Strategic Masterplans to be produced in collaboration with the council and subject to consultation*

*with key stakeholders and the community.* In relation to this application, this requirement applies to 'significant development' which *generally comprises residential development above 100 dwellings.*

7. Policy SP9 encourages the production of Strategic Masterplans at pre-application stage, including agreeing their scope with the Council. However, it is also pragmatic in allowing for submitted planning applications to proceed: *Where applications have already been submitted to the Council a Strategic Masterplan should be agreed prior to the or as part of the grant of planning permission.*
8. This application was submitted before the current provisions and requirements of Policy SP9 were introduced as proposed modifications to the local plan and before the Council was applying material weight to the emerging policy in its current form. As such there was no ability to confirm the scope and contents of the Strategic Masterplan in pre-application discussions. The relevant policy provision for the application is therefore as shown in Paragraph 8 above.
9. From March 2021 onwards the applicant has positively engaged with the council to a) confirm the scope and contents of a Strategic Masterplan and b) work collaboratively to prepare and agree a Strategic Masterplan.
10. Policy comments on the compliance on the (then current) application plans and supporting material against Policy SP9 were provided to the applicant in February 2022. These are available on the case file. In response, the applicant submitted amended plans and documents between March 2022 and July 2022. This includes a series of updated parameter plans and a Masterplan Summary Report. Consultation *with key stakeholders and the community* on these amended plans and documents took place over the late spring and summer of 2022.
11. In terms of general process, I therefore consider the application complies with the relevant provisions of Policy SP9 outlined above.

### **The application / masterplan boundary**

12. The application boundary, and therefore the extent of the submitted masterplan material, coincides with the boundary of proposed Local Plan site BK3 as it was submitted to the examination in 2017. Similarly to Policy SP9, this allocation policy has been subject to proposed changes through the course of the examination.
13. At the time of writing these comments, the proposed BK3 allocation boundary has been expanded to include the adjoining reserve school site. This land is in the ownership of Hertfordshire County Council (HCC) but, on the ground, presently forms part of the same field that makes up the western part of BK3 with no clear distinction between the landholdings on the ground.
14. For Strategic Housing Sites – defined as those sites proposed in the Local Plan for 500 homes or more – there is an emerging policy requirement for Strategic Masterplans to be prepared *for the entire allocation*. However, this requirement is not replicated for significant development. Paragraph 4.116 of the supporting text to Policy SP9 recognises that:

*The policy has to apply to a wide range of developments in terms of quantum, scale and complexity. The policy should be applied in its entirety to the Strategic Housing*

*Sites but for other significant development a tailored and case-by-case approach will be required to identify a proportionate level of masterplan and design detail to secure design quality dependant on site specific issues and the level of detail submitted with any planning application*

15. Clearly, the preferable approach would be for a masterplan covering the entirety of the BK3 allocation. The potential gap / separation created by the reserve school site was a key issue in considering a previous application on this site. The currently unresolved status of this land is a challenge. However, HCC have made clear they do not wish to take part in a joint masterplanning exercise with the applicant and the Council has no particular planning powers to compel this to happen.

16. [Procedural guidance on the approval of masterplans](#) was agreed by the Council's Strategic Sites and Masterplanning Project Board in March 2022 and endorsed by Cabinet in June 2022. This says, at Paragraph 1.15 (emphasis added):

*Agreement of a Strategic Masterplan "...as part of the grant of planning permission..." will normally only be appropriate where:*

- The application boundary is contiguous with (or otherwise covers the entirety of) the relevant Local Plan allocation boundaries; and / or;*
- **It has been agreed that the application boundary is also the most appropriate Strategic Masterplan boundary.***

17. In this instance it is considered that determination of this planning application cannot reasonably be held in abeyance due to an unwilling neighbouring landowner. It is therefore necessary for the masterplan material for the current application to address these and other, site-specific issues to the best of its ability to demonstrate *proportionate* compliance with Policy SP9.

18. A masterplan coterminous with the current application boundary is presently considered the best achievable outcome and, in my view, is therefore the most appropriate application of Policy SP9 requirements at this time.

19. I consider the spatial extent of the masterplan to be consistent with Policy SP9.

### **Masterplan Summary Report and associated parameter plans**

20. As set out above, the culmination of the applicant's work in response to the changing requirements of Policy SP9 is the March 2022 Masterplan Summary Report. This document incorporates and cross-references a series of revised and updated parameter plans that have also been submitted in their own right.

21. Public consultation letters were sent on 23 May 2022 with an 8 June deadline. Following the receipt of further updated information, a further public consultation was issued running from 8 July to 31 July 2022. Any responses to these consultations regarding the Masterplan Summary Report and associated parameter plans should be taken into account by the case officer in reaching any recommendation.

22. Alongside the summary report, the applicant also submitted a commentary on the Council's February 2022 assessment detailing how the plans had been amended in response. This provides a clear and helpful audit trail of how proposals for the site have evolved and been amended in response to Policy SP9.

23. Detailed comments on the amended plans and material are set out in the attached, updated SP9 Design Assessment. The comments identify some queries and clarifications. Some of these – such as clarifying the Biodiversity Net Gain calculation against the current proposed approval plans and the compatibility of the site’s proposals for BNG, public open space and SUDs – are more substantive while others are relatively minor or cosmetic.
24. However, this is an outline application with all matters other than access reserved. It is therefore not the purpose of this current planning application to resolve all of the matters identified in full or develop or agree detailed designs or solutions. Subject to any feedback from relevant consultees as well as appropriate mechanisms (such as conditions) to allow for further reconciliation of the green infrastructure points, I consider the Masterplan Summary Report and associated parameter plans represent an appropriate and proportionate response to the requirements of Policy SP9.
25. The amendments to the scheme proactively address a number of the detailed aims and objectives of the policy and the comments provided by the Council. The documentation and parameters provide an appropriate framework against which future reserved matters can be judged and outstanding issues resolved.
26. Paragraph 1.24 of the procedural guidance referenced above recognises that *the assessment of the masterplan will form one part of a rounded consideration of application against the Development Plan and any relevant material considerations.*

## **Conclusion**

The revised application material represents an appropriate response to the requirements of Policy SP9 in terms of process, spatial extent and content.

The masterplan summary report and parameter plans should be appropriately secured by condition(s) to any permission to ensure a policy-compliant framework against which any future reserved matters can be assessed.

## MEMORANDUM

To: Anne McDonald  
Senior Planning Officer

From: Debbie Ealand  
Housing Supply Officer  
Ext: 4526

Your Ref: 18/01502/OP

Date: 26 July 2022

**Outline Application: Outline application with all matters reserved other than strategic point of access onto Royston Road and Cambridge Road for the erection of up to 140 dwellings and a new shop (A1 use) with associated public open space, landscaping and drainage.  
Land between Royston Road and Cambridge Road, Barkway, Hertfordshire.  
Case Ref No: 18/01502/OP.**

-----

Dear Anne,

Thank you for your memo of 8 July 2022 in respect of the above application for outline planning permission following submission of updated supplementary documents in support of the application.

Barkway village is covered under Policy 7 – Selected Villages beyond the Green Belt in the current saved Local Plan. Policy 6 – Rural Areas beyond the Green Belt also applies.

The site is outside the current village boundary in an area of rural restraint.

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

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

Barkway is a Category A village in the proposed submission Local Plan and there are three allocated sites in Barkway, expected to deliver 173 new homes. The application site is allocated, site BK3 in the proposed submission Local Plan and is expected to deliver 140 new homes. The site is within the proposed new settlement boundary.

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

Paragraph 62 of the NPPF says “Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)”.

Paragraph 63 of the revised NPPF says “Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:

- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
- b) the agreed approach contributes to the objective of creating mixed and balanced communities”.

A rural Housing Needs Survey (HNS) was undertaken by Community Development Action (CDA) Herts. in Barkway in 2019.

The HNS identified a total affordable assessed housing need for 18 units over a five-year period; including a mix of one, two and three bedroom homes for rent and sale on a shared ownership basis. Types of accommodation identified included flats, houses and bungalows, including sheltered and adapted accommodation. A small number of residents also mentioned an interest in community led housing and self-build.

The following types and minimum bedroom numbers, were identified:

<b>Type</b>	<b>Affordable rent minimum</b>	<b>Total</b>
1 bed flat / house	2	4
2 bed flat / house	1	7
3 bed house	0	2
1 bed sheltered / bungalow / accessible	1	2
2 bed sheltered / bungalow / accessible	1	3
<b>TOTALS</b>	<b>5</b>	<b>18</b>

This can be summarised as:

6 x 1 bed units  
 10 x 2 bed units  
 2 x 3 bed units

Based on 140 dwellings overall and a 40% affordable housing requirement, in accordance with the Proposed Submission Local Plan, this equates to the provision of 56 affordable dwellings.

Within the overall 40% affordable housing requirement a 65%/35% rented/

intermediate affordable housing tenure split is required, in accordance with the council's Planning Obligations SPD and the 2016 Strategic Housing Market Assessment (SHMA) Update. Thus, of the overall 56 affordable units: 36 rented units and 20 intermediate affordable units should be provided to meet housing need.

Within the 65% rented tenure the 2016 SHMA update indicates the following mix best meets housing need:

36 x 24% x 1 bed flats (8)  
36 x 12% x 2 bed flats (4)  
36 x 26% x 2 bed houses (9)  
36 x 35% x 3 bed houses (13)  
36 x 6% x 4 bed + houses. (2)

Within the 35% intermediate tenure the 2016 SHMA update indicates the following mix best meets housing need:

20 x 8% x 1 bed flats (2)  
20 x 8% x 2 bed flats (1)  
20 x 20% x 2 bed houses (4)  
20 x 54% x 3 bed houses (11)  
20 x 10% x 4 bed houses (2)

The applicant has indicated the provision of a policy compliant 40% affordable housing, but the tenure split proposed in their application form is incorrect.

The proposed submission Local Plan recognises that there will be a substantial increase in the number of and proportion of older residents in North Hertfordshire and there is high demand/ need for suitable accommodation for this client group.

For residential developments of 100 units or more planning permission will be granted where an element of accommodation within Use Class C3 for older persons housing is included under the requirements of Policy HS3(a).

There is growing need for three and four bed wheelchair accessible bungalows for families with an adult or child with disabilities and/ or limited mobility. To meet the requirements of Policy HS5: Accessible and adaptable housing 2 x three bed bungalows should meet M4(3) wheelchair accessible standards, in addition to 2 x one bed bungalows and a two bed bungalow, to assist in meeting the housing needs.

There is high demand across the district for smaller family (two bed) houses for rent and the council would therefore be willing to discuss amendment to the mix/ figures for rented homes.

The number of flats required is small, particularly for the intermediate tenure and I suggest any flats provided are sympathetic to the rural setting and have an external appearance like that of a dwelling house/ terrace of houses given the small number. In any event I suggest that 2 x one bed bungalows and 2 x two

bed bungalows are provided to meet needs identified in the 2019 Barkway & Nuthampstead HNS.

The required mix to meet identified housing need is:

For 65% rented tenure:

- 1 bed flats (6)
- 1 bed bungalows M4(3) standard (2)
- 2 bed flats (4)
- 2 bed bungalow M4(3) standard (1)
- 2 bed houses (10)
- 3 bed bungalow M4(3) standard (2)
- 3 bed houses (9)
- 4 bed houses. (2)

For the 35% intermediate affordable housing tenure:

- 1 bed flats (2)
- 2 bed bungalow (1)
- 2 bed houses (6)
- 3 bed houses (9)
- 4 bed houses (2)

Rented and intermediate affordable housing tenure flats should be separate as Registered Providers (RPs) do not like mixed tenure blocks and prefer different rented and intermediate tenure dwellings to have their own point of entry/ access.

The definition for affordable housing includes housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers).

The affordable homes should be owned and managed by a registered provider, should be spread across the sites in small clusters rather than be situated on one or two parts of the site and should be physically indistinguishable from the market housing.

In June 2021 the Government introduced a policy requiring 25% of affordable housing provided to be First Homes. First Homes can be considered on merit where the overall proportion of affordable housing that can be achieved on site will not be adversely affected and the Local Plan requirement for 65% of affordable homes for rent is met. Fourteen of the twenty intermediate affordable housing units could be delivered as First Homes to meet this requirement.

The council will accept Affordable Rent tenure units up to 80% of local market rents (including service charges, where applicable) for one and two bed homes and Affordable Rent tenure units up to 70% of local market rents (including service charges, where applicable) for three bedroom homes to ensure affordability, as evidenced in the 2016 SHMA Update.



