

8 July 2024

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Planning Control Committee 18 July 2024
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To: Members of the Committee: Councillors Elizabeth Dennis (Chair), Nigel Mason (Vice-Chair), Amy Allen, Sadie Billing, Ruth Brown, Emma Fernandes, Ian Mantle, Bryony May, Caroline McDonnell, Michael Muir, Louise Peace and Tom Tyson

Substitutes: Councillors Val Bryant, Jon Clayden, Mick Debenham, Joe Graziano, Keith Hoskins, Steve Jarvis, Sean Nolan and Martin Prescott

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE PLANNING CONTROL COMMITTEE

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES, GERON
ROAD, LETCHWORTH GARDEN CITY, SG6 3JF**

On

THURSDAY, 18TH JULY, 2024 AT 7.30 PM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

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

Agenda **Part I**

Item		Page
1. APOLOGIES FOR ABSENCE	Members are required to notify any substitutions by midday on the day of the meeting. Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.	
2. MINUTES - 13 JUNE 2024	To take as read and approve as a true record the minutes of the meeting of the Committee held on the 13 June 2024.	(Pages 5 - 24)
3. NOTIFICATION OF OTHER BUSINESS	Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chair will decide whether any item(s) raised will be considered.	
4. CHAIR'S ANNOUNCEMENTS	Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
5. PUBLIC PARTICIPATION	To receive petitions, comments and questions from the public.	
6. 22/03231/FP LAND NORTH EAST OF, WANDON END, HERTFORDSHIRE REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	Proposed solar farm within 106 hectares with associated access, landscaping, battery storage and ancillary infrastructure (amended plans received 29.11.2023 and 24.04.2024 - relating to fire safety)	(Pages 25 - 106)

7. **23/02572/S73 LAND AT OAKLEIGH FARM, CODICOTE ROAD, WELWYN, HERTFORDSHIRE, AL6 9TY** (Pages 107 -
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 122)

Variation of Condition 2 (submission of revised plans) of planning permission 20/00598/FP granted 29.09.2021 for Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road (as amended by plans received 14.03.2024, 04.04.2024, 03/06/24 and 18/06/24)

8. **23/02719/FP LAND AT OAKLEIGH FARM, CODICOTE ROAD, WELWYN, HERTFORDSHIRE, AL6 9TY** (Pages 123 -
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 140)

Cross Boundary Application: Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road. (as a variation of planning permission 20/00598/FP granted 29.09.2021) (amended by plans received 13/12/23, 03/06/24 and 17/06/2024)

9. **APPEALS** (Pages 141 -
142)

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Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES, GERONON ROAD, LETCHWORTH GARDEN CITY, SG6 3JF
ON THURSDAY, 13TH JUNE, 2024 AT 7.30 PM

MINUTES

Present: *Councillors: Elizabeth Dennis (Chair), Nigel Mason (Vice-Chair), Sadie Billing, Ruth Brown, Emma Fernandes, Bryony May, Caroline McDonnell, Michael Muir, Louise Peace, Jon Clayden and Ian Mantle.*

In Attendance: *Isabelle Alajooz (Legal Manager and Deputy Monitoring Officer), Peter Bull (Senior Planning Officer), Ben Glover (Senior Planning Officer), Shaun Greaves (Development and Conservation Manager), Andrew Hunter (Senior Planning Officer), Caroline Jenkins (Committee, Member and Scrutiny Officer), James Lovegrove (Committee, Member and Scrutiny Manager), Naomi Reynard (Senior Planning Officer) and Sjanet Wickenden (Committee, Member and Scrutiny Officer).*

Also Present: *At the commencement of the meeting approximately 48 members of the public, including registered speakers.*

1 APOLOGIES FOR ABSENCE

Audio recording – 3 minutes 44 seconds

Apologies for absence were received from Councillor Tom Tyson.

Having given due notice, Councillor Jon Clayden substituted for Councillor Tyson.

Having given due notice, Councillors Ian Mantle and Mick Debenham substituted for the Labour vacancies on the Committee for this meeting.

2 MINUTES - 21 MARCH AND 11 APRIL 2024

Audio Recording – 4 minutes 10 seconds

Councillor Elizabeth Dennis, as Chair, proposed and Councillor Nigel Mason seconded and, following a vote, it was:

RESOLVED: That the Minutes of the meeting of the Committee held on 21 March and 11 April 2024 be approved as a true record of the proceedings and be signed by the Chair.

3 NOTIFICATION OF OTHER BUSINESS

Audio recording – 5 minutes 36 seconds

There was no other business notified.

4 CHAIR'S ANNOUNCEMENTS

Audio recording – 6 minutes 0 seconds

- (1) The Chair advised that, in accordance with Council Policy, the meeting would be recorded.
- (2) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.
- (3) The Chair clarified matters for the registered speakers.
- (4) The Chair advised that Section 4.8.23(a) of the Constitution applied to the meeting.

5 PUBLIC PARTICIPATION

Audio recording – 8 minutes 15 seconds

The Chair confirmed that the registered speakers were in attendance.

6 23/00563/FP LAND ON THE SOUTH OF, OUGHTONHEAD LANE, HITCHIN, HERTFORDSHIRE, SG5 2NA

Audio Recording - 9 minutes 50 seconds

Councillor Nigel Mason declared an interest and moved to the public gallery.

The Senior Planning Officer provided an update that:

- Section 2.1 reference to policy HD6 is incorrect and the correct policy HD3 which is considered in the report.
- Section 4.3.1 report to defer to enable applicant to review application to access point to Southeast of site together with wording on Condition 8 with reference to cycle path and pedestrian network review and addressing reasons for deferral.
- It was noted that Alexander Greaves is incorrectly referred to as Kings Counsel rather than Counsel.
- Section 4.3.16 should read “highway code does not seek to address”
- Section 4.3.25 – it was noted the monitoring fees are missing from table.
- The Applicant and agent had agreed to pre commencement conditions.

The Senior Planning Officer presented the report in respect of application 23/00563/FP supported by a visual presentation consisting of photographs and plans.

The following members asked questions:

- Councillor Ruth Brown
- Councillor Ian Mantle
- Councillor Sadie Billing
- Councillor Louise Peace
- Councillor Mick Debenham

In response to the points of clarification, the Senior Planning Officer stated that:

- All properties in the development would be fitted with solar panels.
- There would be 21 affordable homes.
- A maintenance company would be responsible for the upkeep of the communal areas and play area and provisions would be made to monitor the management of the open spaces in the S106 agreement.

- The main access to the development would be via Oughtonhead Lane. Members were concerned about the disabled access at this point. It was not proposed to make many changes to the Lane as this would alter the character of the area. There was still concern that this is the only vehicular entrance to the site.
- Safety measures would be set out in the Construction Management Plan, and this was covered by Condition 7.
- A letter had been sent by the applicant to the occupants of the management company regarding request for access via Bowlers End. This was again refused as this is a private road.

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

- Traffic from the development was estimated to be around 233 vehicles per day, equating to 27 per hour in the daytime and 30 per hour in the evening.
- Roads surrounding the site, including Oughtonhead Lane, Westbury Close and Redhill Road were all heavily congested.
- Concerns were raised over air pollution in this area.
- There were many pedestrians and cyclists in the area of Lower Innings and Redhill Road.
- The crossover on Oughtonhead Lane was deemed to be against the Highway Code, as it would not give priority to horse riders, pedestrians and cyclists. There would be a need for prominent signs on the crossing.
- The sight lines had been missed from the technical drawings.
- Construction traffic would be exiting the site via Lower Innings, which was disappointing to the residents.
- A bond to cover any damages incurred by construction vehicles was requested from the developer as part of the application.

There were no points of clarification from members.

The Chair thanked Mr Dodds for his presentation and invited Mr Hugh Love to speak against the application. Mr Love thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- He had already spoken to the committee in July 2023 and February 2024 to object against this application. The legal advice received by the Council advised that these two applications were linked.
- There had been 97 comments, with all but 1 opposing this application.
- There was much discussion at earlier meetings regarding the road and pedestrian safety, but no decision was made and consultation with other parties had not taken place.
- It was noted that conditions would be put in place, but not necessarily enforced before commencement of work, only sometime before occupation and there were concerns as to whether the conditions would be enforced.
- Residents of Lower Innings should have access to the progress in monitoring actions and compliance contained in 8.2 of the report.
- It was noted that uncertainty in February 2024 almost got a refusal for this application.
- This site is a significant problem with its execution, which should be addressed before the application is approved.

There were no points of clarification from Members.

The Chair thanked Mr Love for his presentation and invited Councillor Nigel Mason to speak against the application. Councillor Mason thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- This was the fourth time this application had come before the Committee.

- The first application was narrowly passed in July 2023, following assurance that consideration could be given to access at the meeting where this application was considered. However, in the February 2024 meeting this assurance seemed absent.
- The Committee must decide whether vehicles can cross Oughtonhead Lane without being a threat to other users. Objections to this application have always been about the safety aspects.
- Formal conditions had been improved but had raised more questions than answers.
- Technical plans were great, when they are seen by residents.
- There should be no housing built until Oughtonhead Lane can be crossed safely.
- Any progress on the development should be made transparent to residents.
- Lack of permeability to the site.
- The request for access at Bowlers End has now been refused, leaving one access by Oughtonhead Lane and Redhill Road, where there is a primary school.
- There were concerns regarding how traffic would be managed around Lower Innings to access the site.
- There has never been a safe entrance for this site.
- He believed it was a mistake to consider this as two applications, and residents would like this to be reconsidered as one application.

There were no points of clarification from Members.

N.B. Councillor Nigel Mason, following the conclusion of his presentation, left the Chamber for the remainder of this item.

The Chair thanked Councillor Mason for his presentation and invited Mr Neil Farnsworth as the applicant, to speak in support of the application. Mr Farnsworth thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The application submitted on 15 February 2024 had been deferred. An update by the management company had been sent to Cala Homes.
- Policy HD3 had been included within the adopted Local Plan.
- Vehicular access, impact on the character of the area and amenities had been approved.
- There were no objections from Hertfordshire Highways or the Rights of Way Officer.
- The development complied with the NPPF and Highways plan.
- The site was not in the green belt and Biodiversity net gain would be met.

There were no points of clarification from Members.

In response to points raised, the Senior Planning Officer advised that the site access and road markings has been agreed by the Council and Hertfordshire Highways, who had been consulted and had no objections.

Councillor Michel Muir proposed to approve planning permission and Councillor Mick Debenham seconded.

The following Members took part in debate:

- Councillor Mick Debenham
- Councillor Louise Peace
- Councillor Michael Muir
- Councillor Elizabeth Dennis
- Councillor Sadie Billing
- Councillor Ian Mantle

Points raised during the debate included:

- Having looked at the site and surrounding roads, it was felt there was nothing to vote against on this application.
- Concerns were still raised about the access, particularly wheelchair access to the site.
- The area was unsteady underfoot with no additional entry.
- This was now a responsibility of Hertfordshire County Council Highways to be lobbied to provide adequate standards.
- The responsibility will now be for the management company to ensure the maintenance of facilities.

Having been proposed and seconded and, following a vote, it was:

RESOLVED: That application 23/00563/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager.

7 23/00743/RM - LAND ADJACENT TO OAKLEA AND SOUTH OF, COWARDS LANE, CODICOTE, HERTFORDSHIRE, SG4 8UN

Audio recording: 57 minutes 48 seconds

The Chair clarified for Members that outline planning permission had already been granted for residential development on this site including details of access. This was a Reserved Matters application to deal with the details relating to layout, landscaping, appearance, and scale.

The Senior Planning Officer provided an update that:

- The applicant is Croudace Homes Ltd.
- An extension to the statutory period had been granted to 19 June 2024.
- Outline planning permission was granted on 2 November 2022, not 2011.
- Condition 2 should be removed as it duplicates a condition on the outline application.
- Granting "Planning permission" should read granting "Reserved Matters details". The recommendation in 10.1 should be worded as follows: *"That the Reserved Matters details are GRANTED subject to the following conditions."*
- Further resident objections had been received regarding concerns about the boundary of the site and possible Japanese Knotweed, which had been covered by a landscaping condition requiring details of boundary treatment to be submitted and approved and with regard to Japanese Knotweed the applicant has been notified and no objection had been received on the application from Herts Ecology.
- There were concerns raised that the 6-metre buffers to much of the hedgerow network endorsed by Herts Ecology was not consistent with the policy which states that 12 metres should be applied.
- Whilst Local Planning Policy stated the provision of 12m buffers of complimentary habitat around wildlife sites, trees and hedgerows should be provided it was not an absolute requirement of policy.
- A further representation was received from a neighbour regarding the protection of the wildlife on the boundary hedgerow and asked if the Council would consider asking that the Biodiversity Net Gain (BNG) offsetting was planted onsite. It was the officer's understanding that at least 10% BNG could be provided on site, although a condition was recommended requiring an updated Biodiversity Metric.

The Senior Planning Officer presented the report in respect of application 23/00743/RM supported by a visual presentation consisting of photographs and plans.

The following members asked questions:

- Councillor Ruth Brown
- Councillor Micheal Muir

- Councillor Jon Clayden
- Councillor Louise Peace

In response to the points of clarification, the Senior Planning Officer stated that:

- The 10% biodiversity net gain had been secured on site. This was not clear in the outline application when it was submitted. The initial application was granted before the requirement for BNG.
- Highways initially objected to this application, but minor changes had now been made to the layout and they had withdrawn their objection.
- Proposals for Solar Panels and Heat Pumps would form part of the Energy and Sustainability statement required by condition on the outline planning permission.
- Whilst most of the trees to be planted were situated in communal areas, some were sited in residential gardens and there was no condition which could be added to ensure that these would not be felled over time.
- The 12-metre buffer was deemed not to be required on the whole site. The parameter plan had been approved as part of the outline application and a 12-metre buffer would be in place adjacent to the wildlife site with 6 metre buffers on the rest of the southern and eastern boundaries.
- Access to the site was not being considered on this application.

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

- Codicote village had fought an increased expansion of one third of the current size over the last few years, with problems of parked cars and increased vehicles.
- Traffic now halted at peak times and travelled south and north to avoid the High Street.
- Approved village expansion of 500 homes would add to the problems, as well as approval of development in the High Street with no parking.
- The last full traffic assessment of Codicote was completed in May 2017. Since this the Council had approved much more development in the area.
- The traffic data that decisions were based on was out of date. The application should therefore be deferred until a new traffic assessment could be undertaken.

There were no points of clarification from Members.

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

- The Parish Clerk from Codicote wrote to Herts County Council in 2019 to highlight the problem of additional housing and school places in the village.
- A transport assessment was submitted in July 2017 on behalf of residents to promote the need for a roundabout for access via St Albans Road and Cowards Lane.
- Ordinance Survey map which this application had not used, showed 3 smaller ponds which had not been accounted for. To the right of this was woodland and a larger pond, with obvious connectivity for wildlife. Great crested newts had been photographed in the area.
- Protection of wildlife was of vital importance as it cannot be replaced once gone.
- There were currently 240 homes being planned in Codicote.
- A new assessment of pupil numbers and a highways assessment were required before this application could be passed.

There were no points of clarification from Members.

The Chair thanked Mr Barrow for his presentation and invited Mr Derek Collins to speak against the application. Mr Collins thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The resident had lived near to Cowards Lane for 24 Years, so knew very well of the traffic dangers in the area. The narrowest part was 1.8 metres wide with no adequate room for passing cars, ambulances or fire engines.
- Cowards Lane would be used as the entrance and exit to the development. There was an old people home on Cowards Lane housing 40 elderly residents who would need access to ambulances.
- Traffic had increased on Cowards Lane and the additional footpaths proposed would exit onto the narrowest point of this road, which was an accident waiting to happen.
- It was felt this plan needed the roundabout in the high street to enable ambulances to leave.

There were no points of clarification from Members.

The Chair thanked Mr Collins for his presentation and invited Councillor Ralph Muncer to speak against the application. Councillor Muncer thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Developers do not just build houses, but homes and communities and these needed to be built correctly first time around.
- Taking into account the wider impact to the community of Codicote, around 300 houses would be built over the next few years, without the infrastructure to cope.
- Many residents of Cowards Lane and The Riddy were concerned regarding privacy. The 1.8 metre fence and hedging should be extended to plots 40- 54.
- Application was originally granted for 72 dwellings, which changed to 83 and now reduced to 80. The application should be granted for 72 homes as originally agreed.
- The plans were felt not appropriate and far from in keeping with the rural, more open landscape.
- Residents would be able to see into other gardens and it was felt developers should go back to the drawing board to check on equal spaces between properties.
- Planning conditions in Codicote have been breached. Officers must ensure that conditions are enforced and that breaches lead to repercussions for the developers.
- Access to the development was not appropriate with a dangerous and busy junction.
- Developers should have more consideration to the adopted Local Plan.

There were no points of clarification from Members.

The Chair thanked Councillor Muncer for his presentation and invited Ms Rachel Caplin to speak as the applicant. Ms Caplin thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The developer, Croudace Homes, were a family owned, well established, award-winning, high-quality developer.
- The site was granted planning permission in November 2022 for up to 83 dwellings.
- Following discussion with officers, it was now reduced to 80 dwellings. The dwellings comprised of 32 affordable homes and 48 private homes. The affordable dwellings comprised 65% social and affordable rent and 35% shared ownership.
- There was seen a greater need for 2 bed roomed houses for rent. The scheme has a mix of 1-to-5-bedroom properties, with materials in the local context.
- Flats would have communal gardens and all houses would have individual gardens.
- The main access would be tree lined with a new planting scheme planned.
- Air source heat pumps and PV panels were proposed to a number of units, delivering improved energy performance.

- All units would be fitted with EV charging points.
- The site plan includes a Local Equipment Area for Play (LEAP) with play equipment and wildflower meadow.
- Drainage would be via a swale and a drainage basin in the northeast and southeast corners.
- Planting would be used to soften the area whilst providing a feature of the pond and essential habitat for nature.
- Most of the development was two stories, which was consistent with surrounding developments.
- The scheme was part of collaboration with North Herts Council Officers and had resulted in a well-considered and sustainable scheme.

The following members asked points of clarification:

- Councillor Ruth Brown
- Councillor Elizabeth Dennis
- Councillor Nigel Mason

In response to points of clarification, Ms Caplin stated that:

- There would be no obvious difference in materials between the private and affordable housing on the site.
- The 2.5 story block had been planned for the highest part of the site as to be a landmark feature. The location was moved following consultee comments. Officers considered this a suitable location.
- The initial policy document proposed 73 homes for this site and permission was granted for up to 83 properties, which had now been reduced to 80 following discussions with officers.

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

- Traffic concerns were outside the remit of the reserved matters application, which was just to look at layout, landscaping, appearance and scale.
- Highways had been consulted and had not objected and access to the site had already been approved.
- There was a S106 agreement on the outline application securing a contribution towards expansion of Codicote Primary School. Hertfordshire County Council are monitoring spaces and the release of places in the school.
- There had been no objections from the Ecology officers on the application.
- The fencing would be secured by the recommended landscaping condition.
- The construction traffic management plan condition on the outline application would be enforced as necessary.
- Ideally the Council would like to see affordable housing spread across the site, and there had been amendments to the plan.

Councillor Ian Mantle proposed to approved planning permission and this was seconded by Councillor Ruth Brown.

The following Members took part in debate:

- Councillor Emma Fernandes
- Councillor Ruth Brown
- Councillor Caroline McDonnell
- Councillor Ian Mantle
- Councillor Michael Muir
- Councillor Nigel Mason

- Councillor Mick Debenham

Points raised in debate included:

- Concerns were raised over the privacy of the residents in the Bungalows at The Riddy. There was a condition for the applicant to submit boundary details.
- Members liked the scheme, landscaping, biodiversity and the installation of Heat Pumps and Solar panels.
- There were concerns over the 2.5 story block being on the highest point of the development, but this was viewed as acceptable.
- Due to the materials to be used, the look and feel of the development will not distinguish between the private and affordable housing.

Having been proposed and seconded and, following a vote, it was:

RESOLVED: That application 23/00743/RM be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager, with the removal of Condition 2.

N.B. Following the conclusion of this item there was a short break in proceedings and the meeting reconvened at 21.51.

8 22/00741/FP - LAND WEST OF ASHWELL ROAD, BYGRAVE, HERTFORDSHIRE, SG7 5EB

Audio recording: 2 hours 21 minutes and 35 seconds

The Senior Planning Officer presented the report in respect of application 22/00741/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked points of clarification:

- Councillor Ruth Brown
- Councillor Elizabeth Dennis

In response to the questions, the Senior Planning Officer stated that:

- The construction traffic to the site would be limited to two articulated lorries per day and this would be enforced by a condition. If the traffic was thought to be more, the application would be referred to the Enforcement team.
- The nearest grid connection point was 5k from the site.
- There was minimal hedge removal proposed for access to the site.

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

- The Bygrave action group was set up by the Parish Council and would support a solar farm in Bygrave, as long as it was in the correct location.
- This site would dominate the area, which was too large and exposed. The field is grade 2 arable farmland which would be lost.
- The adjacent roads were not safe for construction traffic, with heavy traffic on the nearby A507 and blind bends on smaller roads.
- There would also be a constant humming noise from the site, with no grid connection plan.

The Chair thanked Mr Colegrave for his presentation and invited Ms Julie Stothard to speak against the application. Ms Stothard thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Last year was commented that too little weight had been given to the impact on the landscape, together with the residential amenities and risk from construction traffic and fire.
- Biodiversity net gain had been overstated.
- The harms of this development clearly outweigh the benefits.
- This type of use of the best and most versatile land should be avoided as much as possible and high-grade agricultural land is required to ensure future food security.
- In December 2023, Council approved for consultation a draft Supplementary Planning Document on sustainability. This development fails on all the counts in the document.
- This proposed development does not comply with published health and safety guidance.
- In November 2023, the Council refused an application for a solar farm at Sperberry Hill. There can be no reason to refuse Sperberry Hill and approve the Bygrave application.

The Chair thanked Ms Stothard for her presentation and invited Mr Mark Goddard to speak against the application. Mr Goddard thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Bygrave was a small quiet village with beautiful views, dog walkers, cyclist and horse riders. Their enjoyment would be destroyed by loss of views and the noise from the solar farm.
- In 2017 an application for a microbrewery was rejected in the same area. The design and scale were deemed inappropriate to visual amenities. The solar farm planned would be 400 times bigger than that application.
- The junction to the site would be moved to centimetres of busy roads in North Hertfordshire.
- There was no reliable information on traffic speeds or volumes.
- Bygrave village would be ruined for its residents, should this development go ahead.
- 93% of residents objected to this proposal.
- The development had nothing to do with renewable energy.
- The development does not comply with planning rules and regulations.

The Chair thanked Mr Goddard for his presentation and invited Councillor Lisa Nash to speak against the application. Councillor Nash thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- This application was strongly objected to as it was felt it was a vandalism of the landscape, a threat to food security and included a reckless traffic management scheme.
- This area had been designated North Baldock chalk uplands with valued openness and long-distance views from local vantage points. This was a rare landscape deserving protection.
- Solar farms can have a negative impact on the environment, particularly in undulating landscapes.
- These developments should be sited where they have the least impact.
- They should also protect the amenity of residents, with public rights of way bordering the site, which would be lost.
- Since the Covid Pandemic the benefit of open spaces on mental health has been recognised.
- Good agricultural land should continue to be farmed for food production, including crops and cereals. We are living in uncertain times with current hostilities as they are and need to protect food growing land.
- This is an appalling use of this land, particularly when all new build homes are asked to provide solar panels.

- The officers report rules out nuclear power and offshore wind data.
- The traffic management plan endangers the lives of other road users. The applicants 407 trucks will need to negotiate small roads and bends to enter the construction site.
- The Highways officer noted that these roads are inappropriate for large trucks. There is a 7.5-ton weight limit. A condition has been imposed that only two articulated trucks would visit the site per day.
- The application should not be approved until details can show how construction traffic will move to and from the site.

The following members asked points of clarification:

- Councillor Michael Muir
- Councillor Ruth Brown
- Councillor Nigel Mason
- Councillor Louise Peace
- Councillor Elizabeth Dennis

In response to points of clarification, objectors stated that:

- The site search was misleading, and it was felt there were more suitable sites which could be used, rather than this one with Grade 2 best and most versatile agricultural land.
- The traffic survey carried out was deemed to be nonsense. There were issues with the number of vehicles recorded and measurements submitted.
- It was a vulnerable area for horse riders and pedestrians.
- A similar application in Sperberry Hill was rejected, yet this application is being recommended, when Sperberry Hill was in the green belt and listed agricultural land.
- Pedestrian paths were being reduced in width, with only just enough access for a wheelchair. A stopping point was being moved nearer to the A507, around 1 metre from the main road.
- It was thought to be unsafe for HGV to turn onto Bygrave Road.
- The visibility on Bygrave Road was good to see oncoming traffic, but in some sections of the road it was impossible for lorries and large cars to pass.

The Chair invited Mr Edward Wainwright-Lee to speak in support of the application. Mr Wainwright-Lee thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- His family had been farming the fields for years and it was noted that local farming was important to the area. Sustainability of enterprise was the core of their business and securing financial sustainability for future generations.
- Food security and climate change was high on all agendas.
- They now had 50 acres set aside for wildlife schemes, resulting in larger numbers of insects and butterflies.
- Recently huge changes in agriculture, mean that some animal crops can grow.
- The need to diversify the business to ensure longevity and the agreement with PACE for this site would provide an ongoing income and address the sustainable energy needs.
- Grade 2 land would still be used for sheep farming and at some point return to cropping.
- The development provided a sustainable action towards carbon neutral.

There were no points of clarification from Members.

The Chair thanked Mr Wainwright-Lee for his presentation and invited Mr Stewart Reddaway to speak in support of the application. Mr Reddaway thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The biggest issue facing humankind was climate change, mostly caused by greenhouse gases and fossil fuels to generate electricity. This can be reduced by the use of solar panels. Rooftop panels are good, but the more, the better.
- All costs on this development are being paid by PACE, so there is no cost to the public. PACE will redeem their money by selling the electricity generated back to the national grid.
- Objectors claim the views will be spoilt, but this is reduced as the land falls away down the hill the farm is on and the impact would be on only a few houses.
- The view from Bygrave Road may distract or annoy motorists.
- Objectors maintain agricultural land will be lost. However, land is already lost to golf courses and a lot of land is devoted to cattle.
- The solar farm will occasionally omit some noise from the cooling fans, but this is a tiny amount.

There were no points of clarification from Members.

The Chair thanked Mr Reddaway for his presentation and invited Ms Gill Eaton to speak in support of the application. Ms Eaton thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The team from PACE had been working on the site for several years and last spoke to the Committee in September 2023.
- The vision was to help to avoid the worst effects of the climate emergency, whilst reducing dependence on fossil fuels.
- The benefits of the solar farm through the adopted Local Plan are clear and explicit, providing reliable, sustainable and affordable energy.
- It had been recently seen the adverse weather patterns on declining crop yields. Over the UK farmers have been using their land to provide them with a sustainable income, together with a reliable and clean source of energy.
- Solar power was one of the cheapest sources of power and the solar farm will make a crucial contribution to the Councils target of net zero by 2040.
- Extensive work had been carried out, resulting in no objections from consultees.
- Consultation had taken place in the form of a site visit with Bygrave Parish Council to understand their concerns.
- Consultation with the public had benefitted details on construction traffic, landscape biodiversity and the inclusion of two paths to the south and east of the site.
- The commitment to the community through the proposed community benefit fund of £200,000 over the lifetime of the project.
- There was a plan to set up a two-way liaison group, to allow two-way dialogue with villagers following the construction.
- The impact on heritage had been investigated with officers from Historic England and deemed acceptable.

The following members asked points of clarification:

- Councillor Michael Muir
- Councillor Ruth Brown
- Councillor Jon Clayden
- Councillor Elizabeth Dennis

In response to points of clarification, Ms Eaton stated that:

- The construction period would not take place on Bank Holidays or weekends. There would be two lorries per day to the site and this would be fully assessed.
- The connection to the grid and cabling was a statutory undertaking and not part of this application.

- With the 5km distance to the nearest grid connection, it was confirmed there would be very limited energy loss.
- The CCTV on site would be visible from all angles, which is part of a condition. There would be no impact on residential amenities.
- The energy generated from the site would go back into the National grid as a whole. It would provide no direct benefit to the local area.
- The site would provide a local employment opportunity for approximately 35 weeks.

In response to points raised, the Development and Conservation Manager stated that officers had considered the issues objectively and weighed the benefits and negative impacts in the planning balance and the overall view was that planning permission should be granted.

Councillor Mick Debenham proposed to approve planning permission, and this was seconded by Councillor Ian Mantle.

The following members took part in debate:

- Councillor Ruth Brown
- Councillor Michael Muir

Points raised during the debate included:

- The site was located in a huge field, destroying the local view and farmland. With Ashwell to the higher ground, this would destroy the valley and visual aspect.
- Merits of the solar farm were discussed, with views of the farms themselves to be located in the correct places.
- This site would not help locally with renewable energy and the net zero target, as any energy would be put back into the National grid.
- Minded of the locally situated chalk uplands, use of NPPF grade 2 land, the visual impact and construction traffic on the site, some members were to refuse this application.

Having been proposed and seconded, the motion to approve the application was put to a vote following which the vote was tied.

Therefore, the Chair was required to cast the deciding vote and it was:

RESOLVED: That application 22/00741/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager.

N.B. Following the conclusion of this item there was a short break in proceedings and the meeting reconvened at 23:35.

9 23/01749/FPH 45 WEST STREET, LILLEY, LUTON, HERTFORDSHIRE, LU2 8LN

Audio recording: 4 Hours 6 minutes and 20 seconds

The Senior Planning Officer provided an update that:

- Documents were on the website prior to the meeting including a letter from the applicant and a response from the planning officer.
- The development would lead to less than substantial harm to heritage assets and there were no public benefits that outweighed the harm identified.
- The Council acknowledged the letter from the applicant, and the proposed changes, they are not for consideration, and it remained the original scheme for determination.
- The changes in the letter from the applicant were that the development was still 2 storey, but slightly reduced in height and set further back from the front elevation.

The Senior Planning Officer presented the report in respect of application 23/01749/FPH supported by a visual presentation consisting of photographs and plans.

There were no questions for the planning officer.

The Chair invited Parish Councillor Nicola Price to speak in support of the application. Councillor Price thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Councillor Price was showing support for this application as a Parish Councillor and a resident of the village.
- The village was very protective of its area and residents are usually vocal about schemes that harm the historic aspects of the village. However, this application agrees with the historic aspect and in keeping with the charm of the village.
- Lilley is a very small village and needs young families. It was required to house young families in the area in properties that could sustain this.
- Lilley Conservation Charter set out in 2020 notes key properties in the area, a large amount were detached or semi-detached and enhances the village. It was believed this scheme adhered to the criteria.
- Removal of the garage would increase the area between houses.
- The materials to be used would enhance and retain 45 West Street for its future.
- The applicants had sympathetically restored the property and maintained its original character.
- The need for a third bedroom with a growing family was very apparent. The current second bedroom has a very small floor space and was restricted by height.
- The applicants are keen members of the community and would be a shame to see them have to move on from the area.
- The direct neighbours and members of the community have approached the Parish Council, all in support of the application, and had urged the Parish Council to back this application.
- The proposed extension would not be visible to passers-by, demonstrating the minimal impact on the conservation area.
- Identical cottages in the area had also had planning permission for similar adaptations.

There were no points of clarification from Members.

In response to points raised, the Senior Planning Officer clarified that no amended plans were submitted to the planning department, who only received a letter responding to comments. The Planning officer would not accept the principal of a 2-storey side extension to the property.

The Chair thanked Councillor Price for her presentation and invited Councillor David Barnard to speak in support of the application. Councillor Barnard thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- A letter from 11 November in response to letter of 9 November was offering to move the property back, lower the roof and take off the render.
- Neighbours were in full support of the removal of the 1960s concrete garage and its rebuild.
- It was noted the statutory period expires on 26 September 2024. The application was submitted in August 2023.
- No responses had been received from planning officers since January 2024 until a couple of weeks ago.
- It was noted that Lilley parish Council did not comment on this application, when they did submit a comment.

- There are other examples of planning permission given to properties in the area.
- This application has no effect on the street scene.

There were no points of clarification from Members.

The Chair thanked Councillor Barnard for his presentation and invited Ms Emma Talbot to speak in support of the application. Ms Talbot thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The applicant logged changes to the planning application, but was not told the changes would not be looked at.
- The applicant asked for photos of Horseshoe Cottage to be uploaded to the application. This was not carried out.
- The extension was until 31 January 2024. The applicant had a response from the Conservation Officer, yet this was based on the old application.
- The applicants had sympathetically restored Rose Cottage to what it is today.
- Their growing children were sleeping in toddler beds and desperately needed an extra bedroom.
- To continue living in the property, the family would need a conventional layout with a further bedroom upstairs.
- Despite alterations to the first set of plans, these were refused without prior notification.
- The recent alterations to the application were only acknowledged on 4 June, 9 days before this meeting.
- There was no encroachment of privacy onto the neighbours properties. The scheme is of an appropriate scale to the plot size and in keeping with its surroundings. There is adequate parking for 5 cars.
- Removal of the unsightly 1960s flat roof garage is greatly supported by the Parish Council and community.
- The angle of the property allows the extension to be almost obscured from public view.
- It was impossible to reduce the height anymore by not retaining the first floor.
- The rear roof planes were at the back of the house, unseen from public view.
- It was noted that 3 other properties in the area have downstairs toilets in the same design.

In response to points of clarification from Councillor Elizabeth Dennis, the Senior Planning Officer stated that the application was the original filed as comments were not received by the planning officer. The fundamental issues are the height of the extension.