To ensure affordability four bedroom homes should be let at Social Rents (excluding service charges, where applicable) and all rents should be within Local Housing Allowance (LHA rates).

Any affordable homes should be allocated to applicants with a local connection to Barkway and Nuthampstead in the first instance.

As Barkway has a population of 3,000 or less, protected area status applies. Staircasing on any shared ownership properties is restricted to 80% in accordance with

**The Housing (Shared Ownership Leases) (Exclusion from Leasehold Reform Act 1967) (England) Regulations 2009 which came into force on 07 September 2009. These regulations include the introduction of Protected Area Status for settlements currently exempt from the Right to Acquire (i.e. those with populations of less than 3000).**

This ensures that the homes remain affordable in perpetuity.

The nationally described technical housing standards provide the nationally recognised standards for bedrooms, storage, and internal areas in new dwellings across all tenures. To ensure schemes are appropriately designed the affordable units are required to meet the nationally described housing space standards.

Parking courts are not desirable as there is often limited or no natural surveillance and residents prefer to park outside or near to their homes. To minimise on street parking, parking spaces should be provided in front of or adjacent properties with good natural surveillance.

Grant funding for the affordable housing on S106 sites is not available and the affordable housing should be delivered through planning gain alone.

Issues of financial viability must be submitted to the council using a recognised financial toolkit and this will be independently tested at full expense to the applicant, in accordance with the Council's Planning Obligations SPD.

I hope this information is useful. Please contact me if I can be of any further assistance.

Regards

Debbie Ealand  
Housing Supply Officer

This page is intentionally left blank

# North Hertfordshire Local Plan SP9 Design & Sustainability: Assessment

Barkway BK3, 18/01502/OP



Page 59

1. CONTEXT AND SITE	
NDG Criteria	Comment
C1 Understand and relate well to the site its local and wider context C2 Value heritage, local history and culture	
SPg Criteria	
Positively integrate with adjacent rural and urban communities and contribute to their character and the way the area functions (including addressing cumulative, cross boundary and infrastructure matters)	<ol style="list-style-type: none"><li>1. The application does not cover the whole of the proposed BK3 allocation. Although the Council's clear preference would be to masterplan the current application site and adjoining reserve school land holistically, Hertfordshire County Council (HCC) do not wish to participate in a joint masterplanning exercise for this site.</li><li>2. Similarly, through the application, HCC have confirmed (January 2022) that this application does not trigger any need for use of the reserve school site at this time and that they will not be seeking s106 contributions towards First School provision as there is sufficient capacity within current arrangements.</li></ol>

- |  |   |
|--|---|
|  | <ol style="list-style-type: none"> <li>3. This lack of clarity on the role and eventual use of the adjoining reserve school land provides challenges, particularly as there is presently no demarcation between the two landholdings on the ground. These concerns were reflected in the response to the previous planning application on part of the current application site which identified the risk of piecemeal development and a lack of integration with the existing village. A fragmented approach to masterplanning potentially inhibits delivery of the optimum outcome for the BK3 allocation when viewed as a whole.</li> <li>4. However, in this instance it is considered that determination of this planning application cannot reasonably be held in abeyance due to an unwilling neighbouring landowner. It is therefore necessary for the masterplan material for the current application to address these and other, site-specific issues to the best of its ability to demonstrate compliance with Policy SP9.</li> <li>5. The Council's agreed approval process for Policy SP9<sup>1</sup> states that agreement of masterplan material as part of the grant of planning permission can be appropriate where it has been agreed that the application boundary is also the most appropriate masterplan boundary. In the circumstances, this is the approach that has been taken to this site / application.</li> <li>6. Following amendment, the masterplan document and accompanying plans detail how the development proposals will successfully link into the surrounding communities, destinations (e.g. the local school) and PROW network through enhanced walking and cycling routes, GI and ecological network and the disposition of the layout (see detailed comments below).</li> <li>7. The masterplan and updated plans have been amended to illustrate how the layout (block, street and landscape structure) and alignment of routes within the site have been identified to strongly integrate with these connections.</li> </ol> |
|--|---|

<sup>1</sup> Policy SP9 approval process, available at <https://www.north-herts.gov.uk/approach-masterplanning>. This document was agreed by the Council's Strategic Sites Project Board in March 2022 and endorsed by Cabinet in June 2022

	<p>8. The relationship with the adjoining reserve school land that forms the remainder of the BK3 allocation has been clarified insofar as is possible in the current circumstances with additional hedgerow planting.</p> <p>9. The site is at the interface between the village edge and the rural countryside and this is reflected in the design response. Barkway has a strong historic landscape setting – including the prominent ridge immediately west of the site and the adjoining Newsells and Cokenach estates. This has informed the use of setbacks and edge treatments which will assist in sensitively knitting the new development into the existing and mitigating the inevitable impacts that significant residential use of the site will have through good design.</p>
<b>2. IDENTITY</b>	
NDG Criteria	Comment
<p>I1 Respond to existing local character and identity.</p> <p>I2 Well-designed, high quality and attractive</p> <p>I3 Create character and identity.</p>	
SP9 Criteria	
Create buildings and streets which positively reflect and respond to the local landscape, townscape and historical character	<p>10. The updated Design and Access statement (DAS) accompanying the planning application includes consideration of local character, context and precedents and uses this to inform the proposed layout.</p>

11. The scheme is, in summary, suitably responsive to the site's landscape setting. Existing landscape features, on and off-site trees, hedge lines/vegetation and public rights of way have been used as structuring elements. The application provides the basis of a scheme that can be successfully embedded into its locality.
12. The DAS has been revised and updated to include historic mapping better showing the evolution of the village and site surrounds. Additional information has been provided (p.9 of the DAS) on the post-war development of the northern areas of Barkway in closest proximity to the site. The south-western portion of the application site in particular will have a relationship with this part of the village.
13. The previous plans / design response are now included as an additional iteration in the design evolution of the site which aids in telling the story of the current scheme.
14. Key elements of this contextual analysis including the constraints and opportunities plan are replicated in the Masterplan Summary Report (MSR).
15. There are a few minor points that it would be beneficial to clarify or amend.
  - The list of constraints in both the DAS (Section 3.3) and MSR (Section 2.3) would ideally reference the absence of clear plans or intent for the adjoining reserve school site which forms part of the BK3 allocation as well as the limited opportunities in practical terms for journeys by modes other than the private car.
  - The second bullet point in opportunities might benefit from defining the 'points of interest' – presumably facilities such as the recreation ground and village hall and wider Rights of Way networks.
  - On the constraints map / key the symbols and colour for both the rights of way and the potential pedestrian school access are very similar and would ideally be more easily differentiated.

	<ul style="list-style-type: none"> <li>• The vision makes reference to “drawing on the vernacular architecture and urban form of Barkway’s <b>Conservation Area</b>”. It is suggested that this reference should now be to “Barkway” more generally and the specific reference to the Conservation Area should be removed. This would reflect the broader emphasis of the design analysis in the DAS/MSR in response to the masterplan evolution and the Council’s feedback.</li> <li>• Remove reference to “grander” properties in design principle #3 (p.15) and Key Feature L (p.24). Lower density is a sufficient descriptor alongside the character guidance. The detailed design and general disposition of the layout (including the distribution of affordable housing within the site) remains to be determined through reserved matters application(s).</li> </ul>
<b>3. BUILT FORM</b>	
NDG Criteria	Comment
B1 Compact form of development B2 Appropriate building types and forms B3 Destinations	
SP9 Criteria	
Create buildings and streets which positively reflect and respond to the local landscape, townscape and historical character	16. The broad approach of a primary street through the site with secondary streets and development blocks to its north and south is supported, as is the proposed differentiation between the character of the western and eastern fields and the central street.

17. The masterplan and parameter plans have been updated to remove lengths of street which previously had no active frontage and to better address, in particular the north/south green corridor. This amendment is particularly welcomed as it embeds this central corridor as a key feature of the development, aiding legibility and encouraging walking, cycling (and horse riding) within, across and beyond the site.
18. The DAS identifies three broad character areas:
- The village street fronting the primary route;
  - Residential lanes – formed by the secondary and tertiary routes in the west of the site; and
  - Wooded lanes – a lower density area formed by the secondary and tertiary routes in the east of the site.
19. This is supported as a sensible basis for differentiation. The character guidance recognises there may be scope for further subdivision or distinction between the northern and southern elements of the ‘residential lanes’ given their relationship to northern Barkway / the Newsells estate respectively, though it is considered this is something that can be considered further in the development of reserved matters proposals.
20. As reflected in the site-specific policy, the western area of the site lends itself to a slightly higher intensity of development than the east.
21. An urban design parameter plan has been submitted. This is rather simplistic in that it identifies the significant majority of the site simply as the “urban block structure”. Some distinction around (e.g.) density or building heights might assist. However, when the DAS/MSR and supporting plans are read as a whole – particularly having regard to the ‘illustrative character area guidance’ – there appears to be adequate material against which to judge future applications and secure the intended outcomes.



	<p>22. Deletion of the word “illustrative” would provide some more comfort in this regard. The urban design parameter would ideally also show frontages facing the internal streets of the development blocks – reflecting the illustrative masterplan and guarding against any reversion to areas of ‘dead frontage’ in any final scheme.</p> <p>23. The reference to using design cues from northern Barkway in the southern ‘residential lanes’ area is welcome. This should help provide a legible townscape and coherent variations in character when moving across northern Barkway as a whole (e.g. from Windmill Close through the development to the community and recreation facilities).</p>
<b>4. MOVEMENT</b>	
NDG Criteria	Comment
M1 Integrated network of routes for all modes of transport M2 A clear structure and hierarchy of connected streets M3 well considered parking, servicing and utilities infrastructure for all users	
SP9 Criteria	
Create integrated, accessible and sustainable transport systems with walking, cycling and public transport designed to be the most attractive	<p>24. The primary route across the site accords with the policy requirement to explore options for a connecting road between Royston Road and Cambridge Road. This street and its alignment across the southern-central area of the site provides the opportunity to deliver clear gateways and a legible hierarchy of movement and block structure to its north and south.</p>

forms of transport and effectively linking into the surrounding areas

Provide a clear structure and hierarchy of pedestrian friendly streets and well-connected footpaths and cycleways integrated with the wider built and natural environment and communities

25. Following feedback on the original plans, the amount of hedgerow to be removed from the frontages to create the access points has been minimised, along the western frontage in particular.
26. The importance of the key node at the intersection of the bridleway corridor and primary street is clearly recognised in the plans and commentary.
27. The secondary street network has been revised through the masterplan process addressing a number of concerns that were raised in the Council's consideration of the original submitted plans. The revised alignments help create a significantly more coherent and integrated scheme and these amendments are welcomed. Any limited departures from the recommendations of the Council's February 2022 feedback are clearly explained in the applicant's commentary.
28. Pedestrian and cycle routes (including recreational routes) are shown aligning to both the street network and the green infrastructure providing edge to edge connectivity plugging into the key access points provided by the primary street and the bridleway.
29. The realignment of the secondary street to the east of the bridleway now provides an opportunity to also allow for walking and cycling along this side of the hedgerow and – potentially through the use of different surface treatments to the bridleway on the west side – provide appropriate environments for both day-to-day and leisure uses of this key axis whilst reducing potential conflict between users (e.g. horse riders and dog walkers / pedestrians). It is agreed that further design resolution can be delivered through the reserved matters process.
30. The (former) pedestrian access shown at the south-west corner has been amended to also cater for cyclists with safe access / egress from Royston Road allowing for access to / from the centre of site by the quieter secondary street and

	<p>connectivity to the wider village and right of way network including the byway route to Reed approximately 200m away.</p> <p>31. Locating the potential pedestrian access to the adjoining reserve school land at the rear of the central square is considered the best option in the current circumstances (i.e. without an allocation-wide masterplan). It allows for connectivity should that land be brought forward in the future but also allows the square to operate as a coherent space in its own right that does not rely upon the adjoining land for its success.</p> <p>32. Additional pedestrian connections through the northern and eastern boundaries are supported in principle subject to a more detailed understanding of any impacts on trees, hedgerows and biodiversity net gain.</p> <p>33. The Access and Movement Plan details proposed improvements in the vicinity of the site including measures to facilitate safe pedestrian and cycle movements along and across Cambridge Road to access the key adjoining social infrastructure facilities (village hall / recreation ground).</p> <p>34. Car parking is currently shown mainly to the side and rear of plots including in courtyard arrangements.</p> <p>35. A high-level specification and cross-section for routes is included in the MDS. There is some inconsistency in references to “residential street” and “residential lanes” between the commentary on the movement framework and character guidance which should be resolved.</p>
<b>5. NATURE</b>	
NDG Criteria	Comment