In response to a point of clarification from Cllr Mick Debenham, Ms Talbot stated that:

- The planning officer advised in 2020 to maintain a single storey side extension, with the pitch height being almost identical to the proposal forwarded.
- The family also required a downstairs toilet for disability needs. The conservation officer suggested the toilet to the left of the property, obscuring the back door, but this would not be allowed on the right of the property.

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

- The points made on the scale of the development are in relation to the greenbelt, rather than the listed building.
- While this complied with some parts of the NPPF, it did not on others.
- Each case is based on its own merits. The visibility of the development from the highway has no bearing in terms of the effect upon the character of this Grade 2 listed building.

Councillor Nigel Mason proposed to approve planning permission and this was seconded by Councillor Michael Muir.

The following members took part in debate:

- Councillor Nigel Mason
- Councillor Michael Muir
- Councillor Louise Peace
- Councillor Caroline McDonnell

Points raised during the debate included:

- It was noted the hard work that officers had put into this application with dealing with the correct procedures.
- There had been no objections to the development from people in the vicinity.
- Members saw no reasons not to allow this application.
- It was a huge improvement for the 1960s garage to be taken down.
- For the family to stay in the community and for villages to be supported and vibrant with young families.
- The floor plan was not an increase and was no harm to the nature of the village.

Councillor Nigel Mason proposed to grant planning permission for the development and Councillor Michael Muir seconded, and following a vote it was:

Having been proposed and seconded and, following a vote, it was:

RESOLVED: That contrary to the officer recommendation, application 23/01749/FPH be **GRANTED** planning permission and listed building consent.

“Notwithstanding the materials shown on the submitted plans and application form, details and/or samples of all external materials to be used for the works, hereby granted consent, shall be submitted to, and agreed in writing by the Local Planning Authority before any works are commenced.”

Reason: To safeguard the character and appearance of the listed building to which this consent relates and to comply with Policies SP13 and HE1 of the North Hertfordshire Local Plan 2011 to 2031.”

10 23/01750/LBC 45 WEST STREET, LILLEY, LUTON, HERTFORDSHIRE, LU2 8LN

Councillor Ruth Brown proposed and Councillor Michael Muir seconded and, following a vote, it was:

RESOLVED: That contrary to the officer recommendation, application 23/01749/FPH be **GRANTED** planning permission and listed building consent.

“Notwithstanding the materials shown on the submitted plans and application form, details and/or samples of all external materials to be used for the works, hereby granted consent, shall be submitted to, and agreed in writing by the Local Planning Authority before any works are commenced.”

Reason: To safeguard the character and appearance of the listed building to which this consent relates and to comply with Policies SP13 and HE1 of the North Hertfordshire Local Plan 2011 to 2031.”

11 22/01687/FP - LAND ON THE NORTH SIDE OF, PIRTON ROAD, HOLWELL, HERTFORDSHIRE, SG5 3SN

Audio Recording: 4 hours 44 minutes and 28 seconds

N.B. Councillor Louise Peace declared an interest and moved to the public gallery.

The Senior Planning Officer presented the report in respect of application 22/01687/FP supported by a visual presentation consisting of photographs and plans.

The Following Members asked points of clarification:

- Councillor Ruth Brown
- Councillor Ian Mantle
- Councillor Jon Clayden

In response to questions, the Senior Planning Officer stated that:

- The size of the parking spaces in the car ports are of sufficient size.
- Heat pumps would be installed in the properties, but no solar panels.
- The local bus service was a regular service.
- Condition 13 recommended that the applicant would need to provide a land and ecology maintenance plan to ensure the biodiversity net gain was met. The submission will be consulted with the ecologist or Hertfordshire County Council Ecologist for net gain provided.
- The mix of properties was considered satisfactory.

The Chair invited Parish Councillor Yvonne Hart to speak against the application. Parish Councillor Hart thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The development was outside the village boundary and did not follow the aesthetics. It would also set a precedence for future development.
- Large 3 and 4 bedrooed houses were not needed in the area.
- There was a large reliance on cars, there is no shop or school.
- Buses were not frequent and did not run on a Sunday.
- There was increasing number of cars on the roads, together with parked cars with a limited visibility.
- A growing number of children walk and bike ride to school and were currently safe around their homes.
- The local sewage system had been having problems with being exasperated.
- Concerns over the local Grade 1 listed church which could be damaged during construction.
- Local wildlife was thriving and diverse, with bats and owls both breeding.
- Holwell would not benefit from this site, as there would be no financial gain as the development is too small for S106 money and will just cause disruption.

There were no points of clarification from Members.

The Chair thanked Parish Cllr Hart for her presentation and invited Councillor Louise Peace to speak against the application. Councillor Peace thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- There was objection to the development of the location, habitat loss, road safety and parking issues.
- The ecological survey was an abundance of wildlife. It was noted that the biodiversity Net gain calculations had not yet been provided.
- There were very few facilities in the village, no shop, pub or junior school. There was a drive to either Pirton or Hitchin for a secondary school.

- There were already children standing on the bus to school, with additional pressure on the service and no S106 money.
- There was a high impact on limited parking provisions, with areas on the roads full of parked cars.
- 90-degree bends in some places had the local residents considering the access dangerous.

The following members asked points of clarification:

- Councillor Ruth Brown
- Councillor Elizabeth Dennis

In response to points of clarification, Councillor Peace stated that:

- The homes on the site were unaffordable.
- Highways have not properly looked at the bend in the road, with cars parked on the wrong side of the road.

N.B. Councillor Louise Peace, following the conclusion of her presentation, left the Chamber for the remainder of this item.

The Chair thanked Councillor Peace for her presentation and invited Mr AJ Shone to speak in support of the application. Mr Shone thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Engagement started with the Parish Council and Conservation officer in 2022.
- This is redevelopment of redundant open space, with a large building left barren for decades.
- Creation of housing needed in the village, with the current land of no benefit to the village.
- The development would be set further back, concealed from view, with a limited impact.
- The bridleway denoted the edge of village.
- The character assessment would ensure suitable materials with features will be incorporated. The Development and Conservation Officer supports the use of weatherboarding.
- Hertfordshire County Council had raised no concerns to this being a safe development.
- Parking provision had been provided and overflow dealt with.
- Ecology on the site had been deemed acceptable with hedgerows being retained.
- Tilted balance was in favour of this development.
- Housing objectives had been met with disruptions minimised and communications maintained with residents.
- This development would transform a redundant parcel of land into an area to contribute to the housing needed.

The following members asked points of clarification:

- Councillor Micheal Muir
- Councillor Ruth Brown

In response to points of clarification, Mr Shone stated that:

- Archaeological digs were usually covered by conditions and carried out when going through the development itself. This was noted by condition 10.
- The area was deemed to be a sustainable location due to Holwell being a category B village. The developer had made enquiries to seek to get a virtual bus stop into the village.
- Holwell was the close by to Hitchin and Pirton, which both have more amenity features.

In response to points of clarification, the Senior Planning Officer stated that:

- The site was deemed as sustainable and complies with policy SP2.
- It was not a major application in terms of the number of dwellings and would not qualify for any s106 contributions.
- There had been no Highways objections to the widening of the existing access.
- The site was large enough for visitor parking outside of the proposed 2 spaces.
- The officers were satisfied with the view from Hertfordshire Ecology on the ecological impact of the application. Net gain would be provided via Condition 13.

Councillor Michael Muir proposed to approve planning permission and this was seconded by Councillor Mick Debenham.

The following members took part in debate:

- Councillor Jon Clayden
- Councillor Mick Debenham
- Councillor Ruth Brown
- Councillor Sadie Billing
- Councillor Ian Mantle

Points raised during the debate included:

- It was noted that the bend in the road and additional parked cars were a problem.
- Whether there could be any provision for mirrors to be added to the side of the road for visibility purposes. There was no condition for the installation of mirrors, and these would also need to be placed by the Grade 1 listed Church.
- The bend was already challenging, and drivers would not potentially see vehicles exiting the development whilst negotiating the bend.
- Yellow lines to eliminate parked cars would require a condition from Highways and traffic regulations.
- There were no grounds for refusal.
- A different entry had not been considered, as an existing entry remains. This allows no loss of trees that currently provide screening for the development.
- It was noted that in proportion, this was a small development of 6 houses.

Having been proposed and seconded and, following a vote, it was:

RESOLVED: That application 22/01687/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager.

12 APPEALS

RESOLVED: That the Committee agreed to defer the items for information from the Appeals Tracker to the next meeting.

The meeting closed at 12.55am

Chair

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<u>Location:</u>	Land North East of Wandon End, Hertfordshire
<u>Applicant:</u>	Evolution Power Limited
<u>Proposal:</u>	Proposed solar farm within 106 hectares with associated access, landscaping, battery storage and ancillary infrastructure (as amended)
<u>Ref. No:</u>	22/03231/FP
<u>Officer:</u>	Sarah Kasparian

Date of expiry of statutory period: 27 April 2022

Extension of statutory period: 25 July 2024

Reason for Delay:

Discussions and negotiations on various technical aspects, further information received and additional consultation exercises that was undertaken as a result.

Reason for referral to Committee

The site area for this application for development exceeds 1 ha and therefore under the Council's scheme of delegation, this application must be determined by the Council's Planning Control Committee.

Members should be aware that if they are minded to approve the application, this would be a 'resolution for grant' subject to referral of the application to the Secretary of State, as the site is within the Green Belt and over an identified threshold set out in The Town and Country Planning (Consultation) (England) Direction 2021 for consulting the Secretary of State in the event the local planning authority has resolved to grant planning permission for certain types of development.

The purpose of the Direction is to give the Secretary of State an opportunity to consider using the power to call in applications under Section 77 of the Town and Country Planning Act 1990. To use the call-in power requires that the decision be taken by the Secretary of State rather than the local planning authority.

Paragraph 3 of the 2021 Direction states:

This Direction shall apply in relation to any application for planning permission which – (a) is for Green Belt development, development outside Town Centres, World Heritage Site development or flood risk development; and (b) is received by a planning authority on or after 21 April 2021.

Paragraph 4 of the 2021 Direction states:

For the purposes of this Direction, "Green Belt development" means development which consists of or includes inappropriate development on land allocated as Green Belt in an adopted local plan, unitary development plan or development plan documents and which consists of or includes

–

- (a) *The provision of a building or buildings where the floor space to be created by the development is 1000 square metres or more; or*
- (b) *any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.*

The proposal is for a Solar Farm of a large scale with various associated plant. The area within the application site is about 106 hectares of fields, of which about 45 hectares would be covered with solar panels and associated equipment. Therefore, the proposal falls within (b) of the above.

1.0 Site History

- 1.1 There is no relevant planning history on the site. No screening or scoping opinions were requested on the application but noted that an Environmental Statement was submitted with the application.
- 1.2 This is a cross boundary planning application for full planning permission with Luton Borough Council. This application (ref. 22/01657/FULEIA) has been granted planning permission following referral to Luton's planning committee for determination.

Relevant planning history

- 1.3 Due to the type and scale of these proposals, and proximity to neighbouring authorities a summary of relevant planning history is noted and may be highlighted again later in the report.
- 1.4 Within North Hertfordshire District there have been four planning applications for full planning permission for solar farms in the last few years:
 - 21/03380/FP land north east of Great Wymondley – (Expected energy generation 49.9MW) this application was referred to Planning Control Committee with a recommendation to approve and was subsequently granted planning permission. The Secretary of State called the application in and after public inquiry was granted planning permission;
 - 22/00741/FP land at Bygrave – (Expected energy generation 49.9MW) this application was referred to Planning Control Committee with a recommendation to approve. The application was deferred requiring further information. When the application went back to PCC the application was resolved to be granted planning permission; and
 - 22/00709/FP land south of Wymondley substation at Sperberry Hill – (Expected energy generation 25MW) this application was referred to Planning Control Committee with a recommendation to refuse and was then refused planning permission (22/11/2023) on the level of harm to rural character and appearance of the area, and also that harm to the Green Belt is not clearly outweighed by benefits;
 - Lastly, 22/03231/FP this application for land at Wandon End (Expected energy generation 49.9MW).

1.5 These applications including applications within Luton Borough may also be of relevance:

- East of Luton – NHLP Policy SP19 Strategic Housing Sites EL1, EL2 and EL3 for total 2,100 homes. Also, applications ref. 13/02000/1 for 1,000 new dwellings and associated infrastructure and facilities; and ref. 17/00380/1 for 1,400 new dwellings and associated infrastructure and facilities. The site is currently going through a Masterplanning process between the Applicants and the Council.
- London Luton Airport Expansion DCO – A Nationally Significant Infrastructure Project (NSIP) currently awaiting decision by the Planning Inspectorate (PINS) by 4 October 2024. The application is to increase the cap on passengers from 18 mppa to 32mppa: including new terminal capacity, additional taxiways, construction of landside support buildings, surface access adjustments, mitigation works and other associated development.
- London Luton Airport GPDO 23/00905/GPDOPD – Certificate refused on the basis the panels were not on operational airport land.
- London Luton Airport GPDO 23/01314/GPDOPD – Certificate approved for permitted development for solar panels within operational land amounting to 10MW renewable energy generation. Areas of panels to be located along the southern boundary of the site in a south facing linear pattern.

2.0 Policies

2.1 North Hertfordshire Local Plan (NHLP) 2011 -2031

Policy SP1: Presumption in favour of sustainable development

Policy SP5: Countryside and Green Belt

Policy SP9: Design and Sustainability

Policy SP11: Natural resources

Policy SP12: Green infrastructure, landscape and biodiversity

Policy SP13: Historic environment

Policy T1: Assessment of transport matters

Policy D1: Sustainable design

Policy D3: Protecting living conditions

Policy D4: Air quality

Policy HE1: Designated heritage assets

Policy HE3: Non-designated heritage assets

Policy HE4: Archaeology

Policy NE1: Strategic Green Infrastructure

Policy NE2: Landscape

Policy NE3: The Chilterns AONB

Policy NE4: Biodiversity and geological sites

Policy NE5: Protecting Open Space

Policy NE7: Reducing flood risk

Policy NE8: Sustainable drainage systems

Policy NE11: Contaminated land

Policy NE12: Renewable and low carbon energy development

2.2 National Planning policy Framework (NPPF) (2021)

Paragraph 11 – Presumption in favour of sustainable development

Section 6 - Building a strong, competitive economy

Section 11 – Making effective use of land

Section 12 – Achieving well-designed places

Section 13 – Protecting Green Belt land

Section 14 – Meeting the needs of climate change

Section 15 – Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

2.3 National Policy Statements:

National Policy Statement for Energy (EN1), originally published in 2011 and updated in January 2024, confirms the need for the UK to diversify and de-carbonise electricity generation, and at paragraph 3.3.10 the Government's commitment to increasing dramatically the amount of renewable generation capacity.

The National Policy Statement for Renewable Energy Infrastructure (EN-3) also updated in January 2024 confirms the importance of renewable energy: 'an urgent need for new electricity generating capacity to meet our energy objectives'. The scope of the NPS is for solar photovoltaic projects larger than 50 MW.

2.4 National Planning Practice Guidance (NPPG)

Reference ID: 5-001-20140306 – Why is planning for renewable energy important?

Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions and slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable energy infrastructure in locations where the local environmental impact is acceptable.

Reference ID: 5-013-20150327 - What are the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms?

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Particular factors a local planning authority will need to consider include:

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued*

agricultural use where applicable and/or encourages biodiversity improvements around arrays.

- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large-scale solar farms on such assets. Depending on their scale, design and prominence, a large-scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

The approach to assessing cumulative landscape and visual impact of large-scale solar farms is likely to be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero

2.5 Supplementary Planning Guidance (SPG):
North Hertfordshire Landscape Study 2011: Landscape Character Areas 214 (Langley Valley) and 215 (Wymondley and Titmore Green)

2.6 Other relevant Council publications:
Council Plan 2020 – 2025; and North Herts Climate Change Strategy

3.0 Representations

Responses from statutory and non-statutory consultees are summarised below:

3.1 **Kings Waldon Parish Council** – objects to the application for the following reasons:

- Inappropriate development in the Green Belt
- Impact on farming, landscape and natural state of the countryside
- Impact on proposed extension to the AONB
- Outlook from existing PROW
- Fenced in footpaths , with long stretches will affect peoples sense of safety should they encounter lone walkers or wildlife
- Energy would not benefit North Herts residents, rather go to the Luton grid
- Increase in traffic, pollution and environmental problems

3.2 **Lilley Parish Council** – objects to the application for the following reasons:

- Inappropriate development in the Green Belt
- Impact on farming, landscape and natural state of the countryside
- Impact on proposed extension to the AONB
- Outlook from existing PROW
- Energy would not benefit North Herts residents, rather go to the Luton grid
- Increase in traffic, pollution and environmental problems

3.3 **Offley Parish Council** – objects to the proposal for the following reasons:

- Considerations to renewable energy does not outweigh the harm to the Green Belt, which is inappropriate development and does not comply with the purposes of the GB
- 40 years does not feel 'temporary'
- Industrialising and urbanising effect especially in the context of East of Luton housing and adjacent to the boundary/urban edge of Luton
- Not an appropriate location in the context of SP11
- Lack of benefit to local community
- Loss of rural setting and open countryside, and impact on setting of AONB
- Impact on landscape character and visual appearance from footpaths through the site
- Expect that less people/visitors would walk through the area and have a negative impact on local tourism
- Loss of farming land, which produces 20% more wheat yield compared to the average, see Soil Survey from SOYL Precision Farming ALC as 27% Grade 2, 52% Grade 3a and 20.7% Grade 3b, ref NPPF re BMV
- Farming provides significantly more employment compared to a solar farm, which is more construction heavy
- Impact on amenity of neighbouring residents in terms of their privacy, construction noise and outlook to the site
- Impact on historic buildings
- Impact of construction on unsuitable highway network for extensive HGV movements, expected damage to highways verges, potholes and increased traffic volumes
- Poor visibility, single track lanes and difficult junctions
- Risk of glint/glare to walkers, road users
- Risk of fire on the site from lithium-ion batteries, lack of experienced fire fighters to deal with solar farm
- Reference to Government report that offshore wind farms would be suitable to meet the countries household demand by 2030
- All energy generated would go towards Luton residents and businesses

3.4 **Luton Borough Council** – No objection to the proposal subject to compliance with the development plan.

3.5 **British Pipeline Agency** – No objection, subject to informative relating to notifying BPA of works and a method statement to be sent to BPA prior to commencement.

3.6 **Historic England** – No objection, subject to consideration given to Grade II* listed building nearby.

- 3.7 **North Herts Archaeological Society** – Objection to lack of trial trenching at this stage of the application process.
- 3.8 **Chilterns Conservation Board** – Consideration should be given to the Chilterns boundary review, which is a material consideration in the determination of the application. ES shows strong connection between the site and Chilterns landscape (based on 2km ZTV). See LP Policy NE3(f) and AONB Management Plan 2019-2024, CCB Position statement on setting v2 2011.
- 3.9 **Natural England** – No objection following inclusion of 5km ZTV within LVIA. The application site is within the Area of Search for possible boundary review of the Chilterns AONB. Noted that *'the impact of the proposals on the natural beauty of this area may be a material consideration in the determination of the development proposal'*. Also, *'development in the settings of the AONBs should be sensitively located and designed to avoid or minimise impacts on the designated areas'*. *'An extension to an existing AONB is formally designated once a variation Order, made by Natural England, is confirmed by the Defra Secretary of State... Any area that is subject to a variation order would carry great weight as a material consideration in planning considerations.'*
- 3.10 **Landscape** – Officers sought advice from consultants The landscape Partnership (TLP) regarding this specialism. During the first round of consultation several concerns were raised about the proposed development, its impact on the setting of the Chilterns AONB, requesting further information to be provided, the localised impact of the development, scale and siting of the solar panels and type of mitigation proposed. Following a meeting with TLP, the applicant and Officers, amendments were made to the application documents and proposals. There will be landscape impact, particularly localised impact, but that the amendments to the layout, scale and siting of panels significantly reduces the localised impact. The advice to Officers from the consultant is that the impact on the setting of the Chilterns AONB is negligible. The proposed mitigation has been revised and is found to be appropriate and proportionate to the setting and will make a positive contribution to the landscape. Since the revision of the siting of solar panels the substation location remains on Lower Road, but not surrounded by solar panels. The relocation of the substation away from the middle boundary of Field 1 along Lower Road would be desirable, whilst understanding that the location is preferable in terms of siting closest to the substation within Luton.
- 3.11 **National Grid** – No objection as there are no affected assets in the area.
- 3.12 **Environmental Health (Air quality)** – No objection.
- 3.13 **Environmental Health (Noise)** – No objection subject to conditions regarding mitigation during the construction phase.
- 3.14 **Environmental Health (Land contamination)** – No objection subject to a condition regarding remediation in the unlikely event that contamination should be found.
- 3.15 **HCC Growth and Infrastructure** – No comments.
- 3.16 **HCC Highways** – No objection subject to conditions following initial objection based on unsuitable accesses and compound location which have been revised including

- submission of a CTMP with the application. Conditions include those related to new access(es) details, visibility splays, construction access closure, and rights of ways details.
- 3.17 **HCC Lead Local Flood Authority** – No objection subject to conditions following initial objection based on adverse impacts on local flood risk and compliance with policy.
- 3.18 **HCC CRoW** – No objection subject to conditions (see HCC Highways comments)
- 3.19 **Affinity Water** – No response received.
- 3.20 **London Luton Airport** – Support for the potential for the site to contribute to the airport's new zero goals.
- 3.21 **LLAOL Airfield Safeguarding** – No objection, subject to informative regarding any craneage used for construction.
- 3.22 **Environment Agency** – No response received.
- 3.23 **Herts Fire and Rescue** – No objection in principle, detail required re lithium batteries.
- 3.24 **CPRE Hertfordshire (Campaign to Protect Rural England)** – Objects to the proposal for the following reasons -
- Proposals are inappropriate development in the Green Belt
 - Note PPG on solar farms para 13 'the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscape' reference to panels and infrastructure
 - Proper weight needs to be given the landscape and principle of openness
 - Solar panels should be on PDL and roofs of buildings
 - Protection of BMV land for food protection and security
 - Disruption to wildlife
 - Disruption to walkers seeking open countryside
 - Cumulative impact of other similar applications and development nearby
- 3.25 **HCC Historic Environment Advisor (Archaeology)** – Objection based on cumulative impact of development on historic landscape. Lack of consideration in the DCO application to cumulative impact of the solar farm on the airport. No further response received to amended plans.
- 3.26 **North Herts Ecology Officer** – No objections subject to conditions for a Landscape and Environmental Management Plan (LEMP) and Construction and Environmental Management Plan (CEMP).
- 3.27 **Conservation Officer** – No objection following amendments to the application to move panels further away from Tankard Farm. Less than substantial harm identified to the setting of listed buildings.
- 3.28 **Chiltern Society Rights of Way Group** – Comments regarding support for retention of public rights of way throughout the site, although concern about the tunnel effect of fencing and new hedgerow introduced to existing open countryside. Request review of boundary

treatments, consideration to surfacing and consider promoting one east-west link for better cycle links to link into the 'land east of Luton' strategic housing site.

3.29 **Civil Aviation Authority** – No response.

Neighbour and Local Resident Representations

3.30 The application has been advertised by neighbour notification letters, the display of site notices and press notices. A total of 438 residents were consulted on the planning application over two rounds of public consultation (around Jan 2023 and Jan 2024), and another smaller number for a third time on the relocation of the construction compound (around February 2024). There have been 407 comments received (some from the same residents writing more than once), of which 400 were objecting to the application, two were in support and seven were noted as comments. The issues raised are summarised below:

3.31 **In support:**

- Many residents support renewable energy in principle.
- Support from large businesses in Luton (Luton Airport and Vauxhall) for potential contribution to their reduced carbon emissions and cheaper electricity.
- Recognition of national and global energy crises.
- Support for retaining all existing public rights of way.
- Argue that farming the land is not good for soil quality (spraying herbicide and pesticides) and that 'meadow' contributes positively to CO2 absorption and soil microbiome.

3.32 **Against:**

In principle:

- Unsuitable location in the Green Belt, conflicting with the purposes of the Green Belt.
- Lack of very special circumstances to outweigh the harm here.
- Better to use brownfield sites for solar panels, are there targets? The LPA has no obligation to find suitable sites for renewable energy.
- Unsatisfactory reasons for locating the solar farm on this site with a self-imposed threshold of being 3km from the substation.
- Concern regarding cumulative impact of development (Luton Airport expansion and Strategic Housing Allocations).
- Approving this application would set a precedent for more solar farms.
- The scale of the proposal is too large (scheme area reduced in size since this comment).
- Object to the proposed limit of 49.9MW to avoid the NSIP process. How exact is the output?
- 40 year proposed timescale cannot be considered temporary and consider that the development would cause irreversible harm.
- Such proposals should be considered in the context of a national/strategic review of renewable energy.
- The land is better used for food production at a time of food security risks, reliance on food imports from abroad, and the national cost of living crisis.
- Loss of good quality agricultural land, over a quarter of the site being grade 2. See commissioned ALC report Jan 2023, compound located on 3a land (Officer note: the proposals has been amended), reference to Government's Food Strategy (June 2022).
- Unlikely that the land will return to agricultural use at the end of 40 years.

Landscape:

- Open landscape and gentle topography will make the site with panels very visible.
- Significant 'industrialised' visual impact in the countryside.
- Landscaping proposed will take too long to establish.
- New fencing and tall hedgerows will also negatively affect the landscape.
- Impact on views from the Chilterns AONB.
- Site is the 'gateway' to the Chilterns.
- Loss of landscape amenity and access to the countryside for residents of Luton.

Type of renewable energy:

- Inefficient type of renewable energy and significant carbon footprint compared to wind.
- Toxic chemicals in the panels, environmental impact on building solar panels and future contamination of the land.
- Panels are not zero carbon. Would panels be recycled at the end of 40 years? How often do panels need to be replaced?
- Risk of despite securing planning permission the known and ongoing uncertainty regarding connection to the National Grid.
- Consider wind turbines instead.
- Question over who the end recipient of the 'green energy' would be (Luton businesses or North Hertfordshire residents).

Highways:

- Significant level of construction traffic along a route and roads that are inadequate (single lane).
- Impact of the development on highway safety, visibility and passing places (ref. Darley Road and Tankards Farm Lane).
- Comments regarding previous compound location and unsuitable access and construction routes (no longer relevant).
- Concern that the ATC on Darley Road was not well placed to capture accurate traffic movements.
- There should be no impact on PRow which are very well used.
- Concern regarding safety of PRow, particularly for women and girls, with fenced in tunnels that are unlit and may attract antisocial behaviour.

Construction phase:

- Concern regarding noise, pollution, impact on residential amenity.
- Construction traffic mixing with everyday traffic and free flow of traffic on Wandon End Road and impact on local businesses.
- Correct assessment required of construction vehicle movements with realistic number and size of vehicles during construction.
- Concern regarding construction traffic on site crossing PRow.
- No travel plan submitted to demonstrate 50% of FTE arriving by private car (travel plan condition?)
- Concern over construction noise and dust.

Environmental impact assessment:

- Lack of consideration of embedded climate impacts of a solar farm.
- Questions over its scope of alternative sites assessment.
- Questions over its assessment process and resulting conclusions regarding 'cultural heritage'.

- Failure to assess cumulative effects of the development through its life cycle as well as in the context of other solar proposals in North Herts.

Other material considerations:

- Impact on listed farmhouse.
- Significant negative visual impact of the proposed development to residents, loss of amenity, out of character for the area.
- Concern that wildlife will be negatively impacted.
- Wildlife would be constrained on the site to PRow, against their normal roaming patterns and cause conflict with walkers.
- Increase to flood risk on the site.
- Impact on listed buildings.
- Negative impact on soil quality.
- Proximity of the proposals to residential properties amenity and privacy. Impact on residents' mental wellbeing. Suggest removal of field 8.
- Fire risk of battery storage, further danger from recent risk of wildfires (on site summer 2022)
- Noise level of battery storage and solar panels.
- Concern over glint and glare from the panels affecting motorists and pilots, also glint and glare as a reflection of lights from air traffic.
- Impact on children with sensory impairments (glint and glare) close to southern end of the site (due to amendments panels have been removed from field 3)
- Concern over light and vibration.
- Risk of electromagnetic radiation harmful to people and animals.
- Impact on underlying ground water and aquifer.
- Harm to the local economy – general local farming, The White Horse (wedding venue), dog walkers services, crop spraying services, tenant farmer of the land, walking groups who also use local services.
- Potential for empty fields within the red line to be unmaintained, further affecting residents view.

Amendments;

- The changes to the proposals do not change previously expressed views.

Non-material planning considerations:

- Devaluation of property
- Lack of benefits to local residents

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site primarily comprises a series of agricultural (arable) fields between Darley Road, The Heath and Stony Lane, Tea Green, and also includes a connection along the public highway (Eaton Green Road) to the 'Luton Airport Primary' substation located off the Eaton Green Road within the residential area of Luton. The application site measures 106 hectares in total area, of which about 3.4ha is within Luton Borough.

- 4.1.2 The whole of the application site within North Hertfordshire is located within the Green Belt. The site is divided between two parishes; southern and eastern parts of the site are located within Kings Walden parish and the northwestern part alongside Tea Green is within Offley parish.
- 4.1.3 The site is currently divided into fields in arable production, some larger than others and not all of regular shapes. Field patterns have been informed by rights of way, existing farm tracks, roads, farmyards and significant landscaping, including Darley Wood.
- 4.1.4 The site is reasonably flat compared to land around it with a gentle undulation on the northern half and high up compared to land around it, with long views looking in a southerly direction. The southern half of the site has more pronounced topography sloping down between Wandon End and Darleyhall/Darley Road. Views from other public roads are generally enclosed due to existing trees, hedges, the levels of roads and routeways which in places are sunken below the adjacent fields. The site is more open in views from the north of the site in a southerly direction where there is less existing landscaping and vast open arable fields.
- 4.1.5 The presence of Luton Airport is evident on site, which is in the flight path for airplanes landing. The runway is visible in the distance to open views to the south. Views to the north are very limited or not possible due to topography that slopes away to the north and significant landscaping on the 'ridge' and existing Woods beyond.
- 4.1.6 There are three Grade II listed buildings within the application site (Tankards Farmhouse, East barn and Stables). The site is also within the setting of Grade II listed buildings. There is one Grade II* listed building (The Old Homestead) which is about 1km from the application site in Breachwood Green. There are no areas of archaeological interest within the application site.
- 4.1.7 There are a number of public footpaths that traverse the site. Footpaths Offley 004, 005 and 006 run across the widest part of the site from northwest to southeast between Tea Green and The Heath. Footpaths Kings Walden 013 and 032 start from the north, going south and continue on the northwest to southwest direction. Footpath Kings Walden 010 links Lower Road, Wandon End Road through to Darley Road in a more west to east direction. There have also been two applications for permissive paths around Tankards Farm to connect footpaths Offley 006 and 004. There are a number of other footpaths around the edges of the site (Offley 003 and 023 onto Stony Lane; Kings Walden 041 along Darley Road; Kings Walden 008, 009 and 052 off Darley Road, and 011 to the north). The site is very permeable to the public and connected to surrounding countryside, which is well used by residents including those in Luton.
- 4.1.8 The application has been advertised as a major departure from the development plan.

4.2 The Proposal

- 4.2.1 The proposal is for a photovoltaic (PV) solar array and ancillary development. The application site comprises about 3.4ha for the cable route mainly located within Luton Borough; about 45ha (revised figure on original submission) would be used for solar panels and equipment; 42ha would be for biodiversity enhancements; and the remaining 10ha would remain in arable production (previously proposed to comprise solar panels).

4.2.2 The solar array and ancillary development would consist of:

- Solar Photovoltaic (PV) panels (approx. 1.5m wide x 2.5m long and between 0.8m and 3.05m above the ground, except in Field 3 where panels will be reduced by 1m to max. 2.05m high) aligned east west and facing due south and each panel at 22 degrees. Panels are dark blue/black with a non-reflective coating. Each row or 'string' of panels will be 3.2m-5m apart to take account of access for maintenance and inter-row shading;
- Associated mounting structures/framing. Steel piling for panels is driven 3m into the ground. The frame with panels mounted in section would be about 2.06m high, 2.4m wide and the panels would be 0.8m off the ground;
- On site electrical stations including 15 inverters across the site approx. 1.6m wide x 2.4m high x 2.8m deep typically located within the middle of a parcel of arrays; transformers: 15 transformers next to each inverter, approx. 1.6m wide x 2.3m depth x 2.2m high; and switchgear containing switches, fuses and circuit breakers, approx. 1.5m wide x 1m deep x 2.9m high.
- On site energy storage infrastructure: 60x. batteries distributed across the site which measure approx..13.75m long x 3.8m wide x 2.9m high which will contain battery modules, built in heating, ventilation and cooling system, a monitoring and control system and a fire suppression system. They will be assembled off site and placed on a concrete base on site;
- Customer and DNO substation – 2.5m wide x 2.8m long x 2.4m high next to 1x DNO Substation – 2.4m wide x 9.5m long x 3.4m high;
- Spare parts storage container next to customer substation of approx. 2.4m wide x 13.7m long x 2.9m high;
- Grid Connection Cable to National Grid's Luton Airport Primary Substation of circa.1.74km in trenches of 1.4m wide and 1.1m deep;
- CCTV camera poles 3m high with inward facing cameras only;
- Deer proof fencing 2.2m high comprising post and wire; and
- Signage to inform intruders of potential hazards.

4.2.3 The solar array would generate up to 49.9MW of electricity during peak generation which is estimated to provide equivalent electricity for about 20,500 homes.

4.2.4 The applicant states that the site would be decommissioned at the end of its 40-year operational life and restore its full existing agricultural use. This would require similar plant to the construction phase with similar traffic impacts. All above and below ground infrastructure would be removed from the site and recycled, where possible. This matter would be controlled by condition in the event permission were to be granted.