<p>N1 Provide high quality green open spaces with a variety of landscapes and activities including play</p> <p>N2 Improve and enhance water management</p> <p>N3 Support rich and varied biodiversity</p>	
SP9 Criteria	
<p>Create an accessible multi-functional green infrastructure network that provides</p> <ul style="list-style-type: none"> <li>• a key structuring and functional place-making feature supporting healthy lifestyles, sport, play and recreation linking into the wider green infrastructure network</li> <li>• a high-quality integrated network to support ecological connectivity, biodiversity net gain, climate adaptation and mitigation linking into the Ecological Network</li> </ul> <p>Ensure the effective use of sustainable urban drainage and sustainable water management</p>	<p>36. A baseline Biodiversity Net Gain calculation has been provided using the Biodiversity Metric 3.0. This should be appraised by relevant consultees, along with the existing ecological and arboricultural baseline. There is presently no response to the application from either Herts Ecology or the wildlife trust.</p> <p>37. The BNG report identifies a gain of just of 1% for non-linear (area based) habitat types and nearly 58% for linear habitats (hedgerows).</p> <p>38. The latter figure is well in excess of emerging requirements for 10% net gain. The 1% gain for non-linear habitats feels a little disappointing for a greenfield development site, though it is noted that the existing ecological value of the site has increased through the accretion of further grass species and shrub since the completion of the previous ecological study, raising the baseline figure.</p> <p>39. Furthermore, 10% net gain has not yet been implemented as a statutory requirement. Although the Council encourages new development to aspire towards this target, the policy position in both NPPF and the emerging Local Plan presently require the securing of (an unspecified level of) net gains. In that context, the scheme would be policy compliant subject to technical ratification of these figures and appropriate management measures and regimes to secure the habitat typologies relied upon to achieve these scores.</p>

40. Importantly, the BNG calculation (as well as the updated Phase 1 survey) appear to have been completed by reference to the previous / original plans as shown in the appendices of each document. The revised parameter plans potentially allow for higher net gain given the increased width of the central corridor, the retention and reinstating of more hedgerow along the western frontage and the addition of a new strip of green space running south from the western site access to support the realignment of the secondary street.
41. Furthermore, the habitat area figures for the proposed scheme in the BNG assessment are inconsistent with the public open space figure provided on the land use parameter plan. Table 6 of the BNG assessment (p.18) totals to approximately 2.75 hectares (ha) (excluding vegetated gardens) while the land use parameter plan states 1.96 hectares of public open space are to be provided including play and SUDs.
42. The relationship between public open space including play (see below), habitat for BNG purposes and SUDs needs to be clarified and reconciled to ensure the proposed uses and outcomes are compatible, there is consistency between the various reports, documents and plans and there is no double-counting of spaces or areas for uses or functions that are incompatible. The input of consultees will be important in informing this.
43. These matters should be clarified and, if necessary, the BNG calculation re-run to allow accurate figures to be reported.
44. The ecological survey identifies that two hedgerows meet the NERC Act definition of habitat of principle importance but are unlikely to be important hedgerows under the hedgerow regulations. The applicant's commentary on the Council's February 2022 feedback states these are now identified on the DAS constraints plan but this does not appear to be the case. From Appendix 1 of the ecological survey it might

be inferred that these are the hedgerows along the northern and western edges of the western field but this requires clarification.

45. A 6m buffer is provided either side of the central, north-south hedgerow. This is considered an appropriate and proportionate way to apply the 12m buffer requirement in emerging policy given the assessed ecological value of this feature

46. Subject to the additional information and consultee input referenced above, the broad structure of, and rationale for, the proposed green infrastructure network within the site is supported. It responds to key opportunities and constraints within and around the site including:

- The ecological, landscape and heritage importance of the woodland and trees around the northern and eastern boundaries of the site in particular;
- The bridleway corridor through the site including the existing hedgerow;
- Other hedgerow boundaries; and
- The sensitivity of the adjoining Newsells Park Stud in operational, heritage and landscape terms

47. A Green Infrastructure parameter plan has been provided. This, along with the accompanying commentary in the MDS reflects the Council's request for a clear explanation of the proposed GI provision with high level coding for each area setting out the purpose and approach (e.g. formal & public recreation vs. ecological & naturalistic etc.). Subject to resolution of issues set out in these comments, the general approach is supported.

48. A proposed hedgerow has been introduced along the southern interface with the reserve school land.

49. The site is located close to the existing recreation ground and Cokenach Cricket Ground. The Council's Playing Pitch Strategy identifies spare capacity at these

	facilities and recommends appropriate pitch maintenance to ensure their continued quality. Appropriate contributions should be secured towards this and the existing play provision which will cater for older ages than the on-site LAP.
<b>6. PUBLIC SPACES</b>	
NDG Criteria	Comment
P1 Create well-located high quality and attractive public spaces P2 Provide well-designed spaces that are safe P3 Make sure public spaces support social interaction.	
SP9 Criteria	
Ensure a hierarchy of linked, high quality and attractive public spaces and public realm that is safe, attractive and supports social interaction for all age groups	<p>50. Further information is now provided on key spaces within the development.</p> <p>51. In July 2021, the Council resolved to use <i>Fields in Trust</i> standards and guidelines to inform its approach to open space provision on development sites</p> <p>52. The proposed 1.96ha of open space shown on the land use parameter plan, at face value, exceeds the total requirements arising from applying the <i>Fields in Trust</i> standards and guidelines to a scheme of this scale. A breakdown of requirements for this application by typology are shown in the calculation below based upon a scheme of 140 homes.</p> <p>53. It is envisaged that contributions towards some forms of provision, such as pitch sports, will be made off site (see paragraph 48 above). This reflects the scale of the</p>

site – towards the lower end of the Council’s definition of ‘strategic and significant development’ in Policy SP9 – which means some forms of provision would not be practicable at the sizes shown while existing facilities, such as the recreation ground, are within the accessibility standards recommended by *Fields in Trust*.

54. This gives further comfort that the necessary requirements can be met and that, in broad terms, there will be an appropriate level of green space on site. There are clearly defined areas of amenity space and natural & semi-natural space and a play area shown on the landscape parameter plan and described in the MSR.

55. However, as per paragraph 42, a short clarification or addendum which clearly sets out the proposed relationship between public open space provision, biodiversity net gain and SUDs would be helpful in demonstrating how the various requirements – which can sometimes be complementary and can sometimes conflict – can or will be accommodated.

#### Open space

Policy		
Development population	336	
Playing pitches	0.40	hectares
Other outdoor sports	0.13	hectares
Equipped / designated play	0.08	hectares
MUGAs / skateboard etc	0.10	hectares
Parks and Gardens	0.27	hectares
Amenity Green Space	0.20	hectares
Natural and semi-natural	0.60	hectares
Allotments	0.10	hectares
<b>Total open space</b>	<b>1.88</b>	<b>hectares</b>

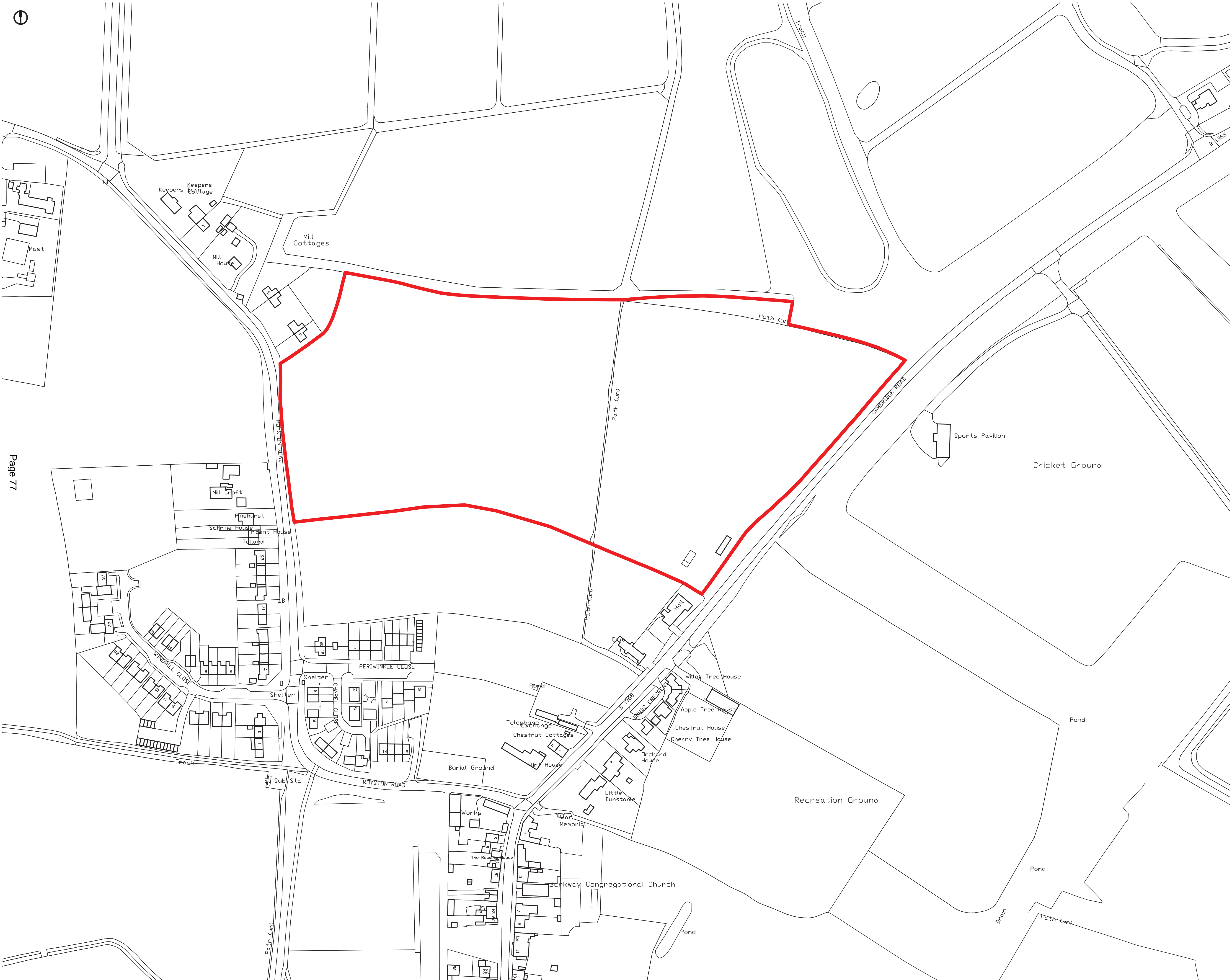


<b>7. USES</b>	
Criteria	Comment
U1 A mix of uses U2 A mix of house tenures, types and sizes U3 Socially inclusive	
SP9 Criteria	
<p>Plan for integrated and mixed-use communities with walkable locally accessible community, employment and retail facilities</p> <p>Provide a diverse and distinctive range of flexible and adaptable house types and tenures and building forms to meet the needs of the population</p>	<p>56. Through the application and masterplanning process, it has been determined that there is no present need to deliver a school on the adjoining reserve site and this has been excluded from the current application / masterplan.</p> <p>57. A plot is identified for a potential village store. This is located at the south-eastern boundary and provides the opportunity for a local community hub alongside the traditional village hall and recreation ground. The emerging Neighbourhood Plan for Barkway (Policy BNL3) expresses support for the creation of a multi-functional community hub in the village.</p> <p>58. The Planning Statement accompanying the application states that 40% affordable housing and an appropriate housing mix would be delivered in accordance with plan requirements. Although these are to be dealt with in further detail at reserved matters stage, the illustrative masterplan and character area guidance suggest this should be the case.</p> <p>59. The applicant does not wish to identify or provide self-build plots within the site to diversify the housing offer and address the need identified by the Council's Self Build</p>

	Register. There is no specific policy requirement but the Council's latest monitoring shows insufficient plots have been permitted and any provision would be a positive consideration in the planning balance.
<b>8. HOMES AND BUILDINGS</b>	
NDG Criteria	Comment
H1 Healthy, comfortable and safe external and internal environment H2 Well related to external amenity and public spaces H3 Attention to detail, storage, water, servicing and utilities	
SP9 Criteria	
Adopt the Governments additional technical standards for the size of new homes, water efficiency and in specified circumstances accessibility	60.The DAS and MSR provide guidance on detailed architectural cues and materials that should inform detailed proposals subject to the comments set out in this appraisal.
<b>9. RESOURCES</b>	
NDG Criteria	Comment
R1 Follow the energy hierarchy. R2 Selection of materials and construction techniques	61.High-level sustainability principles and concepts have been added to the DAS and MSR. This recognises, among other matters, that the orientation of the site and

R3 Maximise resilience	<p>proposed street structure provides the opportunity for a significant proportion of either house fronts or gardens to be south facing.</p> <p>62.The approach to flood risk needs to be reconciled with the approach to BNG and open space. Some shallow basin features may be appropriately defined as part of the public open space; significant / fenced off engineering solutions would not.</p>
<b>10. LIFESPAN</b>	
NDG Criteria	
L1 Well-managed and maintained. L2 Adaptable to changing needs and evolving technologies	63.No information provided at this stage.
SP9 Criteria	
Design to last with clear stewardship, management and maintenance strategy	

This page is intentionally left blank



notes

Application Boundary

issues

	DDMMYY	Description	XXX
-			

job

BARKWAY

title

LOCATION PLAN

drawn

GZ

checked

CC

date

23.05.18

scale (original - A1)

1:1250

Alan Baxter

75 Cowcross Street London EC1M 6EL  
tel 020 7250 1555  
email aba@alanbaxter.co.uk  
www.alanbaxter.co.uk

dig. no.