4.2.5 The site search and selection process for commercial solar schemes such as this requires the consideration of several essential factors if it is to be viable and deliverable:

- located close to the identified substation (typically <4km) to remain viable both in terms of cable deployment for the grid connection, and to ensure that minimum transmission losses occur;
- available capacity in the existing substation to import the required amount of power into the National Grid;
- offer of grid connection from National Grid;

- minimal solar curtailment (solar curtailment is where National Grid deliberately reduce the output of solar renewable energy generation below what could have been produced to balance the energy supply across the Grid); and
- a willing landowner.

4.2.6 In this instance the site meets all the above criteria being 0.8km from Luton substation, is in a moderate to low solar curtailment area and there is a grid connection offer.

4.2.7 The application is supported by the following documents:

- Planning Application Drawings
- Planning, Design and Access Statement (November 2023)
- Supplementary Planning, Design and Access Statement (January 2024)
- Supplemental Information (April 2024)
- Environmental Statement (December 2022)
- Environmental Statement Addendum (November 2023)
- Environmental Statement 2ndAddendum (January 2024)
- Soils and Agricultural Land Classification (revised)
- Alternative Sites Assessment (revised)
- Flood Risk and Drainage Strategy (revised)
- Glint and Glare Assessment (revised)
- Noise and Vibration Assessment (revised)
- Biodiversity Net Gain Report and Metric (revised)
- Transport Statement (December 2022)
- Transport Statement Addendum
- Further Addendum Transport Statement
- Construction Traffic Management Plan
- Soil Management Plan (revised)
- Arboricultural Survey and Impact Assessment (revised)
- Economic Impact Assessment
- Consultation Statement

4.2.8 The construction access points are from Darley Road and onto Wandon End Road. A new access would be created off Lower Road to provide access to the new substation. This would be in addition to the existing agricultural access on the corner of Lower Road with Wandon End Road. The main access points for the operational phase of development would be Wandon End Road (existing field access) and from Lower Road to the substation (new field access).

4.2.9 The key construction activities would comprise:

- Establishment of temporary construction compound
- Fencing and gate installation
- Installation of temporary security and safety equipment
- Construction of the access routes and laydown area
- Ground clearance where necessary
- Setting out the positions for the key electrical infrastructure required concrete foundations and the panel rows
- Delivery of key electrical infrastructure
- Piling and installation of solar PV frames
- Trenching for cable routes
- Laying of internal site cabling

- Installation of solar PV panels
- Installation of combiner boxes and connection of DC cables
- Point of connection (POC) cable groundworks and electrical works
- CCTV, fence sensor and communication equipment installation
- Park energisation and testing
- Site clearance compound removal
- Landscape planting and ecological enhancements

4.2.10 Construction activities are proposed within this application to take place six days per week during the following hours:

- Monday to Friday 07:00-19:00;
- Saturday 08:00-14:00; and
- No work on Sundays and Public Holidays.
- Deliveries may take place outside of these hours while avoiding local peak traffic hours.
- Officers note: See advice from the Environmental Health Officer.

4.2.11 Access for construction traffic would be via an existing farm and a new access point off Wandon End Road. Parking would be within the temporary construction compounds within the site. Following construction of the proposed development, the new temporary access would be removed and the existing farm access, having been enhanced for access to the compound, would then be limited to routine maintenance operations and grazing of sheep.

4.2.12 The applicant indicates that construction would take about 26-36 weeks, including testing and commissioning.

4.3 Amendments

4.3.2 To address comments from consultees, amendments have been received and reconsulted on. Since the application was originally submitted, there have been three further rounds of consultation, all of which required 30 days in accordance with EIA regulations. In brief summary, which will be examined as required later in this report:

4.3.3 The first round of re-consultation was primarily on the reduction of solar panels with resulting landscape changes. All consultees and residents were notified of these changes;

4.3.4 The second round of re-consultation was due to the relocation of the construction compound. Statutory consultees were consulted as well as localised residents to the location of the new construction compound; and

4.3.5 The third round of re-consultation was due to the changes regarding fire safety. The re-consultation was limited to potentially relevant statutory consultees.

4.3.6 A covering letter and range of revised documents and plans, including ES Addendums were received in January 2023, February 2024 and May 2024.

4.4 Environment Impact Assessment

4.4.1 The proposed development would not fall within Schedule 1 of the EIA Regulations and therefore does not require a mandatory Environmental Statement. The proposed development falls within Schedule 2 which relates to Section 3(a) 'Industrial Installations

for the Production of Electricity' on a site exceeding the threshold of half a hectare. The proposed development exceeds the thresholds by reason of proposing 60ha as originally proposed and now 45ha of land for the use of solar panels as amended.

- 4.4.2 The applicant did not apply for a Screening or Scoping Opinion but submitted an Environmental Statement with the planning application anyway. The scope of the ES, as defined by the applicant, related to landscape and visual effects, impacts on cultural heritage and impacts on natural heritage.
- 4.4.3 In accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Officers undertook a Scoping Opinion in March 2023 following submission of the application and on receipt of various consultation responses. Officers agree that the scoping could be appropriate given the main material considerations for this proposed development in this location, however Officers have concluded that these and any other environmental effects that are likely to occur as a result of the proposed development can be adequately addressed by specific studies and reports accompanying the planning application as submitted in December 2022. An Environmental Impact Assessment (EIA) was not therefore required in this instance. Information included within the ES has been used however to assess the planning application. Amendments made to the application since this assessment further reduces the impact and objections from statutory consultees. Officers therefore remain satisfied that these proposals do not require EIA, and that the proposals could have been assessed through the normal process of determining a planning application.
- 4.4.4 It is noted that on the other three recent planning applications for solar farms within North Hertfordshire District that are of a similar scale (up to 50MW) located at Land north east of Great Wymondley, Land at Bygrave and Land at Sperberry Hill, all went through the Screening and Scoping Opinion processes and all concluded that the sites did not require an Environmental Impact Assessment as issues that were raised could be dealt with through the planning application process. The first two mentioned are of a comparable scale to this application site, while the Sperberry Hill site is smaller the material considerations were as complex as the application site.

4.5 Keys Issues

- 4.5.1 The key issues for consideration of this application for planning permission are:
- Climate Change and Renewable Energy (4.6)
 - Existing renewable energy developments in North Hertfordshire (4.7)
 - Impact upon the Green Belt (4.8)
 - Impact upon heritage assets (4.9)
 - Archaeology (4.10)
 - Landscape and visual impacts (4.11)
 - Local highway network impacts (4.12)
 - Best and Most Versatile (BMV) agricultural land impacts (4.13)
 - Flood risk and drainage (4.14)
 - Noise (4.15)
 - Ecological and biodiversity impacts (4.16)
 - Fire risk (4.17)
 - Other matters (4.18)
 - Planning Benefits (4.19)

4.6 Climate Change and Renewable Energy

- 4.6.1 Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. Currently the Development Plan includes the Local Plan 2011-2031 adopted in November 2022.
- 4.6.2 Policy NE12: Renewable and low carbon energy development states: Proposals for solar farms involving the best and most versatile agricultural land and proposals for wind turbines will be determined in accordance with national policy.
- 4.6.3 The Government considers that climate change is occurring through increased greenhouse gas emissions, and that action is required to mitigate its effects. A significant boost to the deployment of renewable energy generation is one action that is being promoted.
- 4.6.4 **The Climate Change Act 2008** (as amended) sets a legally binding target in the UK to reduce all greenhouse gas emissions to net zero by 2050. Renewable energy generation is an important part of reducing carbon emissions. Significant increase in renewable and low carbon generation, carbon capture and storage will be required to achieve the Government's net zero commitment by 2050, amongst other things.
- 4.6.5 Electricity demand is predicted to increase by National Grid, due to increase in population, transition to electric vehicles, increase in hydrogen production and a move away from the use of fossil fuels.
- 4.6.6 The applicant sets out the need for the proposed development in the submitted Planning, Design and Access Statement and the contribution that the proposed development would make to renewable energy production. Reference is made to several Government strategy and policy documents including, 'Net-Zero Strategy: Built Back Greener that was published in October 2021. This strategy sets out policies and proposals for decarbonising all sectors of the UK economy to meet net-zero target, including a commitment to fully decarbonised the power system by 2035 and seeks to accelerate the deployment of low-cost renewable energy generation as part of this.
- 4.6.7 There is support for renewable energy is set out in **Section 14 of the NPPF December 2023**.
- 4.6.8 Paragraph 157 states: *"the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience, encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure."*
- 4.6.9 Paragraph 160 of the NPPF states *"to help increase the use and supply of renewable energy and heat, plans should: (a) provide a positive strategy for energy from these sources, that maximise the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts); (b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and (c) identify opportunities for development to draw its energy supply from decentralised, renewable or*

low carbon energy supply systems and for co-locating potential heat customers and suppliers”.

- 4.6.10 In determining planning applications for renewable and low carbon development, Paragraph 163 of the Framework confirms that local planning authorities should: “(a) *not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and (b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas...*”
- 4.6.11 The **National Planning Practice Guidance** (PPG) addresses renewable and low carbon energy and confirms that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the environmental impact is acceptable. It recognises that large scale solar farms “*can have a negative impact on the rural environment, particularly undulating landscapes*” but “*the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.*” The PPG identifies factors to be considered when deciding a planning application and says that large scale solar farms should be focussed on previously developed and non-agricultural land, provided that it is not of high environmental value.
- 4.6.12 A material planning consideration are **National Policy Statements** (NPS) for the delivery of major energy infrastructure, which recognise that large scale energy generating projects will inevitably have impacts, particularly when sited in rural areas.
- 4.6.13 Since the Climate Change Act 2008, several national initiatives have been introduced to help meet targets. These all reflect the European and international recognition of a climate crisis and the need to introduce more renewable energy generation.
- 4.6.14 The **Carbon Plan 2011** identifies the emission reductions needed in five key areas of the economy: buildings, transport, industry, electricity, and agriculture to meet targets.
- 4.6.15 The **Clean Growth Strategy 2017** outlines the plan to grow the national income while cutting greenhouse emissions.
- 4.6.16 The **Resource and Waste Strategy 2018** outlines the actions the UK will take to minimise waste, promote resource efficiency and move towards a circular economy.
- 4.6.17 The **Clean Air Strategy 2019** demonstrates how the national government will tackle all sources of air pollution and boost the economy.
- 4.6.18 **Net Zero Strategy 2021** seeks to fully decarbonise the UK’s power system by 2035 where a low cost, net zero system should be composed predominantly of wind and solar as key building blocks for the future.

- 4.6.19 The **Energy White Plan: Powering Our Net Zero Future** (December 2020) noting a ten point plan to address different aspects of energy consumption, generation and a more green approach, which includes promoting a range of 'clean electricity' and solar photovoltaics.
- 4.6.20 The applicant also notes the **Committee on Climate Change** (CCC) and the Government Response which states 'that transformational change is needed to meet the carbon net zero target in 2050. One of the key recommendations is to 'support major expansions of renewable and other low-carbon power generation', alongside other climate investments and improving energy efficiency.
- 4.6.21 In addition, the Council passed a climate emergency motion on 21 May 2019. This declaration asserted the Council's commitment toward climate action beyond current government targets and international agreement. This is currently pursued through the Council's Climate Change Strategy 2022 to 2027. The key objectives of the Strategy are:
- achieve Carbon Neutrality for the Council's own operations by 2030;
 - ensure all operations and services are resilient to the impacts of climate change;
 - achieve a Net Zero Carbon district by 2040; and
 - become a district that is resilient to unavoidable impacts of climate change.
- 4.6.22 In terms of enabling carbon savings, as well as providing leadership and support for businesses and residents to switch to renewable energy, and adapt to the impacts of planning projects, the Strategy confirms that the Council can play an important role as local planning authority, in reducing carbon emissions and providing further supplementary planning guidance.
- 4.6.23 The National Grid Electricity System Operator has published an update on **Future Energy Scenarios (FES)** document. This report sets out four possible scenarios based around two drivers: speed of decarbonisation and the level of societal change. All scenarios identified have net zero at their core and explore different pathways of achieving this. The FES identifies the four headline messages, which are:
- 1) Significantly accelerating the transition to a decarbonised energy system can help address security and affordability concerns at the same time as delivering Net Zero Milestones.
 - 2) Consumer behaviour is pivotal to decarbonisation – how we all react to market and policy changes and embrace smart technology will be vital to meeting Net Zero.
 - 3) Reforming energy markets to improve price signals will help unlock the flexible solutions needed to integrate renewables efficiently.
 - 4) Strategic investment in the whole energy system is urgently required to keep pace with Net Zero ambitions and strengthen energy security.
- 4.6.24 The FES Report confirms that as of 2022, 14GW of electricity was produced by solar power. Targets of solar power for 2030 and 2035 are 27GW and 70GW respectively. Achieving these targets will require investment in solar electricity generation and electricity storage across the UK over the next decade.

- 4.6.25 The Report clarifies the potential obstacles to further solar development which include grid capacity and connections, land and planning, skills and the supply chain of solar panels. It confirms that if these issues can be addressed, the business case for solar generation is currently strong because of recent high electricity prices. Consumer Transformation and System Transformation both hit the target of zero emissions in 2050, and Leading the Way achieves the target slightly earlier in 2047. Falling Short would not achieve net zero, with a reduction of 80% compared to the level in 1990. All scenarios require an increase in solar capacity between now and 2030.
- 4.6.26 Net zero will require significantly higher levels of electricity generation from renewable sources and it is envisaged that four technologies will produce over 90% of electricity generation: wind, solar, nuclear and bioenergy with carbon capture and storage. It is also envisaged that energy production will be more localised. Renewable energy generation is just one means of reducing carbon emissions, but it is an important one given the predicted rise in electricity consumption.
- 4.6.27 The **British Energy Security Strategy 2022** was published by the Government on 7th April 2022 and sets out a strategy for providing the energy we need in a safe, secure and affordable way, and at the same time ensuring that we do all we can to meet our net-zero commitments. It includes a commitment to achieving fully decarbonised electricity by 2035, subject to security of supply.
- 4.6.28 The Strategy confirms that accelerating the transition from fossil fuels depends critically on how quickly we can roll out renewables. Regarding solar, the strategy states *“the cost of solar power has fallen by around 85% over the past decade ... we expect a five-fold increase in deployment by 2035... For ground mounted solar, we will consult on amending planning rules to strengthen the policy in favour of development on non-protected land, whilst ensuring communities continue to have a say and environmental protections remain in place.”*
- 4.6.29 The British Energy Security Strategy expects a five-fold increase in deployment of solar generation between today and 2035, with up to 70 GW installed.
- 4.6.30 In April 2023, the Government published a policy paper **Powering Up Britain: Energy Security Plan** with the aim of enhancing and protecting the country’s energy security, take economic opportunities of the net zero transition and deliver on existing net zero commitments set out in the Energy Security Plan and Net Zero Growth Plan. It recognises that solar has huge potential to help decarbonise the power sector and it reaffirms its target of 70GW of solar power by 2035.
- 4.6.31 The development at this application site has a capacity of 49.9MW, which would generate a significant amount of electricity from a renewable resource and influence the reduction and reliance on fossil fuels. This would provide for a reduction of approximately 11,000 cubic tonnes of CO2 emissions and meet the energy needs of approximately 20,500 homes through renewable energy. The measure taken by the Secretary of State in the Great Wymondley decision (received 11 March 2024, ref 21/03380/FP) was that this would contribute a percentage of households towards residential electricity provision. Great Wymondley would contribute electricity equivalent to 31% of the district’s households; this Wandon End application represents electricity generation that would meet the needs of

39% of the district's households (based on the district having approximately 53,000 households).

- 4.6.32 The application for a similar scale solar farm near Bygrave (22/00741/FP) was heard at Planning Control Committee on 13 June 2024, and resolved to be granted. It was noted in that committee report that the site would generate renewable energy to power the equivalent of about 15,700 homes, about 30% of the district's current number of households.
- 4.6.33 Should both the Great Wymondley and the Bygrave solar farms both be implemented, the District would be generating renewable energy to provide for 61% of households. Should this application for the solar Farm at Wandon End be granted planning permission and implemented, contributing another energy for another 39% of households, there should be a total of 100% provision of renewable energy for households in the district. That would play a very significant role in the District meeting its net zero goals. There will still be a gap in provision in terms of housing growth for the district, which will increase by '*at least 13,000 new homes*' (NHLP Policy SP2) over the period of this Local Plan, together with energy requirements from commercial and industrial uses, which have not been accounted for.
- 4.6.34 It is acknowledged that this is a rough measure, but one showing the scale of the contribution that this renewable energy project will have. Officers note that as time goes on electricity needs will increase with increased use of electric cars, prevention of new gas boilers being installed, population increase and development of significant number of new homes as cited above; and electricity needs of all other non-residential uses.
- 4.6.35 The applicant puts forward a different measure, by way of 'local need' (PDAS 2022, para 6.98-6.111). In summary, in 2020 non-domestic and domestic users in North Hertfordshire District in total used 483GWh of electricity, of which only about 10% was from renewable sources at the time. The applicant also estimates a potential contribution from anaerobic generation and landfill gas; as well as domestic rooftop solar generation; and lastly brownfield land rooftop non-domestic solar panels. Adding the potential electricity generation from these sources there would still be a shortfall of at least 170 GWh, of which this application site can contribute about 55GWh, meaning that 3-4 sites of a similar scale would be required as a minimum to satisfy this 'local need', whilst also not considering the potential increase in demand for electricity in the future. The applicant presents another less optimistic scenario, where if 20% less of alternative electricity generation is not achieved (rooftop solar etc) the shortfall increases and more solar generation on a commercial scale would be required (para.6.11).
- 4.6.36 There is potential for the scheme to contribute to 'large demand user' (ie Luton Airport and Vauxhall), which is positive for those businesses, but Officers do not have the scope or remit to expand on the cross boundary needs and balance of where the renewable energy contribution of this proposed solar farm would actually end up going. Indeed, electricity produced at this solar farm would go into the National Grid substation and would initially cover the needs of those local demands, but then could be exported all over the country depending on where it's needed at that time.

- 4.6.37 So, while it is clear that electricity produced in this district could go to the needs of users in other areas, it is important that this District still contributes by accommodating suitably located renewable energy projects and measures the level of contribution in its consideration to being 'net zero'.
- 4.6.38 It should be noted that Planning Practice Guidance on Renewable and Local Carbon Energy, that 'the UK has legal commitments to cut greenhouse gases and meet increased energy demand from renewable sources. Whilst local authorities should design their policies to maximise renewable and local carbon energy development, there is no quota which the Local Plan has to deliver', so it is difficult to establish a sites contribution compared to the need or demand.
- 4.6.39 The applicant also notes the benefits arising from solar energy development, including: energy security by nationally produced energy and subsequent reduced reliance on imported and/or fossil fuels; environmental benefits to climate change, biodiversity and local sustainability citing the above net zero targets, also biodiversity net gain and community initiatives.
- 4.6.40 The applicant also presents evidence in their application submission that solar gap in generation on this scale is one of the best-case scenarios for the district achieving 'net zero'. Electricity generation from wind is not feasible in this area due to the further landscape impacts wind turbines have, but also Hertfordshire generally is not sufficiently windy to make it a feasible project. There are also no major hydro features and no coast to utilise for tidal power. The district is severely restricted in this regard. The planning application is not an NSIP scale (more than 50MW). The applicant states that solar farm projects would need to be of a much more significant scale of more than 200MW to make the project worthwhile for the applicant to go through the NSIP process, but also that as the district is constrained by the National Grid capacity, Green Belt, areas of sensitive landscape setting and good agricultural land a project of that scale is also not feasible at this time.

4.7 Existing renewable energy developments in North Hertfordshire

- 4.7.1 Solar Radiation maps of the UK show areas of the country receiving higher levels of solar radiation. North Hertfordshire is identified as falling in an area receiving high levels of solar radiation. Solar farms are therefore considered to be reliable sources of renewable energy.
- 4.7.2 Currently in North Hertfordshire there are two small existing solar farms. One is located between the settlements of Reed and Barkway. The site lies beyond the Green Belt. It covers an area of 14.6 hectares and generates a maximum of 6MW. It was granted planning permission on 28 March 2013 (Application ref. 12/02365/1). Planning permission was also granted in June 2015 for the construction of a 5MW solar farm on about 13 hectares of land at Lawrence End Park to the east of Birch Spring in Kings Walden Parish. This site lies within the Green Belt. (Application ref 15/00845/1).

- 4.7.3 Another planning application for a solar farm generating 49.9 MW was approved in March 2024 at land northeast of Great Wymondley (21/03380/FP) by the Secretary of State having called in the application in 2023 following the referral of the application as a result of a resolution to grant at Planning Control Committee. The Planning Inspectorate conducted an inquiry into the application and concluded that the planning balance weighed against the application, in that greater weight was given to the impact on protecting heritage assets. The Secretary of State then reviewed the findings of the inquiry and concluded that greater weight should be given to the renewable energy benefits of the proposals, and less weight given to the impact on heritage assets, meaning that the planning balance weighed in favour of the application.
- 4.7.4 Members have also considered two other solar farm proposals recently. Details of these are set out below –
- In June 2024 Members resolved to approve an application for the construction of a 49MW solar farm at Land West Of Ashwell Road Bygrave (application ref 22/00741/FP). This follows a decision to defer the decision to await clarification on various points relating to biodiversity, traffic and access, noise and conditions. Prior to the consideration of the application in September 2023 the Secretary of State wrote to direct the Council not to grant permission on the application without specific authorisation, which has now been withdrawn in writing by the SoS meaning that the application now does not need to be referred before granting planning permission.
 - In November 2023 an application at land at Sperberry Hill, St Ippolytts for a 25 MW solar farm (22/00709/FP) was refused planning application due to its impact on landscape.
- 4.7.5 There are no other applications for solar farms. These four large solar farms were all submitted in 2021 and late 2022. No other applications might be an indication of the lack of capacity at substations within or close to the district and therefore the inability for developers to propose more solar farms in the district.
- 4.7.6 It is understood that as these solar farms were given permission for connection to the Grid, and it is unlikely that any further capacity to any substation would take 7-10 years. Officers consider it unlikely that further applications for solar farms will come forward until late 2020s or early 2030s given this significant constraint to the site selection process for such development.

4.8 Green Belt

- 4.8.1 The site is in the open countryside and within the Green Belt. National Policy on Green Belt is set out at Section 13 of the National Planning Policy Framework (NPPF) as updated in December 2023. Paragraph 137 of the NPPF confirms that the Government attaches great importance to Green Belts, where the fundamental aim of policy is to prevent urban sprawl by keeping land permanently open.

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

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

4.8.3 The adopted Local Plan Policy SP5: Countryside and Green Belt supports the principles of the Green Belt and recognises the intrinsic value of the countryside and confirms that the Council will only permit development proposals in the Green Belt where they would not result in inappropriate development or where very special circumstances have been demonstrated.

Inappropriate development

4.8.4 The starting point for consideration of this application is the development plan. Local Plan Policy SP5 is consistent with the national policies on the Green Belt. Paragraph 147 of the NPPF confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal does not fall within any of the exceptions to this approach as set out at paragraphs 149 and 150 of the Framework. The applicant accepts that the proposed development is inappropriate in the Green Belt but considers that there are material considerations in this case that constitute very special circumstances. These will be considered in detail later in this report.

4.8.5 Paragraph 148 of the NPPF stipulates that substantial weight must be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations.

4.8.6 NPPF Paragraph 151 confirms that many renewable energy projects will comprise inappropriate development and that in such circumstance if projects are to proceed developers will need to demonstrate very special circumstances. Before considering whether very special circumstances exist, the effect of the proposed development on openness and purposes of the Green Belt are considered.

Openness of the Green Belt

4.8.7 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The PPG confirms that there is both a spatial and visual dimension to openness, but requires a judgement based on the circumstances, which may include openness with its spatial and visual aspects, duration of the development and its remediability, and the degree of activity likely to be generated, such as traffic. The applicant addresses the impact of the Proposed Development upon the openness of the Green Belt in the Planning, Design and Access Statement (PDAS) and Landscape and Visual Impact Assessment (LVIA) (within the Environmental Statement).

- 4.8.8 The proposals would result in an incremental impact on both the spatial or physical openness, and the visual openness of the Green Belt. The impact on physical openness is moderated by the fact that there would be very low physical footprint (about 0.4% of the site) and would also be temporary and reversible. The spatial impact upon openness is minimised through keeping the built elements to a minimum necessary to operate the scheme.
- 4.8.9 Regarding the perceived visual impact upon openness, the applicant considers that given the low height of the solar arrays, and that the existing topography and pattern of vegetation limit potential visibility of the Proposed Development. It is considered that there would be intermittent visibility from areas of more open ground from the south, but no or very limited visibility from the north and east due to the topography of the application site. The proposed development would be visible from the edges of Tea Green and The Heath, but limited further afield from Luton or the proposed eastern extension to Luton. The applicant concludes that there would be a limited harm to the spatial and visual aspects of the Green Belt resulting from a reduction in physical (actual) and visual (perceived) openness.
- 4.8.10 The applicant has submitted a LVIA as part of the ES, and the Council appointed landscape consultants, The Landscape Partnership, to review this document and submitted plans. The review confirmed that there would be a significant adverse effect on the openness of the Green Belt due to the extent of coverage with solar panels and associated infrastructure extending to 45ha. The council's consultants agree that in terms of visual effects the LVIA identifies there would be a perceived influence on openness as a result of effects on localised views would be harmful. They also conclude that that effects on the wider landscape are more limited due to the relatively low height of the development, the remaining greenspace within the site, and the high quality of new landscaping proposed.
- 4.8.11 The review also identified a number of changes to the proposals as well as updated mitigation measures. These are set out below –
- Changes to site layout:
 - Panel removal completely from fields 1, 2, 4, 18 and 19. Fields 1 and 2 will remain in arable rotation.
 - Panels are reduced in height by 1m on part of field 3 adjacent to the road, to reduce the visual impact.
 - Panels have been pulled away from Wandon End Road and Lower Road in fields 6 and 7.
 - Panels have been pulled away south and west in fields 11 and 12 around Tankards Farm.
 - Panels have been added to the top of field 8 to offset the loss of panels elsewhere on the site.
 - Overall, this reduces the area covered by panels to 45ha, and allowing 57ha to be allocated for biodiversity enhancements.
 - Landscaping
 - Increase hedge height to 3.5m along western boundary of fields 15 and 17 with existing hedges to be maintained at 6.4m and 11.5m respectively together with additional infill planting.

- Additional planting in field 15 to reflect historic field patterns.
- Three hedgerows to the north of fields 5/6, fields 10/12 and south of field 14/15 are proposed and would be maintained to a height of 3.5m
- A hedgerow is proposed between fields 16 and 17 to protect views from the west and possibly the Chilterns and maintained at 4.5m
- The LVIA was updated to extend the Zone of Theoretical Visibility (ZTV) from 3km to 5km; ZTV was included with mitigation after 10 years; additional viewpoints have been included; photomontages have been updated as well as relevant baseline; and assessment during construction and operation as appropriate.

4.8.12 Further changes were made to the plans to relocate the construction compound on the basis of the objection from Hertfordshire highways and highway safety of using Tankards Farm Lane during construction. It was relocated to be off Wandon End Road. Whilst the impact on the Green Belt is significant from the construction compound, its impact is temporary and restricted to the time that the compound is in use, estimated to be up to 9 months.

4.8.13 The plans were then amended again to address comments regarding fire safety, in response to local residents' concerns and also comments from the Hertfordshire Water Officer in relation to the need for an additional fire hydrant. The amended plans show space for two water tanks and an access track through the site. Some batteries and invertors have been relocated to be on the edges of parcels of solar panels, rather than in the middle, to ensure easy access. The plans were reviewed in light of the National Fire Chiefs Council advice and the National Fire Protection Association Standards. The applicant has also proposed producing an 'Emergency Response Plan, which should be agreed in consultation with the Fire and Rescue department at HCC. Officers do not consider that these changes change the impact on the openness of the Green Belt.

4.8.14 The site where the PV array is proposed comprises arable fields, trees and hedgerows and would extend to about 45 hectares. The development would cover a very large area and would deliver very many rows of solar panels, numerous inverter/transformer cabins, and other buildings in the form of containers, stock/deer fencing, access track and CCTV cameras. Whilst proposed tree and hedgerow planting and management regime would reduce the impact of the proposed development, and the scheme has been amended to enhance landscaping, the proposal would materially change the openness of the site in both visual and spatial terms particularly from public footpaths.

4.8.15 In the circumstances, Officers consider that the extent and nature of the solar arrays and associated buildings would have a significant spatial and visual impact upon the openness of the Green Belt.

Permanence of the Green Belt

4.8.16 An aim of Green Belt policy is to keep land permanently open. Relevant case law and the National Planning Practice Guidance (NPPG) indicate that the permanence of a Proposed Development is a relevant material consideration in terms of impact upon the Green Belt.

- 4.8.17 The proposed development has an operational life of up to 40 years. At the end of which the applicant indicates that the facility would be decommissioned and that the land could be easily returned to its former use without any significant demolition or land remediation. The applicant considers therefore that at the end of its operational life the land would have the characteristics of greenfield land, and as such the proposed development cannot be considered permanent in a Green Belt context.
- 4.8.18 Whilst it is not known whether there would be a need for a replacement facility in 40 years, this application should be determined based on what is proposed and that is for a period of 40 years and the eventual restoration of the openness of this part of the Green Belt. This matter can be controlled by condition. Whilst the identified harm to openness would persist for a very long period, albeit mitigated over time by proposed landscaping, the proposal would not result in a permanent loss of openness. However, due to the fact that 40 years is a significant amount of time only limited weight should be given to the temporary nature of the proposal in the planning balance.

Purposes of the Green Belt

- 4.8.19 As set out in para 4.6.44, the NPPF sets out five Green Belt purposes. As part of the evidence base for the recently adopted Local Plan, the North Hertfordshire Green Belt Review 2016 (NHGBR) divides the Green Belt into areas for assessment of the contribution that respective parcels of land make to the openness and purposes of the Green Belt. A more refined review is undertaken at Section 3 of the NHGBR where the parcels of land are divided into sub-parcels, which were assessed in the same way as the original larger parcel.
- 4.8.20 In the PDAS the applicant assesses the Proposed Development in light of the North Herts Green Belt Review from 2016, which was used to inform the adopted Local Plan 2022. The application site is within parcel 2 of the Review, which includes land south of the A505 to the east of Luton across to Lilley Bottom, down to Kings Walden and across to Luton Airport. Parcel 2 encompasses 'small villages' of Breachwood Green, Mangrove Green, Cockernhoe and the historic park and garden at Putteridge Bury. Parcel 2 is characterised in Green Belt terms in the 2016 review as having 'mixed / high' visual and physical openness, noting open countryside and plateau landscape in the west, contained or '*limited long range views*', with scattered agricultural and residential properties '*but generally undeveloped and open*'. Overall, the parcels contribution to the purpose 'to check the unrestricted sprawl of large built-up areas' is 'significant'.
- 4.8.21 Parcel 2f drills down further on Parcel 2 to review the area between Wandon End, Tea Green, The Heath and up to Lilley Bottom. This sub parcel entirely covers the application site. It notes that this land area provides moderate contribution to the purpose of 'safeguarding the countryside from encroachments' and provides no role in preventing the merger of neighbouring towns or preserving the setting and special character of historic towns, rather the sub parcel 'supports parcel 2c in safeguarding from encroachment'. The 2018 update notes that the visual and physical openness of this sub parcel is 'mixed', and that the area provides a 'moderate' overall contribution to the Green Belt purposes, namely as a result of limiting the expansion of Luton's urban area.

4.8.22 The applicant has assessed the proposed development for its potential harm to Green Belt purposes, considering the same criteria used for the assessment of development sites within the Green Belt Review. In relation to the purposes of the Green Belt, the following conclusions are reached by the applicant:

- (a) To check the unrestricted sprawl of large built-up areas - because the proposed development would be of limited intervisibility with surrounding areas limited harm is thought to occur.
- (b) To prevent neighbouring towns merging into one another - because of the physical separation between settlements preventing coalescence, the limited intervisibility between settlements and the Site, and that the existing perceived gaps between settlements would be maintained – no harm is considered to occur.
- (c) To assist in safeguarding the countryside from encroachment - the applicant contends that compared to other forms of development, it is less intrusive in the countryside, due to the enclosed nature of the landscape, existing urban features, retention and enhancement of existing landscaping, static nature low height, limited traffic, retained agricultural use and minimal disturbance to the land the applicant assesses that the proposed development would result in limited harm.
- (d) To preserve the setting and special character of historic towns - given the physical separation of the site from historic towns – no harm is considered to occur.

4.8.23 Notwithstanding the above, Officers consider that the application site makes a contribution to the purposes of the Green Belt as set out in the table below, the reasoning for this assessment is set out after this table.