1797/30/110

rev.

-

This drawing incorporates information from the Ordnance Survey which is © Crown Copyright. ABA Licence: AL100017547  
Alan Baxter Ltd is a Limited Company registered in England & Wales, no. 06600598. Registered office as above.

This page is intentionally left blank

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

**Date of Statutory Expiry Period:** Agreed extension to 30.09.22

### **Reason for Delay**

Further information received and an additional consultation exercise was undertaken as a result. This matter was also deferred at the meeting of the Planning Control Committee held on 23 June 2022 for further information. Members requested specifically a response to the planning application from Hertfordshire County Council (Highways) and any additional information the Police were prepared to provide on any effects this development may have had on levels of anti-social behaviour in and around the application site.

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

Deferred from the 23 June Planning Control Committee.

### **Submitted Plan Nos to Determine:**

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

**Associated Documents:**

Design, Access and Planning Statement (received 22.01.22)

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

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

Policy 8 'Development in Towns'

Policy 55 'Car Parking Standards'

Policy 57 'Residential Guidelines and Standards'

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

In total but in particular:

Section 2 'Achieving Sustainable Development'

Section 4 'Decision Making'

Section 5 'Delivering a Sufficient Supply of New Homes'

Section 8 'Promoting Healthy and Safe Communities'

Section 12 'Achieving Well Designed Places'

Section 16 'Conserving and Enhancing the Historic Environment'

**1.3 National Planning Practice Guidance:**

Healthy and Safe Communities (Last updated November 2019)

**1.4 Supplementary Planning Documents:**

Vehicle Parking Provision at New Development (SPD – 2011)

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

SP1 - Sustainable development in North Hertfordshire;

SP9 - Design and Sustainability;

SP10 - Healthy Communities;

SP13 - Historic Environment

**Section 3 – Development Management Policies**

T2 - Parking;

HS4 – Supported, Sheltered and Older Persons Housing

HS5 - Accessible and Adaptable Housing

D1 - Sustainable design;

D3 - Protecting living conditions;

HE1- Designated Heritage Assets

HE4 -Archaeology

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

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

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

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



### **3.0 Representations:**

3.1 For all original consultation responses please see the 23 June Planning Control Committee report attached as **appendix 1**.

3.2 Additional requested comments received since deferral of the item as follows:

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

See comments set out as **appendix 2**.

#### **3.4 Refuse Collection and Recycling (Joint Service):**

See comments in full as new informative 2 in recommendation below and applicant's response set out as **appendix 3**.

#### **3.5 Police Architectural Liaison Officer:**

Comments set out in two documents as **appendix 4**.

#### **3.6 Strategic Housing Manager:**

Comments set out as **appendix 5**.

#### **3.7 Planning Policy Team:**

See comments set out in **appendix 6**.

### **4.0 Planning Considerations**

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

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

#### **4.2 The Proposals**

4.2.1 This is a retrospective planning application for the change of use of the premises from a Hotel (C1 Use) to *Sui Generis* use described by the applicant as residential accommodation with support. The proposal is distinct from C3 use residential or C2 residential with an element of care. A *Sui Generis* use is a use all of its own that does not fit withing established use classes contained within the Town and Country Planning (Use Classes) Order.

4.2.2 The application seeks permission to retain 21 self-contained units of accommodation for residents within the complex. The managers and staff accommodation is within the building.

4.2.3 The overall level of accommodation is the same as the former hotel use, with no increase in the number of rooms, and car parking space and vehicular access to the premises remain the same.

- 4.2.4 Physical alterations include installation of CCTV, new security features including locking systems on doors and windows, secondary glazing for noise insulation, and external lighting and security gates.
- 4.2.5 On site management of the use includes 24-hour staff coverage, secure access to staff and residents only. The use operates 24 hours a day and residents are not required to be in the accommodation at any particular times.

### **4.3 Key Issues**

- 4.3.1 For key issues please see report attached as **appendix 1** as presented to the meeting of the Planning Control Committee held on 23 June 2022.

- 4.3.2 For comments on updates since the meeting on 23 June the following paragraphs adds some additional comment and analysis.

- 4.3.3 Highway Matters

The full comments of the Highway Authority are set out as **appendix 2**. Members will note there are no highway authority objections to this application subject to the imposition of an additional condition which I set out below in the revised recommendation as recommended condition no. 7. The barrier as set out in the application drawings would be located more than 4.8m from the back of the footway.

- 4.3.4 Refuse Collection

I have set out the list of advisory points that the Waste Collection and Recycling Service have provided as an additional informative to the recommendation set out below. This will advise the applicant of the detailed specification that is required for refuse collection associated with this development. Moreover, in response to this advice the applicant has provided an additional statement to explain their position which I attach as **appendix 3**.

- 4.3.5 Police Response/ Anti-social behaviour

The response from the Police is set out as appendix 4. They will not provide any interpretation of these figures or explanation around the period of time recorded. The figures are as follows: From 1 January 2021 to 31 May 2022 there were 86 incidents of anti-social behaviour in the locality chosen (the 18 month period of this monitoring has been confirmed by the Police). Of which 14% were attributable to the Lord Lister Hotel site. During a period of between 30 June and 31 December 2020 (i.e. 6 months preceding) in the same area there were 25 incidents of anti-social behaviour none of which were attributable to the Lord Lister.

- 4.3.6 My advice to Members on the matter of assessing this application for a material change of use of the premises and how this interacts with the issue of anti-social behaviour is set out in paragraphs 4.3.6 to 4.3.12 of the original Committee report attached as appendix 1. Given the level of scrutiny this clear advice and analysis was placed under at the meeting I have subsequently sought independent Counsel's opinion on my professional judgement. This advice concludes that my opinion is a perfectly reasonable professional judgement and recommendation to make taking account of all relevant planning policy and case law. My opinion and recommendation on the matter

remains as set out in the original Committee report and recommendation of 23 June 2022.

- 4.3.7 I also re-emphasise this advice from the appeal decision appended to the original Committee report as follows: **However, such matters are influenced by considerations such as the management of the HMO and the behaviour of the occupants. Such matters are not controlled under the planning regime. They are controlled by other legislation and I am making a decision on the planning merits of the appeal alone.**
- 4.3.8 Addressing the information from the Police which has been submitted in two letters on 21 July 2022; The data confirms that, between 1<sup>st</sup> January 2021 and 31<sup>st</sup> May 2022 (i.e. a period of almost 18 months) there were 17 incidents of anti social behaviour reported by the Police at the application site. By way of comparison, there were 67 incidents of anti-social behaviour in the same period in the wider locality (an area bounded by Hollow Lane, Market Square, Sun Street, Bridge Street, Park Street, and Park Gate). For the preceding 6 month period between June 2020 and December 2020 there were 25 recorded anti social behaviour incidents in the same locality with none attributable to the Hotel. There is no data on the occupancy level of the Hotel during this period so any level of activity/occupancy of the premises cannot be confirmed.
- 4.3.9 It is important to bear in mind that the purpose of the planning system is to regulate the use of land and not specific land users (i.e. particular organisations or businesses). Land uses are categorised into use classes and the planning system regulates changes between use classes, not between different businesses or organisations within those use classes. Moreover, in determining planning applications, it is to be assumed that other regulatory frameworks and agencies (such as the police) will operate effectively in respect of such issues as crime and anti social behaviour for which they are responsible.
- 4.3.10 However, insofar as there is a risk of anti social behaviour from the use, the planning permission would be subject to a condition to ensure that the site operates in accordance with a number of measures agreed with the police including the operation of CCTV, appropriate locks and external lighting and boundary treatment which will reduce the risk of anti social behaviour occurring and mitigate the impact of it on surrounding areas. So far as the guidance in paragraph 92 of the NPPF is concerned and the requirement to ensure that development should be safe, the application is for a change in use of an existing building and so the examples given in paragraph 92 of the NPPF relating to pedestrian and cycle routes and public space are not explicitly relevant. Nonetheless, the principles set out in the policy guidance include reference to ant-social behaviour and designing out crime which in my opinion is therefore a material consideration in the determination of this planning application insofar as it relates to design and physical alterations to the building. In this case, as noted above, it is proposed to impose conditions on the use, such as in relation to CCTV, lighting and so on as set out below which will ensure that the application complies with this policy guidance.
- 4.3.11 Significant weight must also be given to the position of the Police Crime Prevention Design Service who do not object to the planning application subject to the imposition of a condition requiring the measures referred to above to be implemented and maintained. Such a condition is set out in the recommendation below.

- 4.3.12 Whilst the concerns that have been raised relating to anti social behaviour have been acknowledged, the evidence available from the police does not suggest that the change in use the subject of the application would give rise to any particular issues of anti social behaviour that would be significantly above and beyond that experienced in the wider locality. However, and in any event, a number of measures have been proposed to reduce the risk of anti social behaviour occurring and to mitigate any impacts from such behaviour on surrounding residents.
- 4.3.13 If Members were minded to support my recommendation below the change of use planning permission from Hotel (Class C1) to assisted living (sui generis) would be a permission that runs with the land and would not be restricted to the current operators. As I explain above, land use planning regulates the use of land, not particular organisations. However, if Members are minded to place a greater emphasis on the issue of anti social behaviour and therefore seek to try and assess the nature of the particular operator of the building and its cliental it must mean that the benefits of the current occupier and the services they provide would also need to be weighed in such a planning balance. Put simply, if Members are minded to place more weight on the potential negative externalities of the current operation in terms of potential anti social behaviour than I recommend, they must by logical extension balance this against the positive benefits the operator provides to the community and the Council in the service that it provides. On that basis and to provide this balance I have sought comments from the Council's Strategic Housing Manager in relation to this planning application which are discussed below.
- 4.3.14 Strategic Housing Managers Comments  
The comments of the Council's Strategic Housing Manager are set out at appendix 5. It explains how the applicant provides accommodation for homeless people and that this provision meets an important objective and identified housing need in the Council's Strategic Housing Market Assessment and the Rough Sleepers Strategy 2019-2024. These strategies reflect a priority set by Central government to find accommodation for rough sleepers in the District.
- 4.3.15 There is no doubt that the applicant provides an important service to assist the Council in meetings its objective of securing accommodation for homeless people as the advice from the Strategic Housing Manager illustrates. A change of use planning permission at this site is required for this important service to continue. Any refusal of planning permission for this use at this would clearly prevent this service from continuing in this location by this current occupier. The flip side to my argument over any increase in anti social behaviour that this may have caused at the site and in the locality is that the current occupiers provide a valuable service to help meet homeless strategy objective also. Similar to my view on the anti social behaviour issue which I consider is controlled by other agencies not the planning system, as the assisted living use (in its broadest non specific sense, i.e. not particular to the current applicant) is acceptable in planning terms in my view a personal permission to the applicant would not be justified (conditions can only be imposed which make otherwise unacceptable development acceptable in planning terms). This therefore means that whilst Members can weigh these benefits of securing accommodation for homeless people in the planning balance there is no mechanism available to ensure that current occupiers continue to operate from the site and provide this service in the building. Any planning permission for assisted living accommodation would run with the land and could at any time be

used by a different organisation who may not provide accommodation for those on the housing waiting list with the Council.

- 4.3.16 However, if Members are minded to place more emphasis on the issue of anti social behaviour which may have been aggravated by the current operation at the premises (not as a result of an assisted living use in its broadest sense and non specific to the applicant) it would seem logical that more weight should be given to the important and valuable service the current occupiers provide as both considerations require a degree of assessment of the current land user of the premises.

4.3.17 Comments of the Planning Policy Team

Set out as appendix 6 are the comments of the Council's Planning Policy team relating to this planning application. During the 20 minutes of oral presentation by objectors and Member advocates at the meeting of the Planning Control Committee held on 23 June 2022 a long list of policy issues were presented by the speakers. These included issues around the viability of the current hotel use, the potential loss of a community facility and other policy consideration. The advice and table set out in appendix 6 sets out the position of the Council's Planning Policy team in relation to these matters. Members will note that whilst going into more detail than was contained in my original report attached as appendix 1 the advice fully supports the oral responses I was able to provide in response to the objectors and Member advocates at the meeting and my overall conclusion that the change of use is not contrary to any specific national or local planning policy requirements in their professional view.

4.3.18 Alternative Options Considered

See discussion of case merits above.

## 5.0 Legal Implications

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

## 6.0 Recommendation

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

6.2 Recommended Conditions, Reasons and Informatives

Conditions and Reasons:

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

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

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

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

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

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

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

Reason: To protect the residential amenities of future residents.

5. Although no new plant is proposed for installation, if any new plant is to be installed, changed, or upgraded the developer shall carry out a noise survey following the guidelines set out by BS4142: 2014+A1:2019. This survey shall consider all proposed plant as part of the development and shall include noise control measures which should be submitted for written approval by the Local Planning Authority (LPA). No plant shall be installed and operated at the site until the noise survey has been approved by the LPA. Noise mitigation measures shall be such as to achieve existing background noise levels.

Reason: To protect the residential amenities of future residents

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

Reason: To protect the residential amenities of future residents.

7. The entrance gates to the site shall be set back at least 4.8m from the back edge of the footway and shall open inwards into the site, in perpetuity.

Reason: To ensure the free, safe and sustainable flow of public highway users is not compromised.

### **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.

### **Informatives**

1. 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.

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

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

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

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

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

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

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

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.

Pull distances to the collection vehicle should not exceed 15m in accordance with BS5906:2005.

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

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

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

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

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

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

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

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

Further general advice on waste provision for developments is available on our website: <http://www.north-herts.gov.uk/home/planning/waste-and-recycling-provision> The bin requirements stated there are specific to North Herts, but the rest of the advice is general.

## **7.0 Appendices**

### **7.1 Appendix 1 – 23 June Planning Control Committee report and recommendation and appendix.**

**Appendix 2 – Comments of Hertfordshire County Council (Highways)**

**Appendix 3 – Applicant's response to advice from Refuse Collection and Recycling Service**

**Appendix 4 – Additional Comments from the Police (two letters).**

**Appendix 5 – Comments of Strategic Housing Manager**

**Appendix 6 – Comments of Planning Policy Team**



**Date of Statutory Expiry Period:** Agreed extension to 30.09.22

**Reason for Delay**

Further information received and an additional consultation exercise was undertaken as a result. This matter was also deferred at the meeting of the Planning Control Committee held on

**Reason for Referral to Committee**

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

**Submitted Plan Nos to Determine:**

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

**Associated Documents:**

Design, Access and Planning Statement (received 22.01.22)  
Secure by Design Supporting Statement and appendices 1-11 (received 06.05.22)

**1.0 Policies:**

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

Policy 8 ‘Development in Towns’  
Policy 55 ‘Car Parking Standards’  
Policy 57 ‘Residential Guidelines and Standards’

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

In total but in particular:  
Section 2 ‘Achieving Sustainable Development’  
Section 4 ‘Decision Making’  
Section 5 ‘Delivering a Sufficient Supply of New Homes’  
Section 8 ‘Promoting Healthy and Safe Communities’  
Section 12 ‘Achieving Well Designed Places’  
Section 16 ‘Conserving and Enhancing the Historic Environment’

- 1.3 **National Planning Practice Guidance:**  
Healthy and Safe Communities (Last updated November 2019)
- 1.3 **Supplementary Planning Documents:**  
Vehicle Parking Provision at New Development (SPD – 2011)
- 1.6 **Submission Local Plan (2011-2031) (with Modifications):**  
**Section 2 – Strategic Policies**  
SP1 - Sustainable development in North Hertfordshire;  
SP9 - Design and Sustainability;  
SP10 - Healthy Communities;  
SP13 - Historic Environment
- Section 3 – Development Management Policies**  
T2 - Parking;  
HS4 – Supported, Sheltered and Older Persons Housing  
HS5 - Accessible and Adaptable Housing  
D1 - Sustainable design;  
D3 - Protecting living conditions;  
HE1- Designated Heritage Assets  
HE4 -Archaeology
- 2.0 **Site Planning History**
- 2.1 Various extensions and alterations but most recent and significant schemes as follows:  
  
04/00728/LB and 04/00727/1 – three storey extension to provide en-suite bathrooms. Approved  
  
17/04422/1 – Construction of managers flat over existing car parking bays. Approved  
  
18/02301/S73 – variation of condition of above permission. Approved.
- 3.0 **Representations:**
- 3.1 **Police Architectural Liaison Officer:**  
  
Originally raised concerns regarding Secure By Design principles then following discussion and submission of additional information and a full Secure By Design Supporting Statement and appendices (see above list of supporting documents) and speaking on behalf of the Police Crime Prevention Design Service now ‘fully supports this application’.
- 3.2 **Environmental Health (Noise):**  
  
No objection but suggested a condition requiring a noise assessment prior to first occupation. In response to additional information which includes measures for internal

noise insulation, including secondary glazing and lighting, revised comments have been received requiring noise, lighting and details of any plant equipment within three months of the date of the decision notice, recognising this is a retrospective planning application (**see recommended conditions 4-6**).

### 3.3 **Senior Conservation Officer:**

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

### 3.4 **Public Comments:**

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

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

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

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

### 4.2 **The Proposals**

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

### 4.3 Key Issues

- 4.3.1 Taking account of the relevant development plan policies and other material considerations listed above, together with the representations also listed above I consider the main issues to be addressed in the determination of this planning application are as follows:

- The principle of development on the site and the overall policy basis for any decision;
- Whether the new use is acceptable in terms of living conditions and activity in and around the site;
- Whether planning permission should be refused for reasons of potential or actual anti-social behaviour, or whether these matters are regulated by other agencies, not for the planning system to control;
- Any conditions that may be necessary to ensure the appropriate management and control of the facility if Members were minded to grant planning permission;
- Heritage issues insofar as they relate to the change of use application.

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

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

This planning application is for the change of use of a former C1 Hotel Use to a new use described as supported accommodation as a *Sui Generis* use. There are no policies in the Saved Local Plan or emerging Local Plan which seek to prevent the loss of existing hotel accommodation in town centres. Indeed, Saved Policy 8 of the North

Hertfordshire District Local Plan No. 2 – with Alterations, accepts most forms of development in towns in principle, including the change of use of Hotels to new forms of residential accommodation.

4.3.3 Living Conditions and Activity Levels

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

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

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

4.3.6 Anti Social Behaviour Concerns

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

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

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

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

4.3.9 This planning application is for the change of use of an existing building, it does not and cannot include proposals for off-site infrastructure changes to alter the built environment outside the site. The policy guidance referenced above is more applicable to wider development schemes that include new road layouts and pedestrian facilities and spaces with the aim to ensure such developments create spaces that are safe for

all members of the community as far as is possible through design and new development. This application only relates to the change of use of an existing building so on that basis the policy guidance is not wholly applicable. Nonetheless, the principles set out in the policy guidance include reference to anti-social behaviour and designing out crime which in my opinion is therefore a material consideration in the determination of this planning application insofar as it relates to design and physical alterations to the building.

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

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

**'I note the concerns of the Council and some local residents that the proposed use would result in a local concentration of anti-social behaviour. I have also noted the evidence before me of incidents of anti-social behaviour and disturbance at the appeal site and the concern of neighbours that the appeal site has been a source of noise, disturbance and anti-social behaviour in the past and has resulted in a fear of crime in the locality. However, such matters are influenced by considerations such as the management of the HMO and the behaviour of the occupants. Such matters are not controlled under the planning regime. They are controlled by other legislation and I am making a decision on the planning merits of the appeal alone. The proposed development could, in principle, therefore, contribute towards promoting safe and accessible environments where crime and disorder, and the fear of crime do not undermine the quality of life or cohesion as set out in paragraph 69 of the Framework'.**

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

#### 4.3.13 Conditions and Mitigation

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

#### 4.3.14 Heritage Matters

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

#### 4.3.15 Conclusions

Whether a planning application is retrospective or prospective the assessment of relevant material considerations must be the same. I set out above my professional assessment of the proposal. I recognise the concerns of local residents surrounding the nature of the use and some of the activity associated with the current operation. However, as the appeal Inspector makes clear in the highly relevant appeal decision attached as appendix 2 it is not the role of the planning system to regulate behaviour of organisations that provide services to residents who may need assistance. The planning system only controls the use of land not the land user and specific matters of anti-social behaviour that may relate to a particular organisation or residents thereof are matters for other agencies to regulate. On that basis and despite the strong feeling of many objectors to this planning application I see no basis to refuse planning permission for this change of use.

#### 4.3.32 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:

### 6.2 Recommended Conditions, Reasons and Informatives

#### Conditions and Reasons:

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

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

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

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

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

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

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

Reason: to protect the residential amenities of future residents.

5. Although no new plant is proposed for installation, if any new plant is to be installed, changed, or upgraded the developer shall carry out a noise survey following the guidelines set out by BS4142: 2014+A1:2019. This survey shall consider all proposed plant as part of the development and shall include noise control measures which should be submitted for written approval by the Local



Planning Authority (LPA). No plant shall be installed and operated at the site until the noise survey has been approved by the LPA. Noise mitigation measures shall be such as to achieve existing background noise levels.

Reason: To protect the residential amenities of future residents

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

Reason: to protect the residential amenities of future residents.

#### Informatives

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

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

#### Pro-Active Statement

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

## **7.0 Appendices**

### **7.1 Appendix 1 – Appeal Decision.**

This page is intentionally left blank

## Appeal Decision

Site visit made on 4 January 2017

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

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

**Decision date: 14 February 2017**

---

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

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by JDI Developments Ltd against the decision of Portsmouth City Council.
  - The application Ref 16/00917/FUL dated 6 June 2016, was refused by notice dated 19 August 2016.
  - The development proposed is change of use from hotel (Class C1) to 25 bedroom house in multiple occupation (Sui Generis) (HMO) with cycle and refuse storage.
- 

### Decision

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

### Procedural Matters

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

### Main Issues

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

### Reasons

#### *Living Conditions*

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

6. At the time of my site visit, some rooms within the appeal site were occupied and one of the kitchens was in use. It has, in the past, been used as a hostel for homeless people and a hotel/guest house. A Certificate of Lawful Development was granted in 2009 for its use as a hostel<sup>1</sup>. Planning permission was granted for its use as a hotel/guest house within Class C1 in 2011<sup>2</sup>. Both of those uses would generate activity, comings and goings of residents in addition to staff who would work there.
7. The appeal proposal would involve internal alteration to refigure rooms and accommodate additional ensuite bathrooms. It would not increase the number of rooms, materially alter the number of potential occupants, the main access from the street or the general location of refuse storage and collection. It would include internal cycle storage. Therefore, I consider that the comings and goings and general activity of the proposed use would not be materially different to the previous uses. As the proposed number of rooms would not be increased, even though it could be used as future residents' primary residential accommodation, it would not represent a more intensive use than previous uses. Whilst visitors, in association with the proposed use, would generate activity, this would not be materially greater, and in all likelihood less than the cumulative comings and goings of staff and residents of a hotel/guest house at the appeal site.
8. In any event, I have noted that the properties either side are a small block of flats and an HMO. The locality generally has a mix of flats, houses, HMOs and some other uses such as shops. It has a generally mixed feel. Notwithstanding the comments from the Council's environmental health officer, and discounting the previous uses, I am unconvinced that the activity that would be generated by the proposed use would be greater than nearby uses and would have an adverse effect on the living conditions of neighbouring residents. This is because it would not be out of character in this locality.
9. I acknowledge the Council's concern and those of local residents that HMOs in a locality can have negative social, economic and environmental consequences. However, most are related to a situation where there is a local concentration of HMOs. As a consequence of this appeal the community would not be imbalanced by a local concentration of HMOs. Its concentration would be well below the 10% stated in the Portsmouth City Council HMO Supplementary Planning Document (2012), using the methodology within that document.
10. I note the concern of the Council and some local residents that the proposed use would result in a local concentration of anti-social behaviour. I have also noted the evidence before me of incidents of anti-social behaviour and disturbance at the appeal site and the concern of neighbours that the appeal site has been a source of noise, disturbance and anti-social behaviour in the past and has resulted in a fear of crime in the locality. However, such matters are influenced by considerations such as the management of the HMO and the behaviour of the occupants. Such matters are not controlled under the planning regime. They are controlled by other legislation and I am making a decision on the basis of the planning merits of the appeal alone. The proposed development could, in principle, therefore, contribute towards promoting safe and accessible environments where crime and disorder, and the fear of crime,