Table 1 – Purposes of the Green Belt		
Purpose	Effect	Degree of harm
(a) To check the unrestricted sprawl of large built-up areas	An element of urban sprawl to Luton due to close proximity but different character compared to built up development.	Moderate
(b) To prevent neighbouring towns merging into one another	Site within parcels identified as making a moderate contribution, however significant gap would remain between Luton and towns to the east.	Limited
(c) To assist in safeguarding the countryside from encroachment	The site is currently undeveloped and the development would result in encroachment in an area experiencing largescale development. This is tempered by retention and enhancement of traditional field pattern; the different type and appearance of development of the solar farm compared to housing or the airport; the quality of landscaping; and proposed layout of the development.	Significant

(d)To preserve the setting and special character of historic towns	The Green Belt review parcel 2 makes no contribution towards the setting of historic towns. The application site forms part of those parcels and is detached from any of the reference historic towns	None
(e)To assist in urban regeneration, by encouraging the recycling of derelict and other urban land	The site of the solar arrays is not urban and therefore this is not a relevant factor.	Not applicable

- 4.8.24 The site lies within a parcel of land (2) that make a ‘significant’ contribution to checking the sprawl of Luton (a) and to safeguarding the countryside (c). Sub parcel 2f still makes a ‘significant’ contribution to checking the sprawl of Luton, and a ‘moderate’ contribution to safeguarding the countryside.
- 4.8.25 Officers consider that a parcel of land does not need to abut a large town for it to contribute to the purpose of checking the unrestricted sprawl of large built-up areas. The site is very close to Luton in the context of the wider area, approximately 1km to the west of the application site. There is also a direct relationship of the site to the site allocation (EL1/EL2/EL3), which in the future will form the eastern urban extension to Luton to the north of the application site and abut the application site. The site is also in close proximity of Luton Airport to the southwest, although separated by more greenspace, and the application is within the flight path for aircraft.
- 4.8.26 It is noted that there will be buffers within the application site and around the proposed fields to be used for solar panels to protect residential amenity, as well as physical barriers in the form of Lower Road and Stoney Lane between the site and site EL1/EL2, which limits the effect on the purpose of the Green Belt (a) to check unrestricted sprawl. A gap of Green Belt will remain of about 700m to the corner of Luton, but once the housing allocation is built the green space to the nearest urban edge will be reduced to around 150-200m, depending on the layout of the site allocation.
- 4.8.27 Officer’s view is that sub parcel 2f is expected to become more important to Parcel 2 in Green Belt terms with the urban extensions to the east of Luton. Although these extensions are not yet built, planning applications had been submitted some time ago and the sites are allocated in the adopted Local Plan. It may be 20 years before this development is completed, which would broadly be halfway through the 40-year permission, should this application be approved in 2024.
- 4.8.28 Given the existing contribution of the site to purposes (a) and the future plans for the area, Officers consider that the proposals would have a moderately adverse effect on the Green Belt purpose of checking the sprawl of Luton (a).

- 4.8.29 The site does not contribute to or sit in a gap between towns due to the distance to Hitchin (7km), Stevenage (9km) or Preston (5km). Officers consider that there would be a limited effect on purpose (b).
- 4.8.30 The fields upon which the solar arrays and associated buildings and infrastructure would be placed are undeveloped. The site occupies a countryside location, characterised by agricultural buildings and arable fields. There are some urbanising influences given the close proximity and impact of Luton Airport. The existing field pattern would be retained and enhanced by the proposals and there would be additional landscaping that would complement the landscape, with green buffers around the vast majority of the main area to be used for solar panels. The removal of panels from fields 1, 2, 4, 18 and 19, as well as further layout amendments around Tankards Farmyard have a positive effect on the potential harm. The form and nature of the proposal would not have as great an urbanising effect compared to residential or employment development. Nevertheless, the proposed development is inappropriate within the Green Belt and Officers view is that there would be significant harm to safeguarding the countryside from encroachment (c).
- 4.8.31 The application site makes little contribution to the setting of nearby historic towns due to the absence of intervisibility. The Green Belt review confirms that in respect of both parcels of land, neither have a relationship with existing historic towns. Therefore, it is considered that the proposal would have a no impact upon Green Belt purpose (d) to preserve the special character and setting of historic towns.
- 4.8.32 As the application site is not urban, officers consider that purpose (e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land is not relevant.

Green Belt conclusion

- 4.8.33 The proposed development would conflict with development plan and national policy as it would be inappropriate development within the Green Belt. There would be moderate harm to openness and moderate to significant harm to two of the purposes of the Green Belt (a and c). In this context the proposal is contrary to policies SP5 of the adopted Local Plan. As the proposed development would be 'temporary' the Green Belt harm would not be permanent but given that only limited weight is given to the temporary nature of the proposal it would slightly temper the overall harm to the Green Belt. It is therefore concluded that substantial weight should be attached to the totality of harm that would be caused to the Green Belt as required by paragraph 148 of the Framework. Paragraph 156 of the NPPF (Dec 2023) does not preclude renewable energy projects in the Green Belt, but that elements of such projects will comprise inappropriate development. It confirms that developers will need to demonstrate very special circumstances (VSC) if projects are to proceed otherwise the proposal will conflict with Local Plan Policy SP5. This will be concluded on later in the report.

4.9 Impact upon heritage assets

- 4.9.1 Section 66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (The LBCA Act) stipulates that when considering whether to grant planning permission for development which affects a listed building, or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural interest which it possesses. Effect upon listed buildings therefore should be given considerable importance and weight. Relevant factors include the extent of assessed harm and the heritage value of the heritage asset in question.
- 4.9.2 Paragraph 200 of the NPPF stipulates that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution to their setting and where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Paragraph 201 of the NPPF confirms that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting their setting) taking account of the available evidence and any necessary expertise.
- 4.9.3 Local Plan Policy SP13 confirms that the Council will balance the need for growth with the proper protection and enhancement of the historic environment. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight will be given to the asset's conservation and the management of its setting. Regarding designated heritage assets, LP Policy HE1 stipulates that planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they will, amongst other things, lead to less than substantial harm to the significance of the designated heritage asset and this harm will be outweighed by the public benefits of the development, including securing the asset's optimum viable use. This policy reflects NPPF para. 205 which confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 4.9.4 The application is accompanied by Chapter 5 on Cultural Heritage in the ES prepared by Terence O'Rourke (TOR) Ltd in 2022. An addendum to the ES is dated November 2023 which reviews this Chapter following amendments to the application. This considers the impact of the proposed development upon the setting of the designated heritage assets within the application site and within a 1km study area.
- 4.9.5 Officers have reviewed a study area and consider 1km to be appropriate given that the extension of the study area to 2km would not add much to the list of heritage assets. The closest Scheduled Monument is more than 4km away and the closest Conservation Area is more than 2km away at Bendish. The southern boundary of a Grade II Registered park and garden at Putteridge Bury would just about be within 2km of the site with Site Allocations EL1-3 between Putteridge Bury and the proposed development.

- 4.9.6 The assets within 1km are summarised as follows: There are three Grade II listed buildings within the application site. There are about 26 Grade II listed buildings. There is a Grade II* listed building 'The Old Homestead' about 1km from the application site in Breachwood Green. There are no Grade I listed buildings
- 4.9.7 In relation to the listed buildings, the ES confirms that there will be no physical change to any of the buildings, so any impact will be on the setting of the assets only. Historic England and the Council's conservation officer have assessed the impacts on assets.
- 4.9.8 Paragraph 200 of the NPPF identifies scheduled monuments and grade I and II* listed buildings as designated heritage assets of highest significance. The NPPF defines the setting of a heritage asset as *"the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."*
- 4.9.9 The National Planning Practice Guidance confirms that although views of or from an asset play an important part of the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as other land uses in the vicinity and our understanding of the historic relationship between places, for example historic or aesthetic connection that amplifies the experience of the significance of each.
- 4.9.10 Historic England (HE) published guidance on setting in 2017 (Good Practice Guidance Note 3) which confirms that the importance of setting is what it contributes to the significance of the heritage asset or the ability to appreciate that significance and sets out ways in which setting may contribute to the value of a heritage asset.
- 4.9.11 HE is a statutory consultee on proposals that affect scheduled monuments and Grade II* listed buildings. HE confirmed that the primary considerations relate to the potential impact on the setting of The Old Homestead which is Grade II* listed. The applicant notes that this Grade II* listed building is one of 13 listed buildings in Breachwood Green. It is also just within the 1km study area on the southern side of the village to the application site. The Old Homestead is not in a 'Zone of Theoretical Visibility' (ZTV) as identified in the LVIA. For these reasons it is not considered that there will be any harm to the setting of this listed building.
- 4.9.12 The Council's conservation officer was also consulted on the proposals in relation to the impact on heritage assets outside HE remit, relating to Grade II listed buildings and their setting. Comments and observations by third parties have also been taken into account in making an assessment of heritage impacts. Following initial comments on the plans originally submitted with the application, amendments have been made to layout to reduce the impact on the setting of Tankards Farmyard, by removing panels in the field between Tankards Farmyard and Tea Green, and the construction compound for the site has also been relocated, which is positive for the impact on the setting of Tankards Farmyard

- 4.9.13 There are 26 other Grade II listed buildings within 1km. The applicant states that these buildings principally get their '*...significance from their historical value, through illustrating the historical development of the area*', and '*their architectural detailing*'. The applicant adds that the impact of the proposals on these listed buildings has also been assessed against ZTVs and it was considered that there is sufficient distance, screening and landscape features for there to be no impact on the setting of these designated heritage assets. The conservation officer agrees with this assessment.
- 4.9.14 The three listed buildings which are most likely to be affected by the proposal are within the application site: Tankards Farmhouse, barn to the east and stables with adjoining barn. They were all listed in 1988. The applicant describes an 'open plan farm layout' of buildings that are 'all associated to each other', located in 'an isolated position at the end of the farm access road'. It is noted that the current farm buildings date back to the 19th century, but there are records of a farmstead to the 17th century or possibly medieval. The ES States that '*the key contributor to the significance of the three assets is their historic fabric and form, best appreciated from within their immediate surroundings. The significance of their setting is intrinsically connected with the agricultural landscape*'. The conservation officer agrees that the agrarian setting of these buildings is an important factor of their significance.
- 4.9.15 The three buildings sit in a group with some non- listed buildings, including two larger modern (20th century) agricultural buildings to the north, four grain silos, and several smaller farm buildings to the east and west of the group. Tankards Farm Lane leads up from Stony Lane and turns left at 90 degrees towards the farmyard. There is some open green space around the buildings up to the edge of arable fields. The area is open and exposed with a few isolated trees. There is some hedgerow along the lane leading up to the farm, and some hard standing around the buildings. The Farmhouse sits in the heart of the farmyard and it is clear that the farmstead has built up around the farmyard over time. The farmstead has open views to the south towards Darley Hall woods and appears to be nestled into the top of the slope.
- 4.9.16 There are limited views of the farmstead from Stony Lane and rights of way to the north due to the slope. The largest modern barn roof is highly visible and recognisable but disguises most of the rest of the farmyard from the north due to its dominance and the topography. The farmyard and particularly the front elevation of the farmhouse is visible from Darley Road with its striking roof form, but its open agricultural setting. It is noted that panels have been removed from field 4 completely, meaning that some of these views will remain of the listed buildings at Tankards Farm within the site.
- 4.9.17 There are also views of the farmstead from Wandon End Road, and particularly the east barn which stands out on the landscape. Panels in fields 5 and 6 have been pulled back from the Wandon End side, but the fields also slope up towards Tankards Farm. The barn may still be visible on the horizon but the view will be affected by the solar panels in these fields.

- 4.9.18 The best position to appreciate the farmstead though is from along Tankards Farm Lane off Stony Lane, and then in the immediate surroundings in the south of the farmyard. This is due to the lack of visibility due to landscaping and topography, and the presence of large modern agricultural buildings to the north. The farmyard faces south so the best views and appreciation of the setting are mainly from a localised perspective. The applicant has removed panels between the lane and the farmyard, and fields 11 and 12 do not extend to the edge of the fields with the farmyard, which is considered to preserve much of the setting.
- 4.9.19 It is acknowledged that there will be harm though to the setting as a feature would be introduced to the landscape which is new, different and does change the overall character of the area. The Cultural Heritage Statement states in para. 5.1.8 that the significance of these assets is derived from their historic fabric and best appreciated from within the immediate surroundings. At para. 5.1.10 the applicant also concedes that the development 'will remove and significantly alter the listed farm group's primary agricultural setting...'
- 4.9.20 The Conservation Officer concludes that '*further to the submission of these comments the application has been revised so that panels are moved back from the farmyard and the construction compound away from Tankards Farm. That together with new hedgerow planting and a green buffer is considered a positive amendment and will put the application at less than substantial harm which will need to be weighed against any public benefit derived from the scheme.*'
- 4.9.21 Of relevance to the assessment of harm is that the proposal would not be permanent and is proposed to be decommissioned after 40 years. Whilst this is a long time, and therefore limited weight is given to this, the current rural setting would return following a restoration to full agricultural use with enhanced landscaping.
- 4.9.22 Paragraph 199 of the NPPF requires that "... *great weight should be given to the asset's conservation...*". Paragraph 200 states 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.*"
- 4.9.23 Given the above, Officers assess the proposals would have a moderate to high level of harm on the less than substantial harm continuum to the setting of heritage assets. For these reasons, an objection is raised in accordance with Sections 16/66 and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, NPPF para. 205 and LP Policy HE1.

Heritage asset conclusion

- 4.9.24 Paragraph 208 of the NPPF and LP Policy HE1 confirm that where a development proposal will lead to *less than substantial harm* to the significance of heritage assets, this harm should be weighed against the public benefits of the proposal. Nevertheless, this harm should be afforded great weight as required by paragraph 205 of the NPPF. The balancing of this harm against the identified public benefits will be carried out in the planning balance below along with conclusions on compliance with relevant planning policies and the LBCA Act.

4.10 Archaeology

- 4.9.1 The submitted ES Chapter 5 also addresses the effect upon archaeology and includes a supporting geophysical survey report. Local Plan Policy HE4 confirms that planning permission for *'development proposals effecting heritage assets with archaeological interest will be granted provided that:*
- (a) *'Developers submit an appropriate desk-based assessment and, where justified, an archaeological field evaluation;*
 - (b) *'It is demonstrated how archaeological remains will be preserved and incorporated into the layout of that development, if in situ preservation of important archaeological remains is considered preferable; and*
 - (c) *'Where the loss of the whole or a material part of important archaeological remains is justified, appropriate conditions are applied to ensure that the archaeological recording, reporting, publication and archiving of the results of such archaeological work is undertaken before it is damaged or lost.'*
- 4.9.2 Paragraph 209 of the NPPF confirms that the effect of an application on the significance of non-designated heritage assets should be taken into account in determining the application.
- 4.9.3 The assessment submitted with the application identifies the archaeological potential of the application site and assesses the potential for direct impacts of the proposed development upon archaeological remains. The HA reviewed data obtained from the Hertfordshire Historic Environment Record and a variety of other publicly accessible archives.
- 4.9.4 The whole site was subject to a geophysical survey, which showed that there was some potential to contain 'limited' archaeological deposits. It found five potential archaeological anomalies (6a, 7a, 9a, 14a and 15a), which compared against HER baseline data there is evidence of *'a number of scattered curvilinear enclosures of likely prehistoric date set amongst a later medieval agrarian landscape that has remained largely unchanged since the post medieval period'*. The survey failed to identify features associated to the postulated deserted medieval village of Wandon End covered by an Area of Archaeological Significance (AAS). Site wide plough marks were seen although not numerous enough to potentially mask earlier features or deposits such as ridge or furrow. The sites northern boundary is ~450m away from a possible Bronze Age barrow cemetery with an associated Neolithic long barrow, but no similar features are noted within the application site. It was noted that features ref 6a and 9a *'may represent settlement related to later prehistoric communities farming the wider landscape and using the plateau area for funerary activity. This would be significant...to widen the understanding of settlement during this period in the local and wider context'*.
- 4.9.5 It concluded in para 5.83 that the area is *'rich in predominantly former medieval villages with most of the prehistoric evidence of settlement arising from a limited number of investigations'* and overall, the *'archaeological resource is of low-medium sensitivity'*. Then in para. 5.93 the applicant states that *'the proposed development will involve limited groundworks, which could have an impact on below ground archaeological remains if there are any that are unknown and unrecorded'*. The applicant also asserts that *'there is no indication...that the site has potential to contain remains of national significance that would*

require preservation in situ and need to be incorporated...' and also acknowledges that this conclusion has been reached through desk-based evaluation alone.

- 4.9.6 HCC Archaeology was consulted on the application and re-consulted on amended plans. A response was provided to the first round of consultation, which raised objection to the proposed development based on the cumulative impact of development on historic landscape, and the lack of consideration within the Development Consent Order application for the expansion of Luton Airport to these proposals. The response also noted that should the application be recommended for approval a condition would be recommended for a programme of archaeological evaluation by trial trenching in advance of a decision being issued.
- 4.9.7 Despite re-consultation on amended plans and further information in ES Addendums no further response has been received. The applicant also approached HCC Archaeology in June 2022 prior to the submission of the planning application without a response thus far.
- 4.9.8 Officers note the approach taken on three other application sites within North Hertfordshire District as follows:
- Land to the northeast of Great Wymondley (21/03380/FP) – due to the identification of three concentrations of anomalies of archaeological origin on the site covering an area of about 8ha, it was recommended that field walking and trial trenching is undertaken and secured by condition should the application be given planning permission. (Application was approved by the Secretary of State on 11 March 2024)
 - Land at Sperberry Hill (22/00709/FP) – due to the potential for substantial remains and features identified in the geophysical survey trial trenching was recommended and secured by condition should the application be given planning permission. (Application was refused on 22 November 2023)
 - Land at Bygrave (22/00741/FP) – given the sites location within two AAS, crop marks across the fields, and evidence of potentially significant below ground features, it was agreed that trial trenching would be appropriate to be secured by condition should the application be given planning permission. (Application resolved to be granted planning permission on 17 June 2024)
- 4.9.9 Regarding HCC Archaeology's objection relating to the cumulative impact of development on the historic landscape, this is considered in the section below on landscape and visual impact, which will also consider the cumulative impacts of development in the area, including strategic site allocation to the East of Luton and the DCO for Luton Airport expansion.
- 4.9.10 Given the lack of further response from HCC Archaeology a condition will be recommended for a written scheme of investigation to be approved by the County Council. It would not be reasonable to require that to be undertaken prior to a decision being made, given all other applications for solar farms in North Hertfordshire recently (cited above) all agreed to trial trenching post determination, and prior to commencement. This is a reasonable and consistent approach, particularly given that this application site has less potential for archaeological remains on site compared to others in the district.

Archaeological conclusion

- 4.9.11 The proposal is therefore considered to be compliant with LP Policy HE4 and paragraph 194 of the NPPF. Subject to the recommended condition, this matter is neutral in the planning balance.

4.10 Landscape and Visual Impacts

- 4.10.1 The proposal comprises a large-scale solar farm. Given its nature and scale, there will inevitably be adverse landscape impacts. Within this context, national and development plan policies adopt an approach whereby development should be approved where the harm would be outweighed by the benefits of the scheme. As has already been highlighted in the foregoing parts of this report, the application site and immediate locality is designated Green Belt.
- 4.10.2 Officers have sought advice from landscape consultants to assist in the assessment of this area of expertise, in particular the assessment of the landscape work prepared and submitted by the applicant, as well as the assessment of the site in landscape terms and the impact the proposed development will have. This section of the report will look at landscape character of the application site and surrounding area, the sensitivity of the landscape, the impact of the proposed development, the mitigation measures proposed, and the cumulative impact of development, using the applicants landscape assessment, the Council's third party advice and Officer assessment, concluding on the scale of impact the proposals will have on the landscape.

Landscape Character

- 4.10.3 NPPF Paragraph 174 indicates that the intrinsic character and beauty of the countryside should be recognised. Nevertheless, the NPPF does not seek to protect the countryside for its own sake from development; it concentrates upon seeking to protect valued landscapes. For the avoidance of doubt, the site is not nationally designated protected land such as Areas of Outstanding Natural Beauty (AONB), but it has been identified as a 'candidate area' for extension of the Chilterns AONB. The timetable for Natural England to review this designation is delayed, but the determination of this application should proceed in a timely manner as far as possible. Whilst this is therefore a material consideration in the determination of the application, Officers consider that this carries very limited weight due to the fact that its future inclusion remains unresolved at this point in time.
- 4.10.4 The NPPF does not define what is a valued landscape, albeit most landscapes are valued by someone at some point. In the light of appeal decisions on this matter it is considered that valued landscape means it is valued because it has some demonstrable physical attributes that would make it more than just open countryside. Representations from local people have confirmed that the countryside within and around the application site is valued for access, biodiversity and leisure. However, while it has some pleasant characteristics, it is not notably above the ordinary and local area. Therefore, officers do not consider the application site to be a '*valued landscape*' in the context of the NPPF.

4.10.5 LP Policy NE2 confirms that planning permission will be granted for development proposals that respect the sensitivities of the relevant landscape character, do not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the site is located, taking account of any suitable mitigation measures necessary to achieve this, ensure the health and future retention of important landscape features and have considered the long-term management and maintenance of any existing and proposed landscaping.

The Landscape Character Assessment

4.10.6 Across England 159 National Character Areas (NCA) have been identified and the application site is located within NCA 110: Chilterns, which spreads from Hitchin down to the top of Reading and is summarised as comprising '*a patchwork of mixed agriculture with woodland, set within hedged boundaries*'.

4.10.7 The Council published the North Herts Landscape Study as part of our Local Development Framework in 2011 which is based upon the Hertfordshire Landscape Character Assessment and subsequent sensitivity and capacity work. The application site is within LCA 202 Breachwood Green Ridge and the northern most corner of the site is within the Lilley Bottom LCA 212.

4.10.8 The key characteristics Breachwood Green LCA (202) comprise:

- Gently rolling plateau landform
- Large scale arable fields with scattered farmsteads and dwellings
- Woodland is a mixture of ancient deciduous and recent mixed plantations.
- The water tower at Tea Green is one noted 'distinctive feature' of the area.

4.10.9 In relation to visual and sensory perception, it is described as follows: '*arable areas are bland and featureless...woodland areas help to provide a cohesive visual integrity in some parts...tranquillity improves further away from the urban fringe of Luton however aircraft noise is an issue.*'

4.10.10 In relation to rarity and distinctiveness, the study comments that this LCA is '*not uncommon and has many similarities to adjacent plateau landscapes*', noting that Luton Airport infrastructure is visible from Tea Green and the urban fringe of Luton. The area is very accessible by footpaths and public rights of way.

4.10.11 In relation to managing change, in the Study the condition is described as 'poor' and its robustness is 'moderate', meaning that the area is in an 'improve and restore' category. There is also no comment about the acceptability of solar farms although in general terms there may be an opportunity for the proposals to contribute to 'improve and restore'. In summary and with potential relevance to the application site, the Study encourages buffers between intense arable production and semi-natural habitat; the promotion of hedgerow restoration and use of post and wire fencing along historic field boundaries; protection of winding lanes (hedge banks, sunken lanes, verges and hedges); maintain and extend the right of way network; and new woodland in the suburban fringe of Luton.

- 4.10.12 The characteristics of Lilley Bottom LCA (212) -
- Predominantly arable land use
 - Medium to large scale fields
 - Mixed woodland blocks scattered along valley sides
 - Ribbon development at Lilley follows road at valley bottom
 - Remnant hedges and scattered mature hedgerow trees
- 4.10.13 In relation to the visual and sensory perception of the LCA, the study area notes that *'the character area is generally visually contained by the valley sides and has a peaceful rural character'*.
- 4.10.14 Rarity and distinctiveness *'the valley is typical of the Chiltern character albeit that its scale and comparative openness is relatively unusual when compared to the narrower more incised valleys elsewhere'*. The LCA is cut in half by the A505, which was not well integrated into the landscape, and noting that north of the A505 is within the Chilterns AONB boundary.
- 4.10.15 Guidelines are provided to managing change, noting the condition of the area is 'moderate' and the robustness is 'strong' with an overall strategy to 'conserve and restore', namely hedgerow restoration, traditional field patterns, maintenance, and extension of right of way network, and new calcareous grassland habitats.
- 4.10.16 There are several other character areas around and within the landscape study area including a crossover with Luton's Landscape Character Assessment from 2014. These include:
- 4.10.17 Peters Green Plateau 200 is to the southwest of the application site and does not adjoin the boundary, but due to the elevated plateau of this LCA there will be some visibility within the 2km ZTV. The condition is described as good, and the robustness is considered to be moderate. The landscape value is moderate, and the landscape sensitivity is moderate to low.
- 4.10.18 Kimpton and Whiteway Bottom 201 sits between the Peters Green Plateau and Breachwood Green Plateau. The area is large and spreads further south around and along the main road of Kimpton. Its key characteristics are described as steep sides valley slope, dominant arable use and scattered woodland parcels. Luton Airport is a distinctive feature. Overall, its condition is poor and robustness is moderate, noting that the northern character is the area is different to the character of Kimpton and Whiteway Bottom. Landscape value and sensitivity is moderate to low.
- 4.10.19 Offley St Paul's Walden 211 is located to the northeast of the application site and separated from the Breachwood Green character area by Lilley Bottom. The area is gently rolling upland plateau, with large arable areas and smaller parcels of grazing land adjacent to settlements; varying sized blocks of deciduous woodlands; and a large-scale field pattern. Overall, the condition and robustness of the area is moderate. The landscape value and sensitivity is described as moderate to high.

- 4.10.20 Whitwell Valley 203 located to the east of the site, spreading down towards Codicote. This character area does not adjoin the site and so it is not considered further due to barely or no visibility to the site.
- 4.10.21 Stopsley east and west located within Luton and not considered further due to barely or no visibility to the site.
- 4.10.22 The site itself is between Wandon End, Tea Green and The Heath, with Grade II listed Tankards Farm in the centre of the application site. The site increases from the southeast to the northwest with a more dramatic change in levels on the southern side of Tankards Farm. At the north side beyond Roundabout plantation that forms the northern boundary the land slopes down away from the site towards Lilley Bottom. The site comprises large scale arable farming with some existing hedgerows and seven public rights of way across the site.
- 4.10.23 With regard to historic landscapes, this part of the assessment is built into the landscape character areas above, particularly where the character comes from the past and the aim is to restore or conserve what was historically in the landscape. Officers consider that the large-scale arable farming pattern seen on this site, and commonly across the district is a modern feature, and the aim to restore historic field boundaries, hedgerows, trees, seek to restore part of that historic landscape. These factors vary according to each LCA.

The submitted Landscape and Visual Impact Assessment (LVIA)

- 4.10.24 The application is accompanied by a LVIA by TOR within the ES which identifies the landscape and visual effects of the proposed development. In applying a standard methodology and professional judgement, the LVIA sets out conclusions of the impact of the proposal, which has also been updated as the proposals have been amended throughout the course of the planning application.
- 4.10.25 The LVIA identifies the visual baseline and viewpoints from which people would experience views of the proposed development, presents a narrative on the visual context of the site and judgements on visual value as well as susceptibility and sensitivity of the visual receptors (people experiencing the view mainly from rights of way, transport routes and residential areas).
- 4.10.26 A 2km study area was chosen initially as a result of the zone of theoretical visibility (ZTV). Fieldwork together with computer 'digital surface modelling' (DSM) was used to assess visual effects.
- 4.10.27 In assessing the landscape effects, the applicant has assessed both physical (direct) elements of the receiving landscape as well as indirect effects on the character and quality of the surrounding landscape. The significance of a landscape effect is determined by consideration of the sensitivity of the landscape and the magnitude of the change that would happen as a result of the proposals.

- 4.10.28 The applicant has included a list of 'primary mitigation' in the plans as 'embedded mitigation' and a way of minimising the impact of the development. These are as follows:
- Avoidance of development immediately adjacent to residential properties at Tea Green and The Heath;
 - Avoidance of development beyond the ridgeline northeast of the windmill
 - Retention of existing trees and hedgerows throughout the site (except 2.1m section between fields 10 and 11)
 - Retention of PROWs
 - A 15m buffer to the south of Darley Wood
 - A new 10m strip of woodland and 5m of scrub to north and west of Darley Wood
 - New woodland planting at The Heath
 - Provision of taller hedgerows
 - Introduction of new hedgerow species
 - New scrub area with trees in the northwest corner of field 20 for habitat enhancement
 - New hedgerow along historic field boundaries
 - New native species-rich grassland underneath panels

Amendments to the landscaping scheme

4.10.29 Following amendments to the scheme, and the inclusion of a 5km ZTV with additions to the baseline viewpoints, no further significant effects were identified.

4.10.30 In response to the Council's landscape consultant's review of the LVIA, a number of revisions were made to the proposals. These are set out in para 4.6.56 above. Further changes were made including the relocation of the construction compound to Wandon End Road; as well as introducing additional fire safety measures including two water tanks and new access track for emergency vehicles.

4.10.31 Whilst these changes would be appropriate in the setting and beneficial on landscape character, it should be noted that there would still be significant adverse effects at a local and site scale on landscape character.

Temporary effects during construction

4.10.32 The LVIA acknowledges that the development will result in temporary changes to the landscape and visual receptors on the site during the construction period up to 9 months, including new infrastructure provision (new access road, fencing and security equipment); the site compound and contractors' car parking; and introduction of machinery and their associated movement to and from and within the site.

4.10.33 Prior to the amendments to the application the construction phase of the proposals were assessed as having the worst impact on all character areas compared to other phases of the development, which is acknowledged as being a temporary period of up to 9 months. The assessment ranged from 'moderate adverse and significant landscape effect' on the Breachwood Green, Lilley Bottom and Kimpton and Whiteway Bottom LCAs; and a 'slight adverse and not significant effect' on Peter's Green Plateau and Luton Airport areas.

4.10.34 The applicant submitted amendments to the application in order to relocate the construction compound due to highway safety reasons. The construction compound is considered to have a significant adverse impact wherever it is located from a landscape perspective, however it is for a temporary period (6-9 months), after which time the land will be restored and enhanced in line with landscaping proposals and BNG obligations.

Operational impacts

4.10.35 The LVIA describes the operational or post construction changes to be from solar farm and ancillary structures, fencing and security equipment, new landscaping and planting, change in visual appearance of the site and change to the character of the site.

4.10.36 Prior to the amendments to the application, the initial phase of the development within 0-10 years was expected to have a 'slight to moderate adverse and significant effect' on the Lilley Bottom LCA, and 'slightly adverse and not significant' effect on all other LCAs assessed. This magnitude of effect would reduce after 10 years post completion with not significant effect in all LCAs assessed, due to the improvements in landscaping taking full effect. Nighttime landscape effect was considered to be negligible and not significant for all LCAs.

4.10.37 The LVIA notes that the landscape effects are considered reversible, albeit after a long 40-year period, and also 'soft' in line with DEFRA's Agricultural Land Classification as it can easily be returned to agricultural use, or 'full' agricultural use (as identified above para. 4.9.21 and 4.13.18). Also noted are the benefits of enhanced landscaping which will be mature and established by the time the development is decommissioned. This is noted to have a 'moderate beneficial and significant effect', which the applicant argues outweighs any temporary effects during construction. The applicant also argues that the '*only remaining significant adverse visual effects will be from the public rights of way that run throughout the site*'.

4.10.38 In summary and overall, there will be significant adverse effects on a temporary basis for construction; there will be significant adverse effects on users of the PROW; there will be slight to moderate adverse effects in the 0-10 years post construction, which will reduce over the course of the development resulting in slight or negligible effects after 10 years; and moderate beneficial effects on the landscape after the development has been decommissioned.

Decommissioning

4.10.39 Following decommissioning it is expected that there would be a moderate beneficial effects due to the enhanced landscaping, hedgerow, tree and woodland planting, reinstating historic field hedgerows and matured ecosystem across the site which should be well established after 40 years.

Cumulative Impact

4.10.40 Officers are conscious of the extent of large-scale development proposed close to Wandon End and this eastern side of Luton with the East of Luton urban extension and the Luton Airport expansion subject of a current DCO application. Both these sites have live applications and are in the process of determination and while Officers cannot pre-determine the outcome, both options are a possibility and should be assessed in the context of the solar farm. There are currently two East of Luton extension planning applications, and the site is allocated through the adopted North Hertfordshire Local Plan 2022.

4.10.41 Planning Practice Guidance for 'renewable and low carbon energy' (para.022) sets out advice on undertaking an assessment of cumulative impact with reference to wind turbines but consider that the process can apply to other renewable energy. A particular element this advice focuses on is the cumulative effects of the same type of development in close proximity, whereas officers are interested in the cumulative effect of different forms of development in close proximity, ie the allocated housing site East of Luton and the proposed Luton Airport proposals.

4.10.42 The following elements taken from PPG para.022 are assessed as follows:

- i. 'Cumulative landscape impacts and cumulative visual impacts are best considered separately. The cumulative landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape; it is concerned with the degree to which proposed renewable energy development will become a significant or defining characteristic of the landscape.'*

As outlined in the Landscape and Visual Assessment and discussed above, the development will become a feature of the landscape, albeit one that flows with topography and in a site with enhanced and appropriate landscaping but would have a moderate adverse effect on landscape on its own. There will be views from high ground where the housing allocation once constructed, and the potential Luton airport expansion work will be visible with the solar farm in localised views to the solar farm and the airport and from within those sites. Luton town forms the backdrop for many of these views, and it is beneficial to landscape impact that the urban extension and the airport are located adjacent to the existing urban area. Of the three largescale developments in this area, the solar farm is the only one not attached to the existing urban area.

Visually the solar farm would cover a large area of land and be visually prominent locally to the site from a range of right of way and roads, but less visually prominent in longer views, more than about 1km away. In the context of the East of Luton site allocation and the proposed airport expansion, should it go ahead, there would be three very different forms of development in close proximity. Housing development comes with a range of materials, building types and heights, much greater movement of traffic and people, together with residential paraphernalia, signage, and transport infrastructure. It is also permanent and overall considered to be visually intrusive.

The airport would also create more traffic movement and activity from people, more aircraft and associated noise, together with physical buildings and hardstanding. The DCO application also includes enhanced greenspace to the eastern end of the runway and new landscaping, which crosses over with the application site for the solar farm at Wandon End. The two applications (the DCO for the Airport Expansion and this application for a solar farm) have been reviewed alongside each other and are compatible, should both applications be given permission and constructed. The enhanced landscaping for the DCO within the solar farm red line is compatible with the layout and has been considered in the layout of the solar farm. Should one be given permission and not the other, the two types of development would be compatible with the other land uses.

There would be green space in the form of existing countryside and landscaping between the sites and around the boundaries of all three sites, which is considered to provide a good visual buffer between each form of development.