---

<sup>1</sup> Ref: 08/02203/CPE

<sup>2</sup> Ref: 11/00335/FUL

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

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

#### *Conservation Area*

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

#### **Other Matters**

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

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

### **Planning Conditions**

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

---

<sup>3</sup> Paragraphs 203 and 206 of the Framework and PPG paragraphs 21a-001-034

## **Conclusion**

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

*R Barrett*

INSPECTOR

## **Annex A**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with approved plans: 16.2150.103 Rev\_P3; 16.2150.104 Rev\_P2; 16.2150.105 Rev\_P2; 16.2150.106 Rev\_P1.
- 3) The HMO use hereby permitted shall only be carried out in accordance with the measures set out in the submitted Flood Risk Assessment and at no time shall any bedroom or sleeping accommodation be provided within the basement level.
- 4) Prior to the first occupation of the property as an HMO a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The property shall thereafter be operated in accordance with the provisions of the approved Flood Warning and Evacuation Plan.
- 5) Prior to the first occupation of the property as an HMO the cycle storage facilities shown on drawing no.16.2150.103 Rev\_P3 shall be provided. The cycle storage facilities shall thereafter be retained as approved thereafter.
- 6) Prior to the first occupation of the property as an HMO facilities for the storage and collection of refuse/recyclable materials shown on drawing no.16.2150.103 Rev\_P3 shall be provided. The refuse/recyclable storage facilities shall thereafter be retained as approved.

This page is intentionally left blank





Mark Youngman  
Development Management Group Manager  
Hertfordshire County Council  
Postal Point CH0242  
County Hall  
Pegs Lane  
Hertford  
SG13 8DE

**Response to Planning application from Hertfordshire County Council (T and CP GDP Order 2015)**

**Director of Planning**

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

District ref: 22/00170/FP  
HCC ref: NH/12785/2022  
HCC received: 27 June 2022  
Area manager: Matthew Armstrong  
Case officer: Matthew Armstrong

**Location**

THE LORD LISTER HOTEL 1 PARK STREET HITCHIN SG4 9AH

**Application type**

Full Application

**Proposal**

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

**Recommendation**

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

1) The entrance gates to the site shall be set back at least 4.8 metres from the back edge of the footway and shall open inwards into the site, in perpetuity. Reason: To ensure the free, safe and sustainable flow of public highway users is not compromised.

**COMMENTS:**

The Highway Authority has been consulted on this proposal to change the use of the existing hotel to supported accommodation.

The site is located next to a mini roundabout, serving Park Street / Queen Street / Bridge Street. The speed limit here is 30mph. There has been one slight accident recorded over the past 5 years in the immediate vicinity of the site, but this was not related to the Lord Lister access. The site's vehicle access is narrow with restricted visibility onto the footway, but good visibility onto the carriageway.

No changes to the number of parking spaces (ten) are proposed, and no changes to vehicle access arrangements are shown. The Planning Statement confirms that residents will not own a car due to their residential status, and the access / car parking spaces will be used only by staff and support personnel. As such, it seems reasonable to conclude that the number of vehicles entering and exiting through the site's access will be no greater than the historic public house use.

It is noted that a new gate opening internally to the site is to be erected at the far end of the carriage driveway/access. This will be set back 4.8 metres, which is the length of a medium to large sized car. Realistically, it could be expected that a car may protrude very slightly out onto the public footway whilst waiting for the gates to open, but this will not be significant. The width of the footway at this point is also well over 4 metres, more than double the minimum recommended width of 2 metres as outlined in Manual for Streets. As such, passing pedestrians will not be obviously inconvenienced.

Subject to inclusion of the above condition, there is no justified reason to object to this proposal from a highways aspect.

**Signed**  
Matthew Armstrong

5 July 2022



Date: 26.07.2022

**Refuse Collection Management Statement for 'The Lord Lister Hotel 1 Park Street,  
Hitchin SG4 9AH**

The installation of the gate will not affect the refuse collection. The Site has refuse service from two providers: North Herts and Commercial provider Biffa. One of the North Herts bins will remain the same distance from the road as it is now, and the second North Herts bin will be approx. 2 meters further away. The Biffa bin will be located next to the second North Herts bin, approx. 10 meters away from its location currently.

The refuse truck has never been able to enter the site (even when it was operating as a hotel) as is too big to drive up the driveway. The refuse truck has always stopped outside the premises and the refuse collectors walk on site, through the coach entrance/under pass to the bins and bring them out to the truck (this is the way the refuse collection has always been done), the location of the bins has never affected the refuse workers ability to remove the waste from property and they have never refused to do so. As part of the Sui Generis use, this will continue to be the way it is collected and so there is no material change to refuse collection. The refuse collection companies namely North Herts Council and Biffa will be supplied with a fob/code (fob or code access is yet to be determined) that allows them access on to the property 24/7.

If for any reason they do not have access to their fob/code provided to them upon installation of a gate, the property is staffed 24/7 and they will allow access to the refuse collectors for the purposes of emptying the bins.

Biffa have confirmed they are happy with these arrangements including the location of their bins and confirmed this in an email dated 21.7.22.

Hannah Ruocco  
Property and Maintenance Manager

This page is intentionally left blank



HERTFORDSHIRE  
CONSTABULARY

**Simon Ellis**  
**North Herts District Council**  
**Planning Department**  
**Council Offices**  
**Gernon Road**  
**LETCHEWORTH**  
**SG6 3JF**

Date 21<sup>st</sup> July 2022  
Our Ref: CPD 10782022  
Your Ref: 22/00170/FP

Direct Line: 07590 461376

e-mail:  
[mark.montgomery@herts.pnn.police.uk](mailto:mark.montgomery@herts.pnn.police.uk)

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **Re: The Lord Lister Hotel, 1 Park Street, Hitchin**

Dear Simon,

Following the recent Planning Committee meeting there was a request for further information from the Police regards the incidents of antisocial behaviour at the above location. I asked that our researcher collates the number of incidents from 1<sup>st</sup> of January to 31<sup>st</sup> May 2022. I also asked that the figures show the number of incidents at the Lord Lister as well as the surrounding area (bounded by Hollow Lane, Market Square, Sun Street, Bridge Street, Park Street, and Park Gate. As a comparison I also asked for the numbers of ASB incidents at the Templars in High Street Baldock and at the Haven in Stevenage – as both are similar Hostels (both run by Haven First).

Within the period selected there were a total of eighty-four incidents of ASB in the chosen area of Hitchin. Of these only seventeen were recorded as being at the Lord Lister (this equates to just over 14% of the total figures for the area). As a comparison during the same period there were no recorded incidents at Templars and only five incidents at the Haven. In addition to this a further scan was done covering 30<sup>th</sup> of June to 31<sup>st</sup> December 2020, using the same criteria. During this time there were twenty-five incidents of ASB none of which were located at the Lord Lister.

As said in my earlier letter it is the intention of the applicants to seek to achieve the Police preferred minimum security standard that is Secured by Design, this is a scheme that has been running for over thirty years with a proven record for reducing crimes such as burglary, vehicle crime and ASB. Therefore, I stated that the Police support this application in my earlier letter.

*Mark Montgomery*

**Mark Montgomery**  
**Crime Prevention Design Advisor**  
**Hertfordshire Constabulary**

This page is intentionally left blank



HERTFORDSHIRE  
CONSTABULARY

**Simon Ellis**  
**North Herts District Council**  
**Planning Department**  
**Council Offices**  
**Gernon Road**  
**LETCHEWORTH**  
**SG6 3JF**

Date 21<sup>st</sup> July 2022  
Our Ref: CPD 10782022  
Your Ref: 22/00170/FP

Direct Line: 07590 461376

e-mail:  
[mark.montgomery@herts.pnn.police.uk](mailto:mark.montgomery@herts.pnn.police.uk)

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **Re: The Lord Lister Hotel, 1 Park Street, Hitchin**

Dear Simon,

Following the recent Planning Committee meeting there was a request for further information from the Police regards the incidents of antisocial behaviour at the above location. I asked that our researcher collates the number of incidents from 1<sup>st</sup> of January 2021 to 31<sup>st</sup> May 2022. I also asked that the figures show the number of incidents at the Lord Lister as well as the surrounding area (bounded by Hollow Lane, Market Square, Sun Street, Bridge Street, Park Street, and Park Gate. As a comparison I also asked for the numbers of ASB incidents at the Templars in High Street Baldock and at the Haven in Stevenage – as both are similar Hostels (both run by Haven First).

Within the period selected there were a total of eighty-four incidents of ASB in the chosen area of Hitchin. Of these only seventeen were recorded as being at the Lord Lister (this equates to just over 14% of the total figures for the area). As a comparison during the same period there were no recorded incidents at Templars and only five incidents at the Haven.

As said in my earlier letter it is the intention of the applicants to seek to achieve the Police preferred minimum security standard that is Secured by Design, this is a scheme that has been running for over thirty years with a proven record for reducing crimes such as burglary, vehicle crime and ASB. Therefore, I stated that the Police support this application in my earlier letter.

*Mark Montgomery*

**Mark Montgomery**  
**Crime Prevention Design Advisor**  
**Hertfordshire Constabulary**

This page is intentionally left blank



# MEMORANDUM

To: Simon Ellis  
Development and Conservation Manager

From: Martin Lawrence  
Strategic Housing Manager

Your Ref: 22/00170/FP

Date: 1 September 2022

**Full Planning Permission : Change of Use from Hotel (C1) to Sui Generis (accommodation with support) and associated external alterations (as amended by plans and additional information received on 6 May 2022)  
The Lord Lister Hotel, 1 Park Street, Hitchin, Hertfordshire, SG4 9AH**

---

Dear Simon,

thank you for your memo of 17 August 2022 in respect of the above application for full planning permission for change of use of the premises.

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

Paragraph 62 of the NPPF says "Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)".

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

The Council's Homelessness and Rough Sleeping Strategy for 2019-2024  
<https://www.north-herts.gov.uk/home/housing/housing-strategies-and-plans/housing-and-tenancy-strategies> (see section 5):

"The Council has a duty to review homelessness in the district and to formulate a homelessness strategy based on the results of that review. The government's Rough Sleeping Strategy published in August 2018 further introduces the requirement that all local authorities explicitly consider how to tackle the problem of rough sleeping, producing homelessness and rough sleeping strategies by winter 2019."

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

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

[Housing need in North Herts | North Herts Council \(north-herts.gov.uk\)](https://www.north-herts.gov.uk/housing-need)

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

In addition, the Government introduced a directive to local authorities to accommodate all rough sleepers and homeless applicants in hotels to ensure people were not living on the streets or in unsuitable accommodation during the pandemic.

The pandemic revealed a large, previously hidden cohort of single people in the district who are living unstable, often chaotic lives. Many are moving in and out of informal accommodation arrangements including enduring spells of 'sofa surfing' with friends or relatives or periods of rough sleeping. The Council placed over 150 single households into hotels (with limited support and facilities) over 2021/22, the majority approaching from unsettled accommodation arrangements. Almost one-third were of no fixed abode, whilst 13% were sleeping rough and a further 8% were homeless on departure from prison or hospital. 10% had been living in temporary or supported accommodation, highlighting a core of clients who have repeatedly lost placements made for them by the Council due to challenging behaviours and unmet support needs.