Officers consider that because the form of development of the solar farm would be quite different to that of housing and/or airport development, in its permeance, traffic movements (post construction), character, appearance and materials, and conclude that there would not be a great impact on the visual cumulative impact of the development.

- ii. 'Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views.'***

As previously stated, the solar farm will create a significant feature in the landscape (although temporary and reversible) which will lay with the landscape form within field parcels and go with the topography of the land. The site will be visible in the shorter distance, mainly from the south and west, but not in the longer distance. The solar farm will be particularly visually intrusive within the site and views from PROW within the site will be the worst affected, although limited to the application site only. Officers are not concerned about the views from the site towards the housing or airport development.

- iii. 'Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point or will be visible shortly after each other along the same journey. Hence it should not be assumed that, just because no other sites will be visible from the proposed development site, the proposal will not create any cumulative impacts.'***

There is a small solar farm at Dane Street/Chiltern Green Road, just within 2km of the site and measuring about 3ha in area covered in panels. Only about half of this site is visible from publicly accessible areas. The ZTV shows no intervisibility between the sites. The land northeast of Great Wymondley application is an approved application for a larger solar farm which is yet to be implemented. This is a comparable scale to this application but some 9.5km with roads and village in between. Officers do not consider that these other two solar farms raise concern of visual or landscape cumulative impact. Officers are also aware of Luton Airports own proposal for small scale solar generation within its site, amounting to 10MW and sought through permitted development rights. Presumably this would meet its own needs rather than

being exported to the grid. At the time of writing, one application for a certificate of lawful development had been refused and a second decision is outstanding. Nevertheless, Officers consider that this scale of solar generation, and its location within the ground of Luton Airport, would contribute limited adverse impact to the cumulative impact of development.

Key points from The Landscape Partnership (TLP) Advice

- 4.10.43 Officers sought TLPs advice on the initial proposals submitted with the planning application to guide a response on the impact on the landscape.
- 4.10.44 A key finding was that TLP found that the LVIA understated some of the effects on landscape character, where landscape effects might be greater, but notably localised, rather than impacting on the whole of the two LCAs directly affected. *'TLP considered there would be a Moderate adverse effect on LCA 202 and Moderate-Minor adverse effect on LCA 212. Effects on landscape character at the local level are considered to be significant and adverse in the short, medium and longer term.'* Overall TLP disagreed with the applicants view that there would be medium change, whereas TLP suggested the development would result in medium-large magnitude of change on landscape character.
- 4.10.45 TLPs view is that the LVIA underestimated the effects on visual receptors, considering that there will be affect further afield than from within the application site, not just limited to users of PROW within the site, but also the effect will be longer lasting than the first 10 years after completion of the development together with the impact of proposed mitigation at that point in time.
- 4.10.46 On site suitability, TLP found that the orientation of the site is suitable for the proposed use, but that there are very open views of parts of the site on a local scale, from PROW crossing the site, and also in the mid- distance views from various local roads and footpaths. It was noted that different visualisations would further assist in understanding the disposition of greenspaces in fields 3, 4, 5 and 6. Mitigation was also noted, pointing out at new hedgerows, the buffer to Darley Wood and to the west of The Heath with associated habitat enhancements. However, there was concern about potential for inappropriate changes to landscape character from elements of the proposed planting. TLP also commented on the sense of cumulative impact as a result of the layout of the originally submitted plans, where field 1 and 2 would have also been used for solar panels.
- 4.10.47 In para. 7.1.1 TLP broadly support the preparation of the LVIA, which was appropriate and clear with a proportionate assessment. TLP raised concern about the methodology insofar as its ZTV did not extend as far as the AONB, which was picked up by NE as well, also within the context of the proposed AONB boundary extension. Further comments were made regarding gaps in the applicant's assessment, such as minor updates to the landscape character and visual receptors, the use of sensitivity mapping, including sections to illustrate how the landform, structures and proposed mitigation is understood.

4.10.48 Regarding mitigation TLP commented on the proposals and suggested changes to the landscaping scheme and the removal of panels within fields to reduce its landscape impact where the impact would be most significant. TLP recommended that greater detailing of planting such as with the use of matrices for the new woodland and hedgerows and would also recommend the use of a Landscape and Ecological Management Plan (LEMP), should the application be approved.

Re-consultation with TLP on Amended Plans

4.10.49 Following the receipt of this advice and a meeting with Officers, TLP and the applicant with their consultants, a suite of changes was proposed, discussed, and amended plans and documents submitted. TLP's advice was sought again on proposed changes, and advice was received (dated 15 March 2024) relating to the proposals where the construction compound had been moved to Wandon End Road.

4.10.50 The scope of the changes between the originally submitted drawings and reconsidered by TLP in March are set out in para. 4.8.11 above. TLP reviewed these changes and concluded that the changes, particularly the removal of panels from whole fields and the reduction in height of panels in field 3, together with updates to mitigation are positive changes. The quality of mitigation is improved compared to original plans. Conditions would still be recommended by TLP should the application be approved, in relation to a LEMP and managing rights of ways to secure the quality of a cycleway, reduce sense of enclosure along paths, and manage hedge heights.

4.10.51 TLP note that the substation location remains as it previously was located and would have more negative impact now than it would have previously, given it would have been surrounded by solar panels and therefore disguised. The relocation of the vehicular access to the substation is supported in landscape terms. It is also noted that the relocation of the compound will still have a negative impact on the landscape character, which would be the case wherever it is located, and is a limited short-term impact. The relocation of the compound is also recognised to provide a 'more sympathetic setting' for Tankards Farm listed buildings.

Summary and Conclusions

4.10.52 Taking all the above assessments and advice, Officers consider that the proposal by virtue of its scale and nature, would result in inevitable adverse landscape and visual impacts, mostly of a moderate to significant nature and in the construction period and in the shorter term, while mitigation establishes.

4.10.53 Officers note the character of the application site; the character of the surrounding landscape; the relationship of the site to neighbouring character areas; its consideration to be within the boundary of the Chilterns AONB; its distance from the current designation; the localised views of the site; the proximity of the urban edge of Luton; and the type of cumulative impact as a result of Luton Airport expansion and East of Luton housing allocations. The impact is relatively localised to rights of way through and close to the site (being the worst level of impact for the receptor) and surrounding roads, with a lesser impact from further afield, with very limited views from Lilley Bottom LCA, which is notably

of a better landscape character compared to Breachwood Green, and particularly this end of the LCA adjacent to Luton Airport and the edge of Luton's urban area.

4.10.54 The proposed development has been designed so as to minimise its adverse landscape impact, while still delivering a solar farm that would contribute up to 49.9MW of green energy, by removing fields of panels from the original submission and locating remaining panels as sensitively as possible.

4.10.55 The proposed mitigation would deliver some visual and landscape benefits together with some biodiversity improvements to the local environment, particularly in the medium to long term. The 40-year lifetime of the scheme is a significant period. Following decommissioning of the solar farm there would be no residual adverse landscape effects when all panels and battery and inverter equipment have been removed. There may also be benefits to the landscape, biodiversity, and soil quality in the longer term from the mitigation used while the solar farm is in operation, including what should be established hedgerows and woodland, reinstating some former field boundaries,

4.10.56 In conclusion, there would be conflict with LP Policies NE2 and NE12 which seeks to avoid unacceptable harm to landscape character and appearance, during the operation of the solar farm. Overall, it is considered that the total visual and landscape harm would be moderate in weight in the planning balance with moderate benefits arising in the later stages and post decommissioning.

4.11 Impact upon the local highway network

4.11.1 The application site is located less than 500m to the east of Luton. Eaton green Road runs east to west to the north of the Airport and south of a residential area of Luton. Coming up to the site the road diverges at Wandon End into Darley Road and Stony Lane. The application site sits between Tea Green and The Heath, which is encircled by both Darley Road and Stony Lane. There are seven public rights of way through the site, and the area generally benefits from many rights of way in the wider area.

4.11.2 The Highway Authority has responded to each consultation in relation to highway safety together with feedback from the County Rights of Way (CROW) team, and the plans have evolved since the application was submitted. Initially the recommendation by the Highway Authority (dated 1/02/2023) was to defer the decision for amended plans and additional information. Further information was requested in relation to the management of construction traffic; regarding the site access strategy, poor visibility was noted to the north from Stony Lane from the Tankards Farm Lane access; and lastly the construction access 2 proximity to Wandon End Road with difficult junction geometry. The 'Non-Motorised Routes: A Design Guide' by Countryside and HCC Rights of Way Service September 2020 was shared with the applicant on how to deal with public rights of way through the site.

4.11.3 Following re-consultation on amended plans, the Highway Authority gave a further recommendation to refuse the planning application (dated 8/12/2023), finding the Tankards Farm Lane access unacceptable in terms of visibility and suitability, and lack of information on the geometry and internal turning for vehicles within the proposed compound. The Wandon End Road/Lower Road junction access to field 2 was also considered unacceptable regarding highway safety, junction alignment and visibility, with a recommendation to move the access away from the junction with Lower Road.

- 4.11.4 Further information was also requested regarding (1) how vehicles would access the site during the operational phase of development without [prejudice to the Rights of Way network through the site; and (2) the treatment of the Rights of Way network during construction. Hertfordshire Highways also highlighted two applications to CROW for a new byway open to all traffic (BOAT) and a restricted byway (RB). The BOAT would be from Stony Lane along Tankards Farm Lane to the farmyard, and the RB would be from the farmyard around the field to the northeast to link up to footpath 6. The Highway Authority has confirmed that these applications for a BOAT and RB are likely to take some years to reach a decision on, however the applications proposals do not prejudice the designation of the routes as rights of way, neither does the proposed footpaths prejudice the solar farm proposals.
- 4.11.5 Positive points were noted in relation to rights of way, including the new permissive route to field 18 to connect PROW Offley 023 and 006 with an off-road path alongside a field to be used for biodiversity. The proposed upgrade of PROW Offley 004 to a cycle route was also supported, provided the surfacing is appropriate for utility cycling. Various recommendations were also made for the treatment of rights of way through the site, in particular the boundary treatments, a range of hedgerow plating vs fencing, corridor width and treatment in relation to vehicle crossings. A concern was raised regarding construction traffic crossing the rights of way and requesting further detail on safe and suitable access across the network.
- 4.11.6 The applicant met with the Highway Authority to review the comments and discuss solutions. This resulted in the submission of revised plans and documents. The applicant revised the plans to relocate the construction compound to Wandon End Road, which satisfied both highways and CROW. Further benefits of relocating the compound include the impact on the setting of heritage assets previously discussed above in para. 4.5.91 and reduced impact on amenity and noise for local residents during construction. The proposed compound is now closer to business premises and agricultural services provided by Olivers Luton, who objects to the planning application, the compound location, and the use of Wandon End Road. The Highway Authority has addressed these comments in relation to the proximity of the compound to this business and found that the impact would be acceptable in terms of traffic movements as well as suitability of the road and junctions.
- 4.11.7 In a further consultation response (dated 28/02/2024), the Highway Authority note the re-submission of the Construction Traffic Management Plan (CTMP), Further Addendum Transport Statement (Feb 2024) and supporting technical drawings showing proposed access junctions, swept paths and visibility splays. The removal of Tankards Farm Lane for access and construction compound is supported. The relocation of the access to field 2 is also supported, and its relocation further south down Lower Road to the substation. The submission of a CTMP framework is supported and the Highway Authority is content to accept final detail via a condition, should the application be recommended for approval. The applicant is also required to enter into a s278 with the Highway Authority to approve these works.
- 4.11.8 A Construction Environmental Management Plan (CEMP) would also be developed for the construction phase of the development. This is also requested by NHDC Environmental Health Officers and would set out the standard best practise for construction and relevant mitigation measures related to the environment, including '*water management, hazardous substances, lighting, noise, dust, waste management, biodiversity, archaeology, built heritage and landscape/visual components*' (PDAS).

4.11.9 It is also noted that the operational phase of development will utilise the improved access point on Wandon End Road. For the operational phase, the second new access point for construction will have been reinstated. The Highway Authority are *'content that any maintenance of the solar panels will not present any movements over and above that what would be necessary should the fields stay in general agricultural usage'*.

4.11.10 Regarding rights of way, the Highway Authority provided feedback on internal consultation at the county council, the proposals are supported, and the detail should be secured by condition, should the application be approved. A 'Rights of Way Improvement Plan' will require engagement between the applicant and the county council to finalise the detail of surfacing and boundary treatments for on-site works, new permissive route, the upgrade of existing footpath to a cycle route, during construction and operational phases, and in relation to the delivery of the improvements on first use of the development, should it be given planning permission. This condition has been amended in consultation with the Highway Authority to fully meet the tests of the NPPF. An informative would also be placed on the decision notice informing the applicant of requirements of the Rights of Way Network (ref. AN5 at the end of this report).

4.11.11 The last consultation response responds to the introduction of additional fire safety measures, in relation to highways, the proposals include a clearer view of how emergency vehicles could move around the site in order to meet national fire advice for such developments stating *'...the Highway Authority note the additional information as supplied via the Supplementary Report...[and] does not wish to restrict the grant of planning permission'* subject to previously recommended conditions.

Conclusion on impact on local highway network

4.11.12 The proposal has evolved since the first submission of the application in order to address a technical objection regarding highway safety and visibility splays in relation to two proposed new accesses to the solar farm site. The Highway Authority are content with the proposed construction access, compound location and draft CTMP. County Rights of Way also raise no objection subject to an improvement plan, which would be secured by condition, together with the introduction of a new permissive path to connect two existing paths and improve safety, and the upgrade of another path for cycling to enhance east/west connection for cyclists. The proposal is therefore considered to comply with local Plan Policies SP6, NE12 and T1. This matter is considered to be neutral in the planning balance.

4.12 Best and Most Versatile (BMV) Agricultural Land impact

4.12.1 Local Plan Policy NE12 seeks to determine applications for solar farms on the best and most versatile land (BMV) in accordance with national policy. Government guidance stresses a preference to develop solar farms on brownfield or degraded land over greenfield land. Agricultural land is classified from Grade 1 to 4, with Grade 1, 2 and 3a being considered BMV agricultural land.

- 4.12.2 The application is supported by an Agricultural Land Classification Survey by Wardell Armstrong. This concluded that 53.56ha (50.08%) is Grade 3a BMV and 46.63ha (44.23%) is subgrade Grade 3b, with non-agricultural land (including the cable route) comprising 5.25ha (5%). As such the Site is considered BMV agricultural land in the context of the NPPF and NPPG. It is noted that a high proportion of agricultural land across the district is BMV.
- 4.12.3 Policy NE12 of the adopted Local Plan states that proposals for solar farms involving the best and most versatile agricultural land will be determined in accordance with national policy. Paragraph 180 part (b) of the NPPF requires consideration of the economic and other benefits of the best and most versatile agricultural land. Footnote 62 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. National Planning Policy Guidance (NPPG) also encourages the siting of large-scale solar farms on previously developed and non-agricultural land provided it is not of high environmental value.
- 4.12.4 In a written ministerial statement (WMS) from 2015 by the then Secretary of State - *Solar energy: protecting the local and global environment* – it was confirmed that the use of the best and most versatile agricultural (BMV) land would need to be justified by the most compelling evidence, It goes onto recognise that “planning is a quasi-judicial process, and every application needs to be considered on its individual merits, with due process, in light of the relevant material considerations.” The WMS is not a statute but a policy.
- 4.12.5 In more recent guidance set out in National Planning Statements (NPS) in relation to national energy projects over 50MW confirms that land type should not be a predominating factor in determining the suitability of the site location.
- 4.12.6 In a recent WMS (May 2024) by the Secretary of State for Energy and Net Zero entitled *Solar and protecting our Food Security and Best and Most Versatile (BMV) Land*, it states ‘*due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary. Applicants for Nationally Significant Infrastructure Projects should avoid the use of Best and Most Versatile agricultural land where possible.*’
- 4.12.7 Given its temporary nature, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. The solar panels will be mounted on metal frames set into the land with 0.8m separation between the ground and the bottom of panels allowing the use of the land for the grazing of sheep. With the exception of some small areas of the site which will be used for plant, equipment and access tracks the majority of the land would still be used for some agricultural purposes (the grazing of sheep) during the life span of the solar farm and would not be permanently lost. The continued use of the site

for agricultural purposes could be secured by condition, relating to the submission and agreement of a grazing management plan in the event permission were to be granted.

- 4.12.8 It is understood that current government farmland management schemes, amongst other things, encourages farmers to take land out of production and put it to grass, meadows, or trees for carbon capture. The resting the land from intensive agriculture is recognised to give the land the opportunity to regenerate, improving soil health by increasing the organic matter and improving soil structure and drainage. Soil is a limited resource, and which plays an essential role within sustainable ecosystems, performing a variety of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. Regarding impact on soil quality, the applicant is agreed to a Soil Management Plan to be submitted should the application be given planning permission.
- 4.12.9 It should be noted that the specific way agricultural land is used is not a matter that is controlled under the planning system. As such, there would be nothing in planning terms to prevent the landowner using the site for the grazing of sheep at present or even leaving it fallow. Given this, the fact that the proposal would limit the ability to carry out any arable farming does not mean that it results in the loss of agricultural land when it can continue to be used albeit for other agricultural uses.
- 4.12.10 During the course of this planning application, the applicant has reduced the amount of land to be used for solar panels, retaining fields 1 and 2 for arable use. There is also a significant portion of the site (about 55%) to be retained for biodiversity improvements. This weighs in favour of the proposal which includes the planting of trees, hedges, and grassland, which will form landscape and residential amenity mitigation as well.
- 4.12.11 In relation to food security, it is confirmed that there are no national or local policies, guidance or strategies that relate to food security and production. A recent policy paper 'Government food strategy' (June 2022) confirms that the level of food production in the UK is good and that there is currently a '*high degree of food security*'. The WMS from May 2024 states that '*the Government is fully committed to delivering robust UK food security and recognises its paramount importance to our national security*' and recognises the tension with current energy security, stating '*solar power is a key part of the Government's strategy for energy security, net zero and clean growth*'.
- 4.12.12 This is reflected in the position in NPS EN-3, which states (para. 2.10.29): '*While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of "Best and Most Versatile" agricultural land where possible. "Best and Most Versatile" agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification.*'
- 4.12.13 The applicant has provided a response to the recent WMS to reiterate the site selection process, starting with identifying a substation where there is capacity for solar farm developers to connect into, in this case the Luton Airport Primary substation. The applicant has also confirmed (email dated 20/06/2024) that from the UKPN analysis they expect curtailment to be zero, from the grid offer that was accepted in January 2022 for

the Luton Airport Primary Substation. It is also noted that the applicant is not aware of any other grid offers for generation to the same substation since January 2022. Sites are then reviewed with 5km of the substation, which given its urban and built-up character of Luton, and the requirement for the site to be a minimum of 50ha, the potential location is significantly restricted to the rural area beyond the airport, Luton town and the site allocations East of Luton. This is all set out in the ES Chapter 3 on Proposed Development and Alternatives.

4.12.14 The WMS also comments on concerns regarding the perceived inaccuracy and unfairness of soil surveys, requiring surveyors to be suitably trained with qualifications. The applicants Agricultural Land Classification (ALC) surveyors (Wardell Armstrong) are a multidisciplinary environmental, engineering and mining consultancy, with staff who are qualified in this area, as soil and environmental scientists. Officers have confidence that the ALC has been undertaken in accordance with guidance and best practice.

4.12.15 It is noted that the current tenant farmer at Tankards Farm commissioned their own ALC of the land that they farm by qualified soil scientists (SOYL). The survey area did not relate to the entire application site and concluded that about 27% of the land surveyed at Tankards Farm is Grade 2, 52% is grade 3a, and 21% is grade 3b. The area identified in Map 3 page 13 of the SOYL report shows a band of grade 2 running east to west between The Heath and Tea Green. In the bigger picture of the whole application site, this possibly represents about 13% of the site being grade 2. It is appreciated that some areas of the site may be a better quality, which is measured in stoniness, weight and size of the stones, wetness of the soil, how much clay there is and how heavy the soil is, although the balance between these factors could also give some areas of the site a lower quality.

4.12.16 Natural England is the required consultee on ALC, who overall raise no objection to the report submitted with the planning application. Officer's view then is that the ALC is representative of the land, and it is also a typical standard for the District, meaning that it would be difficult in this area, within 5km of the substation to find a site that is of less good quality.

4.12.17 Lastly regarding concerns about ground contamination have been raised by some local residents. Potentially this could occur during the different phases of the development – construction, operational and decommissioning. Conditions are suggested to ensure that soil is protected and managed for the duration of the development, panel cleaning, during construction and in soil management.

Conclusion on impact on BMV Agricultural Land

4.12.18 The proposal would not result in the permanent loss of BMV agricultural land and a form of agricultural use would continue in the form of livestock grazing, which is viable alongside solar energy production. This is likely to result in a reduction in productivity and flexibility of the land for agricultural purposes for the duration of the solar farm. The quality of the soil would benefit from a break in arable rotation. In addition, the Site would eventually be able to be restored to full agricultural use with enhanced biodiversity and landscaping. In this context, the proposal is compliant with Local Plan Policy NE12. The proposal is considered to result in a change of agricultural use of the land for the duration of the operational period of the solar farm and although this would reduce the flexibility of

the land for agricultural production, there are no planning controls over agricultural use of land. Therefore, it is considered that this matter is neutral in the planning balance.

4.13 Flood Risk and Drainage

4.13.1 Local Plan policies SP11 and NE7 seek to ensure that development does not result in unacceptable flood risk. Policy NE8 encourages the use of Sustainable Drainage Systems.

4.13.2 The applicant provided a Flood Risk Assessment (FRA) with the application prepared by Wardell Armstrong in December 2022 and updated following amended plans in September 2023. The FRA found that:

- The development is located outside the 1 in 1,000 Annual Exceedance Probability and is therefore defined by the NPPF as being within flood zone 1.
- As the site is in flood zone 1, the sequential test is deemed to have been addressed and the exception test need not be addressed as the development is categorised as 'essential infrastructure'.
- The site 'is underlain by principal chalk aquifer bedrock and unproductive clay superficial deposits, with clayey soils with impeded drainage'.
- The flood map for planning shows the site to be at low risk of flooding from rivers, the closest of which is about 10km northeast of the site. Flooding from sewers is low risk as there are no public sewers, and a limited number of private sewers crossing the site.
- Groundwater flooding is low to medium risk of flooding which would be isolated to the 'valley' area and low risk on higher ground.
- The site is at a low risk from surface water, with the exception of small areas due to topographical depressions. Artificial flooding is also very low risk as the closest reservoir flooding is 3.75km from the site. Tidal flooding is discounted completely due to the site's location.
- There will be no impact on floodplain storage or fluvial flood flow routes as a result of the proposals.
- There will be negligible increase in impermeable ground due to the character of the development, and the ground underneath the panels will be managed as grass. There will be 'precautionary attenuation' provided on site as linear swales and filter drainage to ensure that flood risk elsewhere is not increased and 'negligible impact on surface water quality'. Swales will be located upstream of site boundaries in order to provide a betterment to the existing scenario, in which currently surface water runoff flows off-site unrestricted.

4.13.3 The LLFA raised no objection to the proposals on the first consultation, which remained the same following re-consultation on amended plans. This is subject to a condition relating to a scheme of surface water drainage, and an informative about the Counties guidance, should the application be recommended for approval.

Conclusion on flood risk

4.13.4 The development is considered to accord with Local Plan policies SP11, NE7 and NE8, subject to a condition. This matter is considered to carry limited benefit in the planning balance, due to the betterment of the current situation on site with unrestricted surface water runoff and the introduction of swales to improve water quality and manage runoff flows.

4.14 Noise

4.14.1 Local Plan Policy D3 seeks to protect the living conditions of existing residential properties. The proposal will result in likely noise impacts during both the construction and operational phases of the development. A Noise and Vibration Assessment was prepared by Wardell Armstrong dated December 2022 and updated in September 2023. The Assessment is informed by background noise data collected by the applicant's noise consultant at four locations in areas of typical background sound. Eleven 'existing sensitive receptor' locations were identified as well, ranging between 135m and 300m away, for both the construction and operational phases.

Construction noise

4.14.2 In relation to construction noise, the Assessment considers impacts arising from the 6-9 month construction period. The applicant proposes construction activities and delivery of equipment to take place 6 days per week during the following days and hours:

- Monday to Friday 07:00 – 19:00; and
- Saturday 08:00 – 16:00

4.14.3 The Assessment identifies a range of noise impacts from traffic, deliveries, plant, machinery, piling and other activities, and recognises the different impacts from implementing the cable route (primarily within Luton Borough) and the piling etc associated with the part of the site for solar panels. It confirms that the construction period is '*temporary, only including relatively light construction work*', and by using best practice guidance the noise impacts can be managed so as to reduce the impact on residential and neighbouring amenity. The applicant concludes that impacts are not significant for existing sensitive receptors.

4.14.4 The NHC Environmental Health Officer agrees but recognises the potential for noise nuisance from the construction phase of the development and suggests two standard conditions to require the application to submit a Construction and Environmental Management Plan (CEMP).

4.14.5 The working hours proposed by the applicant are more extensive than the Council's normal approach. The EHO has therefore recommended a condition should the application be granted planning permission that restricts the hours within which construction can take place. It would reduce the applicant's approach from 7am to 8am each weekday morning and up to 6pm on weekdays and 1pm on Saturdays, rather than 7pm and 4pm respectively. The EHO and applicants agree on no construction work on Sundays and Bank Holidays. It is noted that the proposed Construction Traffic Management Plan (CTMP) also refers to the applicants' proposed hours, so reference would be made in the condition securing the CTMP to the change to hours. There will also be an informative, should the application be granted planning permission, regarding the British Standard Code of practice for noise control on construction and open sites.

Operational noise

4.14.6 Regarding noise from the operation of the solar array, the Assessment identifies the potential noise sources comprising inverters, transformers, convertors and HVAAS units. The Assessment has used typical site operating noise levels from established empirical data from other similar solar operations to provide baseline data for the noise model. The

results show that the noise arising from the site operations would be below the representative background sound level during both the day and night-time periods.

- 4.14.7 Members of the Planning Control Committee may also wish to note that commentary in paragraph 4.5.37-4.5.39 regarding noise impact in relation to the proposed solar farm near Bygrave. Members visited a working solar farm in October 2023 to experience typical noise levels, which was explained by the NHC Environmental Health Officer.
- 4.14.8 The methodology and findings reached on this technical matter have been carried out in accordance with the necessary standards and guidance. From Figure 1 the noise sources are dispersed throughout the development, rather than in a central location. As informed by figures 2 to 5 the noise levels at nearby sensitive residential receptors will be acceptable meeting the criteria for outdoor sound levels. No further noise mitigation measures were found to be necessary for the operational stage.
- 4.14.9 The NHC Environmental health Officer has reviewed the original and amended proposals for Wandon En and raise no objection. Overall, the noise from the operation of the site is likely to result in low impact and therefore no objection to the proposed development from this operational perspective.

Conclusion on noise

- 4.14.10 Subject to conditions to secure a CEMP and limitations on the days and hours of operation, there is no objection to the proposals from a noise perspective. The proposal is therefore considered to comply with LP Policies D3 and NE12. Officers consider that the noise impacts of the proposed development are neutral in the planning balance.

4.15 Ecological and biodiversity impacts

- 4.15.1 Local Plan policies SP12 on Green infrastructure, biodiversity and landscape, Policy NE4 on Biodiversity and geological sites and NE6 on Designated biodiversity and geological sites, which all seek to protect, enhance, and manage the natural environment.
- 4.15.2 The 2021 Environment Act introduced an automatic requirement for every planning permission granted to achieve a 10% Biodiversity Net Gain (BNG) from January 2024. This application was submitted in December 2022, meaning that 'a net gain' is required rather than the full 10% which is no mandatory.
- 4.15.3 In relation to ecology, the application is supported by an Ecological Impact Assessment by LC Ecological Services dated December 2022. This Report involved desk study and habitat survey. Site does not lie within any statutory or non-statutory designated site for nature conservation. It confirmed that there is a site of national importance, a site of regional importance and 27 sites, habitats and fauna of local importance within the study area. It concludes that there would be no significant negative impacts on these features during the assessment and following mitigation measures.
- 4.15.4 In relation to species and habitats and in summary, the findings comprised –
- The proposals have been assessed for their impact on sites, habitats and fauna and their significance. Construction is expected to have a negligible and sometimes medium effect on features of regional and local importance, which overall do not have significant

impact. During the operational phase of the development, the effect is considered to be negligible or low on features of regional and local importance, which are not significant in impact.

- Ecological enhancements are set out in the report at paragraph 6.32 of the assessment. These include creating new hedgerows along historic boundaries; infilling gaps in existing hedgerows, new permanent woodland and scrub buffer to Darley Wood; new species rich grassland between security fencing and hedgerow boundaries as well as under the panels, and along the 30m wide corridor for the gas pipeline; introduction of beehives; retention of various fields for native species rich grasslands; bird and bat boxes on retained trees; two hibernacula for reptiles; proposed log and brash piles and bug hotels near hedgerows for suitable habitats; and use of native species in new planting.
- The Assessment identifies the need for a landscape and Ecological Management Plan (LEMP) and a Construction Environmental Management Plan (CEMP) should the application be approved and should be secured by condition. It is noted that the implementation of the cable route and site construction will require the removal of some ecological features and a condition is a suitable tool to manage that and should be informed by up-to-date ecological surveys.
- Mitigation measures have also been identified in section 7 of the Assessment in accordance with best practice and the detail of which to be secured through the above conditions. These are identified as having a minor positive impact overall.
- The Assessment considers the DCO application for Luton Airport, noting that part of the application site for this planning application is to be used for landscape and ecological enhancements for that application. The two applications are compatible. The Assessment also establishes that there would be no cumulative effect on ecology from Luton Airport on these proposals.

4.15.5 The North Hertfordshire Ecologist was consulted on this application and have confirmed that they have no objection to the assessment and its findings, that the development will not result in significant ecological impacts. It is considered that the development can be conditioned to secure the relevant mitigation in the event planning permission is granted.

4.15.6 In relation to Biodiversity Net Gain (BNG), local plan policy requires this development to deliver an unspecified improvement over baseline (Policy NE4). The application was submitted before the mandatory 10% increase in BNG came into force earlier this year. The updated BNG metric confirms that the proposal will result in a 162.63% increase for habitat (area) derived units; a 141.50% increase for hedgerow (linear) derived units; and 58.10% for water units, which is a significant uplift compared to the baseline and welcomed by the Ecologist.

Conclusion on ecology and biodiversity

4.15.7 Officers consider that subject to the recommended conditions, the proposed development would not result in harm to habitats or species. The proposed development will deliver significant Biodiversity Net Gains. Overall, it is considered by officers that subject to recommended conditions, on balance, there would be no harm to species and habitats

and BNG benefits, would weigh moderately positive in the planning balance in accordance with LP Policies NE4 and NE12.

4.16 Fire Risk

4.16.1 Objectors have raised fire risk, in relation to solar farms, and noted the risk of wildfires on site given high temperatures during previous summers.

4.16.2 It has been stated as with other applications for solar farms in the District that the British Research Establishment National Solar Centre (BRE NSC) was commissioned by the Department for Business, Energy and Industrial Strategy to lead a study on fires involving solar photovoltaic (PV) systems. The BRE NSC consider that there is no reason to believe that the fire risks associated with PV systems are any greater than those associated with other electrical equipment.

4.16.3 The applicant reiterated this and provided further information in April 2024 on the risks and context of such proposals, including:

- The UK Government 'Renewable Energy Planning Database (REPD) shows that since the first installation comprising battery energy storage in 2006, operational battery projects have been running for a total of about around 500 years' worth of operations. Since 2006 there have been one major battery storage incident in the UK (Carnegie Road September 2020).
- Battery technology is changing all the time, as with the technology of solar panels, making them more efficient, more thermally stable, and safer than they already are.
- The batteries proposed for Wandon End solar farm are proposed to have an in-built detection system which shut down in the event of 'abnormal conditions' such as overheating or battery failure. There is also a vent to reduce the risk of gases building up within the container.
- In addition, the batteries have an automatic fire suppression system (water sprinkler or gaseous based system) which cool the cells and extinguish any fire that may ignite as a result.
- Each battery location has been reviewed for its location and accessibility. Each location is proposed to have a fire hydrant which is supplied by two water tanks that have been designed into the latest layout of the site.
- The applicant has also proposed an access track through the site that will enable a range of access options for all battery locations within the site, depending on factors such as potential fire location and wind direction.
- The applicant has suggested the submission of an 'Emergency Response Plan' (ERP), which could be conditioned.

4.16.4 Herts CC Fire Service were consulted on the application and subsequent changes with no response received. The applicant also approached the department before submitting the application. As set out above, the proposal includes a number of emergency response measures including a battery shutdown system, fire suppression system, water tanks and suitable access for fire appliances to enter the site and specifically the batteries. The proposal will need to comply with the relevant Part of Building Regulations which essentially requires both (i) a satisfactory access for the fire service and its appliances (ii) facilities in buildings to help firefighters save the lives of people in and around buildings. This is a separate legislative process which typically occurs post planning decision. In addition, non-government guidance on the risks associated with battery storage and

appropriate mitigation measures are set out in publications by both the National Fire Chiefs Council (NFCC) and Fire Protection Association. It should be noted that whilst these publications set out fire safety best practice for battery storage proposals, they are recommendations and not mandatory requirements. However, they can be considered as part of an all-encompassing 'Battery Storage Safety Plan' which would be secured by condition.

- 4.16.5 Overall, it should be remembered that fire incidents on solar farm sites with battery storage facilities are very rare, and with the ongoing improvements in technology, such emergency incidents are unlikely.
- 4.16.6 The HCC Water Officer previously recommended that should the application be approved, a condition is used to secure a fire hydrant for the area. The applicant has since proposed installing two water tanks as an alternative to a new hydrant and no further response has been received from the Water Officer. It is apparent that water can be provided in the event of an emergency by either of these two methods. Should the application be approved, Officers recommend the condition requires either the provision of a fire hydrant or acceptable alternative method for water provision in the event of an emergency. It will be for the applicant to demonstrate to the Water Officer that no fire hydrant is required in the future and the County will need to be satisfied of that before the condition can be discharged.

Conclusion on fire risk

- 4.16.7 There is no evidence to show that there would be a high risk of fire at the proposal. Officers consider that the applicant has taken all reasonable steps to minimise fire risks from the proposal considering legislation and best practice guidance. It includes several fire safety measures in relation to the batteries themselves, accessibility for vehicles in the event of an emergency, information for the Fire and Rescue Service about access, and suitable water provision. On this basis, it is considered that the fear of fires occurring cannot form a basis for refusing planning permission and this matter does not weigh against the proposal but is neutral in the planning balance.

4.17 Other matters

- 4.17.1 **Luton Borough Council** – It is noted that the identical cross boundary planning application submitted to Luton Borough Council has been determined and the application been given planning permission (ref. 22/01657/FULEIA granted 28/03/2024).
- 4.17.2 **Alternative renewable energy sources** – such as wind, tidal and off-shore wind and solar have been suggested by various objectors. Officers consider that given the scale of such schemes and the amount of energy generated by them they make an important contribution to renewable energy production in the UK. However, such renewable energy schemes would not be able to contribute towards renewable energy production in North Hertfordshire and meet the Council's carbon zero aims for the District. Moreover, a good mix of renewable energy generation is desirable in meeting the needs of the district and the UK and solar farms are part of that mix. The ability to generate renewable energy from other renewable sources does not weigh against the ability to generated renewable energy from solar farms.

- 4.17.3 **Alternative sites** – previously developed land, brownfield sites, low grade agricultural land and rooftops have been cited as being more appropriate for solar development. The Framework explains that when dealing with planning applications, planning authorities should not require a developer to demonstrate a need for low carbon or renewable energy projects and should recognise that even small-scale projects can help reduce greenhouse gas emissions. It is possible to deploy PV panels in other situations as cited above. The WMS May 2024 reiterates the Government’s commitment to the deployment of rooftop solar for example, but by using financial incentives for businesses and charities. There are also permitted development rights for certain types of rooftop solar. However, this does not justify the refusal of planning permission for solar farms, given the current significant shortfall in renewable energy production in North Hertfordshire from such existing schemes. In all likelihood, renewable energy proposals in a variety of forms, scales and locations are going to be required to help meet the necessary renewable energy generation targets. Whilst the National Planning Practice Guidance set out a preference for locating solar farms on previously developed land and buildings, this does not equate to a sequential test whereby other land or buildings cannot be considered. It is understood that site selection is determined by four key factors – the capacity within the nearest National Grid substation, limited solar curtailment, available nearby land with a willing landowner and a formal agreement to connect to the National Grid. It is also confirmed that there is no policy requirement for the energy produced to be “needed” or used “locally”. Further information is provided in the report above para. 4.7.5, 4.7.6 and 4.13.13.
- 4.17.4 **Residential amenity** – The Heath and Tea Green lie immediately to the east and west of the application site respectively. The nearest dwellings to the application site are located along Mill Way, Darley Road, Windmill Lane and Stony Lane. The distance between these various properties and the closest panels and associated infrastructure, together with the existing and proposed intervening landscaping, means that there would be limited visibility from residential curtilages. Whilst the development will alter the outlook from some properties, none would experience views which would make them unattractive places to live. In relation to the pole mounted CCTV cameras, it is confirmed that these will generally have one pan-tilt-zoom camera focussed along the boundary of the Site. At certain locations two cameras would be deployed so that they can be targeted on specific locations. All cameras would operate using infra-red technology and as such no additional lighting would be required. It is unlikely that the CCTV cameras will result in any loss of privacy to dwellings. Nonetheless, in the event that planning permission were to be granted a condition to restrict camera views would safeguard nearby residential occupier’s amenity. In relation to the operational period, it is confirmed that no areas of the site would be continuously lit with only infrared activated lighting installed on the DNO Substation building, Switchroom building, Control Centre and transformer station. The proposals are considered to be in accordance with LP Policies NE12, D3 and D4 and this matter would weigh neutrally in the planning balance.
- 4.17.5 **Air Quality** – In relation to the impact on air quality, it is confirmed that the site is not within a designated Air Quality Management Area. Whilst the development will result in additional traffic to the locality, the open nature of the area and the temporary nature of the additional traffic for the duration of the construction period is not considered to give rise to unreasonable air quality impacts. In summary, the proposal does not result in any unacceptable harm on living conditions of residential properties. It is therefore considered to be in accordance with LP Policies NE12, D3 and D4 and this matter would weigh neutrally in the planning balance.

4.17.6 **Trees** – There are 92 individual trees within the application site. The Arboricultural Impact Assessment (AIA) submitted with the application identifies all trees, groups of trees and hedgerow, and categorised them for their specimen, quality, age and longevity. It is proposed that category U trees (lowest quality) are to be removed, as should happen in the normal course of a landowner maintaining their land, and the vast majority of trees to be retained. Trees on site have been assessed for their position in regards to the solar panels and their efficiency, and it is found that the proposed position of panels and trees is compatible. Officers note again the proposed planting of a considerable number of new trees on site should the application be given planning permission. An enquiry was made to the Planning Department for the protection of trees on site, stating that the solar farm could be a threat to trees and that a specified 30 trees should be protected by virtue of a Tree Protection Order (TPO). Officers reviewed this proposal, alongside the AIA submitted with the application, and found that *‘the trees are within open countryside and while attractive do not form a significant amenity role. For these reasons I do not consider it expedient at this time to protect these trees by way of a TPO. Should the solar farm go ahead, the use of planning conditions would be sufficient to protect trees during build out.’* There is therefore no objection to the proposals in relation to trees, subject to suitable conditions to protect trees during construction and to ensure the plans as submitted are implemented as described. Should the application be approved, there would be further landscaping conditions to agree and ensure the implementation of new landscaping on site. It is therefore considered to be in accordance with LP Policy NE4 and this matter would weigh neutrally in the planning balance.

4.17.7 **Glint and Glare** – The Glint and Glare Assessment provided with the application assesses the potential for said effects on receptors comprising London Luton Airport, nearby residential properties, and a range of road receptors. A ‘worst case scenario’ was used, taking the proposals before they were amended meaning the area covered in solar panels is at its ‘maximum’. The assessment has been updated to take into account change in landscaping proposals. The primary potential for impacts would be for vehicle drivers at various points on local roads and observations points. Having taken account of proposed screening it is estimated that glint could occur for maximum 1.8% of daylight hours and less in other cases. There will be no effects on the air traffic control tower at Luton Airport. A limited amount of glint is possible on the eastern approach to Runway 26 to the Airport, but assessors consider that this is comparable to pilots dealing with glint from large bodies of water, which pilots manage on a daily basis. Neither Luton Airport nor the Civil Aviation Authority raise objection to the proposals. In conclusion, using the proposed screening and landscaping previously examined, there would be no significant glint and glare impacts in accordance with LP Policy NE12 and this matter would weigh neutrally in the planning balance.

4.18 Planning Benefits

4.18.1 The submitted Planning, Design and Access Statement argues that there is a compelling need for the upscaling of renewable energy across the UK and within North Herts district to meet national and local net zero targets. The proposed development would contribute towards meeting those targets. The applicant also cites several factors which, when taken cumulatively, constitute ‘very special circumstances’ and justify the proposal in the Green Belt. These are set out in the following sections of this report.

Meeting the Challenges of Climate Change

- 4.18.2 It is reiterated that the NPPF (section 14) seeks to support renewable and low carbon energy and associated infrastructure and that to help increase the use and supply of renewable energy plans should provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily.
- 4.18.3 The Government and the Council recognise that climate change is happening through increased greenhouse gas emissions and that immediate action is required to mitigate its effects.
- 4.18.4 The Climate Change Act 2008, as amended, sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero by 2050. Recently, the Government committed to reduce emissions by 78% compared with 1990 levels by 2025.

Renewable Energy Generation

- 4.18.5 The need for renewable energy to address the challenges of climate change has been identified to address Green Belt policy and outweigh to hard caused by reason of 'inappropriate development'.
- 4.18.6 Para. 163 of the NPPF states that LPAs should not require applicants to demonstrate the overall need for renewable or low carbon energy. Nevertheless, the applicants submitted Planning, Design and Access Statement sets out that need as part of the 'Very Special Circumstances' case.
- 4.18.7 The Clean Growth Strategy 2017 anticipates a diverse electricity system based upon the growth of sources of renewable energy.
- 4.18.8 National Policy Statements (NPS) are a material consideration for the determination of major energy infrastructure (>50Mw) which would be determined by the Secretary of State. However, it is considered that regard may be given to these in the determination of smaller projects by district councils. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. Whilst NPSs EN-1 and EN-3 do not refer to solar power as such, they nevertheless reiterate the urgent need for renewable energy electricity to be delivered. NPS EN-1 and 3 confirm that as part of the strategy for the low-cost decarbonisation of the energy sector, solar farming provides a clean, low-cost source of electricity. The applicant highlights that NPS EN-3, whilst it applies to solar projects of more than 50MW it could be helpful in appreciating the sites contribution, states '*for the first time, defines the low carbon generation (including mounted solar) as a "critical national priority" (CNP) and that proposals for CNP infrastructure should be allocated substantial weight...*' and that NPS EN-1 (para. 4.2.16) 'outlines how the SoS will take as a starting point for decision-making that CNP infrastructure will meet any tests set out within the NPSs, or any other planning policy, that require a clear outweighing of harm, exceptionality, or very special circumstances...'
- 4.18.9 The Energy White Paper of December 2020 stipulates that setting a net zero target is not enough: it must be achieved, partly through how energy is produced and confirms that solar is one of the key elements of the future energy mix. In October 2021, the Government published the Net Zero Strategy: Build Back Greener which seeks the accelerated deployment of low-cost renewable generation such as solar.

- 4.18.10 The development has a capacity of 49.9MW, which would generate a significant amount of electricity from a clean, renewable source. This would provide for a reduction of about 11,000 metric tonnes of carbon dioxide emissions and meet the energy needs of around 20,500 homes, which is comparable to more than half of the number of new homes planned in the current Local Plan or about 39% of existing homes within North Hertfordshire at the start of the emerging Local Plan period.
- 4.18.11 A solar farm of this scale would undoubtedly make a positive contribution to renewable energy. It would also be a significant contribution, given the estimates of how many similar scale projects would be needed, to meet the energy requirements of the current number of households in the district.
- 4.18.12 It is considered therefore that the proposed development would make a very substantial contribution to renewable energy generation in the District. This is a benefit to which it is considered very substantial weight should be attributed.

Urgent Local Need

- 4.18.13 The applicant sets out the case that there is urgent need for the development in this location. The applicant describes in SPDAS para. S11 *'the compelling planning and environmental case for approved remains sound, and in this case is becoming ever stronger as the pressing need to deliver renewable energy generation project in the UK increases, as the effects of global climate change are not becoming more apparent and pronounced'*.
- 4.18.14 The Council declared a Climate Emergency on 21st May 2019, and this is followed up with the publication of a Climate Change Strategy 2022-2027. As part of the Climate Change Strategy, the Council set the ambitious objective of achieving net zero across the district by 2040, which goes beyond Government targets, where net zero is targeted nationally by 2050. Currently the Council has no detailed strategy to measure or understand the delivery and progress towards its 2040 net zero target.
- 4.18.15 Government data for electricity use within North Hertfordshire shows that in 2020 the district used a total of 483 GWh of electricity, and that in the same year only about 10% of electricity was generated in North Hertfordshire from renewable sources. The National Grid indicates that nationally about 43% of our power comes from renewable sources, meaning that this district is comparably in significant deficit in renewable electricity generation.
- 4.18.16 At the time of writing this report, two applications for solar farms totalling 99.8MW have now been given planning permission. A further application for 25MW was refused on significant landscape and Green Belt impact. This is the fourth application to be determined.
- 4.18.17 Should both the Great Wymondley and the Bygrave solar farms both be implemented, the District would be generating renewable energy to provide for 61% of households. Should this application for the solar Farm at Wandon End be granted planning permission and implemented, contributing another energy for another 39% of households, there should be a total of 100% provision of renewable energy for households in the district. That would play a very significant role in the District meeting its net zero goals.

There will still be a gap in provision in terms of housing growth for the district, which will increase by *'at least 13,000 new homes'* (NHLP Policy SP2) over the period of this Local Plan, together with energy requirements from commercial and industrial uses, which have not been accounted for (as per para. 4.6.33 above).

4.18.18 The applicant of that scheme confirmed that since 2019 no other grid connection agreements have been secured within the district, other than for the four current submitted schemes. It is understood that although other substations across the district and adjacent to the district boundary have potential capacity to accept additional electricity generation, the absence of any grid connection agreements indicates there are technical constraints that prevent a scheme from being viable currently. In the circumstances, it seems that in the short to medium term, there are unlikely to be further applications for large scale solar farms within the district.

4.18.19 The proposal will deliver a significant renewable energy contribution and help meet the Councils ambitious objective of achieving net zero by 2040. Moreover, the demand for electricity is predicted to increase as the decarbonisation of the electricity network evolves and this is likely to significantly increase the current deficit and is likely to continue to grow through the period to 2040.

4.18.20 Currently no energy is generated in the district from onshore wind, hydro, sewage gas, municipal solid waste, animal or plant biomass or cofiring. The anaerobic digester at Bygrave Lodge has an installed capacity of approximately 2.7MW. The only renewable energy source other than solar that could be scaled up significantly to meet the electricity need in North Hertfordshire is onshore wind, which would not be without its own landscape and visual impacts. Also, the likelihood of any applications for on shore wind farm development being made are unlikely given the current national policy position which makes it difficult to obtain permission (para. 163 of the NPPF and associated footnote 58).

4.18.21 It is considered that there is an identified and urgent need to increased renewable energy generation in North Hertfordshire.

Energy Security

4.18.22 The Applicant asserts that a benefit of the proposed development is *'an increase in the diversification of the UKs energy supply, resulting in increased domestic energy security and a reduction in reliance upon less secure, price volatile fossil fuels, such as gas'*. Para. 86 of the PDAS cites DBEISs report UK Energy in Brief 2020 that 35% of UK energy was imported. In para. 70 the applicant states that *'delivering solar energy allows the UK to diversify its energy mix in order to reduce reliance on finite resources, vulnerability to exponentially demand and geopolitical risk. Local renewable energy generation, such as that proposed, has an increasingly important role to play in securing the UKs future energy security'*.

4.18.23 Solar farms, such as the one proposed, are not only a clean alternative to fossil fuels, but also decrease the country's dependency on imported energy, helping to deliver stable energy prices that are independent of international fossil fuel markets.
Need for Green Belt Location

4.18.24 The applicant states that it is an essential requirement for solar farms to be proximate to an existing substation which has the available capacity to import the required amount of power into the National Grid. In addition, schemes must be located close to the identified substation to remain viable both in terms of cable deployment for the grid connection, and to ensure that minimum transmission losses occur. The applicant considers that for a typical site, the maximum grid connection length before a scheme is no longer viable is approximately 3km from the substation, with costs increasing as distance from the substation increases within this 4km. In this case, the applicant confirms that the grid connection route for the proposed development follows the local road network and is about 1.7 km away from the substation.

4.18.25 The applicant notes large portions of the west of the district between Hitchin, Stevenage and Luton are covered by Green Belt with parts also within the Chilterns AONB. Whilst there is no Green Belt or AONB within the eastern part of the district, there is high quality landscape, and too far away from the Luton Airport Primary Substation. The applicant also examined agricultural land, landscape and ecological designations, proximity to main highway network, suitable topography, orientation and size, landscape and visual considerations, flood risk, public rights of way, land that is geologically stable and free from contamination.

4.18.26 If North Hertfordshire is to reach net zero it is inevitable that the District will need to contribute towards providing clean renewable energy to the Grid and that small to mid-scale sites distributed across North Hertfordshire will need to come forward to deliver this, including several Green Belt locations.

4.18.27 The applicant confirms that a grid connection offer from UKPN has been secured for a 49.9MW solar farm to the Luton Airport Primary substation. A secured grid connection is recognised in NPS EN-3 as an important consideration in such applications. The applicant asserts that the availability of this grid connection and the immediate delivery of the proposed development in the context that North Hertfordshire has not consented a commercial renewable energy generation scheme since 2015, should be given substantial weight in the planning balance.

4.18.28 Officers acknowledge that this establishes a detailed and reasonable explanation as to why a solar farm is proposed in this Green Belt location.

Conclusion on renewable energy benefits

4.18.29 Officers have considered and assessed the evidence and case presented by the applicant and agree that there is a clear and urgent need to substantially increase renewable energy generation in North Hertfordshire if there is to be any prospect of achieving Net Zero carbon emissions by 2040.

4.18.30 It is considered that the benefit arising from the generation of renewable energy by the proposed development, meeting the electricity needs of between 20,500 homes, is substantial and that this is a planning benefit to which very substantial weight can be attributed.

Wider Environmental Benefits

- 4.18.31 The applicant identifies the following proposed environmental enhancements:
- Grassland within the perimeter and stock fencing suitable for sheep grazing;
 - Species-rich grassland between field boundaries and perimeter/stock fencing to contribute to enhancing hedgerow buffer zones for improved ecological connectivity;
 - Native-species woodland and scrub planting around Darley Wood, to provide visual screening, landscape integration, and improved ecological connectivity;
 - New native-species hedgerows alongside roads and historic field boundaries for visual screening and ecological connectivity, and for the purpose of landscape integration by restoring boundaries that have been lost by large scale arable production; and
 - Gapping up of existing hedgerows around and within the Site which are generally in a poor and declining condition, with fragmentation reducing their function as ecological corridors and potential for visual screening.
- 4.18.32 The applicant considers that the enhancement would provide significant biodiversity gain of approx. 162.63% biodiversity net gain based on area-based habitats, a 141.50% net gain based on linear habitats such as hedgerows and 58.10% for water units, compared to the existing land use well in excess of the local policy requirement of a 'net gain' and even the current national target of 10%. The proposal would also take the land out of intensive arable agricultural use, enhance soil quality and provide a net carbon benefit.
- 4.18.33 The applicant concludes that there are 'very special circumstances' which when considered cumulatively, are judged to clearly outweigh any harm to the Green Belt and that case law confirms that some factors that are quite ordinary in themselves can cumulatively become 'very special circumstances'.

Economic benefits

- 4.18.34 There is a strong case for the economic benefits of the scheme, both in terms of the Government's aims in the NPPF to build a strong and competitive economy, but also in terms of the number of employees at the site during construction, operation, and decommissioning phases.
- 4.18.35 There would be clear economic and energy security benefits arising from a facility that can meet the electricity needs of around 20,500 homes and reduce the use of fossil fuels in the production of electricity. The local economy will benefit as a result of the increased business rates and the employment opportunities which will arise from both the construction and operation of the site. Local businesses will benefit during the construction phase, although it is recognised that this is temporary and that some businesses might not benefit at all from the proposal.
- 4.18.36 In the circumstances it is considered that there would be economic benefits to which moderate weight can be attributed in the planning balance.

4.19 Planning Balance

4.19.1 It is acknowledged that there is both considerable public opposition and support for the proposal. Whilst the volume of opposition and support is a matter for consideration, of greater importance is the validity of the issues raised by public responses. These issues have been considered in the foregoing sections of this report.

4.19.2 As identified, there are matters that weigh in favour and against the proposed development. The table below identifies the benefits and harms of the development and the weight attributed to these. This is a visual aid and should be considered along with the detailed assessment in the report.

Table 2 – Benefits and Harms

Issue	Effect	Weight
Green Belt	<i>Openness – Significant Harm</i>	Substantial
	<i>Purposes – Significant Harm</i>	
Landscape and visual impact	Harm	Moderate
Heritage	Harm (moderate to high level of less than substantial)	Great
<hr/>		
Renewable Energy Generation	Benefit	Very Substantial
Urgent Local Need	Benefit	Very Substantial
Economic impact	Benefit	Moderate
Biodiversity	Benefit	Moderate*
Landscape and visual (post decommissioning)	Benefit	Moderate*
Flood Risk/Drainage	Benefit	Limited*
<hr/>		
Noise	Neutral	None*
Residential amenity	Neutral	None
Loss of BMV agricultural land	Neutral	None
Highway impacts	Neutral	None*
Archaeology	Neutral	None*
Noise	Neutral	None*
Fire Risk	Neutral	None*
Air Quality	Neutral	None
Trees	Neutral	None*
Glint and Glare	Neutral	None

* the weight attached would be subject to conditions should permission be granted.

4.19.3 There is a circular argument for and against the proposal, balancing between the challenge of addressing climate change and the harms caused to landscape and heritage. The greater the renewable energy generation the greater the weight given to this as a material consideration, but with that comes the greater spatial and visual impacts. Notwithstanding the large scale of the proposal, the landscape impacts are relatively

localised due to topography and existing landscaping, whereas the renewable energy generation would be substantial compared to existing renewable energy generation in North Hertfordshire.

- 4.19.4 The proposed scheme is inappropriate development in the Green Belt; it does not meet the exceptions set out in paragraphs 149 or 150 of the NPPF. Paragraph 148 confirms that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 4.19.5 Before addressing the overall planning balance in line with NPPF paragraph 148, the heritage balance shall first be considered, which also falls within the planning balance of any other harm.
- 4.19.6 The heritage balance set out in NPPF paragraph 208 confirms that it is necessary to weigh the moderate to high level of less than substantial harm to the significance of the designated heritage assets, against the public benefits of the proposed development. It is considered that all the identified benefits above are public benefits. The development would generate a significant amount of renewable energy, which has been attributed very substantial weight as a planning benefit, given the statutory requirement to achieve zero carbon emissions, the environmental, economic, and social imperative to address global warming, the policy support for renewable energy, the declaration of a climate change emergency by this Council in 2019 and the limited renewable energy production in North Hertfordshire. As indicated earlier in the report there are currently two operational small solar farms and no wind farms within the district. Also, at the time of writing neither approved solar farm applications have yet to commence development within the district, although both approved applications, plus this application should it be approved, will all contribute easily to the energy requirements of the district.
- 4.19.7 There are other public benefits including those relating to the economy and biodiversity. Nevertheless, great weight should be given to the conservation of designated heritage assets as required by the NPPF. However, it is considered that there are clear public benefits in this instance and so there is clear and convincing justification for the less than substantial harm to the designated heritage assets.
- 4.19.8 Therefore, the proposed development would cause less than substantial harm to the significance of the heritage assets on the moderate to high level of the spectrum of such harm, to which great weight must be attributed. There are also substantial public benefits that would arise from the proposed development which, whilst finely balanced, are considered to outweigh the harm. It is considered that the proposal would accord with the NPPF 2023 and NHLP Policies SP13 and HE1. It is noted that the heritage harm identified still forms part of the other harms identified when considering the proposal against relevant Green Belt policy.
- 4.19.9 In line with Paragraph 156 of the NPPF 2023, it is necessary to consider the overall planning balance. Climate change due to global warming and the imperative to reduce carbon emissions is addressed by planning policies. The generation of renewable energy forms an important part of the equation in achieving net zero carbon in the UK by 2050 and within North Hertfordshire by 2040. Other matters have arisen recently including concerns relating to energy security and significant rises in the price of gas and electricity.

- 4.19.10 It is accepted that harm to the Green Belt would not be permanent, which is material given that the fundamental aspect of the Green Belt is not only its openness but also its permanence. However, the development would cause harm to the Green Belt due to its inappropriateness, loss of openness and conflict with two Green Belt purposes.
- 4.19.11 The NPPF requires substantial weight to be given to any harm to the Green Belt. The development would also result in significant visual and landscape harm for a 40-year period which is a considerable length of time. Other considerations include those that have been afforded weight as summarised at Table 2 above.
- 4.19.12 Whilst the overall benefits identified are considerable, they are finely balanced against the harms identified. The NPPF requires for very special circumstances to exist, and therefore for planning permission to be granted for inappropriate development within the Green Belt any benefits must clearly outweigh the harms that would arise from that development. Taken together, the issues are finely balanced. In this case, it is considered that the harm to the Green Belt, landscape and heritage are clearly outweighed by the benefits identified. In the circumstances, looking at the application as a whole, very special circumstances are considered to exist to justify the development in the Green Belt as required by NPPF paragraphs 153 and 156 and NHLP Policy SP5.

Overall conclusion

- 4.19.13 The purpose of the planning system is to contribute to the achievement of sustainable development. Proposals of this nature and scale will inevitably result in tension between policies meaning that it is difficult to reconcile all expectations and requirements. Upon consideration of the social, economic, and environmental objectives of the planning system it is considered that the harm caused by proposed development to Green Belt, landscape and heritage is clearly outweighed by other considerations, namely the contribution of renewable energy to the district in a climate change emergency, also benefits to the local economy, biodiversity, landscape post decommissioning, and limited benefits to flood risk and drainage. Overall, taken as a whole, the proposal is considered to be in accordance with national planning policy and the development plan, meaning that planning permission should be granted.

5.0 Climate Change Mitigation Measures

- 5.1 Climate change has been addressed throughout this report and is a matter at the heart of this application in terms of the significant contribution the proposed development would make to renewable energy generation and the goal of achieving net zero carbon within the District by 2040 and within the UK by 2050.

6.0 Legal Implications

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

7.0 Recommendation

- 7.1 That planning permission is resolved to be **GRANTED** subject to referral to the Secretary of State for levelling Up Housing and Communities and subject to the following conditions:

8.0 Pre-commencement Conditions

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

1. Standard time limit

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

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

2. Approved plans

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

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

3. Limited period of 40 years

The permission hereby granted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity grid. Written notification of the first operation shall be given to the local planning authority within 30 days of the site becoming operational.

Reason: The proposal seeks permission for a temporary period only.

4. External appearance

Notwithstanding the approved plans, no development (excluding demolition, tree protection works, groundworks/investigations) shall take place until details (including layout, materials, colour and finish) of the following have been submitted to and approved in writing by the Local Planning Authority: solar panels and frames; CCTV poles and cameras, satellite communication dish and column; details of ancillary buildings, and details of equipment and enclosures. The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: To ensure an appropriate visual appearance in the interests of minimising impact on the landscape in accordance with the NPPF and policies D1 and NE12 in the Local Plan.

5. CEMP: Environmental Health

Full details of a construction phasing and environmental management programme for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works or development (including any pre-construction or enabling works). The construction project shall thereafter be carried out in complete accordance with the approved phasing programme unless otherwise agreed in writing by the Local Planning Authority.

The phasing programme shall include the following elements:

- i) A timetable for construction works;
- ii) Measures to control and manage dust and noise during construction;
- iii) Site set up and general arrangements for storing plant including cranes, materials, machinery and equipment, temporary offices and other facilities, construction vehicle parking and loading/unloading and vehicle turning areas;
- iv) End of day tidying procedures to ensure protection of the site outside the hours of construction;
- v) A risk assessment of potentially damaging construction activities;
- vi) Construction and storage compounds, and post-construction reinstatement of these areas; and
- vii) Soil management across the site (to include details pertaining to careful soil management during each phase, including consideration of the appropriate time of year for soil handling, planting beneath the panels and return to the former land quality as indicated in the updated Soils and Agricultural Land Classification Report dated December 2022 by Wardell Armstrong).

Reason: To ensure the correct phasing of development in the interests of minimising disruption nearby residents during construction, minimising any environmental impacts, in the interests of highway safety and amenity in accordance with Policies T1, NE12, D3 and D4 of the Local Plan.

6. CEMP: Biodiversity

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

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

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To enhance biodiversity including any species and their habitats and in accordance with the NPPF and Policies NE4, NE12 and SP12 in the Local Plan.

7. Archaeology WSI

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:

- (i) The programme and methodology of site investigation and recording
- (ii) The programme and timetable for post investigation assessment
- (iii) Provision to be made for analysis of the site investigation and recording
- (iv) Provision to be made for publication and dissemination of the analysis and records of the site investigation
- (v) Provision to be made for archive deposition of the analysis and records of the site investigation
- (vi) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

The development shall take place in accordance with the programme of archaeological works set out in the approved WSI.

Reason: To safeguard the archaeological assets within the approved development boundary from impacts relating to works associated with the development and to ensure that proper and timely preservation and/or investigation, recording, reporting, archiving and presentation of archaeological assets affected by this development in accordance with policies contained in the National Planning Policy Framework and Policies HE4 and NE12 of the Local Plan.

8. Landscape and Ecological Management Plan

A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

Reason: To enhance biodiversity including any species and their habitats and in accordance with the NPPF and Policies NE4, NE12 and SP12 in the Local Plan.

9. Arboricultural method statement

No construction shall take place until an arboricultural method statement with tree and hedge protection plan following the recommendations contained within BS 5837:2012 identifying measures to protect trees and hedges to be retained, has been submitted to and approved in writing by the Local Planning Authority. The statement shall include proposed tree protection measures during site preparation, during construction, and landscaping operations.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality in accordance with the NPPF and Policies NE2 and NE12 in the Local Plan.

10. LLFA

Prior to the commencement of development, construction drawings of the surface water drainage network, associated sustainable drainage components and flow control mechanisms and a construction method statement shall be submitted and agreed in writing by the local planning authority. The scheme shall then be constructed as per the agreed drawings, method statement, FRA & Drainage Strategy (Wardell Armstrong, November 2023) and remaining in perpetuity for the lifetime of the development unless agreed in writing by the Local Planning Authority. No alteration to the agreed drainage scheme shall occur without prior written approval from the Local Authority.

Reason: To ensure that the development achieves a high standard of sustainability and to comply with NPPF and Policy NE8 of the Local Plan.

11. Highways: New Access(es)

Prior to commencement of the development hereby permitted, the vehicular access(es) shall be provided and thereafter retained at the position(s) shown on the approved plan(s) drawing numbers 01-PHL-101 Rev D and 01-PHL-102 Rev B. 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 (adopted 2018).

12. Visibility Splays

Prior to the commencement of the use hereby permitted, visibility splay(s) shall be provided in full accordance with the details indicated on the approved plan numbers 01-PHL-101 Rev D and 01-PHL-102 Rev B. The splay(s) shall thereafter be maintained at all times 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 (adopted 2018).

13. Rights of Way

- A) Notwithstanding the details indicated on the submitted drawings, no works shall commence on site unless otherwise agreed in writing until a Rights of Way Improvement Plan for the on-site Rights of Way improvement works (and works access during the construction phase) have been submitted to and approved in writing by the Local Planning Authority.

- B) Within 3 months of the first use of the development hereby permitted, the Rights of Way improvement plan works (including any associated highway works) referred to in Part A of this condition shall be completed to the written satisfaction of the Local Planning Authority.

Reason: To ensure that highway improvement works are designed to an appropriate standard in the interest of highway safety, to protect the environment of the local highway corridor, and the highway network is adequate to cater for the development proposed, in accordance with Policy 5 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

14. Battery Safety Management

Before the first use of any battery storage infrastructure a Battery Safety Management Plan (BSMP) must be submitted to, and approved in writing by, the Local Planning Authority. The BSMP will include details of battery management, fire suppression systems, fire hydrant provision, water supply and emergency access to ensure any fire risk is minimised. The BSMP will demonstrate consideration of the National Fire Chiefs Council guidance in accordance with National Planning Policy Guidance and any relevant Fire Protection Association guidance. An Emergency Response Plan will also be provided to Hertfordshire Fire and Rescue Service and the Local Planning Authority that summarises the installed battery system characteristics, layout, and electrical isolation procedures. Development will be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. Thereafter, the BSMP shall be implemented and adhered to in perpetuity of the development. Any provision and installation of fire hydrants, or suitable alternative water supplies, shall be implemented and available in advance of the operational use of battery storage facilities and be provided by the developer at no cost to Hertfordshire County Council or the Fire and Rescue Service.

Reason: To minimise fire risks and ensure the proposed development has adequate access to water supplies for in the event of an emergency in accordance with Policies D3 and NE12 in the Local Plan.

15. Construction Access Closure – Wandon End Road

Prior to the first use of the development hereby permitted, the vehicular access and egress from the adjoining highway shall be limited to the southern access shown on drawing number 01-PHL-101 Rev D only. Any other access(es) or egresses shall be permanently closed, and highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety and amenity in accordance with Policies 5 and 7 of Hertfordshire's Local Transport Plan (adopted 2018).

16. CCTV cameras

Prior to the installation of any CCTV cameras, details of measures to restrict the camera movements around the boundary of the application site to prevent viewing towards residential properties located in Tea Green, The Heath and Darley Road shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the CCTV cameras shall be installed and retained in perpetuity in accordance with the approved details.

Reason: to protect the privacy of adjacent residential properties in accordance with Policy D3 of the Local Plan.

17. Detailed Landscaping

Notwithstanding the details submitted, prior to the installation of the solar panels, a landscaping scheme shall be submitted to, and approved in writing by, the local planning authority. The submitted scheme shall include but is not limited to detailed planting proposals to include planting locations and dimensions, species, densities, sizes, mixes and protection and for new planting areas, and hard surfacing materials. The landscaping of the site shall take place in accordance with the approved details and implementation programme. Any planting which within a period of five years of planting dies, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality in accordance with the NPPF and Policies NE2, NE12, D1 and SP12 in the Local Plan.

18. Panel cleaning

Prior to the first use of the development, details of the cleaning procedure for the panels shall be submitted to, and approved in writing by, the local planning authority. The details shall include but not be limited to the frequency of cleaning, volumes of water required, details of any detergents to be used and any required mitigation. The cleaning of the panels shall thereafter take place in accordance with the approved details.