Support needs amongst this cohort are extremely high. Of the single households placed in temporary accommodation over the past year, 80% had at least one identified support need with over 60% having two or more. Poor mental health was by far the most common, with over half of households reporting this. Almost one-third had poor physical health, with a similar proportion being at risk of or having experienced some form of abuse, including domestic abuse. Alcohol and/or drug dependency was also prevalent (23% of households) whilst 18% had an offending history. Over one-third of households had a history of repeat homelessness or rough sleeping, again reflecting the instability of individuals' lives and entrenched, unmet support needs. Following a recent report in July 2022 of the apparent suicide of a rough sleeper, it appears that three people,

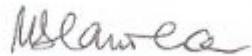
who approached the Council as homeless, have taken their own life since May 2021.

The applicant, Keystage Housing, is an established service provider that provides a holistic "pathway" out of homelessness including accommodation with support to develop independent living skills in order to resettle residents and prevent homelessness recurring.

All units will be let via the Council where it has a legal duty to provide accommodation.

I hope these comments are useful, but please contact me if I can provide any further information/assistance.

Regards,

A handwritten signature in dark ink, appearing to read 'M. Lawrence', is centered on the page. The signature is written in a cursive, flowing style.

Martin Lawrence  
Strategic Housing Manager

This page is intentionally left blank

## Lord Lister Application - 22/00170/FP

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

1. Following the Planning and Development Committee Meeting on 23 June 2022, this is a review of the policies referred to by the objectors and their advocates.
2. Reference is made to the current Development Plan (1996) (saved policies only), the Emerging NHDLP and National Planning Policy Framework (NPPF) 2021.
3. NPPF glossary defines main town centres uses as:
  - **Retail development** (including warehouse clubs and factory outlet centres); **leisure, entertainment** and more **intensive sport** and **recreation uses** (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); **offices**; and **arts, culture and tourism development** (including theatres, museums, galleries and concert halls, hotels and conference facilities).
    - The previous use of the building as a hotel fell within the NPPF glossary definition and was within the Town Centre boundary and the Conservation Area of Hitchin. However, the loss of the hotel was as a consequence of the Covid-19 pandemic and lack of trade.
    - It had been unsuccessfully marketed and the opportunity to provide a Sui Generis facility in a sustainable area was identified.
4. Planning Policy Guidance: Planning for town centre vitality and viability, acknowledges that residential development, in all its guises, complements and supports the vitality of town centres. It can play a particularly important role in ensuring the vitality of town centres, giving communities easier access to a range of services. It goes on to state that ‘given their (town centres) proximity to

transport networks and local shops and services, local authorities may wish to consider locating specialist housing for different groups including older people within town centres or edge of centre locations’.

- It is noted that this application is not, by definition, a residential CoU, that is to a C1, C2 class, but a Sui Generis application.
- This means that the development has its own unique use, which in this case is accommodation for homeless households.
- However, it is relevant to interpret its use and the relevant policies with a degree of pragmatism given its known purpose under Sui Generis.
- The proposed Sui Generis use is a form of residential development in a sustainable location within the town centre of Hitchin.

5. NPPF does not offer a position in the glossary for community facilities. Instead, it makes a small number of references in the main text, which are as follows:

- “Community facilities (such as **health, education and cultural infrastructure**)” (para. 20.c).
- “Local services and community facilities, such as **local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.**” (para. 83.d)
- “Community facilities (such as **local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship**) and other local services.” (para. 92.a)
- “Community facilities (such as **places of worship, pubs, music venues and sports clubs**).” (para. 182)

As such, the planning policy definition of community facilities includes the following;

- Health infrastructure
- Education infrastructure (including libraries)
- Cultural infrastructure/buildings
- Local shops
- Meeting places

- Sports venues/clubs
- Public houses (pubs)
- Places of worship
- Music venues

6. It is worth noting here, that Hotels **are not** included as a community facility. Notwithstanding this point, Hitchin is fortunate to be well served in the way of Hotels within the extent of the Town Centre.

- Premier Inn, Portmill Lane (0.3 miles)
- Bella Vita Hotel, Sun Street (0.1 miles)
- Sun Hotel, Sun Street (0.2 miles)
- Hitchin Priory, Tilehouse Street (0.1 miles)
- Firs Hotel, Bedford Road (0.8 miles)

In the wider area surrounding Hitchin, there are also:

- Mercure Letchworth Hall Hotel, Letchworth Lane
- Needham House Hotel, Blakemore End Road
- The Farmhouse at Redcoats, Redcoats Green

Development Plan Ref <sup>1</sup>		
<b>Policy 26</b>	Housing Proposals	<p>The CoU from C1 to Sui Generis here is acceptable given that the accommodation for homeless households use is a coherent use with the surrounding residential area.</p> <p>Management of the supported housing is not a planning matter, but management of the facility should be carried out in a suitable way so as not to require action from other powers of the Council eg ASB, noise etc</p>
<b>Policy 57</b>	Residential Guidelines and Standards	<p>The character of the existing Listed Building is not being altered. It remains in keeping with its surroundings and continues to contribute to the character of the area in this location.</p> <p>The CoU makes use of the internal layout of the building and does not involve any development out with the constraints of the building itself.</p>
Emerging Local Plan Ref		
<b>SP1</b>	Sustainable development in North Hertfordshire	<p>The CoU to accommodation for homeless households does not detract from the role of the settlement (Hitchin) as a main focus for housing and the proposed development makes use of PDL; introducing new residents helps sustain key facilities within the Town Centre.</p> <p>This CoU to accommodation for homeless households contributes towards an appropriate mix of homes in the Town Centre.</p>

<sup>1</sup> As of 27 September 2007, a number of policies from North Hertfordshire District Local Plan No. 2 with Alterations (April 1996) cease to have effect, under the Planning & Compulsory Purchase Act 2004. This document presents only those parts of the written statement which are saved.



		<p>As the CoU does not involve external alterations, the aesthetics of the building continue to contribute to and respect the surroundings.</p> <p>The location is sustainable as it allows residents easy access to the facilities of the Town Centre, including jobs and healthcare etc.</p>
<b>SP4</b>	Town Centres, Local Centres and Community Shops	<p>Criterion b seeks to support proposals for main town centre uses in town centres. We have established that a hotel is defined by the NPPF as a main town centre use.</p> <p>The Lord Lister Hotel closed down as a consequence of economic difficulties related to the Covid-19 Pandemic. The CoU to accommodation for homeless households does not preclude its future use as a hotel when economic circumstances dictate.</p> <p>It is further noted that Hitchin Town Centre is well serviced with hotels in the immediate surrounding area, all within walking distance of the Lord Lister. The provision of this main town centre use is still well accommodated for in Hitchin Town Centre.</p>
<b>SP8</b>	Housing	<p>We have acknowledged that the CoU is to a Sui Generis and not a residential Use Class, however, being pragmatic, we also know that the Sui Generis Use is to provide accommodation for homeless households and as such is an ‘unclassified’ form of housing provision.</p> <p>Criterion g refers to the provision of at least 350 bed spaces in suitable, supported accommodation to meet the needs of those who cannot live in their own home.</p>

		Arguably, homeless households fulfil the principle of not being able to 'live in their own home' and as such accord with the intentions of the policy.
<b>SP9</b>	Design and Sustainability	The proposed CoU to accommodation for homeless households is not considered a new development in the sense that anything in addition to the existing Listed Building is being built. As such, the building subject to the CoU application continues to respond positively to its local context.
<b>SP10</b>	Healthy Communities	In para 5 above, we have established that the Lord Lister Hotel is not defined as a community facility by the NPPF. As such, it cannot be argued that the CoU to accommodation for homeless households results in the loss of a community facility within Hitchin Town Centre.
<b>ETC7</b>	Local community shops and services in towns and villages	<p>The Lord Lister Hotel was a main town centre use within the defined retail hierarchy of Hitchin Town Centre and as such is considered to be a loss of a main town centre use (service) in a town centre.</p> <p>However, as criterion a of the policy notes, there are other equivalent services of similar use available for customers with an 800m walking distance.</p> <p>Notwithstanding the provision of these alternative equivalent services, it is reasonable to consider that the hotel is no longer required to meet the needs of the local community (due to its closure during the Covid-19 pandemic) and has been unsuccessfully marketed as a hotel.</p>

<b>HS3</b>	Housing mix	<p>The proposed CoU to accommodation for homeless households is considered appropriate for the location and accessibility of the site, and in relation to the facilities and services in the Town Centre.</p> <p>The Lord Lister building is situated within an already established residential area with a range of flatted developments and individual residential properties surrounding the existing building both adjacent and to the rear of the site.</p>
<b>HS4</b>	Supported, sheltered and older persons housing	<p>As the Use Class of the provision of accommodation for homeless households is a Sui Generis Use, Policy HS4 does not apply as this relates to Use Class C2.</p>
<b>D3</b>	Protecting living conditions	<p>Policy D3, when reading, largely deals with the physical implications of a development on its neighbouring properties. The presence of the existing building, as we have already established, contributes to, and responds positively to its local context and the streetscape of Park Street.</p> <p>It is noted that neighbouring properties are having issues with ASB and this is not considered to be a planning issue regardless of the impact that this has on the living conditions of neighbours.</p> <p>ASB should be dealt with through a properly managed facility with all the proper management protocols in place to deal with issues as and when they arise in a swift and timely manner. Issues that cannot be managed over and above the management of the facility should be dealt with through the proper processes of Environmental Health and, ultimately, the Police.</p> <p>It is not considered that the application is in conflict with Policy D3.</p>

<b>HC1</b>	Community facilities	<p>Neither the previous use of the building as a Hotel, or the proposed use as accommodation for homeless households are considered to be considered to be community facilities.</p> <p>Certainly, both uses provide a facility to particular communities, but not those considered by the NPPF, nor those of the Emerging Local Plan.</p>
<b>NPPF</b>		
<b>Para 92</b>	Promoting healthy and safe communities	<p>The proposed CoU promotes social interaction by introducing people who might not otherwise come into contact with each other. Given that the building is already in situ and has been for a considerable amount of time, the building itself does not undermine the quality of life or community cohesion. As discussed previously, the use of the development has raised concerns about ASB, however, this in itself is not a planning matter and should be dealt with through other regulatory processes.</p> <p>The proposed development enables and supports healthy lifestyles through the provision of safe and accessible facilities and shops and also transport.</p>
<b>Para 93</b>	Promoting healthy and safe communities	<p>As discussed previously, the use of the property as a hotel does not constitute a community facility. However, it is worth noting that such a provision (hotel) is available elsewhere in the town of Hitchin and its surrounding areas.</p>
<b>Para 112</b>	Considering development proposals	<p>It is noted that there is concern regarding a reduction in and a risk to the safety of pedestrians due to ASB and the need in the recent</p>
















		<p>past for the police to attend the proposed facility. This is not a planning matter.</p> <p>The proposal itself is in a sustainable location and allows proprietors access to sustainable forms of transport.</p>
<b>Para 126</b>	Achieving well-designed places	<p>It is noted that neighbours do not feel that they were appropriately consulted upon the planning process for the facility at the Lord Lister – this is a DM matter and not something Planning Policy can comment on.</p>
<b>Para 130</b>	Achieving well-designed places	<p>The proposed CoU is in a building that is already in situ. This is a point that has been discussed previously.</p> <p>The proposed use of the site is sympathetic to the local character of the surrounding built environment in the sense that it is a form of residential use (accommodation for homeless households) in a residential area. As already discussed, the management of the development is not a planning matter.</p>
<b>Para 132</b>	Achieving well-designed places	<p>It is noted that neighbours do not feel that they were appropriately consulted upon the planning process for the facility at the Lord Lister – this is a DM matter and not something Planning Policy can comment on.</p>
<b>Paras 185 - 187</b>	Ground conditions and pollution	<p>The proposed use of the site is sympathetic to the local character of the surrounding built environment in the sense that it is a residential use (accommodation for homeless households) in a residential area. As already discussed, the management of the development is not a planning matter.</p>