Reason: To protect soil quality and so enable the reinstatement of its agricultural land quality following the cessation of the solar farm use of the land in accordance with the NPPF and policy NE12 in the Local Plan.

19. Tree retention and replacement

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. Any tree felled, lopped, topped, uprooted, removed or otherwise destroyed or killed contrary to the provisions of the tree retention condition above shall be replaced during the same or next planting season with another tree of a size and species as agreed in writing with the Local Planning Authority, unless the Authority agrees in writing to dispense with this requirement.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

20. Soil quality

To ensure against soil compaction and overland flow route disruption during construction, the soil should be chisel ploughed or similar and it should be restored to a pre-construction condition within 6 months following the first operation. For the first three years following the first operation, inspections of the planting and soil shall be carried out by a qualified soil scientist, to ensure adequate growth of the planting and that any compaction or channelisation of the soil can be identified and addressed. Any remedial work identified in the inspection should be confirmed in writing to the Local Planning Authority and shall be carried out within the planting season following the inspection (November to March).

Reason: To protect soil quality and so enable the reinstatement of its agricultural land quality following the cessation of the solar farm use of the land in accordance with the NPPF, Defra Guidance and policy NE12 in the Local Plan.

21. First planting season

Within the first planting season following the completion of construction works, the agreed landscaping and biodiversity proposals to be approved shall be implemented in full.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality in accordance with policies NE4, NE12 and SP12 in the Local Plan.

22. CTMP

The development hereby permitted shall take place in accordance with the Construction Traffic Management Plan (dated 9th February 2024) which is agreed by the Highway Authority except for hours of operation, which is restricted by condition regarding Environmental Health Working Hours.

Reason: To mitigate any adverse impact from the construction phase development in accordance with Policy T1 of the Local Plan.

23. Environmental Health Working Hours

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.

Reason: To protect the residential amenity of existing residents in accordance with Policy D3 of the Local Plan.

24. Contamination

Any contamination encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by the Local Planning Authority and subsequently fully implemented prior to commencement of operation of this site.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health, the built and natural environment and controlled waters in accordance with Policy NE11 of the Local Plan.

25. Decommissioning

In the event that the development hereby permitted ceases to export electricity for a continuous period of 12 months at any time following the first operations (other than for operational reasons outside the operator's control), or within a period of 39 years following the first operation, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, shall be submitted to the local planning authority for its written approval. The scheme shall include, but not be limited to the following:

- a programme for the completion of the decommissioning and restoration works,
- make provision for the removal of the solar panels and associated above ground works approved under this permission.
- the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period,

- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and
- details of site restoration measures.

The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved Scheme and timescales set out therein.

Reason: The proposal seeks permission for a temporary period only and to ensure the site is appropriately decommissioned and the land is restored following its cessation as a solar farm. In the interests of highway safety and residential amenity and the aims and objectives of Policies T1 and D3 of the Local Plan.

Pro-active Statement

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

Informatives

LLFA

For further advice on what we expect to be contained within the FRA to support a planning application, please refer to our Developers Guide and Checklist on our surface water drainage webpage <https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/water/surface-water-drainage/surface-water-drainage.aspx> this link also includes HCC's policies on SuDS in Hertfordshire.

Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the appropriate authority, and the Local Council (if they have specific land drainage bylaws). It is advised to discuss proposals for any works at an early stage of proposals.

In December 2022 it was announced FEH rainfall data has been updated to account for additional long term rainfall statistics and new data. As a consequence, the rainfall statistics used for surface water modelling and drainage design has changed. In some areas there is a reduction in comparison to FEH2013 and some places an increase (see FEH22 - User Guide (hydrosolutions.co.uk)). Both FEH 2013 and 2023 are currently accepted. For the avoidance of doubt the use of FSR and FEH1999 data has been superseded and therefore, use in rainfall simulations are not accepted.

Soil Management

Note the DEFRA guidance 'Construction Code of Practice for the Sustainable Use of Soils on Construction Sites [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/103112/construction-code-of-practice-for-the-sustainable-use-of-soils-on-construction-sites.pdf)

British Society of Soil Science Working with Soil Guidance Note on Benefiting from Soil Management in Development and Construction.

British pipeline Authority

All activity for this development within the easement (3m each side) must be approved by BPA. This includes any temporary or permanent structures, cable crossings or vegetation planting.

Cables crossing the pipeline must be limited to as few as possible, and cross at no less than 60°, after which they must run outside of the easement. BPA will need to review and accept the details of these crossings prior to their installation and supervise their installation.

The most important points are:

- These Pipelines carry refined petroleum at extremely high pressure.
- Any construction must be kept a minimum of 6m from the pipelines.
- All excavations (including hand trial holes) within 6m of the pipeline **must** be approved and supervised by BPA.
- The exact location of the pipeline to be marked by BPA in consultation with the developer prior to detailed design.
- Nominal cover is only 0.9m (3').
- Normal vertical clearance for new services is 600mm.
- These pipelines are protected by cathodic protection and you should consult with BPA if you are laying any services (with or without cathodic protection).
- Heavy vehicular crossing points to be approved before use across the easement.
- Tree planting is prohibited within the easement.
- No lowering or significantly raising of ground level throughout the easement.
- A continuous BPA site presence will be required for works within the easement.
- Utility crossings may require a formal crossing consent
- BPA do not charge for the first three days of supervision (this includes site meetings). After that, BPA will charge for any future supervision.

When planning works which involve crossing or working within the easement of the pipeline, the following will be requested before works can start:

- **A confirmed or proposed programmed start date for the works**
- **A detailed description of the proposed works**
- **A plan of the work area,**
- **Drawings and a method statement for the written approval of BPA. We would require at least 7 working days prior to supervision.**

To obtain more detail of the pipelines location, please contact Kevin Padley-Knight at kevinpadleyknight@bpa.co.uk and quote the BPA reference 2022-4070.

Environmental Health

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.

The Environmental Protection Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on “Development on Potentially Contaminated Land and/or for a Sensitive Land Use” in use across Hertfordshire and Bedfordshire. This can be found on www.north-herts.gov.uk by searching for contaminated land, and I would be grateful if this information could be passed on to the applicants.

LLFA

Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the appropriate authority, and the Local Council (if they have specific land drainage bylaws). It is advised to discuss proposals for any works at an early stage of proposals.

In December 2022 it was announced FEH rainfall data has been updated to account for additional long term rainfall statistics and new data. As a consequence, the rainfall statistics used for surface water modelling and drainage design has changed. In some areas there is a reduction in comparison to FEH2013 and some places an increase (see FEH22 - User Guide (hydrosolutions.co.uk)). Both FEH 2013 and 2022 are currently accepted. For the avoidance of doubt the use of FSR and FEH1999 data has been superseded and therefore, use in rainfall simulations are not accepted.

HIGHWAY INFORMATIVES

HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980.

AN1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website:

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

AN2) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

AN3) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

AN4) Construction standards for works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public

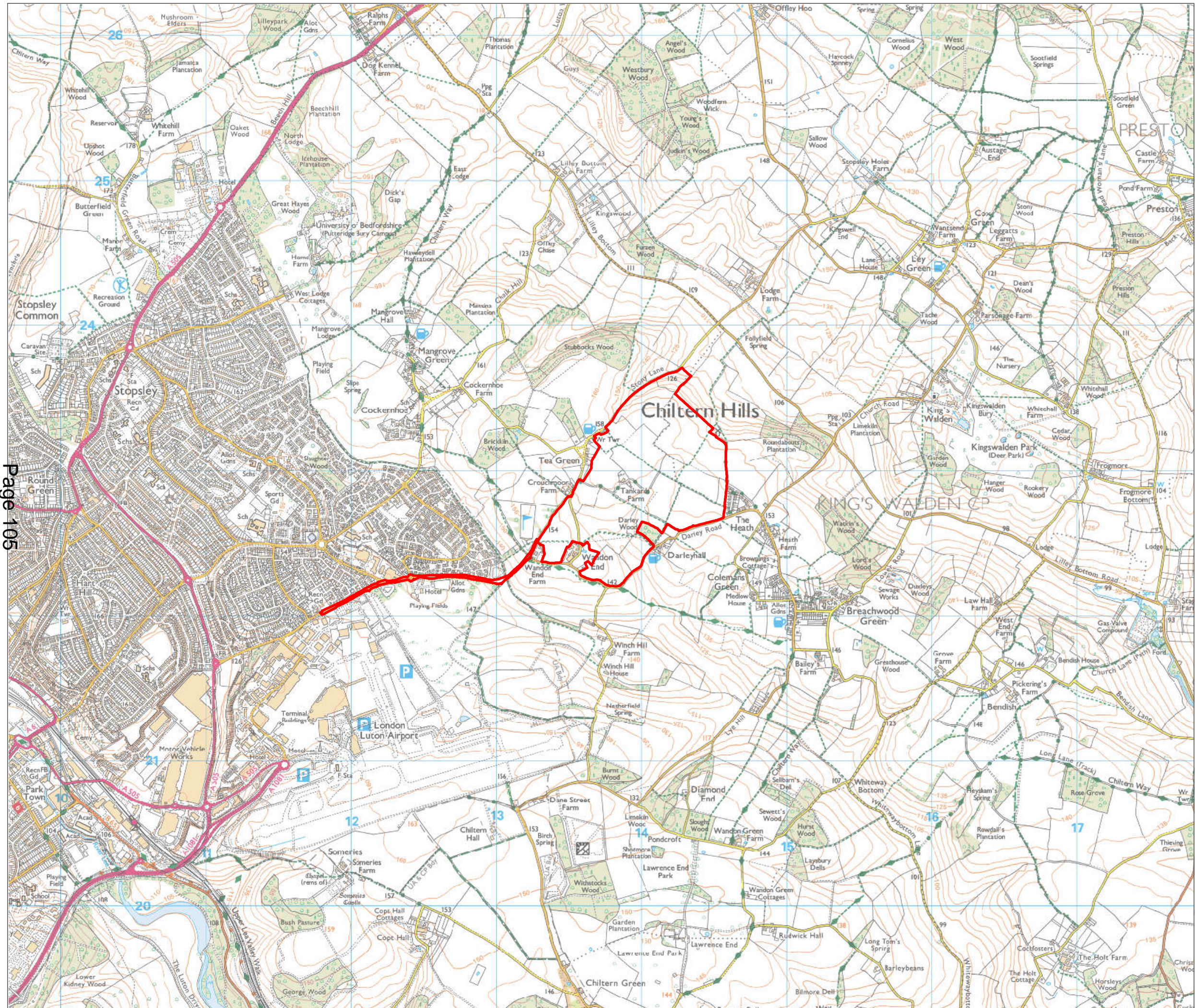
highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>


AN5) The Public Right(s) of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works. The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times. The condition of the route should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overflows of cement & concrete) should be made good by the applicant to the satisfaction of this Authority. All materials should be removed at the end of the construction and not left on the Highway or Highway verges. If the above conditions cannot reasonably be achieved, then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order. Further information on the rights of way network is available via the website. Please contact Rights of Way, Hertfordshire County Council on 0300 123 4047 for further information in relation to the works that are required along the route including any permissions that may be needed to carry out the works. https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/countryside-access/rights-of-way/rights-of-way.aspx#DynamicJumpMenuManager_1_Anchor_8

London Luton Airport (LLAOL) Airfield Safeguarding

Details of any craneage associated with the development must be submitted to ltnsafeguarding@ltn.aero for approval a minimum of 28 days before the commencement of works and as detailed on the CAA website.

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 Site boundary

Wandon End Solar
Evolution Power Limited



Figure 1: Site location

Dwg no/262702/04	Revision
Status	15 August 2023
Scale: 1:25,000 @A3	Drawn by: JC Checked by: ER

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<u>Location:</u>	Land At Oakleigh Farm Codicote Road Welwyn Hertfordshire AL6 9TY
<u>Applicant:</u>	Mr J Smith
<u>Proposal:</u>	Variation of Condition 2 (submission of revised plans) of planning permission 20/00598/FP granted 29.09.2021 for Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road (as amended by plans received 14.03.2024, 04.04.2024, 03/06/24 and 18/06/24)
<u>Ref. No:</u>	23/02572/S73
<u>Officer:</u>	Andrew Hunter

Date of expiry of statutory period:

7 February 2024

Reason for delay and Extension of statutory period:

Negotiations with the applicant, re-consultation following amended plans, and Committee cycles.

Reason for referral to Committee:

The application is to be determined by Planning Control Committee by reason of the development being residential development with a site area of 0.5 hectares or greater (the site area is 1.36ha), as set out in 8.4.5 (a) of the Council's Scheme of Delegation.

1.0 **Relevant Site History and Background**

NHDC

- 1.1 20/00598/FP - Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road – Refused 11/02/21 for:

1. The proposed development constitutes inappropriate development in the Green Belt and causes harm to the openness of the Green Belt. In addition to the harm by reason of inappropriateness, other harm is identified in relation to one of the purposes of including land in the Green Belt and the impact on the character and appearance of the area. The harm by reason of inappropriateness, and the other harm identified, is not clearly outweighed by other material planning considerations such as to constitute the very special circumstances necessary to permit inappropriate development in the Green Belt. The proposal does not comply with Policies 2 and 3 of the 1996 Adopted Local Plan; Policies SP1, SP2, SP5 and D1 of the Emerging Local Plan; and Sections 12 and 13 of the National Planning Policy Framework.

Allowed on appeal 29/09/21. (Planning Inspectorate ref. APP/X1925/W/21/3269379)

Welwyn Hatfield Borough Council part of site

- 1.2 6/2020/0714/MAJ - Change of use of land from general industrial and storage (B2 and B8) to dwelling houses (C3) to facilitate erection of 7x dwellings following demolition of existing buildings – Refused 26/11/20 for the following reasons:
 1. The proposed development constitutes inappropriate development in the Green Belt and causes harm to the openness of the Green Belt. In addition to the harm by reason of inappropriateness, other harm is identified in relation to one of the purposes of including land in the Green Belt and the impact on the character and appearance of the area. The harm by reason of inappropriateness, and the other harm identified, is not clearly outweighed by other material planning considerations such as to constitute the very special circumstances necessary to permit inappropriate development in the Green Belt. The proposal would therefore be contrary to policies D1 and D2 of the Welwyn Hatfield District Plan 2005, Policies SADM 1 and SADM 34 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, the Supplementary Design Guidance 2005 and the National Planning Policy Framework 2019.
 2. The applicant has failed to satisfy the sustainability aims of the plan and to secure the proper planning of the area by failing to ensure that the development proposed would provide a sustainable form of development in mitigating the impact on local infrastructure and services which directly relate to the proposal and which is necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required financial contributions and retention of the paddock as open land by any method other than a legal agreement and the proposal is therefore contrary to Policies IM2 and H2 of the Welwyn Hatfield District Plan 2005, policies SADM 1 and SP 13 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

Allowed on appeal 29/09/21.

- 1.3 This is an application under Section 73 of the Town and Country Planning Act 1990 (as amended) that proposes amendments to the previous planning permission on this site. Such applications seek to develop land without complying with conditions of a previous permission and material amendments to a previous permission are sought through seeking to amend the condition that requires development to be implemented in accordance with approved plans. Such applications are commonly referred to as applications for minor material amendments.

2.0 **Policies**

2.1 **North Hertfordshire District Local Plan 2011-2031**

Policies:

SP1 – Sustainable development in North Hertfordshire
SP2 – Settlement Hierarchy and Spatial Distribution
SP5 - Countryside and Green Belt
SP6 – Sustainable transport
SP7 – Infrastructure requirements and developer contributions
SP8 - Housing
SP9 – Design and sustainability
SP11 – Natural resources and sustainability
SP12 – Green infrastructure, landscape and biodiversity

T1 – Assessment of transport matters
T2 – Parking
HS3 – Housing mix
D1 – Sustainable Design
D3 – Protecting Living Conditions
D4 – Air quality
NE2 – Landscape
NE4 - Biodiversity and geological sites
NE8 – Sustainable drainage systems
NE11 – Contaminated land

2.2 **National Planning Policy Framework**

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

3.0 **Representations**

3.1 **Neighbouring Properties:**

Two objections have been received on the following grounds:

- What is the terrain on the new road.
- Clarification on lighting details.
- Water and drainage.
- Will trees be removed or planted.
- Potential speed and noise.

- Is fencing proposed.
- Who will maintain the track.
- Potential works within No. 85 Codicote Road.

3.2 **Parish Council:**

Comments 11 April 2024

Codicote Parish Council Planning Committee continue to object to this planning application principle as detailed in our letter dated 8th December 2023 (copy attached).

Comments 8 December 2023

I write with reference to the Section 73 planning application highlighted above.

Codicote Parish Council Planning Committee have considered this application and would like to comment and object on the following basis: -

We note that the application involves new development on a site which is bisected by the boundary between the Codicote Parish and the Welwyn Parish. As such, we welcome the opportunity to comment.

We understand both the NHDC & the Welwyn Hatfield Borough Council refused planning permission in respect of the original application (20/000598/FP), but this was overturned on Appeal by the Planning Inspectorate in September 2021. Notwithstanding that decision, the Codicote Parish Council firmly supports the reasons for the original refusals by the respective Councils. We feel strongly that the reasons set out, and the concerns expressed at the time, continue to remain relevant and valid.

Although the Oakleigh Farm development involves just seven houses, it represents a continued erosion of the green belt surrounding Codicote, furthering "development creep" and infill between Codicote & Welwyn. The decision of the Planning Inspector was of course made well before the Local Plan Inspector's Report of September 2022, which gave permission for four major housing developments immediately surrounding Codicote village (CD1,CD2,CD3 & CD5, totalling 363 new houses). It would therefore be inappropriate, and of concern, if the Oakleigh Farm development were considered in isolation from the totality of new development around Codicote.

The Parish Council has met recently with representatives of Kingshall Estates, and it was evident that the revised application does represent an improvement to the original in respect of housing design, layout & materials to be used. This is to be welcomed.

Nevertheless, we find it difficult to understand quite how a new, gated development of substantial four-bedroomed houses, meets the Policy requiring new development to contribute to the creation of mixed and sustainable communities. Certainly, the Oakleigh Farm development offers little to local residents in respect of affordable housing and, crucially, contributes nothing by way of infrastructure support to Codicote."

I look forward to receiving confirmation that our letter has been received and our objections noted.

3.3 **Statutory Consultees:**

3.4 Environmental Health (Noise/ Air Quality) – No objections.

3.5 Environmental Protection – No objections.

3.6 Herts Ecology - Application can be determined with no ecological objections.

3.7 Hertfordshire County Council highways officer – Does not wish to restrict the grant of permission.

In reviewing the submitted drawing no. 19367-OAKL-5-116 and 19367-OAKL-5-115 there would be no adverse impact on the access road or Codicote Road and therefore the Highway Authority approve the revised plan.

3.8 Lead Local Flood Authority (LLFA) – conditions were recommended on the original permission. Response outstanding on this application.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site comprises land that was previously occupied by buildings used for industrial, storage, and equestrian purposes – these buildings were removed late last year. A rectangular area in the north-east corner of the site is used as open-air storage, parking and waste for building and construction. The western third of the site is within NHDC land, with the other two-thirds within Welwyn Hatfield district.

4.1.2 The site is connected by an internal access road, which extends to the south and west to provide vehicular access to public highway Codicote Road. Ground levels are highest in the north-west corner and fall to the east and south. The access drive adjacent to No. 85 Codicote Road is lower than that road and includes an area of hardstanding that can be used for passing or parking.

4.1.3 The boundary of the site with No. 85 is comprised of fences and vegetation varying in height from 1.8m to 0.5m, lowering to the east. The west boundaries of the site with adjoining properties on Codicote Road is comprised of 1.8m high fences, and hedges and trees varying in height from approx. 2m to 10m. Trees at least 5m high comprise the north boundary. The site boundaries to the east are more open with some low-rise fencing.

4.1.4 The character of the locality is more rural, particularly around the northern part of the site, where adjoining land is agricultural. Oakleigh Farm adjoins the east boundary of the site, with the main farmhouse east of the site to the south. Equestrian land and a manège adjoin the south-east boundary. Adjoining the west boundary of the site are dwellings to the south, and a commercial/industrial estate to the north. The north-west boundary of the site comprises a belt of woodland with the large grounds of a dwelling beyond. The site is within the Green Belt.

4.2 Proposal

- 4.2.1 Planning permission is sought to vary Condition 2 (approved plans) of previous permission 20/00598/FP allowed on appeal by:
- Altering the access road to widen it to be dual width.
 - Associated alterations to an adjoining new footpath.
 - New fixed open timber gates near the site entrance.
 - New low-level lighting posts along the access road.
 - New estate railings with a decorative fan near the dwellings.
 - New soft landscaping/planting.

For clarity, this application does not propose alterations to the previously approved dwellings and paddock in the northern part of the site.

- 4.2.2 The proposed timber post and rail gate would measure about 1.2m high by 3.3m wide and would be fixed open. They would be located on the access road set back by about 12m from the carriageway edge of Codicote Road.
- 4.2.3 Low level lighting posts just under 0.5m high would be placed to both sides of the access road within the roadside landscaping. The 1.5m high estate railings would be placed to either side of the access road on the approach to the housing development.

4.3 Key Issues

- 4.3.1 The key issues for consideration are as follows:
- The acceptability of the principle of the proposed works in this location.
 - The acceptability of the design of the proposed development and its resultant impact on the character and appearance of the area, including landscaping and trees
 - The impact that the proposed development would have on the living conditions of neighbouring properties.
 - The impact that the proposed development would have on car parking provision and the public highway in the area.
 - The impact that the proposed development would have on ecology and protected species.
 - The impact of the proposal on drainage and flood risk.

Principle of Development:

- 4.3.2 When original planning application 20/00598/FP was allowed on appeal in September 2021, the Inspector determined that the development was not inappropriate development in the Green Belt, as the proposal would not have a greater impact on openness than the existing development at that time. The conversion of the open storage area was also found to be beneficial to the openness of the Green Belt.
- 4.3.3 Since the appeal decision there has been a change in the material circumstances relating to the site in that the existing buildings have been demolished and their uses have ceased, with only the open storage area remaining (which now appears to be used for storage purposes associated with the clearance of the site).

- 4.3.4 The planning permission granted on appeal is extant and expires on 29 September 2024. As this permission can be implemented, it constitutes a valid fall-back position against which this application should be assessed and is an important material consideration that should be given significant weight in the determination of this Section 73 application, which seeks amendments to the approved development.
- 4.3.5 The main differences between the original approval and the current S73 application concern the alterations to the access road and footpath. In this respect, the amended access road and footpath would be of a similar width and siting to that originally approved (and to the existing) and this remains acceptable in principle in the Green Belt, in this case now complying with para. 155 b) of the NPPF as engineering operations that would preserve the openness of the Green Belt and not conflicting with the purposes of including land within it.
- 4.3.6 The other amendments proposed are considered individually and cumulatively very minor in size, scale, and visual impacts, and can be considered as engineering operations as part of the overall construction of the access road and footpath and would also comply with 155 b) of the NPPF. The new planting would not be development and does not conflict with Green Belt policies. The proposal is considered acceptable in principle and complies with Policy SP5 of the Local Plan and Section 13 of the NPPF.

Character and appearance, landscaping, and trees:

- 4.3.7 The material considerations relate to the alterations to the access road and path, with associated fencing, lighting posts, and planting/soft landscaping. The amended access road and footpath would be considered to result in similar impacts on the site and locality as that originally approved under 20/00598/FP and are acceptable.
- 4.3.8 The applicant has included details of planting, which are acceptable. One dead tree will be removed, with more trees planted to compensate, which is acceptable. The external materials are acceptable as they will be in accordance with those specified in a submitted document. The gates, estate railings, and timber lighting posts would be small, of low impact, and in keeping with the more rural character and appearance of the site and locality. The layout and design of the proposed amended development is considered acceptable. The proposal complies with Policies SP9, SP12, D1 and NE2 of the Local Plan, and Section 12 of the NPPF.

Impacts on Neighbouring Properties:

- 4.3.9 The proposed amended access road and footpath would be considered to result in similar impacts to the closest neighbouring dwellings as that originally approved and are acceptable. The new gates and fencing would be of a modest size and height and are acceptable.
- 4.3.10 It is considered that illumination from the bollards will not be harmful to amenity as they will be at a low-level, and substantially obscured by planting and fencing. The Council's Environmental Health Officer has not objected to the development, which is given significant weight. Potential traffic noise is considered comparable to that from the original permission and is acceptable. The plans do not show new boundary fencing. Maintenance would be a matter for the relevant parties to determine. It is considered that

the development can be carried out within the red-edged site area, with an amended plan pointing to works being within the site. Impacts on amenity are acceptable. The proposal complies with Policy D3 of the Local Plan.

Highways and Parking:

- 4.3.11 The proposed alterations will not affect parking provision approved under original permission 20/00598/FP. The highways officer has not objected to the altered access road and footpath and their impacts on the public highway including the development as a whole in the comments of 15 April 2024.
- 4.3.12 Following these comments, additional new and amended plans were provided by the applicant to provide further details of proposed highway works and vehicle tracking. The highways officer has been re-consulted on these new plans, however has not responded to NHDC.
- 4.3.13 The highways officer has however responded to Welwyn Hatfield Borough Council (WHBC), raising an objection on the basis that the proposed footpath has been reduced in width from 2m to 1.2m.
- 4.3.14 Regarding the footpath, on the proposed plans submitted to NHDC, it was annotated on drawing 19367-OAKL-5-116 as being 2m. On latest drawing 19367-OAKL-5-116 Rev A, the annotation changed to 1.2m. The 2m annotation was however an error on that respective plan, as the footpath measures approx. 1.2m in width on the plan, therefore the present annotation is the correct width.
- 4.3.15 The original planning application 20/00598/FP allowed on appeal which this Section 73 application is a variation of, was approved with a 1.2m wide footpath. As that allowed appeal remains extant, significant weight is given to it, and the present footpath is considered acceptable. While there is presently some uncertainty resulting from the absence of a response from the highways officer to NHDC, it is considered that at most the new plans could be subject to new or amended conditions recommended by the highways officer, therefore approval is recommended subject to these highways matters being resolved to the satisfaction of the LPA with the imposition of additional planning conditions and/or amendment of recommended planning conditions as necessary. The proposal is considered to comply with Policies T1 and T2 of the Local Plan, and Section 9 of the NPPF.

Ecology:

- 4.3.16 The proposed amendments will have similar ecological impacts to the original approval, while there would be substantial biodiversity gains from new planting proposed. The proposal is not considered harmful to ecology and should be able to deliver a biodiversity net gain to comply with Policy NE4 of the Local Plan.

Drainage and flood risk

- 4.3.17 The original planning permission 20/00598/FP included a Flood Risk Assessment, which did not raise objections from the Lead Local Flood Authority (LLFA). The LLFA recommended three conditions be imposed on any permission granted, with similar conditions being placed on the allowed appeal decision. The proposed amendments are

considered sufficiently similar to the original permission that the same conditions placed by the Inspector can be re-imposed.

- 4.3.18 The applicant has also provided new plans relating to details of drainage measures that the LLFA have been consulted on, but they have not yet responded. It is considered that any outstanding matters relating to these new plans are technical and can be dealt with by new conditions or amending one or more of the conditions recommended in this report, as necessary. This matter is addressed in the recommendation at 6.1 a) of this report. In conclusion on this matter, it is considered that the proposal complies with Policies NE7 and NE8 of the Local Plan.

4.4 **Balance and Conclusion**

- 4.4.1 This application was submitted before December 2023. Therefore, under the provisions of the NPPF the exemption from the requirement to identify a 5-year supply of deliverable housing sites does not apply to this application. It is estimated that the current housing supply is about 4 years and consequently in this case the tilted balance set out at paragraph 11 (d) of the Framework applies. It is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of providing six new dwellings in a sustainable location, when assessed against the policies of the NPPF as a whole.

- 4.4.2 Notwithstanding the application of the tilted balance, taking all matters into account the proposal complies with the Local Plan as well as the NPPF as a whole and the application is recommended for approval, subject to conditions.

4.5 **Alternative Options**

- 4.5.1 None identified.

4.6 **Pre-Commencement Conditions**

- 4.6.1 Not applicable.

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:

a) The resolution of the highway and drainage and flood risk matters to the satisfaction of the Local Planning Authority with the imposition of additional planning conditions or amendment of planning conditions as necessary;

and

b) The following conditions and informatives:

1. The development hereby permitted shall be begun before the expiration of 3 years from the grant of planning application 20/00598/FP.

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

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

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission. To comply with Policy D1 of the Local Plan.

3. Materials to be used on all external elevations and the roof of the development hereby permitted shall be in accordance with the details submitted, unless otherwise approved in writing with the LPA.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031.

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

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

5. A scheme for the protection of retained trees shall be in accordance with the details approved under 23/02016/DOC.

Reason: In the interests of tree preservation and amenity. To comply with Policy NE2 of the Local Plan.

6. Prior to occupation of the development hereby permitted, the use of the land for open storage shall cease and the proposed paddock shall be provided in accordance with the approved plans. The paddock shall be retained at all times thereafter and shall not be used for any other purpose.

Reason: In the interests of the openness of the Green Belt and character and appearance. To comply with Policies SP5 and D1 of the Local Plan.

7. No development (except demolition) shall commence until details of the existing and proposed ground levels and finished floor levels of the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with these approved details.

Reason: In the interests of amenity. To comply with Policy D1 of the Local Plan.

8. Prior to occupation, each of the proposed new dwellings shall incorporate an Electric Vehicle (EV) ready domestic charging point.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality. To comply with Policy D4 of the Local Plan.

9. Prior to occupation of the development hereby permitted full details shall have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).

Reason: To secure the future management and maintenance of the development. To comply with Policy T1 of the Local Plan.

10. Prior to occupation of the development hereby permitted the existing access from Codicote Road shall be re-constructed 5.50 metres wide with 6.0 metre radii kerbs as identified on drawing number 19367 – OAKL – 5 116 Rev A, the footway leading from the development shall extend to south side of the reconfigured access for a minimum distance of 10 metres and shall include for pedestrian dropped kerbs and tactile paving and corresponding dropped kerbs and tactile paving opposite on the existing Codicote Road. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction and shall be secured and undertaken as part of the s278 works.

Reason: In the interests of highway safety. To comply with Policy T1 of the Local Plan.

11. Prior to occupation of the development hereby permitted the existing access road from the Codicote Road shall be improved and re-constructed 5.50 metres wide as identified on drawing number 19367 – OAKL – 5 116 Rev A and the internal road layout shall be complete as identified on drawing numbers 19367 – OAKL – 5 116 and 19367 – OAKL – 5 115 Rev C.

Reason: In the interests of highway safety. To comply with Policy T1 of the Local Plan.

12. The approved development shall be carried out in accordance with the submitted Construction Management Plan (dated August 2023 – Revision 1 -14/08/2023).

Reason: In the interests of highway safety. To comply with Policy T1 of the Local Plan.

13. The approved development shall be carried out in accordance with the submitted Site Waste Management Plan.

Reason: In the interests of highway safety and amenity. To comply with Policy T1 of the Local Plan.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement to the dwellings hereby permitted under Schedule 2, Part 1, Class A or Class B of the Order.

Reason: To enable the LPA to control the development in the interests of amenity and to protect the openness of the Green Belt. To comply with Policies D1 and SP5 of the Local Plan.

15. Prior to occupation of the development hereby permitted, the Mechanical Ventilation with Heat Recovery system and glazing shall be installed in each dwelling in accordance with the specification set out in "Noise Assessment, Oakleigh Farm..." Report reference RP01-19338, dated 30 August 2019 by Cass Allen Associates. The scheme shall be retained in accordance with those details thereafter.

Reason: In the interests of resident's amenity. To comply with Policy D1 of the Local Plan.

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is also subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. All remediation works shall be carried out in accordance with the approved scheme before any dwelling hereby permitted is first occupied.

Reason: In the interests of resident's amenity. To comply with Policy NE11 of the Local Plan.

17. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins and all supporting information and the following measures:

1. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
2. Undertaking appropriate drainage strategy based on infiltration and to include permeable paving and soakaways.

Reason: To provide acceptable drainage and flood risk mitigation. To comply with Policy NE8 of the Local Plan.

18. No development (except demolition) shall commence until the final design of the drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system will be based on the submitted Flood Risk Assessment, reference B02913 Rev 02, dated August 2020 prepared by Scott White and Hookins, dated 18 September 2020. The scheme shall also include:
1. Detailed infiltration testing be carried out pre-commencement in accordance with BRE Digest 365 standards at the proposed locations and depths of all SuDS features.
 2. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.
 3. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features.
 4. Provision of half drain down times within 24 hours.
 5. Silt traps for protection of any residual tanked elements.
 6. Details regarding any areas of informal flooding (events those exceeding 1 in 30 year rainfall event), this should be shown on a plan with estimated extents and depths.
 7. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

The drainage scheme shall be fully implemented prior to occupation.

Reason: To provide acceptable drainage and flood risk mitigation. To comply with Policy NE8 of the Local Plan.

19. Prior to occupation of the development hereby permitted, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
1. Provision of a complete set of as built drawings for site drainage.
 2. Maintenance and operational activities.
 3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

The management and maintenance plan shall be implemented thereafter.

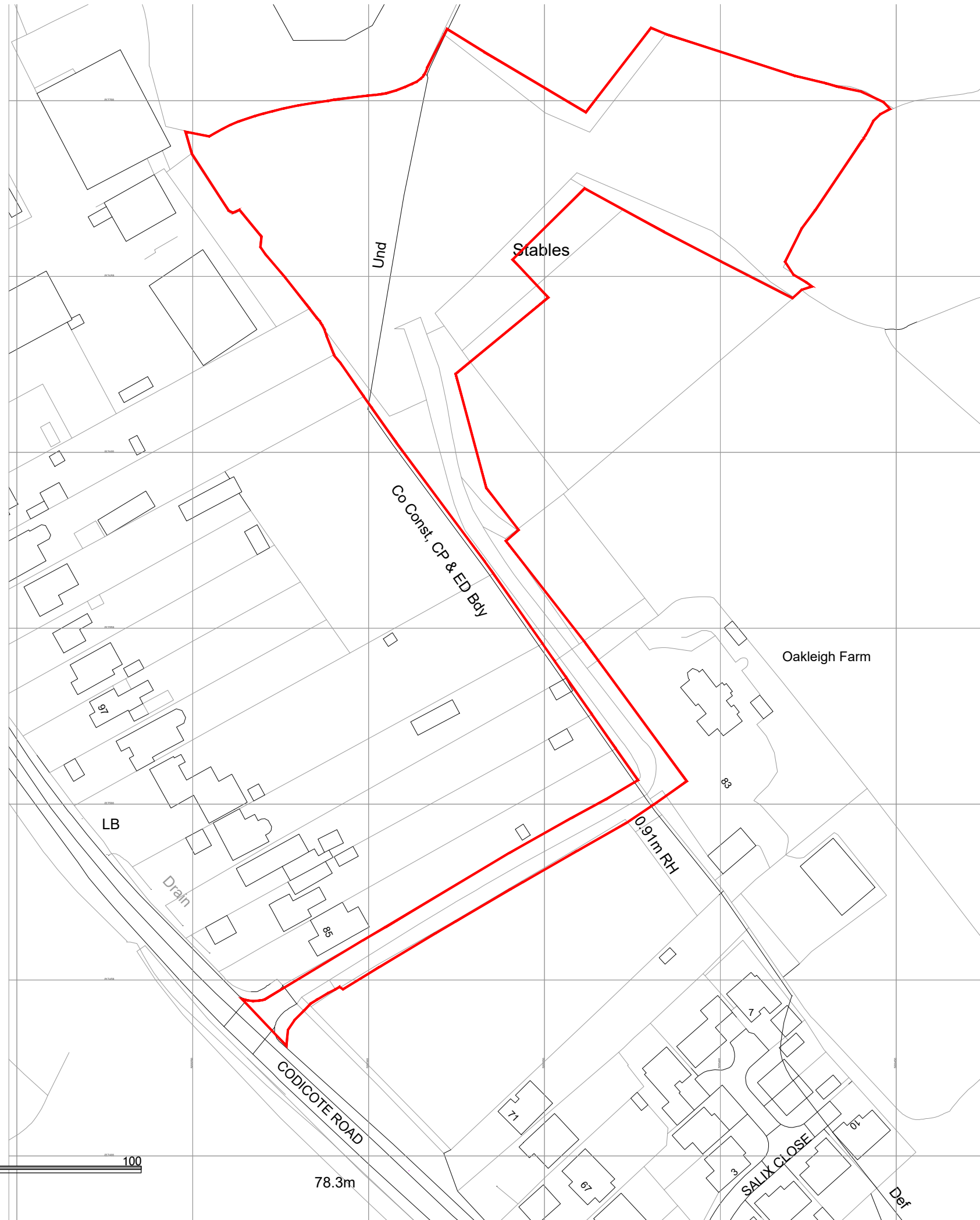
Reason: To provide acceptable drainage and flood risk mitigation. To comply with Policy NE8 of the Local Plan.

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

Reason: In the interests of amenity and safety. To comply with Policy NE11 of the Local Plan.

Pro-active 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.



NOTES

- Contractors must check all dimensions on site. Only figured dimensions are to be worked from. Discrepancies must be reported to the Architect or Engineer before proceeding. © This drawing is copyright.
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REV	DESCRIPTION	DRN	CHD	DATE	
<input checked="" type="checkbox"/>	PRELIMINARY	<input type="checkbox"/>	INFORMATION	<input type="checkbox"/>	TENDER
<input type="checkbox"/>	CONSTRUCTION	<input type="checkbox"/>	AS BUILT		

SCALE 1:1250 @ A3 DATE Sept. 2023

DRAWN AT CHK JAL

DRAWING NO. 19359-2000 REV -

TITLE Oakleigh Meadows,
Codicote Road, Welwyn.

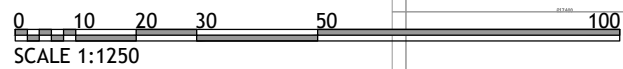
DETAILS Location Plan (s73)

 **Woods Hardwick**
Architecture | Engineering | Planning | Surveying

BEDFORD : HEAD OFFICE
15-17 Goldington Road
Bedford MK40 3NH
T: +44 (0) 1234 268862

BIRMINGHAM
Fort Dunlop, Fort Parkway
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78.3m

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<u>Location:</u>	Land At Oakleigh Farm Codicote Road Welwyn Hertfordshire AL6 9TY
<u>Applicant:</u>	Kingshall Estates (uk) Ltd
<u>Proposal:</u>	Cross Boundary Application: Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road. (as a variation of planning permission 20/00598/FP granted 29.09.2021) (amended by plans received 13/12/23, 03/06/24 and 17/06/2024)
<u>Ref. No:</u>	23/02719/FP
<u>Officer:</u>	Andrew Hunter

Date of expiry of statutory period:

21 February 2024

Reason for delay and Extension of statutory period:

Negotiations with the applicant, re-consultation following amended plans, and Committee cycles.

Reason for referral to Committee:

The application is to be determined by Planning Control Committee by reason of the development being residential development with a site area of 0.5 hectares or greater (the site area is 1.36ha), as set out in 8.4.5 (a) of the Council's Scheme of Delegation.

1.0 **Relevant Site History**

NHDC

- 1.1 20/00598/FP - Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road – Refused 11/02/21 for:

1. The proposed development constitutes inappropriate development in the Green Belt and causes harm to the openness of the Green Belt. In addition to the harm by reason of inappropriateness, other harm is identified in relation to one of the purposes of including land in the Green Belt and the impact on the character and appearance of the area. The harm by reason of inappropriateness, and the other harm identified, is not clearly outweighed by other material planning considerations such as to constitute the very special circumstances necessary to permit inappropriate development in the Green Belt. The proposal does not comply with Policies 2 and 3 of the 1996 Adopted Local Plan; Policies SP1, SP2, SP5 and D1 of the Emerging Local Plan; and Sections 12 and 13 of the National Planning Policy Framework.

Allowed on appeal 29/09/21.(Planning Inspectorate ref. APP/X1925/W/21/3269379)

Welwyn Hatfield Borough Council part of site

- 1.2 6/2020/0714/MAJ - Change of use of land from general industrial and storage (B2 and B8) to dwelling houses (C3) to facilitate erection of 7x dwellings following demolition of existing buildings – Refused 26/11/20 for the following reasons:
 1. The proposed development constitutes inappropriate development in the Green Belt and causes harm to the openness of the Green Belt. In addition to the harm by reason of inappropriateness, other harm is identified in relation to one of the purposes of including land in the Green Belt and the impact on the character and appearance of the area. The harm by reason of inappropriateness, and the other harm identified, is not clearly outweighed by other material planning considerations such as to constitute the very special circumstances necessary to permit inappropriate development in the Green Belt. The proposal would therefore be contrary to policies D1 and D2 of the Welwyn Hatfield District Plan 2005, Policies SADM 1 and SADM 34 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, the Supplementary Design Guidance 2005 and the National Planning Policy Framework 2019.
 2. The applicant has failed to satisfy the sustainability aims of the plan and to secure the proper planning of the area by failing to ensure that the development proposed would provide a sustainable form of development in mitigating the impact on local infrastructure and services which directly relate to the proposal and which is necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required financial contributions and retention of the paddock as open land by any method other than a legal agreement and the proposal is therefore contrary to Policies IM2 and H2 of the Welwyn Hatfield District Plan 2005, policies SADM 1 and SP 13 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.

Allowed on appeal 29/09/21.

2.0 **Policies**

2.1 **North Hertfordshire District Local Plan 2011-2031**

Policies:

SP1 – Sustainable development in North Hertfordshire

SP2 – Settlement Hierarchy and Spatial Distribution
SP5 - Countryside and Green Belt
SP6 – Sustainable transport
SP7 – Infrastructure requirements and developer contributions
SP8 - Housing
SP9 – Design and sustainability
SP11 – Natural resources and sustainability
SP12 – Green infrastructure, landscape and biodiversity

T1 – Assessment of transport matters
T2 – Parking
HS3 – Housing mix
D1 – Sustainable Design
D3 – Protecting Living Conditions
D4 – Air quality
NE2 – Landscape
NE4 - Biodiversity and geological sites
NE8 – Sustainable drainage systems
NE11 – Contaminated land

2.2 **National Planning Policy Framework**

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

3.0 **Representations**

3.1 **Neighbouring Properties:**

Two objections have been received on the following grounds:

- New trees may cause damage and dewatering of my garden.
- New trees will impact on right to light.
- Fixed open gate will prevent hedge maintenance.
- Fence posts appear to be on our land.
- Vibration and noise from traffic calming ramp.
- Increased traffic.

Two comments in support were received on the following grounds:

- Good local housing.
- Uses available land.
- Not object to removal of Conifers provided new planting shown is done.

3.2 **Parish Council:**

No comments received.

3.3 **Statutory Consultees:**

3.4 Environmental Health (Noise/ Air Quality) – No objections.

3.5 Waste and Recycling – Happy to approve.

3.6 Herts Ecology - Application can be determined with no ecological objections.

3.7 Hertfordshire County Council highways officer – Does not wish to restrict the grant of permission.

The Highway Authority has previously issued a response dated 9th April 2024 which raised no objection subject to the inclusion of recommended conditions and informatives. When the Highway Authority recommended 'no objection' the applicant was proposing a 2m width footway along the access road.

The applicant has now submitted a new proposal (Drawing No.19367-OAKL-5-110 REV F) which includes a 1.2m width footway. Whilst this is not in-line with current standards, it is noted that the Planning Inspector under application APP/X19925/W/21/3269379 allowed a 1.2m width footway. Therefore, the Highway Authority does not object.

Conclusion

All conditions and Informatives recommended in the previous Highway Authority statutory consultee response dated 9th April 2024 remain applicable, however the Drawing Numbers recommended in Condition 02 need replacing from 19367-OAKL-5-110 Rev C & 19367-OAKL-5-103 Rev B to Drawing Nos.19367-OAKL-5-110 REV F & 19367-OAKL-5-103 Rev C.

3.8 Welwyn Hatfield Borough Council – Welwyn Hatfield Borough Council would like to highlight that the previous approved scheme (allowed at appeal) required by condition the provision of a paddock area to the northeast corner of the site and this element appears to have been omitted from the current scheme. It is noted that the submitted planning statement suggests no changes are proposed to the Paddock area however it is no longer included within the red line boundary of the application site.

Therefore, concerns are raised in this regard. It is also acknowledged that there are alterations proposed to the garages which results in increases to their scale and appearance. As the application is located within the Metropolitan Green Belt, we trust due consideration of the development's impact on the Green Belt will be undertaken during the assessment of the application to ensure it is in accordance with local and national planning policy.

- 3.9 North Herts Council Ecologist – Will not be responding.
- 3.10 HCC Archaeologist – We consider that the proposal is unlikely to have a significant impact on heritage assets of archaeological interest.
- 4.0 **Planning Considerations**
- 4.1 **Site and Surroundings**
- 4.1.1 The site comprises land that was previously occupied by buildings used for industrial, storage, and equestrian purposes – these buildings were removed late last year. A rectangular area in the north-east corner of the site is used as open-air storage, parking and waste for building and construction. The western third of the site is within NHDC land, with the other two-thirds within Welwyn Hatfield district.
- 4.1.2 The site is connected by an internal access road, which extends to the south and west to provide vehicular access to public highway Codicote Road. Ground levels are highest in the north-west corner and fall to the east and south. The access drive adjacent to No. 85 Codicote Road is lower than that road, and includes an area of hardstanding that can be used for passing or parking.
- 4.1.3 The boundary of the site with No. 85 is comprised of fences and vegetation varying in height from 1.8m to 0.5m, lowering to the east. The west boundaries of the site with adjoining properties on Codicote Road is comprised of 1.8m high fences, and hedges and trees varying in height from approx. 2m to 10m. Trees at least 5m high comprise the north boundary. The site boundaries to the east are more open with some low-rise fencing.
- 4.1.4 The character of the locality is more rural, particularly around the northern part of the site, where adjoining land is agricultural. Oakleigh Farm adjoins the east boundary of the site, with the main farmhouse east of the site to the south. Equestrian land and a manège adjoin the south-east boundary. Adjoining the west boundary of the site are dwellings to the south, and a commercial/industrial estate to the north. The north-west boundary of the site comprises a belt of woodland with the large grounds of a dwelling beyond. The site is within the Green Belt.
- 4.2 **Proposal**
- 4.2.1 Planning permission is sought for the erection of seven detached chalet-bungalow style dwellings, following the removal of all buildings, structures, and hard surfaces. The dwellings would be sited in the north-west corner of the site. Each dwelling would have four bedrooms, pitched roofs, and dormer windows. Each dwelling would have its own garage with a pitched roof, four of which would be detached. Two visitor parking spaces would be provided within the site.
- 4.2.2 Each dwelling would have parking provision on hardstanding within their own curtilages, which would be accessed by an internal road. The internal road would replace the existing access drive and would be of a similar siting. The new access road would be wider than the existing and would include a pedestrian footway on one side, which would continue to Codicote Road. The vehicular access onto Codicote Road would be widened in association with the works to the access road. The rectangular area in the north-east part

of the site would be changed to a paddock. The works would also include new fixed open timber gates near the site entrance, new low-level lighting posts along the access road, a vehicular and pedestrian gate in the northern part of the site, and new soft landscaping/planting.

4.3 Key Issues

4.3.1 The key issues for consideration are as follows:

- The acceptability of the principle of the proposed works in this location.
- The acceptability of the design of the proposed development and its resultant impact on the character and appearance of the area, including landscaping and trees
- The impact that the proposed development would have on the living conditions of neighbouring properties.
- Future living conditions of occupants
- The impact that the proposed development would have on car parking provision and the public highway in the area.
- The impact that the proposed development would have on ecology and protected species.
- The impact of the proposal on drainage and flood risk.

Principle of Development:

- 4.3.2 When the original planning application 20/00598/FP was allowed on appeal, the Inspector determined that the development was not inappropriate development in the Green Belt, as the proposal would not have a greater impact on openness than the existing development at that time. The conversion of the open storage area was also found to be beneficial to the openness of the Green Belt.
- 4.3.3 Since the appeal decision there has been a change in the material circumstances relating to the site in that the existing buildings have been demolished and their uses have ceased, with only the open storage area remaining (which now appears to be used for storage purposes associated with the clearance of the site).
- 4.3.4 The planning permission granted on appeal expires on 29 September 2024, therefore that permission remains extant and can be implemented, it is therefore a valid fall-back position and a material consideration that should be given significant weight in the determination of this application.
- 4.3.5 The main differences between the original approval and the current application are that the dwellings and garages are proposed to be larger in volume and size. The main changes are alterations to the previously approved single detached garages to double garages and car ports (with the Plot 1 garage including roof accommodation). In volume, the new proposal would be approx. 21.42% larger than the scheme allowed on appeal, amounting to a further 1144.81 m³.
- 4.3.6 The site is in the Green Belt. Policy SP5 of the adopted Local Plan states that the Council will only permit development proposals in the Green Belt where they would not result in inappropriate development or where very special circumstances have been demonstrated. Policy SP5 refers to the 2023 National Planning Policy Framework (NPPF) which sets out exceptions to inappropriate development in the Green Belt in paragraphs 154 and 155. These are:

154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

155. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

4.3.7 Of the criteria in paragraphs 154 and 155, 154 g) was applicable to the proposal as the site was considered to be previously developed land (PDL) as part of the assessment of previous planning permission 20/00598/FP. The redevelopment of PDL is not inappropriate provided it would not have a greater impact on the openness of the Green Belt than the existing development.

4.3.8 The site however has been cleared of all buildings and structures, with only the open storage area in the NE of the site remaining. This clearance work was completed by December 2023 and the associated land uses have ceased (apart from the open storage area). The definition of PDL in the NPPF is materially relevant to whether the site can be considered PDL, which is:

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

4.3.9 The above definition includes land that was occupied by a permanent structure (which can include buildings), therefore I consider that the site can still be classed as PDL. The NPPF paragraph 154 g) states that new buildings should not have a greater impact on the openness of the Green Belt than the existing development. It is considered that this refers to the amount of development on a site at the time a planning application is determined.

4.3.10 As the site is now essentially empty of development, the proposed development would clearly have a greater impact on openness than the existing due to the construction of new buildings and hardstanding, and through the intensification of the use of the site. The current proposal would therefore be inappropriate development in the Green Belt, which is harmful by definition.

4.3.11 To further assess the proposed impacts on the Green Belt, the site is considered to contribute to purpose c) of para. 143 of the NPPF, which is to assist in safeguarding the countryside from encroachment.

4.3.12 Impacts on openness also need to be considered, with openness being the absence of development. Impacts on openness can be both spatial and visual. In this case, there would be a loss of both spatial and visual openness due to the proposed construction of the new buildings etc., and an intensification of the use of the site to residential.

4.3.13 Where development is inappropriate in the Green Belt, it should not be approved except in very special circumstances (VSC's), as stated in para. 153 of the NPPF. The applicant has put forwards VSC's in support of the application, which can be summarised as:

- The previous and extant similar planning permission at the site (reference 20/00598/FP).
- The similarities to that permission, which exists as a fall-back.

- New housing in light of the Council not having a five year supply of housing land.
- The increase in volume would not be harmful.
- Improvements to the approved scheme.

4.3.14 Taking the above VSC's put forwards into account, it is considered that the development proposed can be supported as the impacts on the Green Belt would be comparable to that of the extant permission. Were the original buildings remaining still, the proposed dwellings and garages would be approx. 23% larger than them, which is considered would comply with 154 g) of the NPPF.

4.3.15 A further material consideration in support of the proposal is that the creation of a paddock from an existing area of open storage would be beneficial to the visual openness of the Green Belt, which was also stated by the Appeal Inspector in para. 11 of that report. The proposal is considered acceptable in principle and complies with Policy SP5 of the Local Plan and Section 13 of the NPPF.

Character and appearance, landscaping, and trees:

4.3.16 The amount of development will be greater than that approved under 20/00598/FP, however it would continue the design approach of that development, with the dwellings remaining in the same NW part of the site. The dwellings and garages are considered to be of an acceptable quality of design, siting and spacing, and will overall have similar impacts to the permission 20/00598/FP.

4.3.17 The proposed access road and footpath would result in similar impacts on the site and locality as that originally approved under 20/00598/FP and are acceptable. There are no objections to the associated fencing, lighting posts, and planting/soft landscaping.

4.3.18 The applicant has included details of planting, which are acceptable. One tree will be removed that is not considered to be of significance, with many more trees planted to compensate, which is acceptable. The external materials are acceptable as they will be in accordance with those specified in a submitted document. The gates, fencing, and timber posts would be small, of low visual impacts, and in keeping with the more rural character and appearance of the site and locality. The layout and design of the proposed development is considered acceptable. The proposal complies with Policies SP9, SP12, D1 and NE2 of the Local Plan, and Section 12 of the NPPF.

Impacts on Neighbouring Properties:

4.3.19 The proposed access road and footpath would result in similar impacts to the closest neighbouring dwellings as that originally approved and are acceptable. The new gates, fencing, and lighting will be of a small size and height, and are acceptable. The dwellings and garages will be near an industrial/employment area, fields, and a strip of woodland, and will not harm residential amenity.

4.3.20 It is considered that illumination from the bollards would not be harmful to amenity as they will be at a low-level, and substantially obscured by planting and fencing. The Council's Environmental Health Officer has not objected to the development, which is given significant weight. Potential traffic noise is considered comparable to that from the original permission and is acceptable. Impacts from traffic will be comparable to that of permission 20/00598/FP and is acceptable. Maintenance would be a matter for the relevant parties

to determine. The detailed plans do not show new trees near No. 85. It is considered that the development can be carried out within the red-edged site area. Impacts on amenity are acceptable. The proposal complies with Policy D3 of the Local Plan.

Future living conditions

- 4.3.21 Paragraph 135 (f) of the NPPF states that “*decisions should ensure that developments... create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users*”. Paragraph 135 (f) is largely reflected in Policy D1 of the Local Plan.
- 4.3.22 The size and quality of private areas of amenity are comparable to those approved under 20/00598/FP, as are outlook, light and privacy for the dwellings. There are however some minor differences where first floor side openings of Plots 1, 3, 4 and 5 would overlook their neighbouring plots. These openings are secondary, therefore if permission is granted, they could be required by condition to be obscure glazed. Future living conditions are acceptable. The proposal complies with Policy D1 of the Local Plan.

Highways and Parking:

- 4.3.23 Each dwelling will have at least two parking spaces, which complies with minimum Council standards and is acceptable. Dwellings will have at least one cycle space, including capacity in garages etc., which is acceptable. The two visitor parking spaces comply with minimum Council standards of 0.25 spaces per dwelling with a garage and are acceptable.
- 4.3.24 Internal manoeuvring and refuse collection arrangements are acceptable. The highways officer had not objected to the altered access road and footpath and their impacts on the public highway including the development as a whole, in the comments of 18 March 2024.
- 4.3.25 Following these comments, additional new and amended plans were provided by the applicant to provide further details of proposed highway works and vehicle tracking. The highways officer has not objected to, taking into account the grant of planning permission on appeal, which included a 1.2m wide footpath. In light of the response from Highway Authority, it is considered that the impact of the proposal on the local highway network is acceptable. Therefore, the proposal complies with Policies T1 and T2 of the Local Plan and Section 9 of the NPPF.

Ecology:

- 4.3.26 The proposal will have similar ecological impacts to the original approval, while there would be biodiversity net gains from new planting proposed. The County Council Ecologist has not objected, which is given significant weight. The proposal is not considered harmful to ecology and should be able to deliver a biodiversity net gain to comply with Policy NE4 of the Local Plan.

Drainage and flood risk

- 4.3.27 The earlier planning permission 20/00598/FP included a Flood Risk Assessment, which did not raise objections from the Lead Local Flood Authority (LLFA). The LLFA recommended three conditions be imposed on any permission granted, with similar conditions being placed on the allowed appeal decision.

4.3.28 The applicant has included various new plans and documents with this new application, which the LLFA have not provided comments on. The LLFA have objected to the Welwyn Hatfield Borough Council (WHBC) application, in the absence of an acceptable Flood Risk Assessment.

4.3.29 In response to this objection, the applicant has submitted a detailed response document and amended plans, which have been added to the file and the LLFA consulted on. While there is presently some uncertainty resulting from the absence of a response from the LLFA to NHDC, it is considered that the new documents could be subject to new or amended conditions recommended by the LLFA as these are technical matters. Therefore, approval is recommended subject to the imposition of additional planning conditions and/or amendment of recommended planning conditions as necessary. In conclusion on this matter, the proposal complies with Policies NE7 and NE8 of the Local Plan, which seek to reduce the risk of flooding and achieve sustainable drainage solutions for development.

4.4 **Balance and Conclusion**

4.4.1 This application was submitted before December 2023. Therefore, under the provisions of the NPPF the exemption from the requirement to identify a 5-year supply of deliverable housing sites does not apply to this application. It is estimated that the current housing supply is about 3.5 years and consequently in this case the tilted balance set out at paragraph 11 (d) of the Framework applies. It is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of providing six new dwellings in a sustainable location, when assessed against the policies of the NPPF as a whole.

4.4.2 Overall, taking all matters into account the proposal complies with the Local Plan and the NPPF as a whole and the application is recommended for approval, subject to conditions.

4.5 **Alternative Options**

4.5.1 None identified.

4.6 **Pre-Commencement Conditions**

4.6.1 Not applicable.

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:

a) The resolution of the drainage and flood risk matters to the satisfaction of the Local Planning Authority with the imposition of additional planning conditions or amendment of planning conditions as necessary;

and

b) The following conditions and informatives:

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

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

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

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission. To comply with Policy D1 of the Local Plan.

3. Materials to be used on all external elevations and the roof of the development hereby permitted shall be in accordance with the details submitted, unless otherwise approved in writing with the LPA.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031.

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

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

5. A scheme for the protection of retained trees shall be in accordance with the details shown on drawing 3794.Oakleigh.Kingshall.TPP rev A.

Reason: In the interests of tree preservation and amenity. To comply with Policy NE2 of the Local Plan.

6. Prior to occupation of the development hereby permitted, the use of the land for open storage shall cease and the proposed paddock shall be provided in accordance with the approved plans. The paddock shall be retained at all times thereafter and shall not be used for any other purpose.

Reason: In the interests of the openness of the Green Belt and character and appearance. To comply with Policies SP5 and D1 of the Local Plan.

7. Prior to occupation, each of the proposed new dwellings shall incorporate an Electric Vehicle (EV) ready domestic charging point.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality. To comply with Policy D4 of the Local Plan.

8. Prior to occupation of the development hereby permitted full details shall have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details.

Reason: To secure the future management and maintenance of the development. To comply with Policy T1 of the Local Plan.

9. Prior to occupation of the development hereby permitted the existing access road from the Codicote Road shall be improved and re-constructed as identified on drawing numbers 19367-OAKL-5-110 Rev D & 19367-OAKL-5-103 Rev D and the internal road layout shall be complete as identified on the above drawing numbers.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018). In the interests of highway safety. To comply with Policy T1 of the Local Plan.

10. Before commencement of development, detailed design plans must be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, showing the revised access onto Codicote Road as identified on drawing no. 19367-OAKL-5-110 Rev D. The works shall be completed under a S278 Agreement and to the satisfaction of the Local Planning Authority before first occupation of the development.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018). In the interests of highway safety. To comply with Policy T1 of the Local Plan.

11. The approved development shall be carried out in accordance with the submitted Construction Management Plan (Revision 2, date August 2023).

Reason: In the interests of highway safety. To comply with Policy T1 of the Local Plan.

12. The approved development shall be carried out in accordance with the submitted Site Waste Management Plan.

Reason: In the interests of highway safety and amenity. To comply with Policy T1 of the Local Plan.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement to the dwellings hereby permitted under Schedule 2, Part 1, Class A or Class B of the Order.

Reason: To enable the LPA to control the development in the interests of amenity. To comply with Policy D1 of the Local Plan.

14. Prior to occupation of the development hereby permitted, the Mechanical Ventilation with Heat Recovery system and glazing shall be installed in each dwelling in accordance with the specification set out in "Noise Assessment, Oakleigh Farm..." Report reference RP01-19338, dated 30 August 2019 by Cass Allen Associates. The scheme shall be retained in accordance with those details thereafter.

Reason: In the interests of resident's amenity. To comply with Policy D1 of the Local Plan.

15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is also subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. All remediation works shall be carried out in accordance with the approved scheme before any dwelling hereby permitted is first occupied.

Reason: In the interests of resident's amenity. To comply with Policy NE11 of the Local Plan.

16. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment, dated November 2023, and all supporting information and the following measures:

1. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
2. Undertaking appropriate drainage strategy based on infiltration and to include permeable paving and soakaways.

Reason: To provide acceptable drainage and flood risk mitigation. To comply with Policy NE8 of the Local Plan.

17. No development (except demolition) shall commence until the final design of the drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system will be based on the submitted Flood Risk Assessment, dated November 2023. The scheme shall also include:
1. Detailed infiltration testing be carried out pre-commencement in accordance with BRE Digest 365 standards at the proposed locations and depths of all SuDS features.
 2. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.
 3. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features.
 4. Provision of half drain down times within 24 hours.
 5. Silt traps for protection of any residual tanked elements.
 6. Details regarding any areas of informal flooding (events those exceeding 1 in 30 year rainfall event), this should be shown on a plan with estimated extents and depths.
 7. Details of final exceedance routes, including those for an event which exceeds to 1:100 + cc rainfall event.

The drainage scheme shall be fully implemented prior to occupation.

Reason: To provide acceptable drainage and flood risk mitigation. To comply with Policy NE8 of the Local Plan.

18. Prior to occupation of the development hereby permitted, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
1. Provision of a complete set of as built drawings for site drainage.
 2. Maintenance and operational activities.
 3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

The management and maintenance plan shall be implemented thereafter.

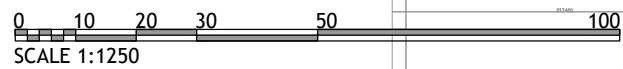
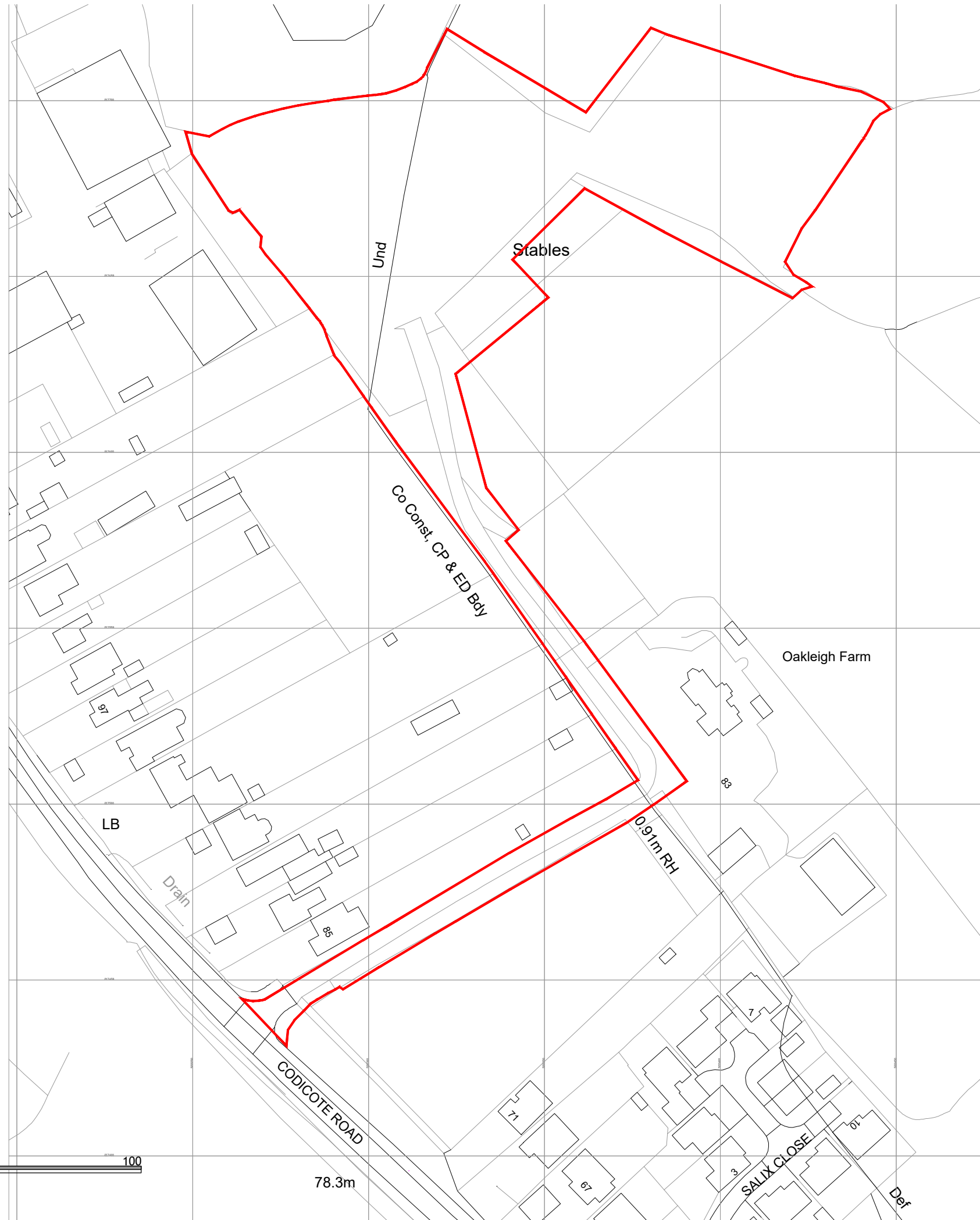
Reason: To provide acceptable drainage and flood risk mitigation. To comply with Policy NE8 of the Local Plan.

19. A scheme for the provision of mains water services providing fire hydrants has been submitted to and approved in writing by the Local Planning Authority. No occupation of the development shall take place until the approved scheme has been installed in full. Thereafter the fire hydrants shall be retained as approved in perpetuity.

Reason: In the interests of amenity and safety of future occupiers. To comply with Policy NE11 of the Local Plan.

Pro-active 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.



NOTES

- Contractors must check all dimensions on site. Only figured dimensions are to be worked from. Discrepancies must be reported to the Architect or Engineer before proceeding. © This drawing is copyright.
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REV	DESCRIPTION	DRN	CHD	DATE	
<input checked="" type="checkbox"/>	PRELIMINARY	<input type="checkbox"/>	INFORMATION	<input type="checkbox"/>	TENDER
<input type="checkbox"/>	CONSTRUCTION	<input type="checkbox"/>	AS BUILT		

SCALE 1:1250 @ A3 DATE Sept. 2023

DRAWN AT CHK JAL

DRAWING NO. 19359-2000 REV -

TITLE Oakleigh Meadows,
Codicote Road, Welwyn.

DETAILS Location Plan (s73)

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**PLANNING CONTROL COMMITTEE
PLANNING APPEALS LODGED**

DATE: 18 July 2024

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mr Matt Thomson	07.06.2024	Erection of detached double garage, front porch, installation of dormer windows to existing north and south roofslopes and alterations to fenestration following removal of existing chimney stack to main dwelling and replace existing exterior render with cladding (as amended by plans received 5th March 2024).	New Cottage Ashwell Road Newnham Baldock Hertfordshire SG7 5JX	24/00100/FPH	Householder Appeal Service

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