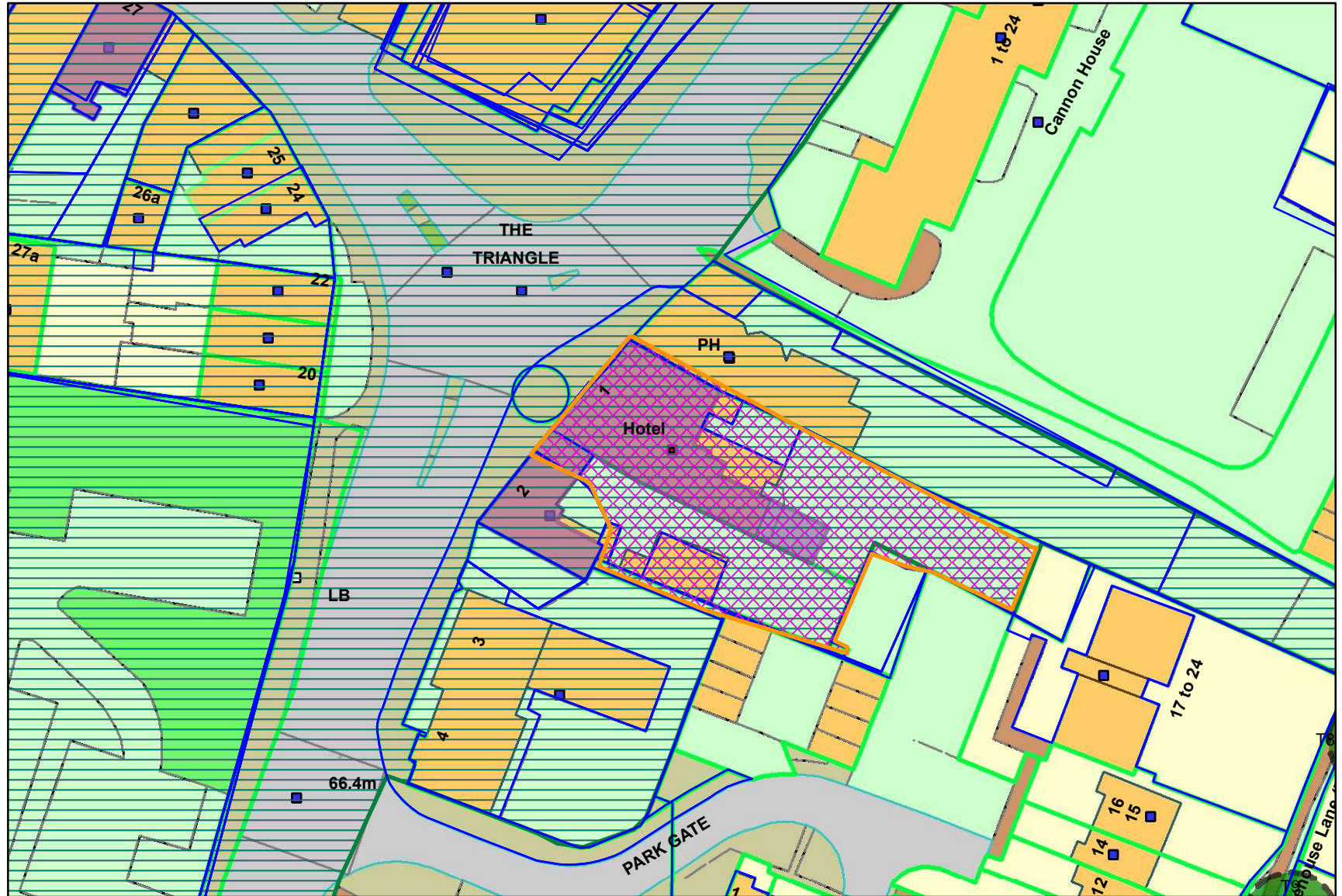
7. It is not considered that the loss of the Hotel or the CoU to accommodation for homeless households impinges in any way upon the viability or vitality of the Town Centre of Hitchin, or indeed the surrounding neighbours of the property.
8. As discussed, the management of the facility is an issue, however, this is not a planning matter and should be addressed through appropriate management by the owners of the facility, and in addition, through Environmental Health and ultimately the police.
9. Re-introducing homeless households back into a stable environment is linked directly to accessibility of the appropriate facilities in the immediate and local area. The location of this provision in the area of a town centre, whilst not impacting on the retail or economic aspect of the vitality of the town centre, is considered appropriate in terms of planning policy, both locally and nationally.

# NORTH HERTFORDSHIRE DISTRICT COUNCIL

## Application Validation Sheet

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

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



Scale 1:625

Date: 16/03/2022

© Crown copyright and database rights 2017 Ordnance Survey 100018622



This page is intentionally left blank



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

**Date of Statutory Expiry Period:** Agreed extension to 30.09.22

**Reason for Delay**

Further information received and an additional consultation exercise was undertaken as a result. This item was also deferred at the meeting of the Planning Control Committee held on 23 June 2022 on the basis that Members considered it to be inappropriate to determine the associated listed building application when the planning application was deferred for the reasons set out in the report relating to the previous item on this agenda.

**Reason for Referral to Committee**

Deferred from the meeting of the Planning Control Committee held on 23 June 2022.

**Submitted Plan Nos to Determine:**

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

**Associated Documents:**

Design, Access and Planning Statement (received 22.01.22)

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

## **1.0 Policies**

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

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

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

#### **Section 3 – Development Management Policies** HE1- Designated Heritage Assets HE4 -Archaeology

## **2.0 Site Planning History**

### **2.1** Various extensions and alterations but most recent and significant schemes as follows: 04/00728/LB and 04/00727/1 – three storey extension to provide en-suite bathrooms. Approved

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

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

## **3.0 Representations:**

### **3.1 Senior Conservation Officer:**

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

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

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

### **3.3 Public Comments:**

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

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

## **4.0 Planning Considerations**

### **4.1 Site and Surroundings**

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

### **4.2 The Proposals**

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

### **4.3 Key Issues**

#### **4.3.1 Heritage Matters**

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

#### **4.3.2 Alternative Options Considered**

See discussion of case merits above.

## **5.0 Legal Implications**

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

## **6.0 Recommendation**

- 6.1 That Listed Building Consent be **GRANTED** subject to the following conditions:

### **6.2 Recommended Conditions**

Conditions and Reasons:

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

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

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

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

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

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

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

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

## **7.0 Appendices**

### **7.1 Appendix 1 – Senior Conservation Officer's Comments**

# North Hertfordshire District Council

## Building Conservation comments

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

**Date:** 23/05/2022

**Planning Officer:** SE

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

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

### 1.0 Context

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

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



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

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

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

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



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

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

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

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

## 2.0 Local Plan / NPPF

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

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

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

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

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

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

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

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

### **3.0 The proposal**

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

Interior (general)

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

Hallway





Smaller Meeting Room



Office



Large Meeting Room



Kitchen



Internal doors

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



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



#### Secondary glazing

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



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

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



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



Window to proposed laundry

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



Fireplaces

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

Smaller meeting room



Office



Hall



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

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

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

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

Erect 1.8m fence with 0.3m trellis on northern boundary

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

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

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



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

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

#### CCTV cameras

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

##### Listed Building

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

##### New block

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

#### 4.0 Summary

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

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

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

#### 5.0 Suggested conditions (LBC only).

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

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

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

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

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

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

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

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

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

## 6.0 Recommendation

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

**Mark Simmons**  
**Senior Conservation Officer**

















This page is intentionally left blank

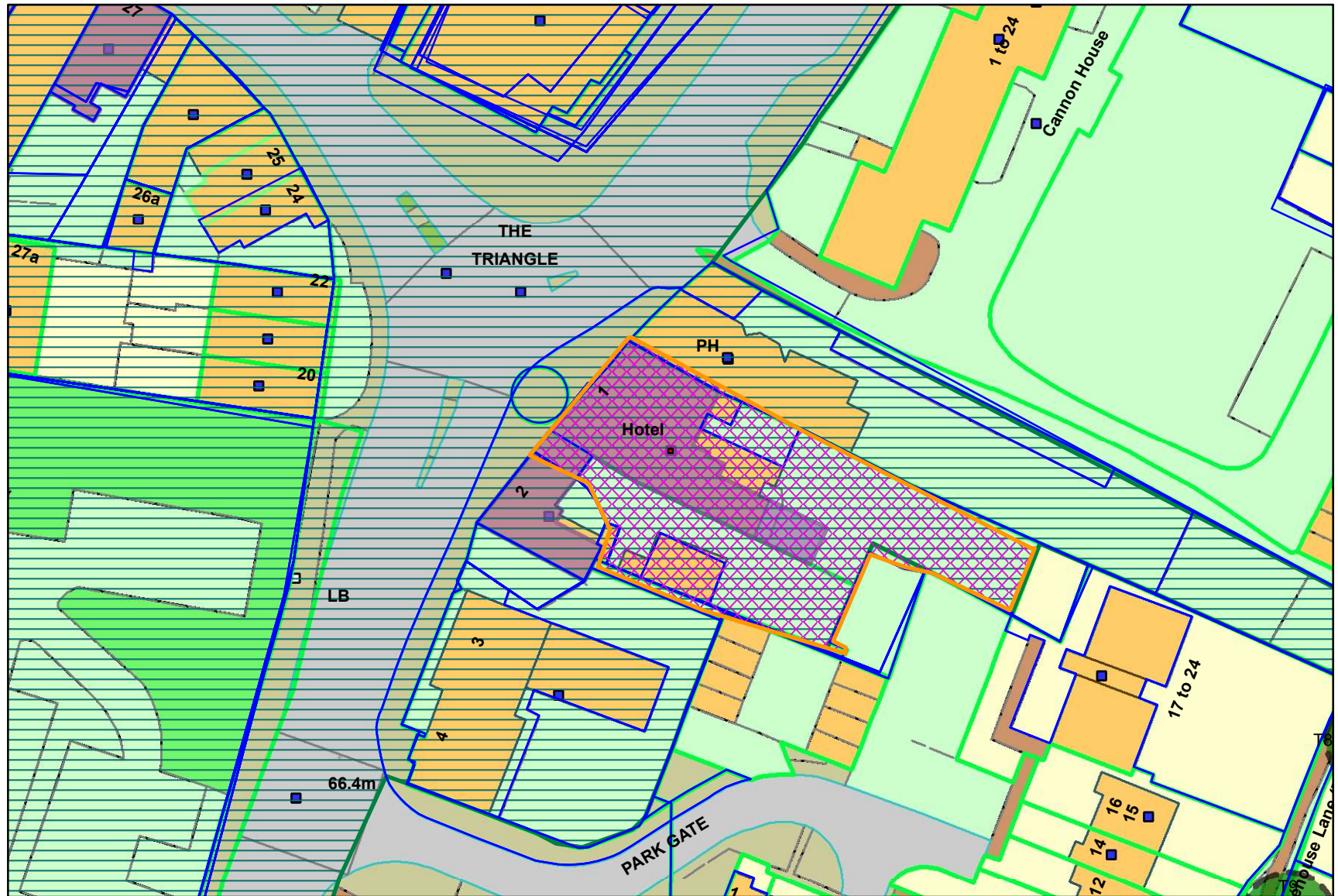


# NORTH HERTFORDSHIRE DISTRICT COUNCIL

## Application Validation Sheet

22/00171/LBC The Lord Lister Hotel, 1 Park Street, Hitchin, Herts, SG4 9AH

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



Scale 1:625

Date: 07/06/2022

© Crown copyright and database rights 2017 Ordnance Survey 100018622



This page is intentionally left blank



Enforcement Notice List									
Case Reference Number	Address	Breach of Planning Control	Action Authorised	Notice issued	Compliance required by	Notes	Appeal	Appeal Decision	Compliance Achieved
17/00412/1ENF	Hitchin Caravan Centre, Harkness Roses, Cambridge Road, Hitchin.	Extension of site into green belt without planning permission. LDC refused for existing use.	16/10/19	27/02/20	27/06/2020  New date following appeal being dismissed  21/07/2022	Compliance visit undertaken.	YES	Appeal dismissed.	Yes.
20/00110/1ENF	50A Stevenage Road, Hitchin	Installation of two air conditioning units on a first floor flat roof.	06/01/22	17/03/22	18/08/2022	Planning application to reposition units received. Notice not complied with, application decision awaited before determining next action.	No		No
20/00005/1BOC	10 Stormont Road, Hitchin.	Extensions to a residential dwelling	06/01/22	17/03/22	17/03/2023		Yes	Appeal Statement sent; decision awaited	

21/00112/1ENF	33 Willian Way, Letchworth	Outbuilding without planning permission	20/06/22	21/07/22	20/08/23	Notice issued	Yes	Appeal lodged, Ground A only that planning permission should be granted. Appeal start date awaited.	
22/00086/1ENF	Land at Chapel Lane, Bendish	Laying of hard standing in the Green Belt	21/06/22	05/07/22	04/03/23	Notice issued	No		

By virtue of paragraph(s) 5, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank