

5 June 2024

Our Ref Planning Control Committee 13 June 2024
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To: Members of the Committee: Councillors Elizabeth Dennis (Chair), Nigel Mason (Vice-Chair), Sadie Billing, Ruth Brown, Emma Fernandes, Bryony May, Caroline McDonnell, Michael Muir, Louise Peace and Tom Tyson

Substitutes: Councillors Val Bryant, Joe Graziano, Keith Hoskins, Steve Jarvis 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, 13TH JUNE, 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 - 21 MARCH AND 11 APRIL 2024	To take as read and approve as a true record the minutes of the meetings of the Committee held on the 21 March and 11 April 2024.	(Pages 5 - 28)
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. 23/00563/FP LAND ON THE SOUTH OF, OUGHTONHEAD LANE, HITCHIN, HERTFORDSHIRE, SG5 2NA REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	Lower innings, associated interbal road, parking, landscaping, amenity space and open space.	(Pages 29 - 82)

7. **23/00743/RM - LAND ADJACENT TO OAKLEA AND SOUTH OF, COWARDS LANE, CODICOTE, HERTFORDSHIRE, SG4 8UN** (Pages 83 - 146)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Reserved Matters application for approval of the details of the appearance, landscaping, layout and scale of the development for 80 dwellings including streets, car parking, open space and associated works (pursuant to outline application 17/01464/1 granted 02.11.2022) (as amended by plans and documents received 30th October, 29th November, 20th and 22nd December 2023 and 4th January, 7th February, 7th March and 18th April 2024).
8. **22/00741/FP - LAND WEST OF ASHWELL ROAD, BYGRAVE, HERTFORDSHIRE, SG7 5EB** (Pages 147 - 280)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Ground mounted solar photovoltaic (PV) farm including battery energy storage; continued agricultural use, ancillary infrastructure, security fencing, landscaping provision, ecological enhancements and associated works (as amended).
9. **23/01749/FPH 45 WEST STREET, LILLEY, LUTON, HERTFORDSHIRE, LU2 8LN** (Pages 281 - 298)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Two storey side extension and single storey rear extension. Insertion of rooflights to existing outbuilding and erection of detached single garage following demolition of existing garage.
10. **23/01750/LBC 45 WEST STREET, LILLEY, LUTON, HERTFORDSHIRE, LU2 8LN** (Pages 299 - 312)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Two storey side extension and single storey rear extension. Insertion of rooflights to existing outbuilding and erection of detached single garage following demolition of existing garage.
11. **22/01687/FP - LAND ON THE NORTH SIDE OF, PIRTON ROAD, HOLWELL, HERTFORDSHIRE, SG5 3SN** (Pages 313 - 338)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Erection of six dwellings with associated access, landscaping and parking (as amended by plans received 06/02/24 and 15/02/24).
12. **APPEALS** (Pages 339 - 356)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

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Public Document Pack Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
LETCWORTH GARDEN CITY
ON THURSDAY, 21ST MARCH, 2024 AT 7.30 PM

MINUTES

Present: *Councillors: Val Bryant (Chair), Tom Tyson (Vice-Chair), Simon Bloxham, Mick Debenham, David Levett, Nigel Mason, Steve Jarvis, Ian Mantle, Michael Muir and Dave Winstanley.*

In Attendance: *Sedem Amegashie-Duvon (Trainee Solicitor), Ben Glover (Senior Planning Officer), Shaun Greaves (Development and Conservation Manager), Alex Howard (Senior Planning Officer), Caroline Jenkins (Committee, Member and Scrutiny Officer), James Lovegrove (Committee, Member and Scrutiny Manager), Anne McDonald (Development Management Team Leader), Callum Reeve (Democratic Services Apprentice), Naomi Reynard (Senior Planning Officer) and Sjanet Wickenden (Committee, Member and Scrutiny Officer).*

Also Present: *At the commencement of the meeting there were 14 members of the public, including registered speakers present.*

Councillors Clare Billing, Elizabeth Dennis and Daniel Wright-Mason were also present.

188 APOLOGIES FOR ABSENCE

Audio recording – 1 minute 27 seconds

Apologies for absence were received from Councillors Daniel Allen, Louise Peace, Ian Moody, Sean Nolan and Terry Tyler.

Having given due notice Councillor Steve Jarvis substituted for Councillor Peace, Councillor Michael Muir substituted for Councillor Moody, Councillor Ian Mantle substituted for Councillor Allen and Councillor Dave Winstanley substituted for Councillor Nolan.

Councillor Phil Weeder was absent.

189 MINUTES - 15 FEBRUARY 2024

Audio Recording – 2 minutes 2 seconds

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

RESOLVED: That the Minutes of the Meeting of the Committee held on 15 February 2024 be approved as a true record of the proceedings and be signed by the Chair.

190 NOTIFICATION OF OTHER BUSINESS

Audio recording – 2 minutes 54 seconds

There was no other business notified.

191 CHAIR'S ANNOUNCEMENTS

Audio recording – 2 minutes 58 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) The Chair advised that agenda item 6, 23/00563/FP, had been deferred to a future meeting of the Committee to allow the Council to consider late information submitted to Members of the Planning Control Committee by the applicant and the Planning Authority was considering its own independent legal advice.

192 PUBLIC PARTICIPATION

Audio recording – 5 minutes 50 seconds

The Chair confirmed that the registered speakers were in attendance.

193 23/00563/FP LAND ON THE SOUTH OF, OUGHTONHEAD LANE, HITCHIN, HERTFORDSHIRE, SG5 2NA

Audio recording – 6 minute 44 seconds

The Chair confirmed that agenda item 6, 23/00563/FP had been deferred to a future meeting of the Committee.

194 23/01947/FP THE ANCHOR, 84 CAMBRIDGE ROAD, HITCHIN, HERTFORDSHIRE, SG4 0JH

Audio recording – 6 minutes 49 seconds

The Senior Planning Officer provided an update that:

- There was an addition to the end of the Condition 7 to read, 'or any other such agreement'.
- There was an addition to the end of Condition 9 to read, 'the applicant should liaise with the Highways Authority with regards to any changes that may need to be made to the kerb line at the site accesses.'

The Senior Planning Officer presented the report in respect of application 23/01947/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked points of clarification:

- Councillor Simon Bloxham
- Councillor Val Bryant
- Councillor Michael Muir
- Councillor Tom Tyson
- Councillor David Levett

- Councillor Nigel Mason
- Councillor Ian Mantle
- Councillor Mick Debenham

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

- The blue line on the plan showed the visibility splays and were a Highways requirement which allowed motorists to have a complete view of Cambridge Road. These splays complied with Highway standards.
- There would be four, 4-metre-high lights on the site, the operational hours of these lights had not been stated.
- A transport assessment had been completed and concluded that there would be no impact on traffic. Highways therefore did not have any objections to this application subject to Conditions and Informatives.
- The car parking spaces would be open for public use.
- Highways assessed the application, and the visibility splays were acceptable to their standards.
- It was assumed that the light post to the right of the exit would remain.
- The river was situated by the Millstream Pub on the other side of the road.
- There was a detailed landscaping plan for the site, with any vegetation outside of the site boundary remaining in place. There was an ecological assessment in the report that assessed the development as no, unacceptable harm to the area and would comply with policy.
- A condition regarding the sites opening hours could be requested.

In response to a point of clarification, the Development and Conservation Manager stated:

- The site was within flood zone 1 which was the lowest risk of flooding from rivers or sea provided and was outside any flood plain.
- The river was situated outside of the development site.
- There were proposals in the report for the impact of heavy rain and ground water.

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

- The development would dramatically alter the current quaint and calm site.
- When the site was completed, it was anticipated that there would be 1100 vehicles entering the site daily compared to the current 50.
- There were eleven traffic hotspots in Hitchin with three traffic hotspots close to this site on the A505. During peak time this road was bumper to bumper.
- Peak usage of the shop would coincide with peak traffic times.
- From a recent traffic survey 1 car turned into this site in peak time compared to 153 cars at a local, same sized supermarket.
- Hertfordshire Constabulary Design Team had concerns regarding the busy Cambridge Road and this development site.
- There were conflicts with 10.2 of the Local Plan and the retention of local shops.
- There would be alcohol sold at both sites.
- There were 120 reported crimes between August 2021 and July 2023 within 100 metres of this site.
- The application failed on all 4 of the licensing objectives.
- There were already local shops nearby and this new store would put them at risk.
- There was a petition against this development containing more than 800 signatures.

The Locum Planning Lawyer advised that the licensing concerns could not be considered in a Planning application.

In response to a point of clarification from Councillor Tom Tyson, Mr Singh stated that:

- They had surveyed traffic between the hours of 07:00 to 08:00 and again from 16:00 to 19:00 for all vehicles entering the Anchor pub site.
- Two other people surveyed traffic outside the Tesco store by Hitchin station and Tesco in Stopsley using the same time frame.
- From the survey information they took the least number of cars from the surveyed time and multiplied it by the 17, the expected number of opening hours to get the 1100 vehicle movements.

The Chair thanked Mr Singh for his presentation and 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:

- The construction work would disturb and affect the wildlife on Purwell Meadow and the increased site activity would have long term negative effects on the nature reserve.
- The existing lighting was not bat friendly and the proposed lighting was even less friendly.
- The biodiversity net gain for habitats would be satisfied by the planting of 6 new trees, however these would take 27 years before the net gain would actually be achieved.
- There were 598 two way traffic movements expected to this site from the Cambridge Road on a typical day. This was a projected increase of 3.9% and would still increase congestion.
- There were busy roundabouts, traffic lights, narrow bridges, bus stops and pedestrian crossings close to this development which all contributed to congestion and noise pollution.
- There would be an increase of road noise and pollution to nearby houses.
- There had already been two fatalities on this road since 2014.
- The new store would detract trade from already established stores.
- There were concerns regarding the drainage proposals for the site, which had previously flooded.

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

- There were concerns from local residents living in the terrace that adjoined the Anchor Pub, whose gardens backed onto the development site.
- Their main concerns regarding traffic, pollution, security and the impact on Purwell Meadow.
- It was currently difficult to turn into the site due to traffic congestion and the new development would cause longer queues.
- The site and the congestion would increase the noise and effects of pollution on their health and wellbeing.
- The opening of a store would exacerbate the existing inconvenience of this already busy road.
- There were concerns that this development would pose an increased security risk to their homes, with darker areas leading to anti-social behaviour.
- If there were brightly lit areas this could cause light pollution to their homes and Purwell Meadow.
- The development posed a risk to the safety of the local families.
- The new bat boxes would not mitigate the loss of extensive wildlife and the damage to the area.
- There had been 38 registered objections to this proposal.
- There was no place or need for a store on this site.

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

- The transport statement assumed that trips to the store would primarily be by foot.
- It was projected that there would be 598 two way movements in a typical day to the site, of which some would be existing journeys. The resident survey suggested that the actual number of trips would be significantly higher.
- The resident survey stated that pedestrian trips amount to 30% of those journeys.
- All these journeys impacted on an already congested road.
- Extending the isolated car park would increase the risks to local homes, including security, anti-social behaviour and littering.
- There were currently several local stores within a short walk of the proposed site.
- The site was prone to flooding and was on a busy road.
- There were more homes currently being built in this area that would increase the road capacity.
- This was not the right site for this development and the infrastructure needed to be upgraded.
- Local residents had raised concerns regarding the proposal.

The Chair thanked Councillor Wright-Mason for his presentation and invited Mr Jake McLeod to speak in support of the application. Mr McLeod thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The application was for a Sainsburys local and improvements and enhancements to the Anchor public house.
- The Pub sector was struggling and not viable, the proposed development would protect the long term future of the Anchor public house.
- This development would protect existing jobs and create new ones.
- The proposed store would generate investment in the public house by increasing trade.
- The proposed store was small and passed the sequential test for urban developments.
- There would be 12 to 20 new jobs created.
- Impact on local business was not a planning consideration.
- The Highways authority had no objections to the detailed transport statement.
- The access point was assessed by Highways for safety and standard visibility splays had been implemented.
- There would be on site parking for the disabled, parents and children as well as EV charging points.
- There had been no objections from the LLFA, and the development would improve drainage conditions by desilting the existing surface water drainage network and by adding drainage gullies to the Cambridge Road.
- The 10% Biodiversity net gain was not mandatory to this scheme.
- It was believed that the scheme would achieve a 28% biodiversity net gain due to landscaping and ecological enhancements.
- The scheme included bat and bird boxes and hedgehog houses and should not adversely impact on the nature reserve.
- The proposed lighting scheme would ensure that there would be no spillage beyond the site boundary.
- There would be EV charging points and cycle parking.
- Six new trees would be planted, and the existing vegetation would be retained.
- This was a high quality designed building on an appropriate site in keeping with the local character of the area.
- The application complied with all levels of the planning policies.

The following Members asked points of clarification:

- Councillor Ian Mantle
- Councillor Mick Debenham
- Councillor Tom Tyson
- Councillor David Levett
- Councillor Val Bryant

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

- There would be six cycle parking spaces outside the retail unit, these were not shown as being covered but this could be considered.
- There would be improvements to the outdoor dining area of the Anchor, with the erection of a pergola and new patio.
- 10 pubs were closing a day and this retail unit investment would also be an investment in the public house.
- The retail unit met the sustainability requirements and would have energy efficient lighting and water systems. Roof solar panels could be investigated.
- The client had previously invested in similar successful projects linking a public house and a retail unit.
- Highways were satisfied with the traffic survey and had provided a robust transport statement, however without the full details of the assessment from Mr Singh, no comment could be made.
- The trip data assessed that in 2021 there were 15273 two way trips on a typical day, the projected increase of 3.9% or 598 two way trips was not considered severe.

In response to points of clarification, the Development and Conservation Manager stated that:

- The TRICS database method was commonly used and accepted by Planning Inspectors as the main form of assessing traffic generation.
- This database is accessed to identify the potential impact of a particular development. This was common practice of predicting the traffic flow.

In response to a point of clarification the Locum Planning Lawyer stated that:

- The applicant submitted a Transport Statement in June 2023, the TRICS data was shown on page 12 of this statement.
- Although the areas taken for the TRICS data were not stipulated the details were highlighted in paragraphs 3.1 and 3.2 of the transport statement.
- The Cambridge Road was named when analysing the traffic impact as detailed in paragraph 3.3 of the transport statement.

The Chair thanked Mr McLeod for his presentation and invited the Senior Planning Officer to respond to any points raised.

The Senior Planning Officer advised that:

- Highways had stated there would be 598 two way trips per day of which 40-46 would be at peak time.
- Highways consulted with the applicant and gave their opinion that the development would have no significant harm on the Highways network subject to Conditions and Informatives.
- There had been no ecological objection to this application.
- Conditions could be suggested, subject to approval, for opening hours, lighting times, sustainability regarding solar panels and a biodiversity net gain ecology Condition, if appropriate.

The following Members took part in debate:

- Councillor David Levett
- Councillor Steve Jarvis
- Councillor Nigel Mason
- Councillor Ian Mantle
- Councillor Val Bryant
- Councillor Simon Bloxham
- Councillor Michael Muir
- Councillor Tom Tyson
- Councillor Dave Winstanley

Points raised during the debate included:

- There were concerns regarding the increased traffic on the Cambridge Road.
- There were concerns regarding the impact on the landscape.
- The loss of meadow views could be outweighed by the increased employment.
- There would be increased traffic but no highways grounds to turn down the application.
- Whether a lighting condition would be enforceable, which would mitigate the impact of the development on wildlife.
- There was a condition for the opening hours of the store in the report.
- A box junction would assist with the traffic.
- There should not be any deliveries outside the trading hours of the shop.
- This was a good site for solar panels.

During the debate the Development and Conservation Manager advised that:

- A lighting scheme had been submitted with the application, and this showed the proposed lighting levels, which were the lowest suitable lighting level for the proposed use. The lighting would be fitted with cowls to reduce light scatter.
- The proposed opening hours were between 7am to 11pm, seven days a week. A condition limiting these hours could be implemented.
- There was not a sustainability policy regarding fitting PV Panels to buildings, but a sustainability report could be requested from the applicant.
- The applicant submitted an energy statement with the application and indicated that the scheme would achieve part L of the building regulations, PV panel were not required for a scheme of this level, however the site would have energy efficient lighting and insulation levels.
- Solar panels on all south facing building could be considered for the new Local Plan.
- Condition beyond the policy requirements should not be imposed on applications.
- It was not uncommon for retail applications to have condition on their delivery hours, and these could be restricted to the same as the operating hours.
- An Informative was a guide for the applicant, and there was no reason they could not be amended.
- There could be an Informative to look into the possibility of solar panels.

During debate the Senior Planning Officer advised that a box junction was outside the red line boundary of the application.

The Locum Planning Lawyer advised that:

- The public house had licensed hours but the proposed operating hours for the shop would be helpful. Without operating hours there could be an impact.

- There were tests required for any Condition to be added, the first test was for necessity, would it be unlikely to go ahead with that Condition and was it a benefit. A solar panels Condition would not meet these tests.
- An Informative could be used to emphasise the concern and encourage the applicant to review the matter.

Councillor Simon Bloxham proposed and Councillor Ian Mantle seconded and, following a vote it was:

RESOLVED: That application 23/01947/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager as amended by the Supplementary agenda and with the following additional Conditions 17 and 18 and the following amendment to informative 3 and the addition of informative 8.

“Condition 17:

The retail unit hereby permitted shall not be open to customers and there shall not be any deliveries outside the hours of 07:00 until 23:00 Monday to Sunday and Bank Holidays.

Reason: In the interests of amenity in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

Condition 18:

The development hereby approved shall be carried out in accordance with the submitted lighting scheme (Plan No. 020-16-E-01) and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development minimises light pollution and to protect wildlife and habitats in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031 and Section 15 of the NPPF (2023).

Informative 3:

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 (such as the installation of a box junction or keep clear marks). Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047.

Informative 8:

The applicant shall investigate a scheme of sustainability measures for the shop building, including the installation of solar panels. If sustainability measures are deemed to be feasible, they shall be implemented on site and retained thereafter.”

N.B Following the conclusion of this item there was a short break in proceedings until 21:16.

195 22/02628/FP LAND AT 1-36 FREEMANS CLOSE, HITCHIN, HERTFORDSHIRE

Audio recording – 1 hour 45 minutes 28 seconds

N.B Councillor Nigel Mason declared an interest and left the Chamber at 21:09.

The Senior Planning Officer provided an update that:

- There had been discussions with the applicant regarding the wording of Condition 6 and this would be amended.
- The applicant agreed to accept amendments to Condition 5.
- Further amendments were proposed to Condition 6, as well as amendments to Conditions 7 and 9.
- The Planning Obligation was to be referred to as a Unilateral Undertaking which was a legal deed. Unlike a bilateral S106 agreement these do not have to be entered into by the Local Authority. A Unilateral Undertaking would come into effect when planning permission was granted.
- The planning permission would then be granted subject to completion of a satisfactory planning obligation with time to extend if required and contain the same Informatives and Conditions as amended as the report.

The Senior Planning Officer presented the report in respect of application 22/02628/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked points of clarification:

- Councillor Mick Debenham
- Councillor David Levett
- Councillor Steve Jarvis

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

- When the application was submitted 36 properties were occupied. 9 properties would be moved to flats in phase 2 and the remaining 27 were temporary lets to the Local Authority.
- There was a shortfall of parking spaces on the site, however this had been considered by Highways and was deemed acceptable, with the use of on street parking and the expected low level of car owners and was highlighted at 4.3.53 of the report.
- The Condition 2 mentioned on page 97 of the report was a Highways condition and formed Condition 6 of the report recommendations.

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

- Whilst he had been supportive of Phase 1 and 2 there were several outstanding concerns regarding this application for Phase 3 of the development.
- There were concerns that the project missed an opportunity by not using photovoltaic cells (PV) on all of the properties.
- The report from the applicant was vague and stated that they would consider using solar panel at the next stage.
- There were concerns regarding the housing mix, as 1 bedroom dwellings were not selling and there were demands for family sized homes.
- The development had originally been 100% social properties this had now changed to just 40%.
- The application had no consideration for the disruption to the local area during construction or any countermeasures.
- The parking provisions were not adequate and related to a 2018 survey.
- The number of parking spaces included in this application kept changing and was vague.
- It was not clear if the proposed parking spaces took into account larger vehicles.
- The lack of parking presented a safety hazard, especially to school children.

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

- This application was the third phase of the John Baker Place redevelopment for which settle had committed £15 Million of funding.
- This was a major investment in the area and would allow residents to thrive.
- This phase had 48 affordable homes.
- Phase 1 had been a 100% affordable scheme for 37 retirement homes and retail units.
- Phase 2 was under construction for 46 affordable houses.
- The current houses in Freeman Close were undersized, not efficient and did not meet current living space standards.
- The phase would provide new, well insulated homes.
- The development had been designed after consultation with North Herts Council to meet the housing needs of the community.
- The dwellings would meet the new energy building regulations and have a fabric first approach to insulation.
- The applicant had been working closely with Officers, the Community and residents of the Westmill Estate.
- Settle was committed to this investment and the positive outcomes for the Westmill community.

The following Members asked points of clarification:

- Councillor Dave Winstanley
- Councillor Mick Debenham
- Councillor Michael Muir

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

- The road would be widened to 6 meters.
- The intention was to meet, part L of the building regulations with dwellings having a fabric first approach to insulation. Consideration would then be made regarding either solar PV or heat pumps.
- There were solar PV panels on Phase 1 of the development which had been built under the old building regulations and these were beneficial to the elderly residents. This had resulted in a 10% improvement on the building regulations.
- They would start with the fabric first insulation and then decide the best approach to meet the building regulations.
- There was a high demand for 1 and 2 bedroom properties, which could be attributed to the bedroom tax, there was also a need for larger accommodation, so it had been decided to provide a mixture, of small and large dwellings.
- There were options in the application for heats pumps and this would be dependent on what best met the needs of the residents.

The Chair thanked Ms Virji for her presentation and invited the Senior Planning Officer to respond to any points raised.

The Senior Planning Officer stated that:

- There were Conditions for the energy statement to be updated. The statement proposed that there would be solar panels on the larger flat blocks and air source heat pumps for the dwellings.
- There was no policy regarding solar panels in the Local Plan.
- The details of the housing mix were shown at paragraph 4.3.20 of the report and was supplied by the Housing Supply Officer.

- The application did not meet the policy for housing mix but did meet the local need. The policy was flexible on density, and the local housing need was for smaller units.
- The Housing Supply Officer advised on the housing mix and considered it acceptable.
- The affordable housing policy had a 40% requirement, requests over this amount cannot be a requirement.
- The development proposed a mixture of 65% affordable rentals and 35% shared ownership homes.
- Conditions 10 and 16 related to the impact on construction and included a traffic management plan.
- Condition 17 restricted the hours of construction.

In response to a disclosure of interest from Councillor David Levett, the Locum Planning Lawyer confirmed that there was no conflict of interest from being a settle tenant.

Councillor David Levett proposed and Councillor Dave Winstanley seconded, and following a vote, it was:

RESOLVED: That application 22/02628/FP be **GRANTED** planning permission subject to the completion of a satisfactory Planning Obligation, with the applicant agreeing to extend the statutory period in order to complete the agreement if required and the reasons and conditions set out in the report of the Development and Conservation Manager with amended conditions 6, 7 and 9, and an addition to informative 5.

Condition 6:

Before commencement of the highways works and landscaping works relating to this development, additional plans shall be submitted and approved in writing by the Local Planning Authority which show the provision of pedestrian dropped kerbs and tactile paving across the site at all key junction points / pedestrian desire lines. The works shall be implemented as approved by this plan before first occupation.

Reason: So that all users of the development can safely, conveniently, and sustainably walk and wheel access the site, in compliance with paragraphs 110-112 of the NPPF, and Inclusive Mobility 2022.

Condition 7:

No dwelling forming part of the development shall be occupied until the bus stop along Westmill Road (120 metres south of Freemans Close) has been upgraded. The upgrade shall include build out of the kerbline to the Westmill Road carriageway edge (i.e. removal of the layby) and raised Kassel kerbing. Before first occupation of any part of the development, this work shall be completed.

Reason: To ensure residents and visitors of the development have the realistic option of travelling by local bus routes, and not a reliance on the private motorcar, in accordance with paragraphs 110 - 112 of the NPPF and in accordance with Policy T1 of the North Hertfordshire Local Plan (2011-2031).

Condition 9:

Before the development hereby approved is first occupied, all on site vehicular areas, including internal access roads, forecourts, garages, carports and external parking spaces, shall be accessible, surfaced, marked out and fully completed in accordance with the approved plans. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: So as to ensure satisfactory parking of vehicles outside highway limits and to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

Informative 5:

A Sustainable Highway improvements/sustainable transport contribution of £24,640 (index linked to SPONS January 2019) is payable by a Planning Obligation."

196 21/01882/FP LAND EAST RHEE SPRING AND ORWELL VIEW, ROYSTON ROAD, BALDOCK, HERTFORDSHIRE

Audio recording: 2 hour 19 minutes 52 seconds

N.B Councillor Nigel Mason returned to the Chamber at 21:51

In response to declarations of interests from Councillors Michael Muir and Steve Jarvis the Locum Planning Lawyer stated that there was no conflict of interest for County Councillors.

The Development Management Team Leader provided an updated that:

- There had been three updates published on the 20 March 2024 regarding this matter.
- There was a typographical error in paragraph 4.2.1 as there were 20 detached dwellings and not 22 as stated.

The Development Management Team Leader presented the report in respect of Application 21/01882/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked points of clarification:

- Councillor Tom Tyson
- Councillor Ian Mantle
- Councillor Steve Jarvis
- Councillor David Levett
- Councillor Nigel Mason
- Councillor Michael Muir

In response to points of clarification, the Development Management Team Leader advised that:

- There would be 7 dwellings facing onto the Royston Road with a northern strip of landscaping, both of which met the Neighbourhood plan criteria.
- There was a water course on the eastern boundary, and there would be tree planting to provide boundary screening.
- There would be a payment to the Council for maintenance of the greenspaces. There was provision off site for play space and a park.
- There had been two rounds of viability reports produced, with the latest considering the high interest rates and housing market prices. The outcome of this report stated that it was not viable to increase the affordable housing units.
- The applicant was the County Council, and payments would be made to the District Council ahead of the County Council.
- There would be a clawback clause as part of the S106 agreement and this would be issued before the decision notice. The viability would need to be reassessed under paragraph 4.3.42 and should it be deemed that it was feasible to build more affordable housing then any, S106 payments would need to be made to North Herts Council before the NHS or the County Council.

- The Council reviewed the viability assessment and concluded that the viability could not be met on the site. This was provided as an appendix to the report.
- The applicant had stated that settle did not want the EV charging points on the affordable houses.
- Work was still ongoing on the details of the clawback, and only one new viability assessment would be completed, and this would be prior to the start of construction work.
- There was a function within the National Planning Policy Framework (NPPF) which allowed for viability to be assessed. It was noted that affordable housing was the biggest costs for a developer.
- Policy HS2 of the Local Plan gave the Council discretion in genuine circumstances to vary the percentage of affordable housing.
- The majority of dwellings would have active EV charging points and only 2 would have passive points.
- The independent assessor of the viability statement concluded that they agreed with the affordable housing mix put forward by the developers.

The Chair invited Ms Jennifer Smith to speak in support of the application. Ms Smith thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Work had been ongoing for three years on this application for 42 dwellings.
- The development was within the boundary of Baldock and was originally designated for the development of a school.
- This development was for 42 family homes which would be built over 18 months.
- The properties would be detached or semi-detached two-story homes.
- The properties would have a fabric first insulation approach with air source heat pumps and the majority of properties would have EV charging points.
- The layout of the development takes into account the Greenway route to the south and would have a dedicated cycle way to the north of the site.
- There would be pedestrian and cycle only routes through Rhee Spring with access to the bus stop into town.
- Access to the site would be from Aley Way and Constantine Place not the Royston Road.
- The site was originally designated as a school and the traffic concerns were addressed at that point. There had been no objections from Highway to this development.
- There would be 95 parking spaces on the site and all homes would be provided with either a garage or a shed for bike and bin storage.
- Dwellings would have wider doors for wheelchair access.
- The application had a lower density of dwellings compared to the allocation on the Local Plan and would have careful landscaping.
- There would be 139 trees planted on the development, leading to a 10% biodiversity net gain, above the requirements for the site.
- No statutory consultee objections had been received against this application.
- The benefits of this application outweighed the harms.

In response to a point of clarification from Councillor David Levett, Ms Smith stated that the EV passive points would be provided as a result of discussion from the registered provider, the registered provider could then make these active at their own cost.

The Chair thanked Ms Smith for her presentation and invited the Development Management Team Leader to respond to any points raised.

The Development Management Team Leader stated that Condition 11 could be changed if required.

The following Members took part in debate:

- Councillor Michael Muir
- Councillor Steve Jarvis
- Councillor Nigel Mason
- Councillor David Levett
- Councillor Simon Bloxham
- Councillor Val Bryant
- Councillor Tom Tyson

Points raised in debate included:

- This application did not supply sufficient affordable housing.
- The access to the site and layout were acceptable.
- The affordable housing in this application went against policy HS2 of the Local Plan.
- Policy HS2 could be applied but this should be used for larger developments.
- The density could be increase and then more affordable housing could be offered.
- The Local Plan was being ignored and that was not the intention of the NPPF.
- The viability report highlighted a valid reason for the number of affordable houses.
- There were concerns raised about the different EV points proposed to be provided in the affordable units.
- If the application was not approved, the homes would not get built, and an opportunity to use this land would be lost.
- Concern that other applicants would use viability reports to build fewer affordable homes.
- The application met all the other policy requirements.
- The Committee had the discretion to accept the application.
- The applicant should submit a different scheme with more affordable housing.

In response to points raised in debate, the Locum Planning Lawyer stated that the registered housing providers made a determination about passive charging points not the applicant.

In response to points raised in debate, the Development and Conservation Manager stated that the Local plan had a starting point of 40% affordable new homes, the viability report from the applicant stated that, this was not viable. An independent consultant assessed the report, and they confirmed that the 40% affordable housing was not viable. Under the NPPF Policy this was deemed an acceptable reason.

Councillor Steve Jarvis proposed that the application be refused, and Councillor Dave Winstanley seconded, and following a vote, it was:

RESOLVED: That application 21/01882/FP be **REFUSED** planning permission as the proposed development would make insufficient contribution towards meeting the District's affordable housing needs identified in the North Hertfordshire Local Plan 2011 to 2031 and therefore would conflict with the aims of Local Plan Policy HS2.

197 23/01259/FP FRIENDS GREEN FARM, FRIENDS GREEN, DAMASK GREEN ROAD, WESTON, HITCHIN, HERTFORDSHIRE, SG4 7BU

Audio Recording: 3 hour 9 minutes 34 seconds

The Chair advised that Councillor Steve Jarvis was to speak as a Member Advocate against this item and would therefore move to the public gallery and not take part in the debate or vote.

N.B. Councillor Steve Jarvis moved to the public gallery at 22:40

The Senior Planning Officer clarified that the text at paragraph 3.7 suggested that the Conservation Officer was objecting to the application however, at paragraph 4.3.28 of the report it states that concerns had been raised by the Conservation Officer but, there were no heritage reasons to object to this application.

The Senior Planning Officer presented the report in respect of Application 23/01259/FP supported by a visual presentation consisting of photographs and plans.

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

- The Parish Council had objected to the original livery application for this site on the grounds that it was inappropriate.
- The British Horse Society confirmed that the site did not have sufficient land to support a livery with 12 stables.
- The building built as a garage or feed store under that planning permission was built to a standard far in excess of a livery premises.
- A motor business opened soon after completion of this buildings and the owners requested retrospective planning permission to change the use of the building, which was refused.
- A U shaped building was then erected shortly after the planning refusal, the premises were again in excess of those of a livery.
- A new access to the site was then built on the southern side of the site, and this included the removal of footpath sign.
- The two buildings meant for a livery are currently being used for motor cars.
- The intention of the 2015 planning application was flawed and did not comply with the planning policies with respect to intentional unauthorised developments.
- There were concerns regarding the unauthorised development in green belt land as stated in paragraph 4.3.39 of the report which were pertinent in the case.
- The Parish Council believed that there was insufficient land for a livery on this site and by the applicants own admissions the buildings were built to a higher standard than those for a livery.
- It was believed that it was never the intention to use this site for a livery and the original application was a ruse to obtain permission to build two buildings.

The Chair thanked Parish Councillor Schofield for his presentation and invited Councillor Steve Jarvis to speak against this application. Councillor Jarvis thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Permission was granted in 2015 for stables and a feed store on the site.
- The site and building were never used as stables or built to the conformities of the approved plans.
- The use of this site for motor cars was inappropriate development in the greenbelt and not the permission obtained.
- The applicant claimed that there were very special circumstances for this application as the site contains special German motor cars and an established business however, this business was established in direct contention to the planning permission obtained.
- The report states that there are fewer vehicles parked around the site as a motor business than would be expected from a livery, yet there were a significant number of vehicles parked around the buildings in the presentation.
- The test in the NPPF for very special circumstance states that it will not exist unless the potential harm was clearly outweighed by other considerations.
- The consideration that the business had been trading for 4 years on greenbelt land without planning permission dis not outweigh the inappropriateness of this matter.

- The recommendation relied on the fact that there was the same traffic generated amount for the car business and a livery business.
- The application did not meet the criteria for very special circumstances.

The Chair thanked Councillor Jarvis for his presentation and invited Mr Luke Papworth to speak in support of the application. Mr Papworth thanked the Chair for the opportunity and provided a verbal presentation, including that:

- Since 2002 the Friends Green Farm site had been made up of different units and businesses.
- After the 2015 application the farm was sold and split up. He brought part of the site with his brother.
- The planning permission was granted when the site consisted of 12 acres of land.
- At the time of the sale the construction of the livery had begun, but he completed the building as his own business was expanding.
- The business had been established for 9 years.
- Under advice from a friend, an application was submitted and refused for the site to be used for cars.
- After seeking professional advice and working with Officers, this planning application was submitted, and appropriate Conditions had been agreed.
- A traffic survey was submitted to Highways along with entrance splays and Highways had no objections to this application.
- The only consultee objection was from the Parish Council.
- The business employed 3 people and supported other local businesses in the area.
- There would be less traffic to the site compared to a livery and shorter operating hours.
- Motor specialists around the country used similar styled buildings, including a nearby Lotus specialist.

In response to a point of clarification from Councillor David Levett, Mr Papworth stated that his father was a riding instructor, the old buildings were demolished with the intention to rebuild the site. The building had commenced when the farm was put up for auction at which point her and his brother were able to afford to buy the farmhouse and 2 acres of land.

The Chair thanked Mr Papworth for his presentation and invited the Senior Planning Officer to respond to any points raised.

The Senior Planning Officer stated that there was no concrete evidence that this was an intentional unauthorised development as mentioned in the report, there were only some suspicions.

The following Members took part in debate:

- Councillor David Levett
- Councillor Nigel Mason
- Councillor Ian Mantle

Points raised in debate included:

- The proposed development did not comply with the NPPF.
- No comparison could be made regarding traffic to the site as the site was never trading as a livery.
- The application was for temporary permission and would be monitored.
- Using the assumption that the information from the applicant was correct, then on balance there was less harm that leaving the situation unmonitored.
- This application was inappropriate and went against section 155 of the NPPF.
- Enforcement could be used to resolve matters.

In response to points raised in debate, the Development and Conservation Manager stated that:

- The NPPF refers to very special circumstances but there were exceptions to the policy.
- Had the site ever been used for a livery, then very special circumstance would not have been required, and the change of use would have complied with a specified exception.
- The application was recommended for approval as the material considerations outweighed the harms to the greenbelt and therefore there were very special circumstances.
- The buildings were currently being used for motor vehicles, there were some suspicions that this was the initial intention, however the applicant has stated that his parents did intend to use the site for a livery and that their circumstances changed.

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

- In paragraph 4.3.15 of the report it was stated that the development did not comply to any of the excepted exemption listed in sections 154 and 155 of the NPPF.
- It was acknowledged that the development was inappropriate development in the greenbelt and conflicted with purpose e, to assist in urban regeneration.
- The NPPF stated that if very special circumstances could be demonstrated, that clearly outweighed the harms to the greenbelt by reason of inappropriateness, a development could be accepted.

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

RESOLVED: That application 23/01259/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager.

198 APPEALS

Audio recording: 3 hours 42 minutes 58 seconds

The Development and Conservation Manager advised the Committee that there had been two planning appeal decisions, both had been dismissed. The inspector noted on the Land west of Therfield decision that the site was more suitable for 3 dwellings, and a new scheme may be submitted.

In response to questions, the Development and Conservation Manager advised that:

- The Wymondley Solar Farm application had been refused by the inspector. However, the Secretary of State had overruled this decision and granted planning permission, as it was felt that the benefits outweighed the heritage harms.
- The costs to the Council for external, expert support was £91,600 and this excluded the cost for Officers time.

RESOLVED: That the Committee noted the report.

The meeting closed at 11.18 pm

Chair

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NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
LETCWORTH GARDEN CITY
ON THURSDAY, 11TH APRIL, 2024 AT 7.30 PM

MINUTES

Present: *Councillors: Val Bryant (Chair), Tom Tyson (Vice-Chair), Daniel Allen, Simon Bloxham, Mick Debenham, David Levett, Nigel Mason, Louise Peace, Phil Weeder and Dave Winstanley.*

In Attendance: *Shaun Greaves (Development and Conservation Manager), Caroline Jenkins (Committee, Member and Scrutiny Officer), Susan Le Dain (Committee, Member and Scrutiny Officer), James Lovegrove (Committee, Member and Scrutiny Manager), Christella Menson (Principal Planning Officer), Kerrie Munro (Locum Planning Lawyer) and Tom Rea (Senior Planning Officer).*

Also Present: *At the commencement of the meeting there was one member of the public present, including registered speakers.*

199 APOLOGIES FOR ABSENCE

Audio recording – 1 minute 21 seconds

Apologies for absence were received from Councillors Ian Moody, Sean Nolan and Terry Tyler.

Having given due notice Councillor Dave Winstanley would substitute for Councillor Nolan.

200 MINUTES - 7 MARCH 2024

Audio Recording – 1 minute 51 seconds

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

RESOLVED: That the Minutes of the Meeting of the Committee held on 7 March 2024 be approved as a true record of the proceedings and be signed by the Chair.

201 NOTIFICATION OF OTHER BUSINESS

Audio recording – 2 minutes 46 seconds

There was no other business notified.

202 CHAIR'S ANNOUNCEMENTS

Audio recording – 2 minutes 49 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.

203 PUBLIC PARTICIPATION

Audio recording – 4 minutes 49 seconds

The Chair confirmed that the registered speakers were in attendance.

204 23/01220/FP HOLBORN FARM, DANE END, THERFIELD, ROYSTON, HERTFORDSHIRE, SG8 9RH

Audio Recording – 4 minutes 55 seconds

The Senior Planning Officer gave a verbal update and advised that:

- A supporting letter had been received from the planning consultant for the applicant. This includes endorsement of the recommendation of the Conservation Officer that the dwelling location met with all criteria from the National Planning Policy Framework.
- A variation in the wording to condition 8 would include relevance to the bat survey carried out in June 2023.
- A variation to the wording in condition 9 would be to include “pre - commencement” rather than “first occupation”.
- New conditions 11 and 12 were suggested in respect of the shuttering and roof elevation to safeguard the character of the building.

The Senior Planning Officer presented the report in respect of Application 23/01220/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked points of clarification:

- Councillor Louise Peace
- Councillor Tom Tyson
- Councillor Val Bryant

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

- The bat licencing body concerned with this development would be Natural England, or whoever should replace them if they should not exist in the future.
- The roof tiles on the existing building would be removed and reused.
- It would be investigated whether there is a condition concerning the fabric change of the building and whether this needs to be recorded by Historic England.

The Development and Conservation Manager advised that there is a separate listed building application which will be dealt with under delegated powers and any condition concerning the recording of the fabric of the building would be placed on a consent relating to that application.

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

- The area had quiet lanes, mainly used by residents and delivery drivers.
- The barn itself was beautiful, but the added buildings were ugly. The development would provide external benefit to the area.
- Highways had raised concerns that there were no pavements, although his young family use both bicycles and prams and have no concerns. It was thought that one new dwelling would not add significant traffic problems.

The following Members asked points of clarification:

- Councillor David Levett
- Councillor Nigel Mason

In response to the points of clarification, Mr Brown advised that:

- Alterations to the development would improve the visibility on the site. The stable block to be removed did obstruct the entrance view. It had also been recommended by the traffic consultant to remove the top two thirds of the hedge adjacent to the entrance to improve the visibility splay.
- It was unknown when the site was last used as a farm. He purchased the building 3 years ago, when the previous owners moved to an adjacent bungalow. The previous owners used the site for horses and storage. He was not aware of when the last commercial use of the site was.

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

- Highways had made no objections the visibility at the site, however there was an objection to the new dwelling being sited in a rural location with sustainability issues.
- The hedge at the entrance to the site would be trimmed back to enable the required visibility splay.

Councillor David Levett proposed to grant planning permission and Councillor Daniel Allen seconded.

The following Members took part in debate:

- Councillor Dave Winstanley
- Councillor Louise Peace

Points raised in debate included:

- Highways were not concerned with any impact from one additional dwelling.
- Previous agricultural use had made considerably more traffic on the lanes in the past.
- There had been concern regarding the bats in the barn, but this had been adequately dealt with by the conditions.

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

RESOLVED: That application 23/01220/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager, and the following amendments to Conditions 8 and 9 and the addition of Conditions 10 and 11, as follows:

“Condition 8

The development hereby permitted shall be carried out in accordance with the recommended mitigation and enhancements set out in the submitted ecology report by Cherryfield Ecology dated January 2023 and the Emergence & Activity Bat Survey dated June 2023 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of nature conservation and to comply with Policy NE4 of the North Herts Local Plan 2011 – 2031.

Condition 9

Prior to the commencement of the development approved a scheme of sustainable energy saving measures to be incorporated into the dwelling shall be submitted to, and approved in writing by, the Local Planning Authority and implemented on site.

Reason: To address the climate emergency in accordance with Local Plan Policy D1 of the North Herts Local Plan.

Condition 11

Notwithstanding the detail show on the submitted drawings further details of shuttering to the north facing primary entrance shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works. The development shall be carried out in accordance with the approved details.

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.

Condition 12

Notwithstanding the detail show on the submitted drawings further details of the opening size and design of the north facing rooflight shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works. The development shall be carried out in accordance with the approved details.

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”.

205 APPEALS

Audio Recording: 37 minutes 8 seconds

The Development and Conservation Manager presented the report entitled ‘Planning Appeals’ and informed the Committee that:

- One appeal had been dismissed for a property in Barley.
- The decision for the solar farm in Great Wymondley following the public enquiry had been overruled by the Secretary of State.
- The application for the Bygrave solar farm, which had previously received a hold notice from the Secretary of State, would be returned to a future planning meeting for discussion.
- A further application for a solar farm at Wandon End, near Luton Airport would be discussed at a future meeting.

The following Members asked points of clarification:

- Councillor Nigel Mason
- Councillor David Levett

In response to the points of clarification, the Development and Conservation Manager advised that:

- The Council's costs for the public enquiry was around £78,000, plus officer time. A recent letter from the Great Wymondley Residents Association showed a possible intention to challenge this decision in the High Court, although this would not stop the judicial review period of six weeks following the decision.
- There would not necessarily be a need for the Council to be represented during any Judicial Review in the High Court. It would be for the Secretary of State to be legally represented to defend his decision.

RESOLVED: That the Committee noted the report.

206 CURRENT ENFORCEMENT NOTICES

Audio Recording – 47 minutes 8 seconds

The Principal Planning Officer presented the Information Note entitled 'Current Enforcement Notices' and advised that:

- She was the newly appointed Team Leader of the Planning Enforcement Team and provided background on the newly established team.
- The team would continue to seek to negotiate on enforcement issues and come to an informal agreement where breaches occurred. Whilst this may lead to more protracted process, it was important to take a pragmatic approach to dealing with enforcement issues.
- The team would prioritise listed building, development in the green belt and advertising breaches and would continue to work progressively alongside the Conservation Officers to ensure that where a development fails to meet the corporate objective of the Council, appropriate action is taken.

RESOLVED: That the Committee noted the Information Note.

207 EXCLUSION OF PRESS AND PUBLIC

Audio recording – 50 minutes 9 seconds

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

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

208 CURRENT ENFORCEMENT ACTIONS

N.B This item was considered in restricted session and therefore no recording is available.

The Principal Planning Officer presented the Information Note entitled 'Current Enforcement Actions' and advised that:

- Officers were working on the current caseloads and bringing backlogs down, due to the recent turnaround of staff. Cases would now be picked up, revisited and decisions made.
- Members were contacting officers directly to request updates. Officers were keen to bring a clear message of a serious approach to planning enforcement and all enquiries should be submitted through the Enforcement inbox.

Thursday, 11th April, 2024

- The team were not yet fully staffed, but the plan of work set out for members had real focus and progress for future works.
- Provided detail on the current enforcement actions listed within the Information Note.

In response to the points of clarification from Councillor Dave Winstanley, the Principal Planning Officer advised that:

- Retrospective prosecution could take place on breaches at premises listed within the Information Note.
- The Enforcement Team had regular monthly liaison meetings with the Legal Team to ensure support for any legal actions required.

RESOLVED: That the Committee noted the Information Note.

The meeting closed at 8.38 pm

Chair

<u>Location:</u>	Land On The South Of Oughtonhead Lane Hitchin Hertfordshire SG5 2NA
<u>Applicant:</u>	Cala Homes
<u>Proposal:</u>	Erection of 43 dwellings, access from Lower Innings, associated internal roads, parking, landscaping, amenity space and open space.
<u>Ref. No:</u>	23/00563/FP
<u>Officer:</u>	Ben Glover

Date of expiry of statutory period: 07/06/2023

Extension of statutory period: 21/02/2023

Reason for Delay: Application deferred at committee on 15/02/2024.

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

1.0 **Site History**

23/00555/FP - Creation of access from Lower Innings to Land south of Oughtonhead Lane – Granted Conditional Permission on 02/08/2023.

2.0 **Policies**

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

Spatial Strategy and Strategic Policies

Policy SP1: Sustainable Development in North Hertfordshire

Policy SP2: Settlement Hierarchy

Policy SP6: Sustainable transport

Policy SP7: Infrastructure requirements and developer contributions

Policy SP8: Housing

Policy SP9: Design and sustainability

Policy SP10: Healthy communities

Policy SP11: Natural resources and sustainability

Policy SP12: Green infrastructure, biodiversity and landscape

Policy SP13: Historic Environment

Development Management Policies

Policy HT6: Local Housing Allocations and site specific policy criteria – Land at junction of Grays Lane and Lucas Lane

Policy HS1: Local Housing Allocations
Policy HS2: Affordable Housing
Policy HS3: Housing Mix
Policy HS5: Accessible and adaptable housing
Policy T1: Assessment of transport matters
Policy T2: Parking
Policy D1: Sustainable design
Policy D3: Protecting living conditions
Policy D4: Air quality
Policy NE1: Strategic green infrastructure
Policy NE2: Landscape
Policy NE3: The Chilterns Area of Outstanding Natural Beauty (AONB)
Policy NE4: Biodiversity and geological sites
Policy NE6: New and improved open space
Policy NE7: Reducing flood risk
Policy NE8: Sustainable drainage systems
Policy NE9: Water quality and environment
Policy NE10: Water conservation and wastewater infrastructure

2.2 **Supplementary Planning Documents**

Design SPD

Developer Contributions SPD 2023

Vehicle Parking Provision at New Development SPD (2011)

North Hertfordshire and Stevenage Landscape Character Assessment

2.3 **National Planning Policy Framework (2023)**

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 6: Building a strong competitive economy

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 11: Making effective use of land

Section 12: Achieving well-designed places

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

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

2.4 **Hertfordshire County Council**

Local Transport Plan (LTP4 – adopted May 2018)

Hertfordshire Waste Core Strategy and Development Management Policies

Development Plan Document 2012

2.5 **National Planning Practice Guidance**

Provides a range of guidance on planning matters including flood risk, viability, design and planning obligations.

3.0 **Representations**

3.1 **Site Notice:**

Start Date: 29/03/2023

Expiry Date: 21/04/2023

3.2 **Press Notice:**

Start Date: 23/03/2023

Expiry Date: 15/04/2023

3.3 Neighbouring Notifications:

105 neighbouring representations have been received, including 100 objections and 1 in support. The representations are shown in full on the NHC website and have been summarised below:

Objections:

- No safe access to the land.
- The access proposed is inappropriate.
- The development would increase existing traffic problems along Redhill Road, Westbury Close, Spellbrooke, Friday Furlong, and Lower Innings.
- Development would result in risk to the public and highway safety.
- Increase in traffic would result in risk to users of the Oughtonhead restricted byway. The proposed development would not enhance the public rights of way as per P.100 of the NPPF.
- Ecological impact of the development through the loss of land and wildlife corridor provided on the existing site.
- No biodiversity net gain.
- Loss of hedgerows, trees, and wildlife habitats.
- Existing highways network is unsuitable for construction traffic.
- Loss of Green Belt land.
- Development would harm local integrity and distinctiveness of Lower Innings and Oughtonhead Lane.
- Increase to pollution in area including noise.
- Increase demand on schools, doctors surgeries, and other facilities and services.
- Need for more affordable homes.
- Request the inclusion of one integrated swift brick per dwelling.
- Development in the area has caused damage that has yet to be repaired.
- Hitchin train station is already overcrowded. The site is not in walking distance to the station resulting in more car journeys to the station.
- The development would be constructed on what is in effect part of Oughton Head Common.
- Site is included within the Hertfordshire Ecological Network for restoration of neutral grassland.
- Lack of public consultation by Cala prior to submission.
- Development of this land is not required as the number of new houses required within the district has been reduced.
- Any new development should be on brownfield sites.
- Public were not consulted about the change of access from Bowlers End to Lower Innings.
- Construction traffic cannot enter the site safely and in a non-disruptive manner from any access point.
- Objections to the creation of a pedestrian access between the application site and Bowlers End.

Neutral:

- Inclusion of Swift Bricks is welcome. Each dwelling should include a Swift Brick.

Support:

- Hope that trees over hanging Oughton Close will be trimmed over boundary fences.

3.4 **Parish Council / Statutory Consultees:**

HCC Highways – No objection subject to conditions and informatives.

Environmental Health (Contaminated Land) – No objection subject to inclusion of land contamination condition.

Environmental Health (Noise) – No objection subject to informatives.

Environmental Health (Air Quality) – No objection subject to conditions

Affinity Water – No comments received.

Anglian Water – No objection subject to informatives.

Archaeology – No objection subject to conditions.

CPRE Hertfordshire – No comments received.

Environment Agency – No comments received.

HCC Rights of Way – No objection. Comments available in full on the NHC website.

Forward Planning Unit – No comments received.

HCC Growth & Infrastructure – No objection, subject to securing financial contributions via a S106 legal agreement.

Housing Development Officer – No objection subject to the provision of a 40% overall affordable housing contribution. 65% rented affordable housing and 35% intermediate affordable housing.

HCC Planning Obligations Manager – No comments received.

HCC Minerals and Waste – No objection subject to a site waste management condition.

Herts Fire and Rescue – No objection subject to the provision of on-site fire hydrants

Hitchin Forum – No objection. Concerns raised. Comments in full on the NHC website.

Herts Herts & Middlesex Wildlife Trust – Objection. Biodiversity net gain not demonstrated.

The Water Officer – No comments received.

Lead Local Flood Authority – No objection subject to conditions and informatives.

Natural England – No objection.

National Grid – No objection.

Thames Water – No comments received.

UK Power Networks – No comments received.

Transport Policy Officer – No comments received.

Ecology – No comments received.

NHDC Principle Planning Officer – No comments received.

NHDC Planning Policy Officer – No comments received.

Strategic Housing Manager – No comments received.

Hitchin Priory Councillor Chris Lucas – No comments received.

Hitchin Priory Councillor Richard Thake – No comments received.

Hitchin Oughton Councillor Claire Billing – Objection. Please see appendix 1.

Hitchin Oughton Councillor Nigel Mason – Objection. Please see appendix 2.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The application site is a large rectangular field bound by mature vegetation, approximately 1.8ha and is situated on the west side of Hitchin approximately 0.6 miles from the Hitchin Town Centre. The site sits to the south of Oughtonhead Lane, Oughton Close is located to the east, and Hitchin Cricket Club is to the south and west of the site.

4.1.2 The application site is not situated within a Conservation Area, and is not situated within the Green Belt. Approximately 1 mile to the west of the site is the Chilterns Area of Outstanding Natural Beauty (AONB).

4.2 **Proposal**

4.2.1 Planning permission is sought for the erection of 43 dwellings with access from Lower Innings, associated internal roads, parking, amenity space and open space including play area.

4.2.2 The proposals have been previously amended to include changes to visitor car parking spaces and the inclusion of solar panels to most properties where appropriate.

4.2.3 The application site is an allocated site under Policy HT3 of the North Hertfordshire Local Plan 2011-2031.

4.3 **Key Issues**

4.3.1 This application was deferred from the Planning Control Committee (PCC) on the 15th February 2024 for the following reason (taken from the committee minutes):

“RESOLVED: That application 23/00563/FP be DEFERRED to a future meeting to allow for the applicant to review the potential for a pedestrian access point to the southeast of the application site, and for the wording and requirements of

recommended Condition 8 regarding the Local Cycle/Pedestrian Network Audit to be reviewed”.

- 4.3.2 The application was scheduled to be reported to the meeting of the PCC on the 21st March 2024. However, it was deferral prior to the application being considered because the applicant’s communication team emailed committee members the legal advice of their barrister, Sasha White KC, with a briefing note addressed to Councillors. Both documents were not circulated more widely or made publicly available prior to the meeting. In the circumstances officers considered it appropriate to seek the advice of Counsel on how best to proceed.
- 4.3.3 The KC advice for both the applicant and Counsel’s advice to the Council have been published on the Council’s website and indexed below.
- 4.3.4 The previous Case Officer reports for both the 15/02/24 PCC and the 21/03/24 PCC have also been indexed at the end of this report for reference.
- 4.3.5 The key issues addressed in this report include a response to the previous reasons for deferral and Officer views on the legal opinions received.

Pedestrian Access via Bowlers End:

- 4.3.6 The application was deferred previously to allow the applicant to review the potential for a pedestrian access point between the application site and Bowlers End to the south.
- 4.3.7 The applicant sent a letter to the residents of Bowlers End following the deferral of the previous committee meeting on the 15th February 2024. The management company for Bowlers End have responded to the applicants request to create a pedestrian access. The response letter dated 18th March 2024 states:

“Century Grove (Hitchin) Management Company Ltd, the owners of the footpaths and roads in the Bowlers End development, has considered your request and their response is to refuse to grant pedestrian access rights through the Bowlers End development. The Management Company is not interested in entering into any negotiations on this matter.”
- 4.3.8 Given the above, the creation of a pedestrian access between the application site and Bowlers End is not possible and this reason for deferral is considered to have been addressed.
- 4.3.9 Furthermore, it should be noted that in the Alexander Greaves KC (AGKC) Advice on behalf of the Council, it states that *“a reason for refusal based upon a lack of permeability and accessibility via non-motorised forms of travel would be less difficult, although in my view it would still be likely to be unsuccessful at appeal”.*
- 4.3.10 Whilst the concerns raised with regards to permeability and connectivity are noted, it is considered that the benefits of providing an access to the site from Bowlers End to the south would have limited benefit to future occupants of the site given the relatively modest size of the site. Future occupants would benefit from several access points to Oughtonhead Lane to the north of the site which provides adequate connection to the centre of Hitchin.

- 4.3.11 Moreover, the scheme complies with the site specific policy of the Local Plan by providing access to and from the site via Lower Innings to the north of the site. The proposal, for this reason, would comply with Policy HT3 of the North Hertfordshire Local Plan.
- 4.3.12 As set out in Paragraph 41 of the AGKC advice, Policy HT3 does not specify the requirement for an additional pedestrian access to Bowlers End or any other additional pedestrian connections. However, several pedestrian access points onto Oughtonhead Lane are proposed that exceeds the basic requirement of access being provided from Lower Innings.
- 4.3.13 Given the above, it is considered that the proposed development is acceptable in terms of connectivity and the proposal complies with Policy HT3 of the Local Plan.

Vehicular Access via Lower Innings:

- 4.3.14 The application includes the creation of an access to the site via Lower Innings. This access was granted planning permission under reference number 23/00555/FP subject to conditions. The Highways Authority have raised no objection to the design and creation of the access to the current application or to the previously approved application also subject to the inclusion of conditions and informatives.
- 4.3.15 Paragraph 49 of the AGKC advice states *“the Council should seek to clarify whether it is correct that priority will now be given to users of Oughtonhead Lane at the intersection with the vehicular access to the Site, as indicated by the Highways Authority... and whether this has any material implications for the assessment carried out in the application documents and the consultation responses that have been provided to date.”*
- 4.3.16 Clarification from the agent has been sought as to whether the currently proposed scheme would require a redesign to address concerns relating to the matter of priority at the access between vehicles and pedestrians. The applicant’s agent has provided a response to this issue and set out that Rule H2 of the Highways Code states *“At a junction you should give way to pedestrian crossing or waiting to cross a road into which or from which you are turning”*. The applicant points out that it should be noted that the section of the highway code states that this is a “should” and not a “must”. The applicant has not proposed a change to the vehicular access design to change the priority in favour of pedestrians. The Highway Code does seek to address the design of highways but their use.
- 4.3.17 Within the Highways Authority’s response, the following condition has been recommended:

“No development shall commence until detailed technical plans are submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the vehicle access and associated highway works concerning the connectivity of the access road with Lower Innings, as shown in the Transport Statement. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority’s satisfaction and completed before commencement of work of the development.

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

4.3.18 For clarify, this condition has also been attached to the permission granted under application reference 23/00555/FP for the access. Given that that condition has not yet been approved by the Local Planning Authority and considering that this application includes the creation of an access via Lower Innings, it is proposed that it be included to this recommendation as per the AGKC advice.

4.3.19 Given the above and the recommended conditions set out by the Highways Authority, it is considered that the proposed access would be acceptable and would not result in unacceptable harm to the local highway network or users of Oughtonhead Lane.

Condition 8:

4.3.20 The application was also deferred from the 15/02/24 PCC on the basis that the Committee considered the wording of condition 8 needs to include the provision of a local cycle and pedestrian network audit.

4.3.21 The condition is worded as originally recommended by The Highways Authority and states:

“Prior to the first occupation/use of the development hereby permitted, a detailed audit of the local cycle and pedestrian network including PRow in proximity to the site shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority. This is to identify a scheme where potential improvements could be made and implemented to the walking, cycling, PRow connectivity or public transport network and funded by the applicant. The approved scheme shall be implemented prior occupation of any dwellings on site unless otherwise agreed in writing by the LPA.

Reason: In the interests of highway safety and to ensure vulnerable users have access to safer improved sustainable facilities that encourage active travel.”

4.3.22 The above condition is considered a standard Highways condition for a development of this site and its inclusion at this stage is typical. It would not be expected or necessary for an applicant to carry out the requirements of the condition prior to commencement of the works on site.

Table of Agreed S106 Obligations:

4.3.23 Below is a table of agreed S106 Obligations:

Element	Detail and Justification	Condition/ Section 106
Primary Education	Towards the expansion of Oughton Primary School and/or provision serving the development £539,052 index linked to BCIS 1Q2022 Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure	S106 obligation

	Contributions Hertfordshire County Council's requirements document	
Secondary Education	<p>Towards the expansion of The Priory, Hitchin Secondary School and/or provision serving the development</p> <p>£606,643 index linked to BCIS 1Q2022</p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation
Special Educational Needs and Disabilities (SEND)	<p>Towards the delivery of new Severe Learning Difficulty (SLD) special school places (EAST) and/or provision serving the development</p> <p>£60,448 index linked to BCIS 1Q2022</p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation
Library Service	<p>Towards increasing the capacity of Hitchin Library and/or provision serving the development</p> <p>£10,804 index linked to BCIS 1Q2022</p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document.</p>	S105 obligation
Youth Service	<p>Towards the delivery of a new centre serving Hitchin and the surrounding area and/or provision serving the development</p> <p>£16,555 index linked to BCIS 1Q2022</p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document.</p>	S106 obligation
Waste Service Recycling Centre	<p>Towards increasing capacity at Letchworth Recycling Centre and/or provision serving the development</p> <p>£8,606 index linked to BCIS 1Q2022</p>	S106 obligation

	Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document	
Waste Service Transfer Station	Towards the new Northern Transfer Station and/or provision serving the development £7,384 index linked to BCIS 3Q2022 Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document	S106 obligation
HCC Monitoring Fees	HCC will charge monitoring fees. These will be based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of £340 (adjusted for inflation against RPI July 2021). Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document. (£360 for each distinct trigger point)	S106 obligation
HCC Highways Strand 1	Agreed improvements and travel plan support and monitoring fee £1,200pa for 5 years, indexed from May 2014) are delivered via a Strand 1 S106 agreement	S106 obligation
Affordable Housing	17 affordable units (11 affordable rent and 6 shared ownership properties as per Drawing No. 23/003/070 PL02. Policy HS2 of the Local Plan and Planning Obligations SPD.	S106 obligation
Open Space	Resurfacing of footpaths and improvements to access of Oughtonhead Common (£50,000 to be indexed linked) Policy SP7 'Infrastructure requirements and developer contributions' and Planning Obligations SPD.	S106 obligation
Waste Services	£3,225 (£75 per dwelling) Policy SP7 'Infrastructure requirements and developer contributions' and Planning Obligations SPD.	S106 obligation
Hitchin Swim Centre	£14,000 (calculated at £100/bed) for the refurbishment of the changing rooms at Hitchin Swim Centre. Policy SP7 'Infrastructure requirements and developer contributions' and Planning Obligations SPD.	S106 obligation

HCC Highways Strand 2	Mitigation for the wider cumulative impact of development on non-car networks through a Strand 2 S106 agreement £293,518 The costs of the wider works identified shall be subtracted from the Strand 2 contributions.	S106 obligation.
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4.4 **Conclusion**

- 4.4.1 The application site is designated for residential development under Policy HT3 of the North Hertfordshire Local Plan. The development of the site would provide 43 new dwellings, 17 of which would be affordable homes. The proposal would therefore make a positive contribution to the delivery of homes within the district for the rest of the Local Plan period.
- 4.4.2 The site is not situated within the Green Belt and it not within the setting of any Listed Building or Conservation Areas. The site would not result in any unacceptable harm to the setting of the Chilterns AONB.
- 4.4.3 No objections are raised to the design and layout of the proposed development, or impact on neighbouring residential amenity. Furthermore, the development would provide an acceptable standard of living for future occupiers of the site.
- 4.4.4 The Highways Authority have raised no objection to the proposed development. Furthermore, the access to the site from Lower Innings benefits from extant planning permission.
- 4.4.5 The application is accompanied with a set of planning obligations which are necessary to make the development acceptable, directly related to the development, and fairly and reasonably related in scale and kind.
- 4.4.6 It is not possible to deliver the creation of a pedestrian access between the application site and Bowlers End to the south given that Bowlers End is privately owned and maintained by a management company who have rejected the possibility of the creation of an access within a letter dated 18/03/2024
- 4.4.7 Both KC advice documents set out that it would be unlikely for the Council to achieve success at appeal should the application be refused on the grounds of the accessibility of the site and would have even less chance at appeal if the refusal relates to the primary access into the site given that the access to the site has been previously permitted under reference number 23/00555/FP.
- 4.4.8 In conclusion, the proposed development for 43 dwellings is considered to comply with the relevant planning policies set out within the North Hertfordshire Local Plan 2011-2031 and the National Planning Policy Framework 2023.

5.0 **Alternative Options**

- 5.1 None applicable

6.0 **Pre-Commencement Conditions**

- 6.1 Members to be updated in writing prior to the PCC meeting.

7.0 Legal Implications

7.1 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.

8.0 Recommendation

8.1 That planning permission be **GRANTED** subject to the following:

- A) The completion of a satisfactory legal agreement and the applicant agreeing to extend the statutory period in order to complete the agreement if required: and
- B) Conditions and Informatives as set out in this report.
- C) The completion of the S106 legal agreement.

8.2 Recommended Conditions and Informatives:

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

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

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

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

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

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area and to comply with Policy D1 and/or Policy D3 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, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

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

5. The development hereby approved shall incorporate at least 10 integral bat boxes, 10 swift bricks, 10 open fronted bird boxes, and 10 hole fronted boxes. Once installed, the boxes and bricks shall be maintained in perpetuity.

Reason: To ensure the proposal has regard for wildlife and contributes to net gains in biodiversity, in line with Policy NE4 of the Local Plan.

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

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

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

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

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

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

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

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

7. No development shall commence until the detailed technical plans as required by Condition 4 of planning permission reference 23/00555/FP are submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the vehicle access and associated highway works concerning the connectivity of the access road with Lower Innings, as shown in the Transport Statement. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction and completed before commencement of work of the development.

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

8. Prior to the first occupation/use of the development hereby permitted the vehicular access shall be installed in accordance with the approved detailed technical plans and thereafter retained and maintained at all times at the position shown. 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).

9. Prior to first use of the access route across Oughtonhead Lane by any construction traffic, the surface of Oughtonhead Lane must be protected from any surface and side damage, and that any accidental damage must be repaired to the satisfaction of the area Rights of Way Officer.

Reason: In the interests of protecting the Oughtonhead Lane Restricted Byway (Hitchin 003) for users of the public right of way.

10. Prior to the first occupation/use of the development hereby permitted, a detailed audit of the local cycle and pedestrian network including PRow in proximity to the site shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority. This is to identify a scheme where potential improvements could be made and implemented to the walking, cycling, PRow connectivity or public transport network and funded by the applicant. The approved scheme shall be implemented prior occupation of any dwellings on site unless otherwise agreed in writing by the LPA.

Reason: In the interests of highway safety and to ensure vulnerable users have access to safer improved sustainable facilities that encourage active travel.

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

- the phasing of construction and proposed construction programme.
- the methods for accessing the site, including wider construction vehicle routing.
- the numbers of daily construction vehicles including details of their sizes, at each phase of the development.

- the hours of operation and construction vehicle movements.
- details of any highway works necessary to enable construction to take place.
- details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
- details of any hoardings and how visibility splays will be maintained.
- management of traffic to reduce congestion.
- control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels.
- the provision for addressing any abnormal wear and tear to the highway.
- waste management proposals.
- Provision of sufficient on-site parking prior to commencement of construction activities;
- Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding and remaining road width for vehicle movements.

Reason: To minimise the impact of the construction process on the on local environment and local highway network in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

12. The gradient of the vehicular access shall be level with the public highway (or not exceed 1:20) including internal footways.

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

13. Prior to the occupation/use of the development hereby permitted, the details of the siting, type and specification of EVCPs shall be submitted to and approved in writing by the Local Planning Authority. All EVCPs shall be installed in accordance with the approved details prior to occupation of each of the units and permanently maintained and retained.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies 5, 19 and 20 of Hertfordshire's Local Transport Plan (adopted 2018).

14. Prior to first occupation a detailed travel plan shall be in place with reference to the 'Travel Plan Guidance' at www.hertsdirect.org.

- The content of the travel plan shall be fully assessed prior to its approval in conjunction with local authority officers.
- The agreed targets and objectives included in the travel plan are secured for implementation by mutual agreement of the local authority and the developer/applicant (normally by means of a Section 106 agreement).
- The outputs of the travel plan (typically trip levels and mode split) are annually monitored against the agreed targets and objectives.
- Should the travel plan not deliver the anticipated outputs or meet the targets and objectives further mitigation/alternative/compensation measures need to be identified and implemented.
- A named co-ordinator is required for success of the travel plan.

The Travel Plan should include the following:

- Agreed mechanisms for discouraging high emission vehicle use and
- Encouraging modal shift (i.e. public transport, cycling and walking) as well as the uptake of low emission fuels and technologies
- Improved pedestrian links to public transport stops
- Provision of new bus stops infrastructure including shelters, raised kerbing, information displays
- Provision of subsidised or free access to public transport
- Site layout to include improved pedestrian pathways to encourage walking
- Improved convenient and segregated cycle paths to link to any existing local cycle network.

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

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

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

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

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

Reason: To ensure the implementation of an appropriate archaeological investigation, recording, reporting and publication, and the protection and preservation of archaeological features of significance, in accordance with North Hertfordshire Local Plan Policy HE4 and Section 16 of the NPPF 2023.

16. No development shall take place until a Site Waste Management Plan (SWMP) for the site has been submitted to the Local Planning Authority and approved in consultation with the Waste Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including estimated and actual types and amounts of waste removed from the site

and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

Reason: This is a pre-commencement condition to promote sustainable development and to ensure measures are in place to minimise waste generation and maximise the on-site and off-site reuse and recycling of waste materials, in accordance with Policy 12 of the Hertfordshire Waste Core Strategy and Development Management Policies Development Plan Document (2012).

17. No development apart from enabling and associated works shall take place until details of a scheme for the provision of fire hydrants to serve the relevant phases of the development has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The provision and installation of fire hydrants, at no cost to the County or Fire & Rescue Service.

Reason: To ensure all proposed dwellings have adequate water supplies for in the event of an emergency.

18. Construction shall not begin until a detailed construction phase surface water management plan for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be carried out in accordance with the approved details.

Reason: To ensure that the construction of the site does not result in any flooding both on and off site and that all Surface water Drainage features are adequately protected.

19. The development hereby approved shall not be occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:

- I. a timetable for its implementation.
- II. details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
- III. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime. This will include the name and contact details of any appointed management company.

Reason: To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with NPPF and Policies of North Herts Council.

20. 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. This shall include cross and long

section drawings of all proposed SuDS features. The scheme shall then be constructed as per the agreed drawings, method statement, FRA & Drainage Strategy (AEQ-210/FRA Rev E 26 July 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 Policies of North Herts Council.

Proactive Statement

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

Informatives:

1. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
2. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047.
Road Deposits:
3. It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

4. Construction standards for works within the highway. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
5. The Public Right of Way(s) should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works. Safe passage past the site should be maintained at all times for the public using this route. 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 the Highway Authority. No materials shall be stored or left on the Highway including Highway verges. If the above conditions cannot reasonably be achieved, then a Temporary Traffic Regulation Order (TTRO) would be required to close the affected route and divert users for any periods necessary to allow works to proceed, for which a fee would be payable to Hertfordshire County Council. Further information is available via the County Council website at <https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/countryside-access/rightsofway/rights-of-way.aspx> or by contacting Rights of Way, Hertfordshire County Council on 0300 123 4047.
6. Highway to remain private: The applicant is advised that all new highway routes within the development site are likely to remain unadopted and the developer should put in place a permanent arrangement for long term maintenance. At the entrance of the new estate the road name plate should indicate that it is a private road to inform purchasers of their future maintenance liabilities. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047
7. A Travel Plan for the development consisting of a written agreement with the County Council which sets out a scheme to encourage, regulate, and promote green travel measures for owners, occupiers, and visitors to the Development in accordance with the provisions of the County Council's 'Travel Plan Guidance for Business and Residential Development', which is subject to an overall sum of £6,000 payable before occupation of the development. This 'evaluation and support contribution' is to cover the County Council's costs of administering and monitoring the objectives of the Travel Plan and engaging in any Travel Plan Review. Indexation of this figure will be based on the Consumer Price Index from the date planning is granted to the date the contribution is paid. The applicant's attention is drawn to Hertfordshire County Council's guidance on residential/commercial Travel Plans: www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-

developmentmanagement.aspx#DynamicJumpMenuManager_1_Anchor_5 Our Travel Plan team can provide further advice at travelplan@hertfordshire.gov.uk

8. 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.
9. During the construction works 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.
10. Each charging point shall be installed by an appropriately certified electrician/electrical contractor in accordance with the following specification. The necessary certification of electrical installation should be submitted as evidence of appropriate installation to meet the requirements of Part P of the most current Building Regulations.
11. Cable and circuitry ratings should be of adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A (which is recommended for Eco developments).
 - o A separate dedicated circuit protected by an RBCO should be provided from the main distribution board, to a suitably enclosed determination point within a garage or an accessible enclosed termination point for future connection to an external charge point.
 - o The electrical circuit shall comply with the Electrical requirements of BS7671: 2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7 (PDF). This includes requirements such as ensuring the Charging Equipment integral protective device shall be at least Type A RCD (required to comply with BS EN 61851 Mode 3 charging).
 - o If installed in a garage all conductive surfaces should be protected by supplementary protective equipotential bonding. For vehicle connecting points installed such that the vehicle can only be charged within the building, e.g. in a garage with a (non-extended) tethered lead, the PME earth may be used. For external installations the risk assessment outlined in the IET code of practice must be adopted, and may require additional earth stake or mat for the EV charging circuit. This should be installed as part of the EV ready installation to avoid significant on cost later.
12. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087
13. A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

14. Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
15. The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.
16. 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.
17. 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.
18. 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.

Please note if, you the Local Planning Authority review the application and decide to grant planning permission, notify the us (the Lead Local Flood Authority), by email at FRMConsultations@hertfordshire.gov.uk.

9.0 **Appendices**

9.1 Appendix 1 - Alexander Greaves of Counsel Advice to the Council.

9.2 Appendix 2 - Sasha White KC Advice to Cala Homes.

10.0 **Background Papers**

10.1 [Report presented to Planning Control Committee meeting on 27 July 2023.](#)

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Land South of Oughtonhead Lane

ADVICE

Introduction

1. I have been asked to advise North Hertfordshire District Council (“the Council”) on a number of matters arising out of its consideration of two planning applications relating to the development of Land on the South of Oughtonhead Lane, Hitchin, Hertfordshire, SG5 2NA (“the Site”) submitted by Cala Homes (“the Applicant”).
2. The first application (ref: 23/0555/FP) concerns the creation of an access to the development, and was granted permission by the Council on 2 August 2023 (“the First Application”). The second application (ref: 23/00563/FP) concerns the erection of 43 dwellings, access and associated development (“the Second Application”).
3. Specifically, I have been asked to advise on:
 - a. The merits of successfully defending any appeal that may arise in relation to the Second Application, as well as likelihood of an award of costs being made against the Council.
 - b. What steps the Council should take to progress the Second Application whilst avoiding any concerns of apparent bias, predetermination or fettering of discretion.
 - c. Review the advice provided by Sasha White KC and provide any guidance to assist the Council in making its decision on the Second Application.

Relevant Background

4. The Site is allocated in the North Hertfordshire Local Plan 2011-2031 (adopted 8 November 2022), under Policy HT3 for the provision of 46 homes. The criteria for the allocation are as follows:
 - *Access from Westbury Close or Long Innings [sic]¹ whilst maintaining the general integrity and character of Oughtonhead Lane (Restricted Byway Hitchin 003);*
 - *Consider and mitigate against potential adverse cumulative impacts of sites in this area on Oughtonhead Lane SSSI;*
 - *Retain and reinforce planting along western and southern boundaries to ensure integrity of revised Green Belt boundary; and*
 - *Sensitive design to minimise impacts upon landscapes to the west, including longer views from the Chilterns AONB.*
5. Oughtonhead Lane is a restricted byway.
6. On 7 March 2023, the First Application was submitted for “*Creation of access from Lower Innings to Land south of Oughtonhead Lane*”. The red line location plan submitted with the application just relates to the access over Oughtonhead Lane.
7. On 8 March 2023, the Second Application (ref: 23/00563/FP) was submitted for “*Erection of 43 dwellings, access from Lower Innings, associated internal roads, parking, landscaping, amenity space and open space*”. The red line location plan submitted with this application covered the entirety of the Site, including the access over Oughtonhead Lane.
8. The Transport Statement (“TS”) submitted with the applications noted that the Public Rights of Way Officer had requested that the intersection between the new access and the Lane be designed with priority for non-motorised users of the Lane.² However, it explains that this option was not taken forwards because: (a) it could lead to an increased risk of collision where drivers become complacent; and (b) the visibility splays required by car drivers would be significant and require hedgerow clearance along the lane that could impact on its character. Accordingly, the intersection was designed with priority for vehicles, but in such a way to ensure that vehicle speeds

¹ It is clear that this should read “Lower Innings” rather than “Long Innings”.

² Transport Statement, para. 4.2.3.

crossing the intersection are very low, which was considered to be the safest design for all users.³ The access design was reviewed as part of a Stage 1 Road Safety Audit, and the recommendations made were accepted and incorporated into the proposed design.

9. In a consultation response dated 7 April 2023, the Highway Authority indicated that it did not raise any objection to the proposal subject to the imposition of 2 conditions.
10. The consultation response from the Public Rights of Way Officer provided in July 2023 continued to request vehicles should be subservient to users of the lane at the crossing. However, it did not raise an objection to the proposal.
11. The Officer's Report for the First Application ("OR1") explained that if the access was approved it would serve a residential development for 43 dwellings that was proposed under the Second Application, but the matters under consideration for this application were "*limited principally to the impacts of the proposed access only*".⁴ The report considered highways safety at paras. 4.3.7 – 4.3.11, concluding that "*the proposed development and it's [sic] design would not result in any unacceptable harm to the safe use of nearby public highways*".⁵ Any impact on Oughtonhead Lane was considered at paras. 4.3.12 – 4.3.15, which explained that the justification for priority being given to motorists was acceptable notwithstanding the comments from the Public Rights of Way Officer. OR1 therefore recommended that planning permission should be granted subject to conditions.
12. The First Application went before the Council's planning committee meeting on 27 July 2023. During the course of the debate, an officer from the Highways Authority clarified that, notwithstanding the indication by the applicant and in OR1 that priority would be given to motorists at the intersection with Oughtonhead Lane, recent changes to the Highway Code meant that cars would now have to give way to pedestrians on Oughtonhead Lane.⁶

³ Transport Statement, paras. 4.2.4 – 4.2.8.

⁴ OR1, para. 4.3.2-4.3.3.

⁵ OR1, para. 4.3.11.

⁶ Planning committee minutes for the meeting on 27 July 2023, p. 4.

13. The Council accepted the recommendation in OR1 and, in a decision notice dated 2 August 2023, granted planning permission for the First Application subject to 5 conditions.
14. The consultation response from the Highway Authority relating to the Second Application, dated 6 April 2023, also raised no objection to the scheme, concluding that the development “*is not likely to have any significant impact on parking demand, congestion or highway safety on the local highway network*”. However, it considered that the Transport Statement was “*deficient in its review of promoting active travel*” and “*does not properly review the existing highway infrastructure to identify whether any deficiencies that create barriers to vulnerable road users currently exist*”. Accordingly, it recommended that a condition be imposed requiring an audit to be carried out to identify any existing barriers along primary routes and propose potential improvements that would be secured prior to occupation of the development.
15. The consultation response from the Public Rights of Way Officer to the Second Application was largely the same as the first, although a further follow-up response noted that the County Council was currently dealing with an application (ref: NH/235/MOD) to modify the Definitive Map and Statement and had decided to make an order that would confirm new public footpaths across the Site. It explained that these had been incorporated within the design of the scheme, but provided a plan for the information of the local planning authority in the event that there were any changes to layout of the proposed development.
16. The Second Application went to the Council’s planning committee on 15 February 2024. However, after some considerable debate about the acceptability of the access and the permeability of the scheme, it was deferred to see whether the Applicant could secure the provision of an additional pedestrian access through a neighbouring development to the southeast of the Site. A revised site layout plan was produced and consulted upon showing this additional connection.⁷ However, the management company for the neighbouring development responded in a letter dated 18 March 2024 refusing to grant pedestrian access and indicating that it was not interested in entering into any negotiations on the matter.

⁷ Drawing No. 23/003/11, revision PL07.

17. The Applicant instructed Sasha White KC (“SWKC”) to advise on various matters relating to the access in conference and then provide a written advice on an agreed set of questions. On 19 March 2024 SWKC’s written advice, dated 18 March 2024, was provided to the Council. It addressed the following two questions:

- a. Question 1 – If the LPA decide to refuse the planning application on the grounds of access what are the prospects of success on appeal?
- b. Question 2 – What would be the prospects of getting a costs award against the LPA in such circumstances?

18. In relation to the first question, SWKC’s advice was that the prospects of success would be around 80%.⁸ In relation to the second question, SWKC’s advice was that the refusal would unquestionably be deemed unreasonable and the prospects of an award of costs against the Council would be incredibly strong.⁹

19. The Second Application was due to be taken back before the Council’s planning committee on 21 March 2024. However, the day before the committee meeting, the Applicant’s communications team emailed the committee members individually to provide them with:

- a. A copy of SWKC’s Advice; and
- b. A briefing note addressed to councillors, which purported to provide an overview of the proposal, its benefits and advice on how the issue of the access should be considered.

These documents were not circulated more widely or made publicly available.

20. When it became clear that this communication had taken place, the planning committee’s consideration of the Second Application on 21 March 2024 was deferred so that the Council could take advice on how best to proceed.

⁸ SWKC Advice, para. 10.

⁹ SWKC Advice, paras. 10 and 17.

Relevant legal framework and principles

Approach to determination of applications

21. Section 70(2) of the Town and Country Planning Act 1990 (“the 1990 Act”) provides that in dealing with an application for planning permission the LPA shall have regard to the provisions of the development plan, so far as material to the application, and any other material considerations.
22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) provides that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
23. The effect of s. 38(6) of the 2004 Act is to create a presumption that planning decisions will be taken in accordance with the development plan, but that presumption is rebuttal by other material considerations. This was summarised by Sullivan LJ in *R (Cala Homes (South) Ltd) v SSLCG* [2011] JPL 1458 at [6] by reference to the judgment of the House of Lords in *City of Edinburgh Council v Secretary of State for Scotland* [1997] 1 W.L.R. 1447:

Two passages from the House of Lord’s decision explain how the presumption is to be applied in practice. According to Lord Hope (at p. 1450B-D):

"it requires to be emphasised, however, that the matter is nevertheless still one of judgment, and that this judgment is to be exercised by the relevant decision-taker. The development plan does not, even with the benefit of section [38(6)] have absolute authority. The planning authority is not obliged, to adopt Lord Guest’s words in *Simpson v Edinburgh Corporation*, 1960 S.C. 313, 318, ‘slavishly to adhere to it’. It is at liberty to depart from the development plan if material considerations indicate otherwise. No doubt the enhanced status of the development plan will ensure that in most cases decisions about the control of development will be taken in accordance with what it has laid down. But some of its provisions may become outdated as national policies change, or circumstances may have occurred which show that they are no longer relevant. In such a case the decision where the balance lies between its provisions on the one hand and other material considerations on the other which favour the development, or which may provide more up-to-date guidance as to the tests which must be satisfied, will continue, as before, to be a matter for the planning authority"

According to Lord Clyde (at p. 1458E-F):

"By virtue of [s.38(6)] if the application accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the application does not accord with the development plan it will be refused unless there are material considerations indicating that it should be granted. One example of such a case may be where a particular policy in the plan can be seen to be outdated and superseded by more recent guidance. Thus the priority given to the development plan is not a mere mechanical preference for it. There remains a valuable element of flexibility. If there are material considerations indicating that it should not be followed then a decision contrary to its provisions can properly be given"

24. In *R (Ashchurch Rural Parish Council) v Tewkesbury Borough Council* [2023] PTSR 1377, Andrews LJ observed at [33]:

“Subject to any matter which they are legally obliged to take into account, materiality (i.e. relevance) is something for the decision-maker alone to determine. If something is capable of being regarded as relevant to the decision on a planning application, but the planning authority does not take it into account, their decision can only be challenged on an irrationality basis, i.e. on the basis that that factor was ‘so obviously material’ that no reasonable decision-maker could have failed to consider it. That principle is established by a long line of authority including *Samuel Smith* [2020] PTSR 221 ...”

25. Previous decisions are capable of being a material consideration in the determination of planning applications, as was confirmed by the Court of Appeal in *North Wiltshire DC v SSE* (1993) 65 P & CR 137, per Mann LJ at p. 145:

“It was not disputed in argument that a previous appeal decision is capable of being a material consideration. The proposition is in my judgment indisputable. One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system. I do not suggest and it would be wrong to do so, that like cases *must* be decided alike. An inspector must always exercise his own judgment. He is therefore free upon consideration to disagree with the judgment of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision.

To state that like cases should be decided alike presupposes that the earlier case is alike and is not distinguishable in some relevant respect. If it is distinguishable then it usually will lack materiality by reference to consistency although it may be material in some other way. Where it is indistinguishable then ordinarily it must be a material consideration. A practical test for the inspector is to ask himself whether, if I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision

in the previous case? The areas for possible agreement or disagreement cannot be defined but they would include interpretation of policies, aesthetic judgments and assessment of need. Where there is disagreement then the inspector must weigh the previous decision and give his reasons for departure from it. These can on occasion be short, for example in the case of disagreement on aesthetics. On other occasions they may have to be elaborate.

26. The courts have subsequently confirmed that this principle also applies to local planning authorities determining a planning application (*R (Midcounties Co-operative Limited) v Forest of Dean District Council* [2013] EWHC 1908 (Admin), per Stewart J. at [16]).
27. A lawful fallback position can be a material consideration in decision-making when the decision maker considers that there is a “real prospect” of that alternative development being carried out should planning permission be refused for the proposed development. In this context, a “real prospect” does not necessarily mean probable or likely: a possibility will suffice, although it should be more than merely theoretical (*Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314, per Lindblom LJ at [27]).
28. A decision-maker should give the views of statutory consultees considerable weight, and a departure from those views requires cogent and compelling reasons (*Shadwell Estates Ltd v Breckland DC* [2013] EWHC 12 (Admin), per Beatson J. at [72]).

Apparent bias / predetermination

29. The test that will be applied when determining an issue of apparent bias is whether the fair-minded and informed observer, having considered the relevant facts, would conclude that there was a real possibility that the tribunal was biased (*Porter v Magill* [2002] 2 AC 357, per Lord Hope at p. 494).
30. When considering apparent predetermination, the test is whether the fair-minded and informed observer, having considered the relevant facts, would conclude that there was a real risk that minds were closed. In considering this question, it is important to bear in mind that councillors are not in a judicial or quasi-judicial position, and the importance of appearances is more limited than in those circumstances. There is a distinction between pre-disposition and pre-determination and, unless there is clear evidence to show that there was a closed mind, prior observations about favouring a

particular decision will not be sufficient to show apparent pre-determination (*R (Lewis) v Redcar and Cleveland BC* [2009] 1 WLR 83, per Pill LJ at [66] – [69] and Rix LJ at [95] – [98]).

31. The distinction between pre-disposition and pre-determination is now also reflected in s. 25 of the Localism Act 2011, which provides that, in the context decisions by a member of a relevant authority, a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter, and (b) the matter was relevant to the decision.
32. It would be contrary to the principles of procedural fairness and natural justice for a decision-maker to take information into account which has not been made available for other interested parties to comment on (*Fairmount Investments Ltd v Secretary of State for the Environment* [1976] 1 W.L.R. 1255 at p. 1260).
33. It is important that a decision maker is not influenced by any representations of which the objectors were unaware, and it is equally important that the appearance of such unfairness is not created (*Wilkinson Properties v Kensington and Chelsea RLBC* [2011] JPL 1083).

Advice

Scope of the application

34. In the first instance, it is important to clarify the scope of the Second Application. For the avoidance of any doubt, it is important to emphasise that this application also includes, and seeks planning permission for, the access to the site from Lower Innings. The description of development refers to “*access from Lower Innings*”. Moreover, the red line “Site Location Plan” (Drawing No. 23/003/010) clearly includes the access from Lower Innings over Oughtonhead Lane. This is the plan which identifies the land to which the application relates (per Article 7(1)(c)(i) of the Town and Country Planning (Development Management Procedure) (England) Order 2015). This also accords with the guidance in the PPG under the sub-heading “*What information should be included on a location plan*”, which states:

“...The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings)...”

35. Therefore, even though the Council has already granted planning permission for the vehicular access to the Site through its determination of the First Application, the principle of access is also included within the Second Application. In other words, the proposal has not simply been split between two separate applications. Instead, the Second Application overlaps with (and duplicates) the First Application insofar as it relates to the vehicular access to the Site. This is important for two reasons.

36. First, it would be wrong to proceed upon the basis that the Second Application is not also seeking planning permission for vehicular access to the Site and that this issue does not need to be considered. Clearly, the fact that the Council has recently granted planning permission for that access will be a highly material consideration (discussed further below), but, in my opinion, it would be wrong to approach the Second Application on the basis that this issue is not open for consideration or that “*material planning weight cannot be given to refusing the scheme on the principle of the access arrangements*”, as the briefing note provided by the Applicant suggested.¹⁰ In this respect, I also disagree with SWKC’s¹¹ advice that the principle of the access is not for consideration now and that access is not a material consideration when considering the Second Application.

37. Second, it is important to ensure that all necessary conditions imposed on the first planning consent are also imposed on any planning permission that is granted pursuant to the Second Application. Although both planning applications are consistent with each other and could be implemented together, the second planning permission relating to the whole site could be implemented and permit access to the development without implementation of the first planning permission – i.e. if pre-commencement conditions were not discharged. In this respect, if the condition relating to the approval of detailed technical drawings is not included on any planning permission granted pursuant to the Second Application, the condition requiring installation of the approved access should

¹⁰ Applicant’s Briefing Note, p. 2.

¹¹ SWKC, paras. 8.2 and 8.3.

at least expressly refer to first consent (ref: 23/00555/FP), for the avoidance of any doubt. Furthermore, in my view, it would be sensible to re-impose condition 5 (relating to use of the access by construction traffic) on any consent granted pursuant to the Second Application.

38. Furthermore, the Second Application also includes other points of access beyond the primary vehicular access to Lower Innings. In addition to this, it also includes three further pedestrian access points onto Oughtonhead Lane. Clearly, the acceptability of these further points of access, or indeed the need for any additional points of access, would not have been considered under the First Application, as it was simply looking at the access proposed from Lower Innings in isolation. It was not considering what access requirements the housing development might have more generally, whether it would have an unacceptable impact on the highway network, or whether it would be well-connected to the surrounding area.

The merits of successfully defending any appeal that may arise in relation to the Second Application, as well as likelihood of an award of costs being made against the Council.

39. In considering this question, I will focus on the issues of access and permeability, which are the two issues that have been drawn to my attention. I am not aware of any other issues relating to the proposed development which have been identified by officers or members as justifying a potential reason for refusal.
40. On the basis of all the information that is currently before me, I consider that it would be very difficult for the Council to successfully defend a reason for refusal relating to the principal access to the Site. There are several reasons for this:
- a. First, the Local Plan allocation for the Site (Policy HT3) expressly indicates that access for the development will be provided from either Westbury Close or Lower¹² Innings. Furthermore, the quantum of development that is proposed does not exceed that provided in Policy HT3, and would presumably not have any greater impact on the access from this location than was anticipated when the Site was allocated.

¹² When the typographical error referring to “Long Innings” is corrected.

Therefore, the proposed access accords with the principal policy in the development plan, which directly relates to the development of this Site.

- b. Second, the Highways Authority considers that the proposed access is acceptable and has not objected to it. As statutory consultee on this issue, the views of the Highways Authority should be given considerable weight, and any departure from them would require cogent and compelling reasons (*Shadwell Estates Ltd* at [72]). Clearly, if the Highways Authority had concerns relating to the proposed access after considering the position in more detail following receipt of the planning application, that would represent a material consideration that may justify a departure from Policy HT3 and determination in accordance with the development plan. However, that is not the case here.
- c. Third, the Council has already granted planning permission (ref: 23/00555/FP) for the access from Lower Innings. That very recent decision was taken by the Council in the knowledge that the access would serve the development of the Site for 43 dwellings,¹³ and there does not appear to have been any material change in circumstances which would justify a different approach to the Second Application (subject to my comments below seeking clarification on the issue of priority). The importance of consistency in decision-taking is a material consideration which should be taken into account, and it would be necessary to provide clear reasons to explain why a different approach should be taken to the Second Application (*North Wiltshire DC*, per Mann LJ at p. 145). Furthermore, I agree with SWKC that there would be no planning constraint to prevent the Applicant from creating the access pursuant to the first consent once the relevant conditions have been discharged. This may therefore represent a lawful fall-back position, if there is sufficient evidence to demonstrate that there was a real prospect, or possibility, that the Applicant would implement this consent even if planning permission was refused under the Second Application (*Mansell*, per Lindblom LJ at [27]). I have not seen evidence on this point, but it seems reasonable to think that the Applicant would in order to support any further applications or enhance their prospects on appeal.
- d. Fourth, there would appear to be very limited basis for objecting to the primary access. One potential objection might have related to the decision to give priority to vehicular traffic using the access, rather than other non-motorised users of

¹³ OR1, paras. 4.3.2 – 4.3.3.

Oughtonhead Lane, contrary to the request from the Public Rights of Way Officer.¹⁴ However, in light of the advice provided by the officer from the Highways Authority at the first committee hearing, it now appears that priority will in fact be given to the users of Oughtonhead Lane. Those instructing me should check that this is indeed the case, as it is contrary to the position which had been set out in the application documents and OR1,¹⁵ and this advice clearly informed the decision that was taken by the committee regarding the First Application. If the advice was incorrect, then that may well represent a material change in circumstances from the Council's previous consideration of the matter, although it would now need to be considered in the context of that extant consent. It is also important to check that the application documents and consultation responses are consistent with the approach of giving priority to users of Oughtonhead Lane, as the Applicant had previously advised that this could give rise to highway safety issues and lead to a much more significant loss of hedgerow for visibility splays. Nevertheless, subject to these points of clarification, there does not appear to be any serious basis for objecting to the primary access.

41. At the planning committee meeting on 15 February 2024, a number of members raised concerns about the permeability of the Site and its integration into the wider community through non-vehicular points of access. This issue was obviously not considered as part of the First Application, and does not seem to be addressed in SWKC's advice. However, in my view, the prospects of successfully defending a reason for refusal based upon these concerns would also be low for the following reasons:
- a. Policy HT3 does not specify any requirement for an additional pedestrian access to Bowlers End at the southeast of the Site, or indeed any additional pedestrian connections.
 - b. The Transport Statement considers connectivity at section 3.3, on pages 14 – 19. This indicates that there are a range of facilities within reasonable walking distance of the Site.¹⁶ Many of the desire lines, including the town centre, are located to the east of the Site and can be accessed via Oughtonhead Lane.¹⁷

¹⁴ See Consultation Response from the PROW Officer.

¹⁵ OR1, paras. 4.3.12 – 4.3.15.

¹⁶ Transport Statement, paras. 3.3.6 – 3.3.11.

¹⁷ Transport Statement, Figure 3.3 on p. 16.

- c. The development is not limited to a singular means of access, and provides a number of access points onto Oughtonhead Lane, including one in the northeast corner, which would appear to provide convenient access to the town centre and other facilities located to the east and southeast.
- d. Although the Highways Authority considered that the TS was deficient in its review of promoting active travel and fails to review and improve existing non-vehicular routes, it did not raise an objection on this basis because it considered that it could be overcome through the imposition of a condition.¹⁸
- e. The Council's planning officers did not raise any concerns relating to this issue in OR2, although the point does not appear to have been considered in any real detail.
- f. It now appears that there is no prospect of an additional pedestrian link to the Southeast of the proposed development, as the Management Company for Bowlers End has confirmed that they have refused to grant access and are not interested in entering into any negotiations. Accordingly, it is not simply a question of whether appropriate opportunities to promote sustainable travel have been taken up.¹⁹ Instead, the question is now whether the development of the Site is unacceptable because there is no scope for an additional pedestrian access across private land to the southeast. Were that the case, there would, essentially, be no scope to develop this allocation at all. In my view, it would be difficult to defend this position at appeal, especially since Policy HT3 does not provide any indication that the allocation is predicated on such a requirement.

42. It follows from the reasons set out above that, in my view, the Council would be at risk of an adverse award of costs being made against it in the event that it refused the Second Application on the grounds of access or permeability. The prospects of such an award being made would depend on the particular circumstances of the refusal and any evidence presented to support it at appeal. However, on the basis of the information currently before me, I consider that the prospects of any potential application for costs by the Applicant in the event of a refusal relating to the primary access would appear strong for the reasons that are already set out at paras. 15 – 16 of SWKC's advice.

¹⁸ See the proposed condition (No. 10) requiring a detailed audit of the existing local cycle and pedestrian network, so that a scheme of potential improvements can be imposed and implemented.

¹⁹ Per paras. 108(b) and 114(a) of the NPPF.

43. If the Council were to refuse permission on grounds relating to permeability, I consider that the Applicant would be less likely to succeed in an application for costs on the basis of unreasonable conduct for the following reasons:

- a. The Council has not previously considered this issue as part of the First Application, and therefore it does not give rise to any potential inconsistency in approach or failure to have regard to an extant consent that could be implemented. This is an important difference.
- b. The Highways Authority has identified particular concerns with the TS, which are relevant to this issue. Although the Highways Authority considered that these could be overcome through the imposition of a condition, it would not be unreasonable for the Council to take a different view if they are not satisfied that these issues can necessarily be addressed through the subsequent audit, especially in the absence of a Grampian condition requiring it to be carried out before any development takes place.

What steps the Council should take to progress the second application whilst avoiding any concerns of apparent bias, predetermination or fettering of discretion.

44. It is clearly regrettable that the Applicant sent private correspondence to the individual members of the Council's planning committee containing SWKC's advice and a briefing note the day before it was due to determine the Second Application. That should not have happened and the Council was right to defer its consideration of the application. Had the Council proceeded to determine the Second Application on 21 March 2024, I consider that its decision would have been susceptible to challenge by way of an application for judicial review on the grounds of procedural unfairness or apparent bias.

45. Nevertheless, I do not consider that this should prevent the matter being returned to the same planning committee for re-consideration, providing that the following steps are taken:

- a. All information sent to members of the Committee, including the Briefing Note and SWKC's advice, should be published on the Council's planning portal, so that it is publicly available for anyone to consider and make representations on,

should they wish to do so. I understand that there is some uncertainty over whether legal privilege and confidentiality relating to the advice has been fully waived, or whether it was only provided on a limited basis. Therefore, before the advice is disclosed more widely, this point should be clarified with the Applicant.

- b. My advice should also be made publicly available, so that it is clear that the Council has taken its own independent advice on the matters raised, and any difference of opinion is apparent and clearly set out.
- c. The Officer's Report for the Second Application should clearly set out the scope of that application and advise members accordingly. In particular, it should not seek to constrain the discretion of members to consider issues relating to the access. However, it should make it clear that the Council's previous decision on the First Application and the consultation response from the Highways Authority represent important material considerations, and cogent and compelling reasons would need to be provided to justify a change in approach when determining the Second Application.

46. If there is any issue with disclosing the documents provided to the Committee more widely, including SWKC's advice, then another option may be take the decision back to a different planning committee, or one that is composed of different members. However, it is not clear whether this would be easy to achieve, and care needs to be taken to avoid preventing members from taking part in the consideration of an application unless there is a good justification for doing so.

47. Providing that these steps are taken, I do not consider that a fair-minded and informed observer, having considered all the relevant facts, would conclude that there was a real possibility that the planning committee was biased or had approach its decision with a closed mind (*Porter* at p. 494 and *Lewis* at [66] – [69]). Nor do I consider that there would be any procedural unfairness or breach of natural justice which would have caused any prejudice to those objecting to the proposed development.

Review of SWKC's Advice

48. As will be clear from the above, I largely agree with SWKC's advice. The key differences in opinion are:

- a. I do not agree that the principle of the access is not open for consideration as part of the determination of the Second Application, or that it does not represent a material consideration (as explained above at paras. 34 - 38).²⁰
- b. Although I agree that if the Second Application were refused on the grounds of the primary access the prospects of an award of costs being made against the Council on appeal would be strong, I would not go as far as saying that I cannot think of a stronger case.²¹
- c. SWKC does not appear to have considered the merits of a refusal based upon poor permeability and connectivity to the wider area via non-vehicular modes of transport. Although I consider that the Council would ultimately be likely to lose an appeal on this basis too, in my opinion the prospects of an award of costs being made against the Council would be much lower.

Guidance to assist the Council on next steps and progressing with the Second Application

49. In the first instance, the Council should seek to clarify whether it is correct that priority will now be given to users of Oughtonhead Lane at the intersection with the vehicular access to the Site, as indicated by the Highways Authority when the planning committee considered the First Application, and whether this has any material implications for the assessments carried out in the application documents and the consultation responses that have been provided to date. Once clarification has been obtained, the position should be clearly set out in the next report to committee, for the avoidance of any doubt.
50. The Council should follow the steps which I have set out at paragraph 45 - 46 above and the Applicant should be given the opportunity to respond to any points raised in my advice.
51. The officer's report should also address the issue of permeability and connectivity in more detail now that this has been identified as a point of potential concern. In doing so, consideration should be given to whether the proposed condition requiring an audit of the local cycle and pedestrian network to identify potential improvements prior to occupation of the development is sufficient to address any concerns relating to the principle of non-vehicular accessibility and connectivity to the wider network.

²⁰ Cf. SWKC's advice, paras. 8.2 and 8.3.

²¹ Cf. SWKC's advice, para. 17.

52. Clearly, the Council cannot prevent separate associated applications being submitted to it. However, where that happens, those applications should ideally be determined at the same time by the same committee to avoid the complications that have arisen in the present case.

Conclusion

For the reasons set out above, it is my view that:

- a. The Second Application also seeks planning permission for access into the Site, including vehicular access, and therefore these issues and any relevant considerations relating to them cannot be ignored or put to one side when determining the Application. Nevertheless, the planning committee should also have regard to the decision relating to the First Application and the existing consent, which are highly material considerations. Insofar as the two applications are alike and address the same issues (i.e. the primary vehicular access), clear reasons would need to be provided to justify a different approach to the Second Application based upon a material change in circumstances.
- b. On the basis of the information that is currently before me, I agree with SWKC that it would be very difficult for the Council to defend a reason for refusal on the grounds of access, particularly in relation to the primary access into the Site. A reason for refusal based upon a lack of permeability and accessibility via non-motorised forms of travel would be less difficult, although in my view it would still be likely to be unsuccessful at appeal.
- c. It follows that, on the basis of current information, the Council would be at risk of an award of costs being made against it in the event that it were to refuse the Second Application on the grounds of access or a lack of permeability, although the risk would be much greater if the refusal related to the primary access which the Council has already permitted following its determination of the First Application.
- d. The documents sent to members should all be made publicly available, providing that legal privilege has been fully waived, so that any other parties objecting to the development have the opportunity to consider and comment on them. My advice should also be published, and any differences of opinion should be clearly set out in the subsequent officer's report / update when the Second Application is taken back to committee, so that members are clear about how they should approach the issue of the

access. If this is not possible, consideration should be given to whether the application could come before a committee that is not constituted of any members who were previously sent documents by the Applicant. Providing that these steps are followed, I do not think that there would be a material risk that the determination of the Second Application would be tainted by procedural unfairness or apparent bias.

- e. I largely agree with the advice provided by SWKC, with the exception of the key differences set out at paragraph 48 above. The main difference is that I do not agree that access to the development is not a material consideration in the determination of the Second Application.
- f. The Council should follow the steps set out above at paragraphs 45 - 46 and 49 – 51 in order to progress the Second Application.

Alexander Greaves
Francis Taylor Building
Temple
London, EC4Y 7BY
17 May 2024

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IN THE MATTER OF:

THE CALA MANAGEMENT COMPANY

And

**THE PROPOSED RESIDENTIAL DEVELOPMENT AT OUGHTONHEAD LANE,
HITCHIN, HERTFORDSHIRE.**

And

**SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990 [AS
AMENDED]**

ADVICE

Section 1 - Introduction

1. I am asked to advise Ms Charlotte Coyle of DAC Beechcroft LLP on behalf of Cala management company (“Cala”) who have submitted an undetermined planning application to North Hertfordshire Council (“the LPA”) for the development of land at Oughtonhead Lane, Hitchin, Hertfordshire (“the site”) for residential development of 43 dwellings [Ref:23/00563/FP].
2. Under the Town and Country Planning Act 1990 (as amended) the LPA can grant or refuse planning permission. Currently the application remains undetermined.
3. The fundamental question is what would be the prospects of success on any appeal if the members of the planning committee decide to refuse the application and Cala decide to appeal the decision and what would the likelihood of costs be if such an appeal was made.
4. I had a physical conference in chambers on Monday 11 March 2024 and I am now asked to put into writing a summary of the advice I gave.

Section 2 – The factual background

5. The following matters are important to understand the factual background to this matter:
 - 5.1. Cala are a national housebuilder.
 - 5.2. The site is about 1.8 hectares and is a large rectangular field which lies on the western edge of the existing settlement and is not in the Green Belt. Hitchin Cricket Club lies immediately to the south and west of the site.
 - 5.3. On the northern boundary of the site lies Oughtonhead Lane which is a restricted byway.

- 5.4. In order to gain access to the site by vehicles that lane has to be crossed either by way of access from Westbury Close or Long Innings. Both routes required by definition to cross Oughtonhead Lane.
- 5.5. It is actually allocated in the development plan as set out immediately below.
- 5.6. The development plan comprises the North Herts District Local Plan which was adopted on the 8 November 2022. It is important to note the following:
- 5.6.1. Hitchin is identified as a main town in Policy SP 2.
- 5.6.2. Housing growth during the plan period will be supported by allocations identified in the plan as set out in Policy SP 8.
- 5.6.3. Seven sites are allocated for housing in Hitchin and set out after paragraph 13.128 of the plan.
- 5.6.4. Policy HT 3 deals with land south of Oughtonhead Lane and allocates the site for 46 homes subject to the following four criteria:
- *Access from Westbury Close or Long Innings whilst maintaining the general integrity and character of Oughtonhead Lane (Restricted byway Hitchin 003);*
 - *Consider and mitigate against the potential adverse cumulative impacts of sites in this area on Oughtonhead Lane SSSI;*
 - *Retain and reinforce planting along western and southern boundaries to ensure the integrity of revised Green Belt boundary; and*
 - *Sensitive design to minimise impacts upon landscapes to the west including longer views from the Chilterns AONB.*
- 5.6.5. In early 2023 Cala made two applications to the LPA namely the access application and the application for the 43 dwellings.
- 5.6.6. The application for the creation of a vehicular and pedestrian access from Lower Innings to Land south of Oughtonhead Lane [Reference Number – 23/00555/FP] was considered first by the LPA. That application was considered by the Planning Committee on 2nd August 2023 when it was resolved to grant planning permission. The planning officer's recommendation was to grant permission and it is important to note from the officers report the following points:
- 5.6.6.1. 68 objections were received.
- 5.6.6.2. That there was no objection from the Highway Authority (HCC).
- 5.6.6.3. The access is intended to serve the 43 dwelling scheme currently before the LPA.

- 5.6.6.4. The key issue identified for consideration was, inter alia, the impact upon the safe operation of the nearby public highways and Oughtonhead Lane.¹
- 5.6.6.5. The matters under consideration are limited principally to the impacts of the proposed access only.²
- 5.6.6.6. The proposed access would be in accordance with the site-specific policy set out within Policy HT 3 of the NHLP, it is considered that the development is acceptable in principle.³
- 5.6.6.7. HCC consultation response confirmed that the design of the access has measures to enhance safety for pedestrians, cyclists, and horse riders.⁴
- 5.6.6.8. Given the absence of any objection from HCC highways, it is considered that the proposed development and its design would not result in any unacceptable harm to the safe use of nearby public highways.⁵
- 5.6.6.9. The proposed access would result in the interruption and crossing of the Oughtonhead Lane Restricted Byway.⁶
- 5.6.7. A decision notice was issued on the 2 August 2023. The following conditions were imposed:
- 5.6.7.1. *Condition 3 - No development approved by this application shall commence until detailed technical plans, based on the principles set out in the planning application (drawings 18182.OS.109.02 & 18182.OS.109.06), are submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the vehicle access and associated highway works concerning the connectivity of the access road with Lower Innings. These works shall be constructed in accordance with the approved details to the Highways Authority and Local Planning Authority's satisfaction and completed before commencement of any other development on the land allocated by Local Plan policy HT3.*

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

¹ See paragraph 4.3.1 of the POR.

² See paragraph 4.3.3 of the POR.

³ See paragraph 4.3.6. of the POR.

⁴ See paragraph 4.3.8. of the POR.

⁵ See paragraph 4.3.11. of the POR.

⁶ See paragraph 4.3.12. of the POR.

5.6.8. *Condition 4 - Prior to the first occupation/use of the development hereby permitted the vehicular access shall be installed in accordance with the approved detailed technical plans and thereafter retained and maintained at all times at the position shown. 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).

5.6.9. *Condition 5 - Prior to first use of the access route across Oughtonhead Lane by any construction traffic, the surface of Oughtonhead Lane must be protected from any surface and side damage, and that any accidental damage must be repaired to the satisfaction of the area Rights of Way Officer.*

Reason: In the interests of protecting the Oughtonhead Lane Restricted Byway (Hitchin 003) for users of the public right of way.

5.7. It is of note that there is no restriction on implementation of this permission relating to the residential application. In simple terms in law once Cala have satisfied the conditions, they can then implement the permission irrespective of whether permission is granted or not for the related residential application.

5.8. On the 24 August 2023 Cala submitted the necessary details to satisfy Condition 3 and the application was validated but no approval has yet been forthcoming.

5.9. The application for the 43 dwellings was also submitted and was taken to committee on the 15 February 2024. The POR again recommended approval and the important points to note on the POR are as follows:

5.9.1. 97 objections were received with many alleging no safe access to the lane and that the use of Oughtonhead Lane would be inappropriate or harmful.

5.9.2. HCC Highways again had no objection.⁷

5.9.3. The site would be accessed from the north via Lower Innings. A separate application for the access has been granted planning permission under the

⁷ Paragraph 3.4. of the POR.

application reference number 23/00555/FP. The access arrangements to the site and design are considered acceptable.⁸

- 5.9.4. It is considered that the development would not have an unacceptable impact on the highway network and is in compliance with national and local planning policies.⁹
- 5.9.5. The proposed development would comply with the site-specific criteria set out within Policy HT 3 of the Local Plan.¹⁰
- 5.9.6. There then followed a list as is normal of suggested conditions. Condition 8 stated:

No development shall commence until detailed technical plans are submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the vehicle access and associated highway works concerning the connectivity of the access road with Lower Innings, as shown in the Transport Statement. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction and completed before commencement of work of the development.

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

- 5.9.7. There was an update produced by officers to members prior to the committee meeting. Condition 8 was removed due to “Its inclusion within the previously approved application 23/00555/FP.
- 5.9.8. Notwithstanding the officer recommendation members resolved to defer the application on the grounds of concern about access.

Section 3 – The legal background

6. The key points of law are as follows:

⁸ Paragraph 4.3.24. of the POR.

⁹ Paragraph 4.3.49. of the POR.

¹⁰ Paragraph 4.3.83. of the POR.

- 6.1. Section 70(2) of the Town and Country Planning Act 1990 requires that in dealing with any application for planning permission the authority shall have regard to the provisions of the development plan, so far as material to the application and to any other material considerations.
- 6.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for any determination to be made under the Planning Acts the determination must be made in accordance with the development plan unless other material considerations indicate otherwise.
- 6.3. Priority therefore must be given to the development plan per Lord Clyde in City of Edinburgh Council v Secretary of State for Scotland [1997] 1 W.L.R 1447.
- 6.4. In essence Section 38(6) raises a presumption that planning decisions will be taken in accordance with the development plan, but the presumption is rebuttable by other material considerations.

Section 4 – The questions I am asked.

7. I am asked to address two questions:
 - 7.1. Question 1 – If the LPA decide to refuse the planning application on the grounds of access what are the prospects of success on appeal?
 - 7.2. Question 2 – What would be the prospects of getting a costs award against the LPA in such circumstances?

Section 5 – Analysis

Question 1 – If the LPA decide to refuse the planning application on the grounds of access what are the prospects of success on appeal?

8. I am of the view that the prospects of success on any such appeal would be outstanding if the LPA decided at the next consideration of the matter to refuse planning permission based on inadequate or unsafe access for the following reasons:

- 8.1. Reason 1 – The proposal accords with the development plan in all material respects.
 - 8.1.1. The issue of access is dealt with in terms in the allocation under HT3 where the LPA expressly endorse under the bullet point 1 that the access will be from Westbury Close or Long Innings. The application proposes access from Long Innings. The LPA had the ability to determine the criteria in the development plan and in terms have chosen an express route which has been followed to the letter

by the planning application. Therefore, the application benefits from the presumption in favour of the development plan. It is not contended in the committee report in February that there are any material considerations which justify setting aside the development plan and I am not aware of any.

8.2. Reason 2 – The principle of the access is not for consideration now having been permitted previously.

8.2.1. The February POR included a condition addressing the question of proposed access. That condition was removed in the update. That is the clearest acknowledgment by officers that the principle of the access was not a matter to be considered by this application by its removal. That judgment is weighty and material and also right.

8.3. Reason 3 – The access to the development is not a material consideration in this application in any event –

8.3.1. The LPA determined in August 2023 that the access proposed was acceptable – That is highly material for two reasons.

8.3.2. Firstly, they are required to be consistent in their decision taking. It is a fundamental principle of public law that authorities are required to make the same decision if the circumstances are the same. There has been no change in circumstance that affects the validity or challenges the conclusions reached in August 2023 whatsoever.

8.3.3. Secondly there is now a fallback in place which in law is a material consideration. When the pre-commencement conditions are approved Cala can go on site and implement the August 2023 consent. There is no preclusion in law to them doing so and in no way is it conditional on the grant of planning permission for the residential development. It is not parasitic in law in any way.

8.4. Reason 4 – The Highways authority have no objection of any kind –

8.4.1. Twice the HA (HCC) have confirmed they have no objection whatsoever to the proposal. Those two statutory consultations are highly pertinent and provide very strong evidence in favour of the proposal.

8.5. Reason 5 – The absence of any credible basis of objection –

8.5.1. I have not seen any credible or meaningful objection that could reasonably justify the refusal on safety, capacity, or any other highway grounds. There is a complete absence of evidence which could justify a refusal in any event.

9. Taken these five reasons together my judgment is that cumulatively the case for granting planning permission would be overwhelming for a development allocated in the development plan just 18 months ago for housing.

10. I would put the prospects of success around 80% and indeed the refusal of the LPA would unquestionably be deemed unreasonable for the reasons I will explore below.

Question 2 – What would be the prospects of getting a costs award against the LPA in such circumstances?

11. The NPPG gives Relevant policy on costs is contained in the PPG on Appeals.¹¹

12. An award of costs may be made against an LPA who has behaved unreasonably, and that unreasonable behaviour has caused another party to incur unnecessary or wasted costs.

13. Costs may be awarded on a procedural or a substantive basis.

14. This application is made on the substantive basis that the LPA has prevented development that having regard to the development plan and the NPPG and NPPF should without question be permitted as a matter of urgency.

15. The PPG provides the following examples of situations where a substantive award of costs may be made against a local planning authority:

Unreasonable behaviour in the context of an application for an award of costs may be either:

procedural – relating to the process; or

substantive – relating to the issues arising from the merits of the appeal.

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.

Examples of this include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations.*

¹¹ <https://www.gov.uk/guidance/appeals#behaviour-that-may-lead-to-an-award-of-costs-against-appeal-parties>

- *failure to produce evidence to substantiate each reason for refusal on appeal.*
- *vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*
- *not determining similar cases in a consistent manner*
- *failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances.*

16. In my view the prospects of Cala being awarded costs on an appeal again are outstanding because:

- 16.1. 5 of the examples of unreasonable behaviour by an LPA leading to a substantive award of costs are met.
- 16.2. The LPA is seeking to prevent the development of a site for housing which was allocated by them in November 2022 which is an allocation in an up-to-date development plan.
- 16.3. There is no evidence which currently in any way supports the potential reason of refusal that the access across the lane is unsafe.
- 16.4. There is no evidence which currently in any way supports the potential reason of refusal which shows that the first criteria should not have been imposed.
- 16.5. There would be a no justification for not determining the August 2023 application for the access in the say way as the planning application for housing.
- 16.6. There is an extant permission which can be implemented until August 2026 for the access.
- 16.7. I am not aware, and none is claimed of any material change of circumstance relating to highway policy or the operation of the highway since the August 2023 decision was taken.

17. I cannot think frankly of a stronger case for costs that this situation. The prospects would be incredibly strong in the circumstances of this case.

Section 6 – Summary and Conclusions.

18. In conclusion I am of the view that if the LPA chose to refuse the planning application for 43 houses on the basis of the proposed access arrangements, then:

- 18.1. The prospects of success on appeal would be outstanding.
- 18.2. The prospects of getting a full award of costs on any such appeal would also be outstanding.

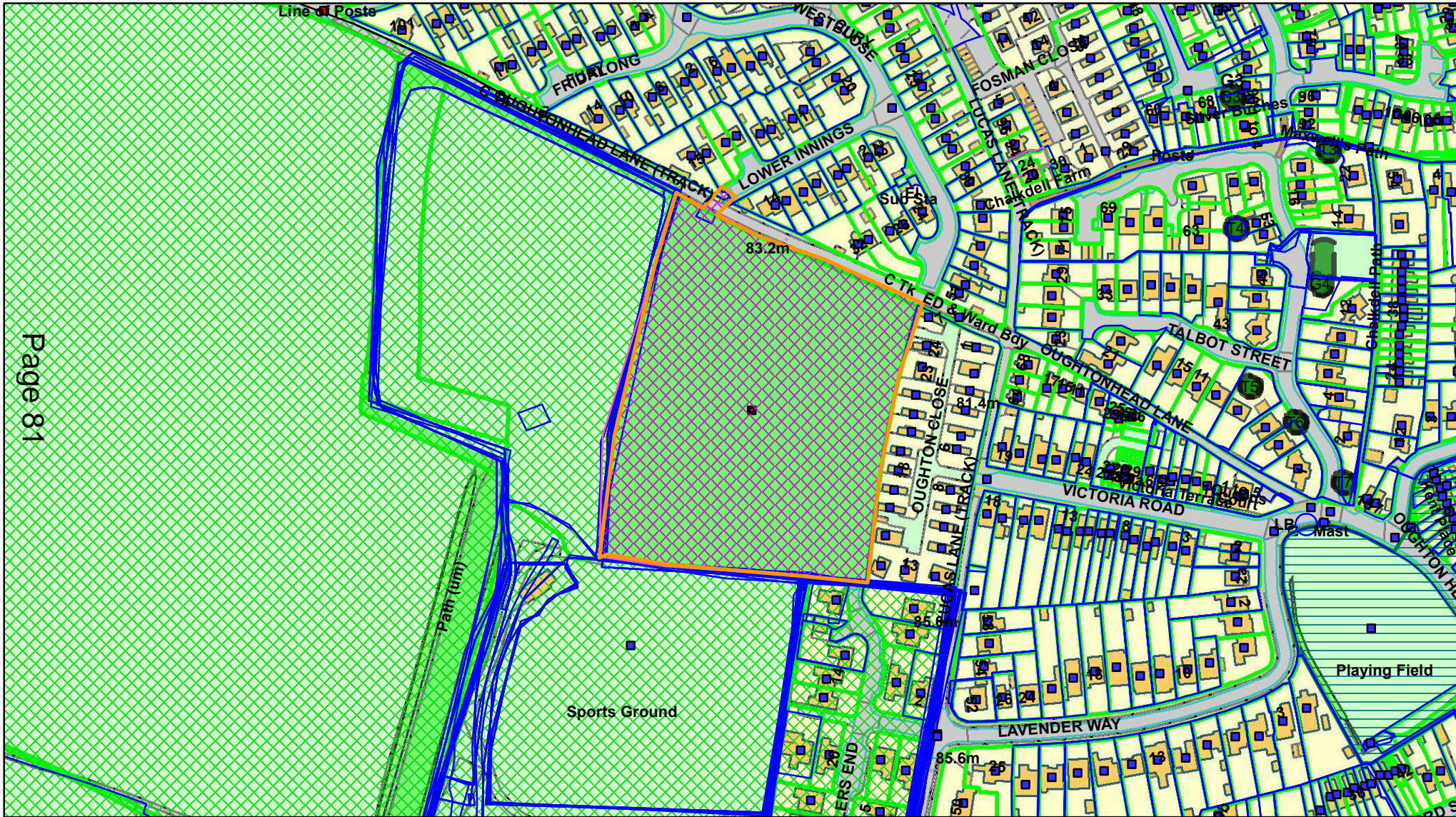
19. If there are any matters arising from the advice contained herein then those instructing me should not hesitate to contact me in chambers.

18 March 2024.

**SASHA WHITE K.C.
LANDMARK CHAMBERS.**

NORTH HERTFORDSHIRE DISTRICT COUNCIL

23/00563/FP Land on The South of Oughtonhead Lane, Hitchin, Hertfordshire, SG5 2NA



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<u>Location:</u>	Land Adjacent To Oaklea And South Of Cowards Lane Codicote Hertfordshire SG4 8UN
<u>Applicant:</u>	Christopher c/o agent
<u>Proposal:</u>	Reserved Matters application for approval of the details of the appearance, landscaping, layout and scale of the development for 80 dwellings including streets, car parking, open space and associated works (pursuant to outline application 17/01464/1 granted 02.11.2022) (as amended by plans and documents received 30th October, 29th November, 20th and 22nd December 2023 and 4th January, 7th February, 7th March and 18th April 2024).
<u>Ref. No:</u>	23/00743/RM
<u>Officer:</u>	Naomi Reynard

Reason for delay

Detailed negotiations and re-consultation on amended plans and documents.

Reason for Referral to Committee

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

1.0 Relevant History

- 1.1 16/02750/1PRE - Residential development to provide up to 88 dwellings (C3) – Response provided.
- 1.2 17/00975/1SO - Screening Opinion: Proposed outline application for residential development of up to 88 dwellings (all matters except access reserved) – Decision: Environmental Impact Assessment not required. (26.05.2017)
- 1.3 17/01464/1 - Outline application for a residential development for up to 83 dwellings (all matters reserved except access) (as amended by plans and documents received 4th January 2019 and 21st January 2022). Granted on 2nd November 2011.

- 1.4 The applicant has also submitted applications for approval of details reserved by condition in relation to various conditions to the outline planning permission ref. 17/01464/1. Some of these applications have been determined.

2.0 Policies

2.1 North Hertfordshire District Local Plan 2011 – 2031

Policy SP1: Sustainable Development in North Hertfordshire
Policy SP2: Settlement Hierarchy
Policy SP6: Sustainable transport
Policy SP8: Housing
Policy SP9: Design and sustainability
Policy SP10: Healthy communities
Policy SP11: Natural resources and sustainability
Policy SP12: Green infrastructure, biodiversity and landscape
Policy SP13: Historic Environment
Policy T1: Assessment of transport matters
Policy T2: Parking
Policy HS1: Local Housing Allocations
Policy HS2: Affordable Housing
Policy HS3: Housing Mix
Policy HS4: Supported, sheltered and older persons housing
Policy HS5: Accessible and adaptable housing
Policy D1: Sustainable design
Policy D3: Protecting living conditions
Policy D4: Air quality
Policy HC1: Community facilities
Policy NE1 Strategic green infrastructure
Policy NE2: Landscape
Policy NE4: Biodiversity and geological sites
Policy NE6: New and improved open space
Policy NE7: Reducing flood risk
Policy NE8: Sustainable drainage systems
Policy NE9: Water quality and environment
Policy NE10: Water conservation and wastewater infrastructure
Policy HE1: Designated heritage assets
Policy HE4: Archaeology

The application site is identified in the NHDC Local Plan 2011 – 2031 as an allocated housing site under Policy CD1 and the adopted Local Plan removed the site from the Green Belt for development and incorporated within the settlement boundary of Codicote. This policy also contains detailed policy criteria for consideration in the determination of any relevant applications for planning permission.

2.2 Supplementary Planning Documents

Codicote Conservation Area Character Statement
Design SPD
Vehicle Parking Provision at New Development SPD
North Hertfordshire and Stevenage Landscape Character Assessment

2.3 National Planning Policy Framework

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 6: Building a strong competitive economy

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 11: Making effective use of land

Section 12: Achieving well-designed places

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

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

2.4 Hertfordshire County Council

Local Transport Plan (LTP4 – adopted May 2018)

Hertfordshire Waste Core Strategy and Development Management Policies

Development Plan Document 2012

2.5 National Planning Practice Guidance

Provides a range of guidance on planning matters including flood risk, viability, design and planning obligations.

2.6 Draft Neighbourhood Plan

The Parish is designated as a neighbourhood planning area. The Parish Council website states that the Codicote Neighbourhood Forum, under the authority of Codicote Parish Council, is preparing a Neighbourhood Plan for the Parish of Codicote. There is a draft Neighbourhood Plan (September 2021) on the Parish Council's website and it would appear that some informal consultation was carried out in spring 2023. There is also a Codicote Design Codes and Guidance document (dated October 2023) on the Parish Council website. However, these documents are afforded very limited weight at this stage.

3.0 Representations

3.1 Codicote Parish Council

Comment and object to the application on the following basis:

- Concerned that with two developments already in construction phase the transport infrastructure improvements promised, have not materialised adding to the pressure on the existing transport facilities in Codicote
- The Parish Council have written to the Secretary of State asking for serious consideration to be given to the phasing of the four developments in Codicote. Heath Lane and Wyevale are already in the construction phase and this site will add to the disruption and noise levels.

- The Parish Council has written to Herts Highways to highlight the fact that north the Wyevale site and Cowards Lane exists onto the B656 need roundabouts installed to improve road safety at the junctions.
- Questioned the fact that a traffic survey was conducted at night and a new survey should be conducted at the busiest times of day.
- The Inspector's report refers to 73 not 83 dwellings on this site.

Following re consultation on amended plans and documents in November 2023, Codicote Parish Council comment and object to the amended application on the following basis:

“-- The scope & scale of the development has increased from that set out in the Local Plan Inspector's Report (November 2022), which approved 73 dwellings. The application Site Notice now refers to 80 dwellings, and the letter from Herts County Council, Highways, refers to 83 dwellings.

-- The approval of the CD1 development by the Local Plan Inspector was contingent upon a "Transport Assessment to consider the cumulative impacts of sites CDI, CD2, CD3 & CD5 on the village centre and minor roads leading to/from Codicote, and secure necessary mitigation or improvement measures". Cowards Lane is one such minor road: it is very much a country lane and is completely inadequate to handle any increase in traffic. The lane is already subject to width restrictions, and in addition to being used as a daily "cut through" by traffic avoiding the congested High St., it will be subject to significant increased load from the new Taylor Wimpey site on St Albans Road located close by at the top of Cowards Lane.

-- We fully concur with the concerns set out by the Herts County Council, Highways, and strongly support the recommendation that permission be refused. We take issue with the apparent findings set out in the mitigation report from Phil Jones Associates (commissioned by the applicants), which are singularly at odds with the daily experience "on the ground" of residents of Codicote in respect of traffic, safety, and access. (See the letters of objection submitted). Crucially, there is nothing which offers substantive improvement in infrastructure to the village to cope with the increased levels of traffic, car-parking demand, and congestion.

- Insufficient justification has been made for the significant loss of Green Belt and for a development on a site which is recognised and documented as having important wildlife habitat and rare species. As such, this development will represent a net loss of biodiversity, something which runs counter to the NHDC policy of LA0A net gain in any new development.”

Codicote Parish Council were reconsulted in January 2024 on further amended plans and documents. No further comments have been received from the Parish Council at the time of writing the report.

3.2 Highways

The Highways Authority raised objections to the initial and amended scheme. Following submission of further information, the Highways Authority were reconsulted. They confirmed that the Highways Authority does not wish to restrict the grant of permission. They reached the following conclusion:

“HCC Highways is now satisfied the design concerns are either mitigated or negligible due to the scale of the development and proposed level vehicular traffic not posing a risk to the safe movement of all road users.”

3.3 Lead Local Flood Authority

Initially objected to the planning application in the absence of confirmation or evidence relating to various matters. Maintained their objection following re-consultation on amended plans. The applicant has submitted further information and the LLFA (and water authorities) have been re-consulted. LLFA confirmed in writing on 5th February 2024 that they are now satisfied the applicant has submitted the required information to fulfil the requirements of the remaining points from their previous letter dated 15th November 2023 and therefore they have no further objection to this application.

3.4 LEADS Ecology

Initially recommend that further information and/or amendments required before the application can be determined. Following re consultation on the further information submitted recommend the application can be determined with conditions.

3.5 Herts and Middx Wildlife Trust

Herts and Middx Wildlife Trust raised an objection on the basis that the botanical data which has informed the population of the biodiversity metric must be supplied before a decision can be made, a net gain of 10% has not been demonstrated for the hedgerow element, as required by the condition on the outline application. The full metric will be required to discharge condition 14, not a summary. Currently there is no survey data to support the metric. No condition sheets, and a low value habitat has been shown to be enhanced to a medium value habitat. A habitat baseline plan should be produced using the UK Habitat Classification. Herts and Middx Wildlife Trust are of the opinion that the application cannot be decided until the required information has been supplied and approved.

3.6 Environmental Health (Air Quality)

No objections to the proposal in terms of local air quality. Recommended conditions requiring a Travel Plan and Electric Vehicle recharging infrastructure.

3.7 Environmental Health (Noise and other nuisances)

No objections or comments.

3.8 Environmental Health (Land contamination)

No objections with respect to contamination on land. Advice remains as for the outline permission, that land contamination condition recommended.

3.9 Waste and Recycling Team

No objections to the application and the submitted amended plans are acceptable. Recommended informative.

3.10 Housing Supply Officer

Provided detailed comments regarding the number, type, and tenure of the affordable housing units. Confirmed that the number and type of units is acceptable. Raised concerns with regards to the affordable housing mix. Following negotiations, the affordable housing mix has been slightly amended and is now to the satisfaction of the Housing Supply Officer.

3.11 Historic Environment Advisor (Archaeology)

Consider that this development is unlikely to have a significant impact on heritage assets of archaeological interest and have no comment to make upon the proposal.

3.12 Transport Policy Officer

Raised concerns regarding cycle parking and comments regarding car parking, including preference for more parking to be provided off-plot.

3.13 Service Manager, Grounds Maintenance

Commented that should the Parish Council wish to adopt the open spaces; play area and other infrastructure this would be acceptable. Commented that there is a significant element of SUDS and as such this will impact upon future maintenance operations and criteria which may require some specialist knowledge or skills.

3.14 Anglian Water

No comments, as Anglian Water do not serve this area. The area is served by Thames Water who were consulted.

3.15 Thames Water

No comments received

3.16 Rights of Way (Hertfordshire County Council)

No comments received

3.17 Neighbours and local residents

The application has been advertised via neighbour notification letters, the display of site notices and a press notice. At the time of finalising this report, a total of over 40 representations have been received (running total can be viewed on the Council's website). The representations made, are available to view in full on the Council's website. Re consultation on amended plans and documents received has been carried out as set out in paragraph 4.2.2 below.

The objections and issues raised are summarised as follows:

Housing numbers

- Concern that the number of planned houses has increased from the original 73 used in the Local Plan.
- Housing numbers on site should be reduced.

Green Belt

- Loss of Green Belt – inappropriate development in the Green Belt with adverse impacts on characteristics of the Green Belt.
- No exceptional circumstances demonstrated.
- Brownfield land should be developed first.
- Queries regarding need for housing.

Infrastructure and services

- Query regarding HCC's forecast for the number of pupil places at Codicote Cof E Primary School. The 73 homes within NHDC's Local Plan should be the maximum number permitted, until HCC have carried out a review of their forecast for pupil numbers at Codicote School.
- Impact on existing over stretched infrastructure, including primary and secondary schools, no doctors or dentist, doctors' surgeries (in Welwyn and Knebworth oversubscribed), public transport, sewerage, water supply and pressure, storm water provision, drainage, roads, parking, shops, electrical infrastructure and supply, telecommunications infrastructure, policing and insufficient/inadequate leisure areas (particularly for children).

Layout, Landscaping, Appearance and Scale

- For the buffer zones to fulfil their intended purposes, the Council should insist that they are appropriately segregated from the development to prevent them becoming recreational spaces and/or extensions to gardens. They should be planted in a way to promote wildlife and nature and to provide existing, neighbouring properties with the degree of privacy and noise reduction their original inclusion was intended to provide.
- The entrance into the development is uninspiring and dominated by drainage features. Should request some further landscaping to enhance the entrance into the village and the realigned Cowards Lane entrance. A hedgerow to replace that which was removed would seem most appropriate.
- To minimise visual impact and intrusion, no three-storey building should be permitted.
- Adverse impact on character of the village.

Highways safety, traffic, access and parking

- Cumulative impact of increased traffic of this development and others, including additional developments in the High Street and sites at Wyevale CD2 and Heath Lane CD5, commercial traffic that currently uses Cowards Lane and ambulances to Poynders Meadow. The traffic assessment fails to consider this.
- Bus service is too infrequent to be of real use.
- The site is not well connected for cyclists - cycle to Welwyn North Railway station (and secondary schools) is dangerous and takes longer than 15 minutes.

- Queries regarding statements made in the Highways comments made by the applicant's transport consultants.
- Exacerbate existing traffic congestion issues in Codicote, particularly due to existing parking on the High Street and as the B656 is used as a rat run to avoid the A1.
- Exacerbate existing highway safety issues in the High Street due to parked cars and increasing and high levels of traffic.
- Exacerbate existing highways safety issues in Cowards Lane. Dangerous junction with poor visibility between B656 and Cowards Lane. Narrow, single track, Cowards Lane, which is dangerous as existing and not built to take large amounts of traffic. There are few passing spaces, some of those being resident's driveways. It cannot be widened because of exiting property lines, has no pavement for pedestrians and has a blind corner.
- The proposed access onto Cowards Lane/High St is potentially very dangerous, with no roundabout or other traffic-calming measures proposed. The only solution will be to introduce more parking restrictions on the high street impacting existing residents.
- The junction with Cowards Lane and the High Street is already dangerous as traffic tends to speed out of the village and visibility to pull out of Cowards Lane is difficult.
- Further increased vehicle traffic on Cowards Lane will significantly increase the risk of serious injuries or death to pedestrians, horse riders, those using mobility appliances and other drivers.
- Even if the school is extended further to provide places, the number of cars needed to transport older children to secondary school will cause congestion.
- No safe walking route to the school or to the High Street (due to car parking on pavement in High Street).
- There is no provision for extending the footpath beyond the site. Given that this will be the shortest route to access the school, park and local amenities, people will be forced to walk in the road. A pathway for pedestrians within the proposed development is only a part solution. Once this pathway comes to an end, pedestrians will walk out onto Cowards Lane, where there is poor visibility of traffic where pedestrians will step out. Then no pavement for the entire length of the lane up to the St Albans Road.
- Query footpaths that would reduce width of Cowards Lane and suddenly terminate.
- Access for emergency vehicles and delivery vans to the development (and village) will be seriously affected.
- Access and parking for the builders' lorries and personal transport will be a serious problem.
- No provision for cyclists
- Increased traffic, air pollution and noise.
- Insufficient parking provision on the proposed development, which will result in overspill parking.
- Comments on further Highways information submitted by the applicant in April 2024, raising concern that that a highways and traffic submission for 17/01464/1 predates significant changes impacting upon Cowards Lane, now and in the future, with other developments coming forward after this date, that were part of the NHDC's Local Plan.

Impacts on amenity

- Impact on access from driveway of property opposite (Ullenhall), which accesses Cowards Lane.
- Loss of privacy to properties in the Riddy, Cowards Lane and the High Street.
- Adverse built impact on and loss of light to the neighbouring property, Oaklea. Revised drawings do not address any of the concerns they raised previously, and impact worsened as proposed house on plot 80 has been moved further back.
- Impact on mature oak tree on boundary with Oaklea, Cowards Lane. Should be in communal open space rather than private ownership. Recommend some initial pruning works by a qualified tree surgeon to avoid future residents undertaking ad-hoc tree works that would have a detrimental effect on the tree's health.
- Lack of a secure boundary to the side and rear of Oaklea. Recommend a management strip.
- Request additional tree planting to reduce overlooking and to filter views of Oaklea.
- Queries regarding boundary treatment and lack of secure boundary treatment along boundaries with neighbouring properties, including Oaklea Cowards Lane and properties in The Riddy. Concern regarding proposed boundary wall to plot 80 which would extend into the existing boundary hedge.
- Queries regarding the nature and management of the proposed buffer strip adjacent to properties in the Riddy.

Design and impact on character and appearance of the area

- Loss of village feel and community.
- Over development of Codicote.
- This development will destroy green spaces, leading to loss of wildlife habitats, and ultimately leading to the degradation of the area's natural beauty.

Impact on nature and wildlife

- Adverse impact on wildlife.
- Herts Ecology made their comments using the July 2018 ecology report. However, Great Crested Newts, smooth newts and Roman snails have been found within the wildlife site (photographic evidence provided by Herts Amphibian and Reptile Group dated May 2023) and the large pond adjacent to the proposed site. In May 2023 Herts and Beds Bat Group saw a Roman Snail.
- Query the proposed wildlife buffer, particularly in light of the above.
- The OS map used by the developers, has been superseded. The Aspect Ecology survey conducted in May 2018, did not include the 3 smaller ponds and the larger pond. The wood and drainage ditch on the southern boundary, acts as a thoroughfare for the amphibians and reptiles, that were photographed by the chairman of HARG (Herts Amphibian and Reptile Group). Consider that a new full survey should be conducted which will likely demonstrate, the natural resource of the entire southern wildlife area and will strongly argue for a habitat and wildlife similar distance boundary, along the entire southern and south eastern boundaries, with a minimum boundary maintained all the way along the Eastern boundary.
- Query whether any of the proposed estates include swift bricks; bat boxes, bird boxes, insect houses; hedgehog highways.
- Adverse impact on Great Crested Newts, Roman Snails, bats, birds, bees, soil, microfungi, earthworms, nematodes, anthrapods and bacteria.
- Impact of light pollution on wildlife.

Other issues

- Light pollution to existing dwellings and adjacent wildlife sites.
- Air pollution.
- Exacerbate existing flooding issues.
- There is a natural spring on the site in question that has been known to flood every so often.
- No provision for any play equipment for children.
- No mention of houses being fitted with solar panels or air or ground source heat pumps.
- No apparent provision for grey water recycling.
- At odds with commitment to reduce carbon emissions – NHDC Cllrs voted to declare a “Climate Emergency” in North Herts.
- Development will not provide affordable or starter homes. What are termed as "affordable" housing are not affordable
- Loss of local property values
- Loss of wildlife areas and places for people which is important for mental health.
- Loss of view
- Loss of agricultural land that could be used for food production to increase food security and reduce food miles.
- Location of the affordable housing on the site.
- Lack of communication with any individual/s involved with this development.

Suggestions from residents

- There is a case for a roundabout at the junction of Cowards Lane and the high Street.
- Additional traffic easing measures implemented in the village to restrict traffic speed, speed bumps, 20mph speed limit.
- Additional parking (car park), parking bays and parking restrictions for those living on the High Street.
- Should provide natural or man-made barriers to prevent on kerb/pavement parking.
- Making Cowards Lane a one way with a pavement for pedestrians along the proposed development and then on the Lane itself.
- The use of gas on the site should be prohibited in line with the governments net zero targets.
- 15-minute interval bus service to either Stevenage or Welwyn Station by environmentally powered buses.

Notwithstanding the comments from residents, please note that since the adoption of the Local Plan this allocated housing site is no longer within the Green Belt.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The application site is located to the south of the village of Codicote. The site is arable farmland and currently comprises a field of predominantly grassland which is defined by

hedgerows, trees and vegetation on the boundaries and has an area of approximately 3.63 hectares.

- 4.1.2 The B656 and Cowards Lane bound the north of the site. The site is bounded by existing residential development to the north and east in Cowards Lane and The Riddy. The site is bounded by the adjacent property, Hollards Farm to the east and south of the site. Part of the southern boundary abuts the Hollards Farm Meadow Local Wildlife Site. The site slopes up from the B656 to the centre of the site and then drops down to the south.
- 4.1.3 There are not any public footpaths crossing the site. However, there is a public footpath (23) that runs south from the B656 to the east of Hollards Farm and a public footpath (36) that runs south from Cowards Lane to the west of the site.
- 4.1.4 Since the adoption of the Local Plan the site has been taken out of the Green Belt and is located within the village boundary of Codicote. The Conservation Area is in the northern part of the village and some distance from the site. There are Listed Buildings in the High Street closer to the site than the edge of the Conservation Area.

4.2 **Proposal**

- 4.2.1 The proposal is seeking approval of all reserved matters save access pursuant to the outline planning permission for up to 83 dwellings which has already been granted under ref. 17/01464/1. The reserved matters in this case are the appearance, landscaping, layout and scale.
- 4.2.2 The scheme has been amended during the course of the application. A suite of amended and additional plans and documents were received in October 2023. The applicants submitted a covering letter, which includes a summary of the main changes and a Design and Access Statement Addendum, which provided details on the amendments. Full re-consultation was carried out in November 2023. The neighbouring properties, 4, 5 and 6 The Riddy and Oaklea, Cowards Lane were reconsulted in December 2023 following receipt of finished floor level plans for the proposed houses on plots 34 to 40 and 80. Following receipt of further amended plans and documents with minor changes (including in relation to affordable housing, highways and drainage) those members of the public who had made comments on the application (in addition to the Parish Council and relevant statutory consultees) were re consulted in January 2024. Further amended plans were received in February 2024 setting out minor changes relating to delivering an additional two M4(3) units and amendments to the affordable units / mix and revisions to the plans regarding cycle storage and access. The applicants submitted a Planning Note - Summary of Changes, which provides details on the amendments. In addition to the relevant statutory consultees, the neighbouring properties, 4, 5 and 6 The Riddy, was reconsulted in February 2024 following receipt of these further amended plans, because they included amendments to plot 35 adjacent to the boundary with the properties in The Riddy.
- 4.2.3 The scheme originally submitted as part of this Reserved Matters application was for 83 units, but the number of units has been reduced to 80. The dwelling estimate in Policy CD1 is 73 homes.
- 4.2.4 The scheme in detail proposes 80 new homes as follows:

Affordable Housing

32 Affordable Homes (40%)

Affordable social and affordable rent (21 homes – 65%)

4 x 1 bed

10 x 2 bed

6 x 3 bed

1 x 4 bed

Affordable shared ownership (11 homes 35%)

2 x 1 bed

3 x 2 bed

5 x 3 bed

1 x 4 bed

Market Housing

48 Homes (60%)

14 x 2 bed

9 x 3 bed

21 x 4 bed

4 x 5 bed

There is an apartment block in a central location in the scheme. This will house 6 x 1 bed and 3 x 2 bed apartments (included the above schedules).

There are 158 allocated parking spaces and 34 visitor parking spaces. In addition, there are 40 garage spaces.

- 4.2.5 Submitted in support of the application are numerous documents including a Design and Access Statement and Addendum, Transport Statement, Road Safety Audit Response and Road Safety Audit 1 & 2 Decision Log, Travel Plan, three Transport Technical Notes, Flood Risk Assessment, response to LLFA comments, Schedule of Accommodation, BNG Metric Calculations, BNG Design Stage Report, Landscape Maintenance and Management Strategy Plan and Arboricultural Planning Statement.

4.3 Legal basis of determining the Planning application

- 4.3.1 Members will be familiar with the standard legal advice that is set out at the end of each Planning Control Committee report which advises that legislation requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. This approach was developed within Section 54A of the Town and Country Planning Act 1990 (as amended). It is also re-emphasised within Section 38(6) of the Planning and Compensation Act 2004, which reads as follows:

“if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise”.

5.0 Key Issues

5.1 As this is a reserved matters application relating to an already approved outline permission complete with legal agreement the discussion relates more narrowly to those matters of detail which have been reserved namely:

- Layout
- Landscaping
- Appearance
- Scale

Accordingly, the report will be structured around these headings with an added section dealing with 'other matters' such as housing mix, affordable housing, ecology etc. following a short introduction.

Introduction

5.2 The application has been identified in the Local Plan as a housing site (CD1). The CD1 allocation has a dwelling estimate of 73 units and the following considerations for development are set out in the plan:

“Policy CD1 - Land South of Cowards Lane – Dwelling estimate – 73 dwellings

- ***Detailed drainage strategy identifying water infrastructure required and mechanism(s) for delivery;***
- ***Sensitive integration into existing village, particularly in terms of design, building orientation and opportunities for cycle and pedestrian access;***
- ***Appropriate solution for expansion of Codicote Primary School to be secured to accommodate additional pupils arising from this site;***
- ***Contribution towards expansion of Codicote Primary School;***
- ***Transport Assessment to consider the cumulative impacts of sites CD1, CD2, CD3 and CD5 on the village centre and minor roads leading to/from Codicote and secure necessary mitigation or improvement measures;***
- ***Sensitive design, particularly at north-east of site, to prevent adverse impact upon setting of Listed Buildings on High Street;***
- ***Preliminary Risk Assessment to identify any contamination associated with previous uses including mitigation;***
- ***Consider and mitigate against potential adverse impacts upon Hollards Farm Meadow Local Wildlife Site and adjoining priority woodland habitat.***

5.3 Please note that the requirement for a solution for and contribution towards expansion of Codicote Primary School and the requirement of a Transport Assessment considering the cumulative impacts of the Codicote housing sites were dealt with in the outline application. Following the grant of permission in outline in November 2022 under reference 17/01464/1 (see attached report at Appendix A) the new owner of the site, Croudace Homes, has engaged with the Council to develop an acceptable scheme in detail (Reserved Matters - appearance, scale, layout, and landscaping). As set out above, following negotiations, amendments have been made to the scheme.

Layout

- 5.4 Layout is defined in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) as: ***“the way in which buildings, routes and open spaces within the development are provided, situated, orientated in relation to each other and to buildings and spaces outside the development...”***
- 5.5 The layout has been amended during the course of the application following negotiations.
- 5.6 Outline planning permission was granted for ***“up to 83 units”***. Copied below is the paragraph in the committee report relating to layout and unit numbers:
- “The application is accompanied by an illustrative layout plan. It has been amended during the course of the application to accommodate changes early on including a reduction in unit numbers and more recently to accommodate landscape buffers. However, should planning permission be approved then this plan would not be an “approved plan”. It is for illustrative purposes only. It is worth clarifying that this application is for “up to 83 dwellings”. Officers remain to be convinced that 83 dwellings can be comfortably accommodated on site, given its sensitive edge of village location, but this is an issue that will be assessed as part of the reserved matters application(s) when detailed layout plans are submitted as part of the application. The design and layout of the scheme including internal green spaces is a reserved matter and not subject of this outline planning application. An informative has been recommended to flag up that the proposal may be subject to Design Review at the Reserved Matters stage in line with Paragraph 133 of the NPPF and supporting paragraph 9.13 of the Emerging Local Plan Policy D1: Sustainable Design.”***
- 5.7 The scheme originally submitted as part of this reserved matters application was for 83 dwellings. However, following concerns raised about the amount of built development being proposed on the site, the scheme has been amended to reduce the number of units to 80. The amended scheme has reduced the overall built development (including the removal of four garages), increased garden sizes and represents a less cramped form of development. It is considered that the amended plans demonstrate that 80 units can comfortably be accommodated on the site.
- 5.8 There is a central open space with Locally Equipped Area for Play (LEAP), which is welcomed. The main access leads into a perimeter road, which creates a legible development and means that the development has largely active frontages and the properties mostly ‘look out’ of the development. The buildings on corner plots are dual aspect with windows serving habitable rooms on both sides which creates active frontages. The apartment building would act as a landmark building at the centre of the site, terminating the view from the main access. The visitor parking has been repositioned so that it would not obscure the views of the central open space from the main access route. Buildings would be of a reasonable height and spacing in relation to the road network. The internal road network has been reconfigured to create a larger open space and reduce the hard surfacing around it. The private roads serving a few properties have been kept to a minimum.
- 5.9 Access is not a Reserved Matter as the means of access was approved as part of the outline application. However, the layout of the roads and pedestrian routes within the site is considered as part of the Reserved Matters. The layout informs the movement of people and any changes to pedestrian routes are covered by layout in the Reserved

Matter application. The Highways comments originally set out how the scheme proposed as part of this application for Reserved Matters complied or not with the highways related conditions on the outline planning application. They structured their comments in that way because the submitted Transport Statement listed the transport related conditions which they said will be discharged as part of this Reserved Matters application. However, the Local Planning Authority are not requiring the Highways Authority to confirm if they recommend that we should approve details reserved by condition. The developer would be required to submit separate applications for approval of details reserved by condition on the outline planning permission (17/02464/1) in relation to the highways conditions that require them to submit details and the Highways Authority would be consulted. As such, the Highways Authority were re-consulted, and we requested that they provide an updated response which only comments on the Reserved Matters of layout, appearance, scale, and landscaping.

5.10 As part of the Reserved Matters application, the developer does need to comply with Condition 19 of the outline planning permission. This requires the detailed plans submitted in connection with approval of Reserved Matters to include details of all hardsurfaced areas within the site, the level of footway and carriageway visibility from each individual vehicle access, and the level of visibility from and around each main junction within the site; that service vehicles, including refuse and emergency vehicles, can safely and conveniently access and route through the site; and provision of sufficient facilities for cycle storage.

5.11 The Highways Authority provided detailed comments in their response on 13th February 2024, which can be viewed on the Council's website, and concluded as follows:

“In summary, the Highway Authority has insufficient information supplied with this application leading to doubts with respect to highway safety.”

5.12 The applicant's Highways consultant has provided Technical Note 3 which provides additional information seeking to remove the HCC Highways objection to the planning application as presented in the previous formal response.

5.13 The Highways Authority were reconsulted and provided detailed comments, which can be viewed on the Council's website. They confirmed that the Highways Authority does not wish to restrict the grant of permission. They reached the following conclusion:

“HCC Highways is now satisfied the design concerns are either mitigated or negligible due to the scale of the development and proposed level vehicular traffic not posing a risk to the safe movement of all road users.”

Residents and the Parish Council raised concerns with regards to cumulative impact of traffic as a result of this proposed development and other nearby new and existing developments (particularly the site at Heath Lane). The Highways Authority have addressed this in their response as follows:

“Furthermore, when assessing the development at the outline stage and as part of the cumulative impact of traffic as a result of this development (and) committed development, there were no concerns raised by HCC Highways as to the volume of traffic utilising Cowards Lane.”

- 5.14 The scheme as originally submitted divided the proposed development into three character areas (high street, cottage, and western edge), as identified in the Design and Access Statement. These have not been shown on the revised information and, it is the officer view that a site of this size does not require distinct character areas. However, it is considered that the overall design approach taken is appropriate and the proposed development would relate successfully to its context.
- 5.15 The number of properties fronting Cowards Lane has been reduced and the properties have been redesigned so would all be two storey detached dwellings on wide plots, which follow the building line of the existing properties in Cowards Lane and so better reflect the existing pattern of development on the south side of Cowards Lane and would result in a better transition between the existing and proposed development. The SuDS feature in the northeast corner of the site has been designed to create a landscaped area at the frontage of the site. The properties fronting the High Street would not be out of character and would be set back from the road by a landscaped SuDS feature. The number of visitor spaces on the Cowards Lane and High Street frontage have been reduced with landscaping added, which softens the frontage.
- 5.16 Following negotiations, the roof of the house on plot 80 has been hipped, to reduce the built impact on Oaklea. It is acknowledged that the house on plot 80 has been moved slightly further back on the plot but this was to improve the parking layout on the frontage. The front wing would have a lower ridge height than the main roof. It is acknowledged that the neighbouring property has ground floor windows and a first-floor dormer window in the side elevation facing the proposed property on plot 80. However, none of the windows are the only windows serving principal rooms (such as living rooms). The house on plot 80 would have some built impact on this dwelling, which currently has an open outlook. It is considered that the proposed house on plot 80 would not be unduly dominant in the outlook enjoyed by this property or result in a material loss of daylight or sunlight. Also, loss of a view across the site from a neighbouring property would not be a sustainable reason to withhold planning permission. The proposed dwelling on plot 80 would not result in a material loss of privacy to the neighbouring property, Oaklea. A condition has been recommended to ensure that the window at first floor level in the side elevation is fixed with top vent opening and no further windows are added without planning permission. The objections from the occupiers of Oaklea are noted but given the above it is considered that the proposed development would not harm the living conditions of the occupiers of the dwelling at Oaklea.
- 5.17 Concerns have been raised by the occupier of Oaklea regarding the boundary treatment. Officers would suggest that the existing hedgerow along the boundary be bulked up with planting and suitable fencing, such as a timber post and rail fence be proposed on the proposed development side of the hedge for security. The recommended landscaping condition specifically requires details to be submitted and approved by the Local Planning Authority. A 1.8m high brick screen wall is shown to the west of the proposed house on plot 80. This would not be appropriate adjacent to the hedge. Therefore, the landscaping condition requires details of the boundary treatment to be provided so that something more sensitive can be agreed, that would provide suitable security for the rear garden of plot 80.
- 5.18 It is considered that the proposed dwellings along the northern boundary would not have an adverse impact on the existing properties to the north in Cowards Lane and on the southern side of the High Street in terms of loss of privacy or built impact. This is by

reason of the length of the rear gardens of the existing properties in Cowards Lane and the distance between the proposed houses and those in the High Street. There is also some vegetation screening the rear boundaries of the existing properties in Cowards Lane, although it is acknowledged that this is outside the application site.

- 5.19 The concerns raised by the occupiers of properties in The Riddy are noted. It is considered that the proposed houses on the west edge of the development would not result in a material loss of light or be unduly dominant in the outlook currently enjoyed by the properties in Riddy. To reduce the impact of the development on nos. 4, 5 and 6 The Riddy, a landscape buffer is proposed along the rear gardens of the houses on plots 34 to 39 and along the side of the garden for plot 40. This buffer would provide screening to protect the privacy of properties 4 to 6 the Riddy. This landscape buffer will be within the ownership of the individual property owners, as it would be too difficult for it to be managed separately. The intention is that this will be planted with species that future occupiers will be unlikely to remove. The landscape strategy plan has been updated to show a dense woodland scrub infill. Notwithstanding the details submitted with the application, the landscaping condition requires details for the planting of this landscape buffer to be submitted and approved by the Local Planning Authority. No details are shown on the enclosure plan of the boundary treatment along the boundaries with the existing properties in Cowards Lane and The Riddy, therefore it is recommended that this will be secured by condition. It is considered that the proposed dwellings on the western boundary would not result in a material loss of privacy to the occupiers of the adjacent properties in The Riddy. A condition has been recommended to ensure that the window at first floor level in the side elevation of the house on plot 40 is fixed with top vent opening and no further windows are added without planning permission.
- 5.20 Following discussions, the internal footpath has been realigned across the landscaped strip south of Cowards Lane at the natural crossing point and would link in with the footpath shown on the approved access plan that will connect the High Street to Cowards Lane. This is welcomed as this will help encourage pedestrians from outside of the site to use the footpath running parallel with Cowards Lane within the site, rather than Cowards Lane itself. This would also help connect the site with the existing settlement. The proposal to have the pavement on the north-west side of the main access road makes sense, as it links to the proposed footpath parallel to Cowards Lane. Given the change in levels and existing hedgerow a condition has been recommended requiring details, including section drawings, of the two new pedestrian accesses onto Cowards Lane.
- 5.21 The development block to the southeast of the site has been improved by the removal of two plots within the centre of the development block, which constituted a poor form of layout design. The siting of proposed plots 54 and 55 is not ideal. However, they would provide natural surveillance to the rear parking court, which is positive, and on balance are acceptable in terms of design.
- 5.22 The layout is such that no individual building within the development would be unreasonably impacted by surrounding buildings in terms of outlook, lack of light or loss of privacy. The back-to-back distances and back to side distances are reasonable. Where there are relatively close back to side distances between dwellings, there are no relationships in the proposed layout where there would be a conflict of windows with potential for overlooking.

- 5.23 Private Garden space would be acceptable. The scheme has been redesigned to improve garden sizes. The flats benefit from communal amenity space to the rear of the building as well as access to the public central green space at the front of the building. The ground floor and first floor apartments would have small private gardens and balconies. This also assists in creating natural surveillance of the central public open space. Flats will benefit from dual or triple aspects providing good daylight amenity. The plans demonstrate that the property sizes meet the technical housing standards – nationally described space standards.
- 5.24 'Permitted development' rights under Classes A, B, C, E and F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 as amended were removed on the outline planning application, given the sensitive edge of village location.
- 5.25 The scheme has been redesigned so that it is less parking dominated. Regarding provision of car parking, the applicant has provided for one space for one bed units and at least two spaces for two, three and four bed units as well as visitor parking across the site. Car parking spaces for all houses are conveniently located as close to the unit as possible to prevent on street parking, whilst not dominating the streetscene. There are 158 allocated parking spaces and 34 visitor parking spaces (193 parking spaces in total). In addition, there are 40 garage spaces. 33% of the houses have garage spaces. For the purposes of calculating the parking spaces, the garages have not been taken into account on the basis that garages are rarely used for parking cars. It is calculated by officers that the Local Plan parking standards require 155 parking spaces and 33 visitor parking spaces (based on the number of garages). The parking standards have been slightly exceeded; however, this is considered acceptable given the location of the site.
- 5.26 Most of the parking would be on plot and a significant proportion of the car parking would be provided to the sides of the dwellings. Where parking is proposed in front of the houses, space for landscaping has been provided to soften the parking in the streetscene. There is a parking court to the rear of the apartment block. This parking area would serve the apartment block and four houses. Whilst it would be a relatively large parking court (with spaces for 15 cars) it would keep cars off the frontage, landscaping is proposed to soften the parking and the parking court would benefit from natural surveillance from the houses on plots 54 and 55 which would front the parking court. One car club space is secured by the s106 Agreement on the outline application. Landscaping is proposed to help settle parked cars into the street.
- 5.27 There is also one secure covered cycle space per dwelling either with the curtilage of the dwelling or in a communal area for the flats. There have been some minor changes made to the plans to make cycle parking easier to access. The access to cycle storage could be further improved and these improvements can be secured by the recommended condition stating that notwithstanding the cycle storage details submitted with the

Reserved Matters application, in conjunction with Condition 21 of the outline planning permission, prior to the first occupation of the development further details of siting, number and design of secured/covered cycle parking spaces shall have been submitted and approved in writing by the Local Planning Authority.

- 5.28 Condition 24 of the outline planning permission requires that prior to occupation, each of the proposed new dwellings shall be provided with an Electric Vehicle ready domestic charging point (EVCP). EVCP's shall be allocated to any visitor parking on a ratio of 1 charge point per 10 visitor parking spaces. The indicative locations of the EVCP are shown on the revised Parking Plan. EV charge points can be an obtrusive feature of new developments, and their positioning is important in terms of ensuring that, when in use, the charging cable does not obstruct access. Therefore, notwithstanding the submitted parking plan, a condition is recommended that prior to occupation a plan is submitted for Local Planning Authority approval showing the locations of the EVCP.
- 5.29 It is disappointing that the affordable housing has not been distributed across the site. However, it is considered that this is not a sustainable reason to withhold planning permission, given that this is a relatively small site, and it is acknowledged that design features have been added to the affordable units in an effort to make the development tenure blind.
- 5.30 The layout is such that any user of the site would be able to differentiate between public and private spaces.
- 5.31 It is considered that Design Review is not necessary, given that the submitted scheme represents a significant improvement on the illustrative layout submitted with the outline application, and the applicant has responded positively to negotiations and the design of the scheme has been improved. It is considered that the amended proposed layout represents good quality design.

Summary

- 5.32 The amended layout is considered acceptable. The central open space and perimeter road layout represents good design. The proposed design is appropriate in its context on the edge of village and would relate to the existing residential development. It is considered that the proposed layout complies with site specific policy criteria CD5 which requires **“Sensitive integration into existing village, particularly in terms of design, building orientation and opportunities for cycle and pedestrian access;”** and Local Plan Policies D1: Sustainable design, D3: Protecting living conditions and T2: Parking.

Landscaping

- 5.33 Landscaping, in relation to reserved matters applications, is defined in the Town and Country planning (Development Management procedure) Order 2015 (as amended) as: **‘the treatment of land (other than buildings) for the purpose of enhancing or**

protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out of provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features...'

- 5.34 The landscaping of this scheme is key to its success, given it is a sensitive edge of village site. The application is accompanied by a Landscape Strategy Plan, a Planting Plan, a Landscape Maintenance and Management Strategy Plan, SuDS Section and Planting Strategy, and an Arboricultural Planning Statement. The Design and Access Statement Addendum includes visuals demonstrating how the proposed landscaping for the scheme is expected to develop over a ten-year period.
- 5.35 The landscaping strategy is intrinsically linked to the need for sustainable drainage systems (SuDS), Biodiversity Net Gain, and provision of open space, green infrastructure, road network and amenity space. There is little need for banks or terraces, although the site does slope, it is fairly gentle, and can be more naturally managed. The proposals include a swale along the southern boundary and SuDS drainage basins in the northeast and southeast corners where ground levels are lower.
- 5.36 Whilst it is acknowledged that some of the existing hedgerow would need to be removed to accommodate the proposed access, this was approved as part of the outline application, as access was not a Reserved Matter. However, the proposed landscaping along the frontage would help soften the impact of the proposed development on Cowards Lane and the High Street. The landscape strategy demonstrates that the existing boundaries with the Green Belt would be strengthened by landscaping.
- 5.37 The landscaping strategy is intrinsically linked with the Ecology and Biodiversity Net Gain (BNG) requirements. Policy NE4: Biodiversity and geological sites states that 12m of complimentary habitat should be provided around wildlife sites (locally designated sites and above), trees and hedgerows, but it is not an absolute requirement of policy. It is necessary to implement the 12m buffers pragmatically otherwise some of the smaller proposed housing allocation sites in the Local Plan could well be undeliverable. As such, it was considered as part of the assessment of the outline application that the proposed buffers would be sufficient in this instance. Following consultation with LEADS Ecology a parameter plan was submitted and approved as part of the outline application, which indicated that there would be a 12m buffer adjacent to the Hollards Farm Landscape Wildlife site and 6m buffers to the rest of the southern boundary and part of the east and west boundaries. The approved parameter plan indicated landscape buffers to the south, west and east of the site. These have been incorporated in the proposed landscape strategy. Ecology matters are discussed in the environmental considerations section below.
- 5.38 The Fields in Trust standards recommend a Local Area for Play and Locally Equipped Area for Play on a development of this size. The central open space with a LEAP (Local Equipped Area of Play) would provide a focal point on entering the site. The proposed fencing is only proposed round the LEAP itself for safety and the rest of the central open space would stay open. The LEAP meets the Fields in Trust (FiT) recommended minimum sizes in terms of the activity zone and the buffer zone (separation between activity zone and nearest property containing a dwelling). Whilst only a LEAP has been proposed, it is considered that this is sufficient as generally the Council prefers to see

LEAPs and LAPs co-located with/incorporated into LEAPs. Notwithstanding the approved plans a condition is recommended requiring details of the LEAP, including the full schedule of equipment to be installed have been submitted and approved in writing by the Local Planning Authority. It will be ensured that a range of equipment for all ages will be provided within the footprint of the LEAP. The s106 Agreement on the outline application requires submission and agreement of an Open Space Scheme, Open Space Management Scheme and Play Space Scheme to the Council for approval prior to the commencement of development.

- 5.39 With regards to open space the Council uses the Fields in Trust (hereby referred to as FiT) standards as a starting point. They are applied pragmatically having regard to site context, existing open space in the area and proximity to rights of way network and open countryside. Using the FiT standards, it is calculated that the proposed site should provide 1.3 Ha of open space. However, taking off open space that cannot feasibly be provided on site (such as playing pitches) the requirement is calculated to be 0.5 Hectares (including equipped/designated plan, amenity green space and natural and semi-natural space). The applicant has confirmed that the overall public open space would be approx. 0.7 Ha, which would be more than this requirement. They have also confirmed that the overall private open space (private gardens) would be 1.2 Ha. It is considered that the proposed provision of public open space would be acceptable, particularly given the proximity to rights of way network and open countryside. Also, the s106 Agreement on the outline permission secured an off-site contribution towards the upgrading of the Sports Pavilion in the village.
- 5.40 The main access street would be tree lined in line with paragraph 136 of the NPPF. Within the Design and Access Statement Addendum there is a detailed main street section demonstrating how the private front gardens, main road, public footpath, public green space, and street trees can be accommodated within the main street. Some of the street trees are shown to be within private gardens, but this is difficult to avoid given the design of the development.
- 5.41 On this scheme all landscaping not in the ownership of individual properties will be managed by a private management company as secured by the Section 106 Agreement on the outline permission. During the application a management plan has been produced illustrating which areas of the site would be public and/or private space and indicates which roads will be adopted or private (within the Design and Access Addendum).
- 5.42 A plan has been submitted showing the sections of the SuDS with the planting detailed. It would appear that a small part of the SuDS basin in the northeast corner of the site would permanently have some water in it, but the rest of the SuDS features would not. The proposed planting of the SuDS would be appropriate and would soften their visual impact. The drawings indicate that they would be natural in appearance. The enclosure plan states that 0.9m cleft post and rail fence is proposed to secure the SuDS feature and this is considered appropriate.

- 5.43 The outline application imposed a condition requiring landscaping details to be submitted and an implementation condition. The landscaping details submitted as part of this Reserved Matters application are considered to be broadly appropriate. However, it is recommended that a similarly worded condition be imposed on the Reserved Matters application, as the submitted scheme does not cover all the matters, for example the location and type of any new walls, fences or other means of enclosure around the edge of the site and details of any earthworks proposed. This condition would also require some more detail on the proposed planting. The proposed landscape buffer on the boundary with properties in the Riddy needs to be carefully considered and the hedgerow on the boundary with Oaklea, Cowards Lane, needs to be bulked up. The applicants would need to submit applications for approval of details reserved by condition with the additional landscaping details required to comply with the requirements of this condition. It is considered prudent to recommend conditions which ensure the implementation of the landscape scheme and provide for the replacement of any trees or shrubs which die in the first 5 years.
- 5.44 Condition 9 (landscaping) of the outline permission requires that as part of the Reserved Matters application there is the submission of an arboricultural impact assessment showing the condition of the existing trees, detailing which trees, if any, are to be removed and which are to be retained and what new trees are to be planted and detailed scheme for the protection of existing trees and hedges to be retained and an accompanying programme for implementation of the scheme.
- 5.45 An Arboricultural Planning Statement has been submitted with the application, which is considered to meet this requirement. The proposed development will require the complete removal of three groups of trees. In addition, the partial removal of two further groups would be required. With exception of the group of mature Hornbeam trees (G10), which runs north to south across the lower section of the site, the majority of trees on the site form part of the site boundary hedges, meaning that their root protection areas have very little incursion to the site. The design proposal for the site has accommodated this. There is a group of mature Hornbeam trees (G10) with an understorey of Apple and Hawthorn which extends into the site from the southern boundary. It is considered that none of these trees are worthy of protection by a Tree Preservation Order and their removal allows more flexibility and options in terms of design and layout to develop the site. The other trees to be removed are on the edges of the site and are not worthy of protection by a Tree Preservation Order. The vegetation along the western, southern and eastern boundaries would largely be retained with just some low value trees removed. A small section of the group trees along Cowards Lane would need to be removed to allow construction of the pedestrian access onto Cowards Lane connecting to the new footpath within the site. However, it is considered that the conclusions of the Arboricultural Planning Statement are correct that the section of the group affected by the works is of a low quality and the partial removal proposed would not have a significant landscape impact.
- 5.46 The Arboricultural Planning Statement sets out the tree protection measures for the existing trees. The report states that along the boundary with neighbouring properties in the north-western section of the site a mature Oak tree (T1) was assessed as being of high value, and several Ash trees within the gardens of the properties were assessed as being of moderate value. A condition is recommended requiring that the Arboricultural Planning Statement is complied with. Tree protection and replacement conditions are not

required as they were imposed on the outline permission. The plans indicate that the following groups of trees would be removed: a row of Category B trees, running into the site from the southern boundary required for construction of driveways and properties, a group of category U trees in poor condition along the boundary with the boundary with properties in Cowards Lane, a small section of group of Category C trees along Cowards Lane required for construction of new footpath and removal of group of Category U trees fronting the High Street required for construction of a new footpath. The proposed landscape details indicate that approximately 115 new trees would be planted.

- 5.47 A Landscape Maintenance and Management Strategy Plan has been submitted as part of the application. Notwithstanding this a condition has been recommended that this be submitted again as it will need to be adapted if any changes are made to the landscaping details. The Service Manager, Greenspace, would be consulted on the Landscape Maintenance and Management Strategy Plan given their comments set out above as well as an Ecologist to ensure it ties in with the requirements of the Landscape and Environmental Management Plan.

Summary

- 5.48 The landscaping scheme with some buffers, SuDS incorporated, and a central open space would create a positive environment for future occupiers of the development. It would also soften the proposed development in the landscape and create strong new boundaries with the Green Belt. The landscaping strategy submitted with this application is broadly acceptable, however a condition requires submission of further landscaping details to cover any gaps. The care and maintenance of this 'green infrastructure' will be the responsibility of a private management company as secured by the 106 Agreement attached to the outline permission.

Appearance

- 5.49 Appearance is defined in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) as: ***'the aspects of a building or place within the development which determines the visual impression the building or places makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture...'*** Therefore, this reserved matter relates more to the appearance of dwellings and the use of materials.
- 5.50 The site sits on the edge of Codicote. The character of the existing nearest residential development to the north and west is quite mixed. The houses are relatively modern in Cowards Lane. The dwellings at this end of the High Street are a mix of old and new properties.
- 5.51 In terms of the appearance the frontage properties are particularly important as they will read against the existing development in the streetscene. The existing properties along the south side of Cowards Lane directly to the west of the site have wide plots and the dwellings are no more than two storeys in height. The scheme was amended so that this pattern of development would be reflected along the frontage of the site to the west of the proposed access. It is considered that the properties fronting the High Street would not be incongruous in the context.

- 5.52 The materials proposed would be representative of the mix available in the surrounding area, particularly Cowards Lane and the High Street, consisting of red/multi brick, a dark barn-style weatherboarding and a white render. The proposed tiles would be mainly a concrete plain tile (with the appearance of clay tiles) with some natural slate roof tiles. These materials will be varied across the site to create interest, whilst providing a sense of cohesion from this relatively simple palette of materials. Detailing is proposed in the form of brick plinths, banding and quoining, as well as the use of different headers for window and styles of canopies. The corner properties include features to create two active frontages, such as bay windows. A condition was imposed on the outline application requiring full details of the external materials to be used on the facings of all building and including their roofs to be submitted and approved. The existing properties along the south side of Cowards Lane have clay or concrete tiles and they are a mixture of pantile and plain tiles. The scheme has been amended so that the proposed dwellings fronting Cowards Lane all have concrete tiles with the appearance of clay tiles, rather than any slate colour roof finishes. There are some slate colour roof finishes proposed, but these are within the application site, which is considered appropriate.
- 5.53 The proposed mix of dwellings, consisting of terraced, semi-detached, detached as well as an apartment block is considered appropriate for the site and the requirements for the area. The design of the apartment block has been improved. It now includes balconies which add interest to the elevations as well as providing private outdoor space. The roof design of the dwellings in the amended scheme reflects that of the surrounding area with simple roof forms with some modest dormer windows.
- 5.54 They have improved the level of detailing to the affordable dwellings whilst breaking up several runs of affordable homes with private dwellings to try and make the affordable more tenure blind, as previously it was considered that the design of the affordable dwellings revealed their tenure.

Summary

- 5.55 The proposed appearance of the dwellings and the use of a simple palette of materials would reflect the local context.

Scale

- 5.56 Scale is defined in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) as: ***‘the height., width and length of each building proposed within the development in relation to its surroundings’...***
- 5.57 It is considered that the scale of the development, as well as individual buildings is acceptable. Most of the dwellings would be two storey buildings, which is consistent with surrounding residential development. Within the site there is a varied layout of detached and semi-detached units as well as an apartment block. There is a good relationship between all buildings. As set out above the proposed dwellings along the south side of Cowards Lane have been reduced to two storeys in height to reflect the existing pattern of development.
- 5.58 The apartment block would be two and a half storey and is proposed to be located on an elevated part of the site. It is considered that this would be acceptable as it would be set

back from the road frontage and neighbouring residential development and would act as a landmark building with views of it from the main access road.

- 5.59 As set out under the section on layout, it is considered that the proposed dwellings on the boundaries with neighbouring residential properties would be of an acceptable height and would not harm the living conditions of the occupiers of surrounding properties in terms of intrusion into aspect or loss of daylight or sunlight. A finished floor levels plan was required in relation to the proposed development and the nearest neighbouring properties, and this is considered to be acceptable. A finished floor levels plan across the whole site is also required by a recommended condition to ensure the scale of the dwellings is not elevated by land works.

Summary

- 5.60 The scale of the proposed development would be appropriate in its context.

Other matters

Housing mix

- 5.61 Policy HS3 requires that housing schemes comprise a specified housing mix of 60/40% larger (3 bed plus) and smaller units (1 or 2 bed). Condition 35 of the outline application also required that prior to the commencement of above ground development and as part of Reserved Matters application(s), a housing schedule shall be submitted and approved by the Local Planning Authority, which sets out the dwelling mix, which should be broadly reflect the proposed dwelling mix of 37% smaller units (1 and 2 bed units) and 63% larger units (3 bed and above), unless otherwise agreed in writing by the Local Planning Authority. The housing schedule submitted sets out that the proposed mix would be 59% (47 x 3 bed and above) larger units and 41% (33 x 1 and 2 bed) smaller units, which would broadly comply with the Local Plan Policy HS3 and Condition 35 of the outline planning permission. The applicants have demonstrated that applicants demonstrate that at least 50% of homes can be built to the M4(2) Accessible and Adaptable standard, which would comply with Local Plan Policy HS5 (a) and part of Condition 36 of planning permission 17/01464/1.

Affordable Housing

- 5.62 The scheme proposed 32 Affordable Homes (40%) which would consist of following tenures:
- o 21 Affordable/Social Rented (65%)
 - o 11 Shared Ownership (35%)
- 5.63 Following negotiations, the affordable housing mix has been slightly amended and is now to the satisfaction of the Housing Supply Officer. The Housing Supply Officer made the following comments:

“There is a greater need across the district for two bedroom family houses for rent and following discussions the applicant has agreed to change plots 65 and 66 to 2 x two bed rented houses, instead of 3 bed houses, as these better meet housing

needs. The rented element will therefore provide 7 x two bed houses and 6 x 3 bed houses for rent.

A change to plot 58 (shared ownership) from a 2-bed / 4-person flat to a 1-bed / 2-person flat has been agreed to ensure M4(3) compliance. The other two M4(3) dwellings are agreed as a one bedroom flat for rent and the four bedroom rented house. The provision of three M4(3) dwellings complies with Condition 36 of the outline planning permission.

The four bedroomed rented house is wheelchair user standard M4(3), to meet a specific housing need, in accordance with policy HS5 in addition to 50% of the homes being built in accordance with accessible and adaptable standard M4(2).

The tenure percentage split remains the same as per the S106 agreement although the mix differs slightly from the S106, which is due to the reduction in units and the loss of a shared ownership unit.

Para 1.3 in Schedule Two of the S106 allows for amendments to the mix, if agreed in writing by the council.

The amended Affordable Housing Plan and amended Schedule of Accommodation show the agreed affordable housing units as: 4 x 1 bed flats (including one M4(3)), 3 x 2 bed flats, 7 x 2 bed houses and 6 x 3 bed houses for affordable rent; 1 x 4 bed house M4(3) for social rent and; 2 x 1 bed flats (including one to M4(3)), 3 x 2 bed houses, 5 x 3 bed houses and 1 x 4 bed house for shared ownership sale.

The amended Affordable Housing Layout plan shows all nine 1 and 2 bed apartments (Plots 56 to 64) in the same block although the amended floor plans show the 2 x one bedroom shared ownership flats are on the ground floor with their own separate entrance doors. This will hopefully be acceptable to registered providers (RPs), who do not usually like mixed tenure blocks.”

There is the requirement for 10% of the affordable units to be at M4(3) wheelchair user standard to comply with local Plan Policy HS5 and Condition 36 of the outline planning permission. Following negotiations, the scheme has been amended to provide 10% of the affordable units to be at M4(3) wheelchair user standard. This required some minor amendments to some of the dwellings, which are considered to be acceptable.

Ecology

- 5.64 Site specific policy CD1 requirement states: **“Consider and mitigate against potential adverse impacts upon Hollards Farm Meadow Local Wildlife Site and adjoining priority woodland habitat.”**
- 5.65 The impacts upon Hollards Farm Meadow Local Wildlife Site and adjoining priority woodland habitat were addressed in the outline application, along with Biodiversity Net Gain matters. The outline permission included a condition that required that prior to commencement of development the BNG Metric and Technical Briefing Note should be revised to demonstrate a minimum of 10% BNG can be achieved, and the hedgerow figures revised to clarify the apparent anomaly. It also included a condition requiring a Biodiversity and Landscape Management Plan (Landscape Ecological Management Plan)

which details how the ecological units will be delivered as the part of the development be submitted prior to the commencement of development and any landscaping works. There was also a clause in the s106 Agreement requiring an offsite BNG contribution. Herts Ecology and Herts and Middx Wildlife Trust have been consulted on the Reserved Matters application and their comments are above.

- 5.66 BNG Metric Calculations and BNG Design Stage Report were submitted as part of this application. Following consultation, LEADS Ecology recommended that further information and/or amendments required before the application can be determined. Following receipt of amended plans and documents LEADS Ecology were re consulted and their comments are awaited.
- 5.67 LEADS Ecology concluded that ***“on the basis that an updated Biodiversity Metric, Management Strategy and species-specific features are addressed by condition, I consider the landscaping proposals can be determined accordingly.”***

As such the necessary conditions have been recommended below.

- 5.68 Various issues regarding ecology have been raised by local residents including evidence that Great Crested Newts, smooth newts and Roman snails have been found within the adjacent wildlife site. These matters were addressed in the consultation response from LEADS Ecology, Hertfordshire County Council. The issue raised by a local resident with regards to the superseded OS map that the applicant’s ecology report was based upon, are noted. However, the ecology report was submitted as part of the outline application which has been granted planning permission and therefore it is the officer view that this matter is not relevant to this Reserved Matters application being considered. In any case LEADS Ecology have not raised any objections and recommended the application can be determined with conditions. It is considered that there are no reasons to withhold planning permission on ecology or biodiversity grounds. On the outline application there are conditions relating to a Roman Snail Survey, Biodiversity Net Gain Metric and Biodiversity and Landscape Management Plan. The conditions recommended by LEADS Ecology are recommended below (condition nos. 19, 20 and 21).

Impact on heritage assets

- 5.69 Under Policy CD1 of the ELP, which sets out the site-specific criteria, a requirement states:
- “Sensitive design, particularly at north-east of site, to prevent adverse impact upon setting of Listed Buildings on High Street;”***
- 5.70 For the reasons set out above it is considered that the proposed layout, scale, appearance, and landscaping constitute sensitive design including at the north-east of the site. It is considered that the proposal would result in no harm to the setting of the Listed Buildings on the High Street in any case.

Environmental considerations

- 5.71 The Waste Management Team have raised no objections and recommended an informative. Conditions were imposed on the outline permission which require details of the circulation route for refuse collection vehicles and the arrangements for the disposal of waste detailed on the approved plans to be provided and information to be provided on the management arrangements for the receptacles to facilitate their collection from a kerbside collection point.
- 5.72 The Environmental Health Team have not raised any objections and the conditions relating to land contamination, noise assessment, Travel Plan and EV charging were imposed on the outline permission.
- 5.73 The LLFA have raised objections to the application and amended scheme. Following receipt of further information, the LLFA confirmed that they are now satisfied the applicant has submitted the required information to fulfil the requirements of the remaining points from their previous letter and therefore they have no further objection to this application.
- 5.74 Various matters have been raised through representations which are not directly relevant to the consideration of this application as they are beyond the scope of an application for reserved matters. Other matters have been addressed in the report above.
- 5.75 With regards to the Parish Council's concern that a traffic survey was conducted at night and a new survey should be conducted at the busiest times of day. The applicant clarified that it was in fact the parking survey that was carried out at night, because this is when there is most on-street parking.

Conditions

- 5.76 There are several conditions on the outline application, which required information to be submitted as part of the Reserved Matters conditions. There were Conditions 9 (landscaping), 19 (highways matters), 35 (housing mix) and 36(M4(2) and M4(3) housing). The necessary information has been submitted to comply with all these conditions except for landscaping where we would require some further details. As such a condition has been recommended on this Reserved Matters application requiring further landscaping details. It was not considered reasonable to delay the determination of this application by requiring the further information at this stage, because overall the proposed landscaping is considered to be broadly acceptable.
- 5.77 There is not a requirement for a S106 Agreement as this was secured as part of the outline application to mitigate the impacts of the development and provide wider public benefits.

Conclusion

- 5.78 This application for Reserved Matters follows from the approval of outline application ref. 17/01464 /1 which includes detail on layout, scale, appearance, and landscaping.
- 5.79 Subject to appropriately worded conditions, it is considered that the proposed development would be of a suitable scale commensurate to the site located on the edge of the settlement; have an acceptable and functional layout for residents and visitors to the site; be of an appearance considerate to the site and its setting and would be acceptable in terms of proposed landscaping. These reserved matters link well with

details already approved by way of the outline permission and applications for approval of details reserved by condition and would not prejudice legal covenants contained within the Section 106 agreement.

5.80 The proposed development is considered to accord with relevant policy provisions of the local development plan as listed above as well as the NPPF.

5.81 Paragraph 11 of the NPPF states that: ***“Plans and decisions should apply a presumption in favour of sustainable development.”***

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay.”

5.82 The Council's Local Plan was adopted on 8th November 2022 and is considered 'up-to-date' for the purposes of national policy. The NPPF advises that decision makers should approve development proposals that accord with an up-to-date development plan without delay. Paragraph 47 of the NPPF states: ***“That Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.”*** It is concluded that the proposed development is broadly in accordance with the development plan and there are not any material considerations that indicate the application should not be approved.

5.83 All the application site falls within the settlement boundary, as defined in the Local Plan. The application site benefits from an allocation under Policy CD1 for an estimated 73 dwellings and the Local Plan removed the whole site be removed from the Green Belt for development and incorporated within the settlement boundary of Codicote. This policy also contains detailed policy criteria for consideration in the determination of any relevant applications for planning permission. It is considered that the proposals broadly comply with the site-specific policy criteria set out in Policy CD1. Where the proposals do not completely comply with the policy criteria set out in CD1, it is considered that on balance these are not sustainable reasons to withhold planning permission. Would there have been any conflict with the Local Plan policies the tilted balance would apply as per paragraph 11 of the NPPF.

5.84 There are no material considerations to indicate that the application should not be determined in accordance with the development plan. For the reasons set out above it is the officer's view that the proposed development would accord with the development plan including the adopted Local Plan, and that there are no sustainable reasons to withhold planning permission. As such planning permission should be granted subject to conditions.

6.0 **Alternative Options**

None applicable

7.0 **Climate Change mitigation measures**

A condition was imposed on the outline application (condition 12) requiring an Energy and Sustainability Statement to be submitted and approved prior to commencement of development. This has been provided and is under consideration. For the avoidance of doubt, this does not form part of the consideration of this Reserved Matters application. However, in relation to general sustainability issues it can be confirmed that the proposal will deliver improvements to biodiversity net gain, sustainable water management, sustainable and active travel measures to encourage walking and cycling to the village, open space provision, waste management and construction methods management and the use of construction materials. In relation to energy matters, the developer proposes the use of both air source heat pumps and solar photo voltaic panels to a number of units on the site. These measures will deliver an improved energy performance over that required by the current Building Regulations. The provision of EV charging points is also dealt with by a separate condition on the outline application. The developer has confirmed that all units will be fitted EV charging points together with 10% of the visitor spaces.

8.0 **Pre-Commencement Conditions**

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

9.0 **Legal Implications**

9.1 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.

10.0 **Recommendation**

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

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

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

2. Notwithstanding the information submitted with the Reserved Matters application, in conjunction with Condition 30 of the outline planning permission prior to commencement of any above ground construction works, full details of the external materials to be used in the facings all buildings, and including their roofs, shall be submitted to, and be approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

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 in accordance with Policy D1 of the North Hertfordshire Local Plan (2011-2031).

3. Prior to the commencement of development (excluding the construction of the S278 access points and 10m of estate road) finished floor levels plans shall be submitted to and approved in writing by the Local Planning Authority. These need to show fixed points throughout the site to demonstrate the internal impact on each other and the external impact on neighbouring properties in terms of height. The following two plans shall be required:
 1. Existing topographical survey.
 2. Proposed survey with fixed data points correlating to the existing topographical survey, ground levels between gardens and finished floor levels which back onto each other and neighbouring properties.

The approved details shall be implemented on site.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality and in accordance with and in accordance with Policy D3 of the North Hertfordshire Local Plan (2011-2031).

4. Notwithstanding the approved plans and documents submitted with this Reserved Matters application, prior to commencement of any above ground construction works, full landscape details shall be submitted and approved in writing by the Local Planning Authority and shall include the following:
 - a) which, if any, of the existing vegetation is to be removed and which is to be retained
 - b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and including sizes, numbers/densities, species, maturity and location of trees/shrubs/plants and sufficient specification to ensure successful establishment and survival of new planting. Details to include the landscape buffer on the western boundary adjacent to The Riddy and the bulking up of the boundary hedge on the boundary with Oaklea, Cowards Lane.
 - c) the location and type of any new walls, fences or other means of enclosure and associated structures and equipment and any hardscaping proposed. Including boundary treatment on boundaries with neighbouring properties including details of boundary treatment to plot 80 (to not include a wall abutting boundary hedge as shown on the approved plans) and including details of gates to access rear gardens.
 - d) details of any earthworks proposed

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality and with Policies D1 and NE2 of the North Hertfordshire Local Plan (2011-2031).

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

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality and with Policies D1 and NE2 of the North Hertfordshire Local Plan (2011-2031).

6. Prior to the commencement of any above ground construction works details of LEAP (Local Equipped Area of Play) shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained on site.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality and in accordance with Policy D1 of the North Hertfordshire Local Plan (2011-2031).

7. Notwithstanding the information submitted with the application, prior to commencement of any above ground construction works, a Landscape Maintenance and Management Strategy Plan shall be submitted and approved in writing by the Local Planning Authority. The Landscape Maintenance and Management Strategy Plan shall be complied with in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality and in accordance with Policy D1 of the North Hertfordshire Local Plan (2011-2031).

8. Development shall be carried out in accordance with the Arboricultural Planning Statement (dated February 2023) by ADAS unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard and enhance the trees on the site and in accordance with Policy NE2 of the North Hertfordshire Local Plan (2011-2031).

9. Prior to the commencement of the works enabling the two pedestrian connections with Cowards Lane, details of the two pedestrian connections with Cowards Lane shall be submitted and approved in writing by the Local Planning Authority. These details shall include a section plan of showing vegetation (trees and hedgerow) to be removed and demonstrate how the change in levels will be dealt with. The approved details shall be implemented on site prior to occupation of any of the dwellings.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality and in accordance with Policy D1 of the North Hertfordshire Local Plan (2011-2031).

10. The existing hedge on the boundary with Oaklea, Cowards Lane, shall be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality and in accordance with Policies D1 and D3 of the North Hertfordshire Local Plan (2011-2031).

11. Prior to the first occupation of the development hereby approved details of siting, number and design of physically covered bin stores shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be installed prior to the occupation of each dwelling and permanently retained for bin storage.

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 in accordance with Policy D1 of the North Hertfordshire Local Plan (2011-2031).

12. Should an electricity substation be required on the site, prior to the commencement of the erection of the electricity substation, details of its location and full external details of the building, and of associated enclosures and works, shall be submitted to, and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details as approved.

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 in accordance with Policy D1 of the North Hertfordshire Local Plan (2011-2031).

13. The window at first floor level on the west elevation of the dwelling on Plot 80 (facing Oaklea, Cowards Lane) hereby permitted shall be permanently glazed with obscure glass and permanently fixed with only top vent opening.

Reason: To safeguard the privacy of the occupiers of the adjacent dwelling and in accordance with Policy D3 of the North Hertfordshire Local Plan (2011-2031).

14. No windows (other than that shown on the approved plan) shall be inserted at first floor level or above on the west elevation (facing Oaklea, Cowards Lane) of the dwelling on plot 80 hereby permitted, without the specific grant of planning permission by the Local Planning Authority.

Reason: To safeguard the privacy of the occupiers of the adjacent dwelling and in accordance with Policy D3 of the North Hertfordshire Local Plan (2011-2031).

15. The window at first floor level on the west elevation of the dwelling on Plot 40 (facing 5 and 6 The Riddy, Cowards Lane) hereby permitted shall be permanently glazed with obscure glass and permanently fixed with only top vent opening.

Reason: To safeguard the privacy of the occupiers of the adjacent dwellings and in accordance with Policy D3 of the North Hertfordshire Local Plan (2011-2031).

16. No windows (other than that shown on the approved plan) shall be inserted at first floor level or above on the west elevation (facing 5 and 6 The Riddy) of the dwelling on plot 40

hereby permitted, without the specific grant of planning permission by the Local Planning Authority.

Reason: To safeguard the privacy of the occupiers of the adjacent dwelling and to comply with Policy D3 of the North Hertfordshire Local Plan 2011 to 2031.

17. Notwithstanding the approved parking plan, prior to the first occupation of the development hereby approved details of siting, number and design of the Electric Vehicle Charging Points shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be installed prior to the occupation of each dwelling and permanently retained for bin storage.

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 in accordance with Policy D1 of the North Hertfordshire Local Plan (2011-2031).

18. Notwithstanding the cycle storage details submitted with the Reserved Matters application, in conjunction with Condition 21 of the outline planning permission, prior to the first occupation of the development hereby approved further details of siting, number and design of secured/covered cycle parking spaces shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include secondary pedestrian access to the proposed garages (including the attached garages) and the detailed design of the cycle sheds, unless otherwise agreed in writing by the Local Planning Authority. The approved details shall thereafter be installed prior to the occupation of each dwelling and permanently retained for cycle parking.

Reason: To ensure the provision of cycle parking spaces in line with the Council's adopted standards and to encourage use of sustainable modes of transport and in accordance with Policy T1 of the North Hertfordshire Local Plan (2011-2031).

19. Prior to commencement of any above ground construction works an updated Biodiversity Metric to reflect all of the relevant habitats and features proposed on the relevant design drawings shall be submitted and approved by the Local Planning Authority.

Reason: To ensure the BNG claimed is accurate and can be monitored accordingly and in accordance with Policy NE4 of the North Hertfordshire Local Plan (2011-2031).

20. Prior to commencement of any above ground construction works an updated Management Strategy to reflect management details to include:
- Removal of cuttings in order to maintain species-rich grasslands
 - Details of species-mix proposed for the planting species-rich wildflower grasslands.

Shall be submitted and approved in writing to the Local Planning Authority. The approved updated Management Strategy shall be complied with on site in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure the species-rich grasslands are defined purposes, and management to maintain their interest and in accordance with Policy NE4 of the North Hertfordshire Local Plan (2011-2031).

21. Prior to commencement of any above ground construction works an updated plan to show species-specific features proposed across the site:

- integrated and free standing bird boxes (including swift boxes);
- integrated and free standing bat boxes;
- hedgehog holes
- reptile / amphibian hibernacula

Shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented on site prior to occupation.

Reason: to ensure protected species issues are adequately considered in the design and management of the development site and in accordance with Policy NE4 of the North Hertfordshire Local Plan (2011-2031).

Informatives

Waste and Recycling Informative

Considerations when planning waste and recycling provision

For houses, waste collection is a kerbside service; therefore residents must be able to take their bins to the kerbside for emptying. Bins must be accessible to crews directly from the kerbside, without pulling distances.

Adequate off-street storage must be provided for bins, and storage areas need to have sufficient space for all necessary waste and recycling containers.

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

Vehicular access

We currently operate a number of different-sized vehicles. The majority that we operate at present are 26 tonne with a 6x2 chassis. The chassis configuration differs between vehicles, but the largest turning circle is on our mid-steer vehicles.

Typical maximum dimensions are as follows:

- Width: 2,500mm (without mirrors)
- Height: 3,400mm (without hazard beacons)
- Turning circle: 22,800mm
- Overall length: 12,100mm (from front to rear of bin lift)

All roadways should be constructed to facilitate waste collections prior to occupation. This is particularly important to consider when waste collections occur from the rear of properties or from a different street from the main entrance to the properties.

LLFA Informative

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 2013 and 2023 are currently accepted. For the avoidance of doubt the use of FSR and FEH1999 data has been superseded by FEH 2013 and 2022 and therefore, use in rainfall simulations are not accepted.

11.0 **Appendices**

11.1 Appendix A - [Decision Notice for planning application ref. 17/01464/1](#)

12.0 **Background Papers**

12.1 [Officer report to Planning Control Committee meeting on 15 September 2022 for planning application ref. 17/01464/1](#)

NORTH HERTFORDSHIRE DISTRICT COUNCIL

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

DECISION NOTICE

Correspondence Address:

Mr P Watson
Kingsbrook House
7 Kingsway
Bedford
MK42 9BA

Applicant:

Warden Developments Limited

PARTICULARS OF DEVELOPMENT

Application: 17/01464/1

Proposal: Outline application for a residential development for up to 83 dwellings (all matters reserved except access) (as amended by plans and documents received 4th January 2019 and 21st January 2022).

Location: Land Adjacent To Oaklea And South Of, Cowards Lane, Codicote, SG4 8UN

Plan Nos: 16-SK02A 2277-02D 22-03

PARTICULARS OF DECISION

In pursuance of its powers under the above Act and the associated Orders and Regulations, the Council hereby **GRANT PERMISSION** for the development proposed by you in your application received with sufficient particulars on 8 June 2017 subject to the following condition(s):

1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting, approved documents and plans, together with the reserved matters approved by the Local Planning Authority, or with minor modifications of those details or reserved matters which previously have been agreed in writing by the Local Planning Authority as being not materially different from those initially approved.

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

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

Reason: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 as amended.

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

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

4. **Before commencement of the development, notwithstanding the details as shown on drawing number 2277-02 rev D (proposed access plan), a revised highway works/access plan shall be submitted to, and approved by, the Local Planning Authority (in consultation with the Highway Authority), which shows:**

- The provision of a hardsurfaced pedestrian route internally within the site of at least 2 metres width, running parallel to Cowards Lane (on its southern side for the full extent of the site boundary), with a hardsurfaced pedestrian link at the north-western terminal point of this onto the Cowards Lane carriageway, also of at least 2-metres width.

Reason: To ensure pedestrians are safely and suitably accommodated on the highway network, in accordance with paragraphs 110 - 112 of the NPPF (2021).

5. Prior to the commencement of the development, a 'Construction Traffic Management Plan' shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The 'Construction Traffic Management Plan' shall identify details of:
- o the phasing of construction and proposed construction programme.
 - o the methods for accessing the site, including wider construction vehicle routing.
 - o the numbers of daily construction vehicles including details of their sizes, at each phase of the development.
 - o the hours of operation and construction vehicle movements.
 - o details of any highway works necessary to enable construction to take place.
 - o details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
 - o details of any hoardings.
 - o details of how the safety of existing public highway users and existing public right of way users will be maintained.
 - o management of traffic to reduce congestion.
 - o control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels, and how it will be ensured dirty surface water does not runoff and discharge onto the highway.
 - o the provision for addressing any abnormal wear and tear to the highway.
 - o the details of consultation with local businesses or neighbours.
 - o the details of any other Construction Sites in the local area.
 - o waste management proposals.
 - o signage

Reason: In the interests of highway safety, amenity and free and safe flow of traffic.

6. Prior to the commencement of the development the developer shall carry out a noise assessment in accordance with relevant guidance and standards and a scheme for sound insulation and noise control measures shall be submitted for the Council's written approval. The approved scheme shall be implemented in accordance with the approved details in order to achieve the following internal noise targets:
- Bedrooms (23.00 to 07.00hrs) 30 dB LAeq (8hour) and 45 dB LAmax(f)
 - Living rooms (07.00 to 23.00hrs) 35 dB LAeq (16hour)
 - Dining room / area (07.00 to 23.00hrs) 40 dB LAeq (16 hours).
- Once implemented, the scheme of measures shall be maintained in accordance with the approved details.

Reason: To protect the residential amenities of future residents.

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

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

8. **No development shall take place until details of a scheme for the provision of fire hydrants to serve the relevant phases of the development has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The provision and installation of fire hydrants, at no cost to the County or Fire & Rescue Service.**

Reason: To ensure all proposed dwellings have adequate water supplies for in the event of an emergency.

9. **The landscape details to be submitted as reserved matters prior to the commencement of development shall include the following:**

a) which, if any, of the existing vegetation is to be removed and which is to be retained

b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting

c) the location and type of any new walls, fences or other means of enclosure and associated structures and equipment and any hardscaping proposed

d) details of any earthworks proposed

e) an arboricultural impact assessment showing the condition of the existing trees, detailing which trees, if any, are to be removed and which are to be retained and what new trees are to be planted. A detailed scheme for the protection of existing trees and hedges to be retained and an accompanying programme for implementation of the scheme.

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

10. **Prior to commencement of development a survey of the habitats favoured by Roman snails should be undertaken by a suitably qualified Ecologist during May to August when the snails are in their optimum active period, and after recent rainfall, especially in warm, humid conditions. The subsequent report should provide mitigation, including licence requirement and details of translocation and a suitable receptor site, if required, and be submitted to the LPA for written approval prior to the commencement of development.**

Reason: To ensure to ensure protected species are protected from harm in accordance with national legislation and local policy.

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

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

12. **Prior to the commencement of development an Energy and Sustainability Statement shall be submitted to and approved by the Local Planning Authority. The development hereby approved shall be constructed in accordance with the approved Energy and Sustainability Statement, unless agreed otherwise in writing by the Local Planning Authority, and the identified measures shall be maintained and retained thereafter.**

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

13. **The works shall not proceed without the formal acceptance of a detailed Travel Plan, where the content of the travel plan is fully assessed prior to approval of objectives and targets with local authority officers.**

The Travel Plan shall take account of the detailed guidance within the Air Quality and Planning Guidance, notably Tables 4 & 5, referencing the checklist in Appendix 5 and with reference to the Travel Plan Guidance' at www.hertsdirect.org .

- o The content of the travel plan shall be fully assessed prior to its approval in conjunction with local authority officers.**
- o The agreed targets and objectives included in the travel plan are secured for implementation by mutual agreement of the local authority and the developer/applicant (normally by means of a Section 106 agreement).**
- o The outputs of the travel plan (typically trip levels and mode split) are annually monitored against the agreed targets and objectives.**
- o Should the travel plan not deliver the anticipated outputs or meet the targets and objectives further mitigation/alternative/compensation measures need to be identified and implemented.**
- o A named co-ordinator is required for success of the travel plan.**

Reason: To reduce the impact of the development on air quality.

14. **Prior to commencement of development the BNG Metric and Technical Briefing Note should be revised to demonstrate a minimum of 10% BNG can be achieved, and the hedgerow figures revised to clarify the apparent anomaly. The revised BNG Metric and Technical Briefing Note shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development.**

Reason: To ensure that the BNG Metric and Technical Briefing Note are revised and corrected in the interests of local biodiversity, ecology and the visual amenity of the site.

15. **Prior to the commencement of development and any landscaping works, a Biodiversity and Landscape Management Plan (Landscape Ecological Management Plan) which details how the ecological units will be delivered as the part of the development shall be submitted to and approved in writing by the Local Planning Authority. It should address the aspirations of NPPF in achieving overall net gain for biodiversity, along with details on how it is planned to incorporate biodiversity as part of the development scheme, how the habitats within the site boundary will be managed to maintain long term biodiversity objectives, and if possible who will have the management responsibilities. As such the plan shall include the following:**

- a) aims and objectives of management;**

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

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

Reason: To ensure that the agreed landscaping and biodiversity gains are delivered and maintained in the interests of local biodiversity, ecology and the visual amenity of the site.

16. Before first occupation of the development, detailed engineering drawings of the revised plan as approved by condition 4 above, shall be submitted to and approved by the Local Planning Authority (in consultation with the Highway Authority). Before first occupation of the development, the works as shown as these drawings shall be completed in full to the satisfaction of the Local Planning Authority.

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

17. Notwithstanding the details as shown on drawing number 2277-02 rev D (proposed access plan), no dwelling forming part of the development shall be occupied until the following works have been completed in full:

- Pedestrian dropped kerbs and tactile paving either side of the Cowards Lane / spine road junction, with a suitable level of visibility from the tactile crossing points.
- Pedestrian dropped kerbs and tactile paving either side of the B656 / spine road junction.

- Measures to prohibit the parking of vehicles (e.g. double yellow lines) at the roadside of the B656 to ensure the necessary level of visibility from the site access, and from the pedestrian crossing points on the B656, are maintained in perpetuity.

Reason: To ensure pedestrians are safely and suitably accommodated on the highway network, in accordance with paragraphs 110 - 112 of the NPPF (2021).

18. No dwelling forming part of the development shall be occupied until the two existing bus stops closest to the site along the B656 have been upgraded, to

include raised Kassel kerbing. These works shall be completed before first occupation of any dwelling forming part of the development.

Reason: To ensure residents and visitors of the development have the realistic option of travelling by local bus routes, and not a reliance on the private motorcar, in accordance with paragraphs 110 - 112 of the NPPF (2021).

19. The detailed plans submitted in connection with approval of reserved matters shall show, to the satisfaction of the Local Planning Authority:
- The details of all hardsurfaced areas within the site. This includes, but is not limited to, all roads, footways, forecourts, driveways, parking and turning areas, and foul and surface water drainage.
 - The level of footway and carriageway visibility from each individual vehicle access, and the level of visibility from and around each main junction within the site, within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.
 - That service vehicles, including refuse and emergency vehicles, can safely and conveniently access and route through the site, to include the provision of sufficient turning and operating areas.
 - The provision of sufficient facilities for cycle storage.
- All these features shall be provided before first occupation and maintained in perpetuity.

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

20. No dwelling shall be occupied until full details of the proposed arrangements for future management and maintenance of the proposed roads within the development have been submitted to and been approved in writing by the local planning authority. The roads shall thereafter be maintained in accordance with the approved management and programme details until such time as an agreement has been entered into under the Highways Act 1980 or a private management and maintenance company has been established.

Reason: To ensure the long-term management and maintenance of the proposed roads.

21. Prior to the first occupation of the development hereby approved details of siting, number and design of secured/covered cycle parking spaces shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be installed prior to the occupation of each dwelling and permanently retained for cycle parking.

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

22. Prior to the construction of the final road surfacing of the development (but not prior to those works associated with operational/construction access), details of the circulation route for refuse collection vehicles have been submitted to the local planning authority and approved in writing. The required details shall include a full construction specification for the route, and a plan defining the extent of the area to which that specification will be applied. No dwelling forming part of the development shall be occupied until the refuse vehicle circulation route has been laid out and constructed in accordance with the details thus approved, and thereafter the route shall be maintained in accordance with those details.

Reason: To facilitate refuse and recycling collections.

23. Prior to the commencement of the use hereby permitted and prior to occupation of the first dwelling the arrangements for the disposal of waste detailed on the approved plans shall be provided and information shall be provided on the management arrangements for the receptacles to facilitate their collection from a kerbside collection point. The approved arrangements shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

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

24. Prior to occupation, each of the proposed new dwellings shall be provided with an Electric Vehicle (EV) ready domestic charging point. EV charge points shall be allocated to any visitor parking on a ratio of 1 charge point per 10 visitor parking spaces. The charging arrangements shall be maintained and retained thereafter.

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.

25. No dwelling hereby permitted shall be occupied unless and until an external lighting strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be designed to minimise the potential adverse effects of external lighting on the amenity and biodiversity of the site and its immediate surroundings. The scheme shall be implemented as approved and in accordance with an agreed programme/strategy, and the arrangements shall be maintained and retained thereafter.

Reason: In the interests of biodiversity and local amenity.

26. Before the new access onto the B656 is first brought into use, visibility splays of 2.4 metres by 93 metres to the north-west, and 2.4 metres by 51 metres to the south-east, shall be provided and permanently maintained, within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level.

Reason: To ensure construction of a satisfactory vehicle access, in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan 4.

27. The gradient of the B656 access, the Cowards Lane access shall not be steeper than 1 in 20 for at least the first 15 metres from the edge of the carriageway which forms part of the public highway.

Reason: To ensure construction of a satisfactory accesses and in the interests of highway safety and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan 4 (adopted 2018).

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

Reason: To protect the residential amenities of existing residents.

29. If the Oak tree identified with low bat roosting potential (Ref: Ecological Appraisal, Landscape Planning May 2018) is proposed for removal, it should be soft-felled, where limbs are cut and left grounded over night to allow any bats to make their way out. In the event of bats or evidence of them being found, work must stop immediately and advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England.

Reason: To ensure protected species are protected from harm in accordance with national legislation and local policy.

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

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

31. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the

completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

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

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

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

33. 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.

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

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

35. Prior to the commencement of above ground development and as part of Reserved Matters application(s), a housing schedule shall be submitted and approved by the Local Planning Authority, which sets out the dwelling mix, which should be broadly reflect the proposed dwelling mix of 37% smaller units (1 and 2 bed units) and 63% larger units (3 bed and above), unless otherwise agreed in writing by the Local Planning Authority. The approved dwelling mix should be implemented on site.

Reason: To ensure that the development complies with Policy HS3 ('Housing Mix') of the ELP, which suggests a split of 40% smaller units and 60% larger units on edge-of-settlement sites.

36. Prior to the commencement of above ground development and as part of Reserved Matters application(s), a housing schedule shall be submitted and approved by the Local Planning Authority, which demonstrates that at least 50% of homes can be built to the M4(2) Accessible and Adaptable standard; and 10% of the affordable units can additionally be built to the M4(3) wheelchair user standard, unless otherwise agreed in writing by the Local Planning Authority. The approved details should be implemented on site.

Reasons: To ensure that the development complies with Policy HS5: Accessible and adaptable housing

37. Before each phase of development approved by this planning permission, no development shall take place until such time as a scheme to manage surface water run-off has been submitted to, and approved in writing by, the local planning authority.

A detailed surface water drainage scheme should include:

1. Detailed layout drawings showing the location of all proposed SuDS features and associated infrastructure including annotations of surface water attenuation volumes
2. Detailed SuDS management train demonstrating source control measures, conveyances measures and attenuation features, prioritising above ground features and permeable materials in line with HCC SuDS Policies and best practice.
3. Demonstrate compliance with the approved drainage scheme at outline stage FRA and Drainage Strategy reference 203715 Rev 00 dated 17 May 2022 carried out by Scott White and Hookins, including the agreed discharge rate of 3.2l/s to the north into the existing Thames Water sewer.
4. Surface water exceedance routes for events above the 1 in 100-year event + climate change
5. Informal surface water flooding for any flooding from the drainage system during the 1 in 30-year event up to the 1 in 100 year + climate change event, with details of how it will be managed to ensure no increase in flooding to the built development and the surrounding area.
6. Detailed surface water calculations for all rainfall events from the 1 in 1 year to the 1 in 100 year + 40% for climate change
7. Half drain down time calculations for all infiltration/attenuation SuDS features
8. Adoption and Maintenance plan

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme,

or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future users.

38. The development permitted by this planning permission shall be carried out in accordance with the principles of the approved Flood Risk Assessment carried out by Scott White & Hookins reference FRA and Drainage Strategy reference 203715 Rev 00 dated 17 May 2022 carried out by Scott White and Hookins and the following mitigation measures:

1. Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off during the 1 in 100 year plus 40% for climate change event.
2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year plus climate change (40%) event.
3. Providing storage and treatment within four above ground attenuation ponds, swales and permeable paving
4. Mitigation measures to raise buildings 300mm
5. Discharge of surface water to an existing Thames Water sewer to the north at a rate of 3.2l/s

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

Reason: 1. To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site.

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

39. No development shall take place until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change (40%) critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The surface water drainage scheme should include:

1. Detailed, updated post-development calculations/modelling in relation to surface water for all rainfall events up to and including the 1 in 100 year return period, this must also include a +40% allowance for climate change.
2. A detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points into any storage features. If areas are to be designated for informal flooding, these should also be shown on a detailed site plan.
3. Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
4. Exceedance flow paths for surface water for events greater than the 1 in 100 year including climate change allowance.
5. Implementing an above ground SuDS management and treatment train reducing the need for below ground attenuation.

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

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

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

The scheme shall include:

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

Reason: 1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

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

Proactive Statement:

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

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

Informative/s:

1. Design informative

The proposal may be subject to Design Review at the Reserved Matters stage in line with Paragraph 133 of the NPPF and supporting paragraph 9.13 of the Emerging Local Plan Policy D1: Sustainable Design.

2. Off-site highways work Informative

The off-site highways works referred to in conditions 17 and 18 above shall include:

- Pedestrian dropped kerbs and tactile paving either side of the Cowards Lane / spine road junction, with a suitable level of visibility from the tactile crossing points.
- Pedestrian dropped kerbs and tactile paving either side of the B656 / spine road junction.
- Measures to prohibit the parking of vehicles (e.g. double yellow lines) at the roadside of the B656 to ensure the necessary level of visibility from the site access, and from the pedestrian crossing points on the B656, are maintained in perpetuity.
- The upgrading of the two existing bus stops closest to the site along the B656, including raised Kassel kerbing.

The details of these off-site highways works need to be completed in accordance with an approved S278 Agreement with the Highway Authority, prior to the occupation of any dwelling forming part of the development.

3. Highways Informatives

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

Further information is available via the website

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

or by telephoning 0300 1234047.

AN2) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.

Further information is available via the website

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

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

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

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

Further information is available via the

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

AN5) Highway to remain private: The applicant is advised that new highway routes internally associated with this development will remain unadopted and the developer should put in place a permanent arrangement for long term maintenance. At the entrance of the new estate the road name plate should indicate that it is a private road to inform purchasers of their future maintenance liabilities. Further information is available via the website

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

AN6) Section 106 Agreement: Planning permission granted subject to the completion of a Section 106 Agreement between the applicant, North Hertfordshire District Council, and Hertfordshire County Council to secure the following:

A) A Sustainable Transport Contribution of £158,721 index linked by SPONS to January 2019, paid before commencement, to be pooled towards scheme number SM210 under Package 15 of Hertfordshire County Council's South-Central Growth & Transport Plan, to include (but not limited to) cycleway/footway improvements, traffic calming, new and improved signage, reduction in permitted traffic speed and other physical changes to road layout which will enhance facilities for pedestrians and cyclists and provide safer and more sustainable travel access options.

B) A bus service contribution of £117,500, index linked by RPI to January 2019 and paid before commencement, to improve the 44/45 and 314/315 bus routes or other such services that route through Codicote.

C) Travel Plan:

i) An approved Travel Plan at least 3 months before first occupation, consisting of a written agreement with the County Council which sets out a scheme to encourage, regulate, and promote sustainable travel measures for owners, occupiers, and visitors to the Development in accordance with the provisions of the County Council's Travel Plan Guidance (March 2020) or any subsequent replacement guidance.

ii) The Travel Plan is subject to an 'Evaluation and Support Contribution' totalling £6,000 (index linked by RPI from March 2014), payable before first occupation of the development. This contribution is to cover the County Council's costs of administrating and monitoring the objectives of the Travel Plan and engaging in any Travel Plan Review. The applicant's attention is drawn to Hertfordshire County Council's guidance on Travel Plans in this respect.

iii) A Travel Plan Remedial Measures Notice clause within the Legal Agreement, enabling the County Council to serve notice in writing on the Owner via the Travel Plan Co-ordinator where the Owner has failed to meet one or more of the targets identified in the Travel Plan, and specifying the remedial measures and/or actions required to be taken by the Owner to remedy the failed implementation towards the agreed targets with a reasonable time provision.

D) Provision of a car club with at least 1 car club space and vehicle provision.

4. Ecology Informatives

Any significant tree/shrub works or removal should be undertaken outside the nesting bird season (March to August inclusive) to protect breeding birds, their

nests, eggs and young. If this is not practicable, a search of the area should be made no more than two days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.

In the unlikely event that a Badger is encountered during works, or evidence of badger presence is found, works must stop immediately and ecological advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England

Keep any areas of grass as short as possible up to, and including, the time when the works take place so that it remains unsuitable for reptiles (or amphibians such as Great Crested Newts) to cross.

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

Any external lighting scheme should be designed to minimise light spill, in particular directing light away from the boundary vegetation to ensure dark corridors remain for use by wildlife as well as directing lighting away from potential roost / nesting sites. It should follow guidance from the Bat Conservation Trust and CIE 150:2003. Warm-white (long wavelength) lights with UV filters should be fitted as close to the ground as possible. Lighting units should be angled below 70° and equipped with movement sensors, baffles, hoods, louvres and horizontal cut off units at 90°.

5. Environmental Health Informative

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

6. Land contamination Informative

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.

7. EV Informative

EV Charging Point Specification:

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

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

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

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

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

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

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

- o UK Government is intending to issue legislation in 2021 to require domestic EV charge points to be smart, thus we recommend that all charge points will be capable of smart charging, as detailed in UK Gov consultation response.

8. Thames Water Informatives

The proposed development is located within 15 metres of Thames Waters underground assets and as such, the development could cause the assets to fail if appropriate measures are not taken. Please read our guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures.<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further

information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB

There are public sewers crossing or close to this development. If the applicant is planning significant work near Thames Water sewers, it's important that they minimize the risk of damage. Thames Water will need to check that the development doesn't limit repair or maintenance activities, or inhibit the services Thames Water provide in any other way. The applicant is advised to read Thames Water's guide working near or diverting their pipes.

<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

Management of surface water from new developments should follow guidance under sections 167 & 168 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should the applicant require further information please refer to their website.

<https://www.thameswater.co.uk/developers/larger-scale-developments/planning-your-development/working-near-our-pipes>

Thames Water Buildover Informative

The applicants will need to approach Pre App Build Over Team (Previously LA Team), Developer Services for a pre-planning application. They can find details here:

<https://www.thameswater.co.uk/developers/larger-scale-developments/planning-your-development>

Thames Water sewer records don't indicate any shared drainage within the site, but there may be newly transferred sewers that they haven't yet mapped and aren't aware of.

If the site owner finds shared drainage, the sewers may need to be diverted, as Thames Water don't allow new builds over public sewers. The applicant will need to submit their pre-development application to Thames Water and then discuss any potential diversions with the engineer dealing with their application.

Please direct the applicant to connectright.org.uk where they can find advice on making their connections correctly. Where separate systems are provided for foul and surface water, the developer is legally required to use the respective systems and not connect foul drains to surface water drains and vice versa.

9. Affinity Water Informatives

Water Quality

You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone (SPZ) corresponding to our Pumping Station (FULL). This is a public water supply, comprising a number of abstraction boreholes, operated by Affinity Water Ltd.

The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be undertaken.

Any works involving excavations below the chalk groundwater table (for example, piling or the implementation of a geothermal open/closed loop system) should be avoided. If these are necessary, a ground investigation should first be carried out to identify appropriate techniques and to avoid displacing any shallow contamination to a greater depth, which could impact the chalk aquifer.

For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

Water efficiency

Being within a water stressed area, we expect that the development includes water efficient fixtures and fittings. Measures such as rainwater harvesting and grey water recycling help the environment by reducing pressure for abstractions in chalk stream catchments. They also minimise potable water use by reducing the amount of potable water used for washing, cleaning and watering gardens. This in turn reduces the carbon emissions associated with treating this water to a standard suitable for drinking, and will help in our efforts to get emissions down in the borough.

Infrastructure connections and diversions

There are potentially water mains running through or near to part of proposed development site. If the development goes ahead as proposed, the developer will need to get in contact with our Developer Services Team to discuss asset protection or diversionary measures. This can be done through the My

Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com.

In this location Affinity Water will supply drinking water to the development. To apply for a new or upgraded connection, please contact our Developer Services Team by going through their My Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com. The Team also handle C3 and C4 requests to cost potential water mains diversions. If a water mains plan is required, this can also be obtained by emailing maps@affinitywater.co.uk. Please note that charges may apply.

10. Waste and Recycling Informative

Further advice on waste provision for developments is available on our website. <http://www.north-herts.gov.uk/home/planning/waste-and-recycling-provision> this included details of the required capacity at each property.

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

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

For flats, bins should be ordered direct from the Council's contractor 10 weeks in advance of first occupation to ensure they arrive in time for the first residents moving in.

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

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

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

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

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

The surface to the collection point should be uninterrupted, level with no gravel or similar covering, and have a width to enable the easy passage of wheeled bins. For two-wheeled bins this should be 1 metre for four-wheeled bins this should be 1.5 metres wide (including doorways), with a maximum gradient of 1:12.

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

For flats and commercial properties:-

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

Walls and doors should have protection strips to prevent damage and a mechanism for holding doors open should be available. Doors should ideally be keypad entry or standard fire brigade keys. We do not support the use of electronic key fobs.

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

Signed:



Ian Fullstone
Service Director – Regulatory

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

Date: 2 November 2022

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

NOTES

- 1 **Failure to satisfy conditions may invalidate this permission and/or result in enforcement action. Particular attention should be paid to the requirements of any condition in bold.**
- 2 Applicants will need to pay a compliance fee where they request confirmation in writing of any planning consent, agreement or approval (commonly known as discharge of conditions) required by one or more conditions or limitations attached to a grant of planning permission.
- 3 The fee is £116 per request or £34 where the permission relates to an extension or alteration to a dwellinghouse or other development in the curtilage of the dwellinghouse.

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

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

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

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

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

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

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

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

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

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

6 **Purchase Notices**

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

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

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

8 **Cadent Gas Informative:**

Cadent Gas own and operate the gas infrastructure within the area of your development. Contact our Plant Protection Team for approval before carrying out

any works on site and ensuring requirements are adhered to. Email plantprotection@cadentgas.com Alternatively you can register on www.beforeyoudig.cadentgas.com This service is free of charge.

THIS PLANNING PERMISSION DOES NOT CONSTITUTE APPROVAL UNDER BUILDING REGULATIONS AND IS NOT A LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT. IT DOES NOT CONVEY ANY APPROVAL OR CONSENT WHICH MAY BE REQUIRED UNDER ANY ENACTMENT, BY-LAW, ORDER OR REGULATION OTHER THAN SECTION 57 OF THE TOWN AND COUNTRY PLANNING ACT 1990.

KEY	
	Site Boundary
	1.8m high brick wall
	1.8m high close board fence
	0.9m Cleft post & rail fence
	1.8m high gate to rear garden
	1.5m Chain link fence with new hedge planting
	Visitor parking
	Planting buffer
	Suds / Swale
	Primary road (Tarmac)
	Secondary roads (Block Paving)
	Territory roads (Block Paving)
	Slate roof tile
	Clay roof tile

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P15	17.04.24	Update to S278 General Arrangement & Legal Agreement Plan	JW	PA
P14	06.02.24	Updated cycle stores to Planners comments	JW	PA
P12	15.01.24	Plot 35 Updated to M4(3) Comments	JW	PA
P11	14.12.23	Updated to Planners Comments, Solar Panels removed	JW	PA
P10	29.09.23	Updated to Client Comments	JW	PA
P09	25.09.23	Updated Following Planning Officers Comments	JW	PA
P08	11.09.23	Updated Following Planning Officers Comments	JW	PA
P07	22.03.23	Updated to Client Comments	DB	PA
P06	16.03.23	Updated to Client Comments	DB	PA
P05	17.02.23	Updated to Client Comments	JW	PA
P04	09.02.23	Updated to Client Comments	JW	PA
P03	30.01.23	Planning Issue	JW	PA
P02	12.01.23	Client comments Incorporated	JW	PA
P01	09.01.23	Draft Issue	JW	PA
Rev	Date	Revision Details	Dr	Ch

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Client's Name
Croudace Homes

Job Title
**Cowards Lane, Codicote
 DES-093**

Drawing Title
Proposed Site Layout

Scale
1:500 @ A1 / 1:1000 @ A3

metres 10 20 30 40 50

Drawn	Checked	Date
PA	PJ	Dec '23
Job No	Drawing No	Rev
7265	PL 100	P15
Status	APPROVAL	

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<u>Location:</u>	Land West of Ashwell Road, Bygrave, Hertfordshire SG7 5EB
<u>Applicant:</u>	Pathfinder Clean Energy (PACE) UKDev Ltd
<u>Proposal:</u>	Ground mounted solar photovoltaic (PV) farm including battery energy storage; continued agricultural use, ancillary infrastructure, security fencing, landscaping provision, ecological enhancements and associated works (as amended).
<u>Ref. No:</u>	22/00741/FP
<u>Officer:</u>	Peter Bull

Date of expiry of statutory period 05 July 2022

Extension of statutory period 14 June 2024

Reason for Delay:

The initial officer report was delayed due to discussions and negotiations on various technical aspects, further information received and additional consultation exercises that was undertaken as a result.

The application was initially considered by Members at the PCC meeting on 14th September 2023. Immediately prior to the meeting, the Planning Casework Unit of the Department for Levelling Up, Housing and Communities served a holding direction, which directed this Council not to grant planning permission without the specific authorisation of the Secretary of State.

Members resolved to defer deciding on the application for a number of reasons including the receipt of the holding direction. Additional and updated information was submitted by the applicant in January 2024. Following an additional consultation exercise, the application is now reported to Members for re-consideration.

Moreover, the Planning Casework Unit confirmed on 23 January 2024 the withdrawal of the holding direction and that the Council could proceed with the determination of the application.

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.

1.0 Site History

1.1 21/01446/SO - Screening Opinion – Solar Farm – No Environmental Impact Assessment required.

2.0 Policies

2.1 North Hertfordshire District Local Plan 2011 -2031

Policy SP1: Presumption in favour of sustainable development

Policy SP5: Countryside and Green Belt

Policy SP11: Natural resources

Policy SP12: Green infrastructure, landscape and biodiversity

Policy SP13: Historic environment

Policy D1: Design and sustainability

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 NE12: Renewable and low carbon energy development

2.1 Baldock, Bygrave & Clothall Neighbourhood Development Plan (2011-2031)

2.1.1 The Baldock, Bygrave and Clothall Neighbourhood Plan (BBCNP) was made in June 2021 and now forms part of the Development Plan.

Policy G3 Creating well-designed places

Policy V1 Bygrave village

2.2 National Planning Policy Framework (NPPF) (2023)

Paragraph 11 – Presumption in favour of sustainable development

Chapter 2 - Achieving Sustainable Development

Section 6 - Building a strong, competitive economy

Section 11 – Making effective use of land

Section 12 – Achieving well-designed places

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

The National Policy Statements (NPSs) set out the government's policy for delivery of major energy infrastructure. They are published separately to policy in the National Planning Policy Framework (NPPF).

NPSs for Energy (EN1) and Renewable Energy Infrastructure (EN3) were recently revised and came into force in January 2024. In general terms, the NPSs reaffirm the need for the UK to diversify and de-carbonise electricity generation and the Government's commitment to increasing dramatically the amount of renewable generation capacity.

NPS EN-1 specifically recognises that there is a Critical National Priority (CNP) for the provision of significant low carbon infrastructure stating:

Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly

supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible

Paragraph 2.3.3 confirms the overarching objectives are to ensure that the supply of energy always remains secure, reliable, affordable, and consistent with meeting our target to cut GHG emissions to net zero by 2050.

Paragraph 2.3.4, clarifies -

Meeting these objectives necessitates a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level.

The above paragraph clarifies that these NPSs include small scale developments determined by local councils.

At paragraph 3.3.20 of EN1, it states –

Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Our analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar.

Renewable energy infrastructure is regarded by government as being of a CNP. The NPS state that this should be progressed as quickly as possible with the weighting in any planning balance heightened for such qualifying projects. EN-1 states that substantial weight should be given to this need when considering planning applications.

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

North Hertfordshire Landscape Study 2011: Area 224 (North Baldock Chalk Uplands)

2.6 Other relevant Council publications

3.0 Representations

Statutory and non-statutory consultees

3.1 Additional responses received relating to the most recent consultation exercise are summarised below. Original responses are set out in the original report a copy of which can be found at Appendix 1.

3.2 **Bygrave Parish Council – original response set out the following areas of objection -**

- Creation of industrial area
- Impact on Icknield Way
- Adverse impact of walking and cycling routes together with other local traffic users
- Impact of adjacent dwellings
- Fencing and security cameras affect walking routes
- Loss of wildlife habitats
- Impact on enjoyment of walking routes and associated mental health impact
- Misleading and biased landscaped impacts understated
- Adverse construction impacts from multiple HGV movements during 36 week construction period, inadequate roads for this volume and type of traffic
- The parish council support the principle of renewable energy although this is not the right place for this
- Contrary to government guidance and policy
- Objection is supported by MP Sir Oliver Heald QC, County Councillor Steve Jarvis and NHC Councillor Tom Tyson

The latest response is, except for issues relating to the new construction access and construction route, confined to the conditions requested by the parish as raised in correspondence before the previous PCC meeting. These requested conditions are set out and addressed in paragraph 4.5.51 of this report. Other issues of concern by the parish council are set out in correspondence from the Bygrave Action Group (BAG), acting on behalf of the parish council. These are set out in a separate paragraph (3.12) in this report.

- New construction access and construction route is wholly inappropriate and is unsafe. It is now proposed to create a second permanent access to the

site on Ashwell Road. This second access will require the permanent removal of 11m of hedgerow and the cutting back of hedgerow close to the site entrance to a height of c0.6m which is far lower than minimum height for the rest of the hedgerow of 3m. This will have a material, adverse impact on the views of the site from Ashwell Road and potentially result in glint and glare problems. These issues could be resolved by changing the access route entirely. The construction traffic could instead be routed either directly from the A507 or from the Newnham Road and then through the landowner's industrial units on the corner before the village of Newnham. We believe this would be considerably safer. There would then be no need for a second access on Ashwell Road as instead the second access point could be created on the southwest corner of the site. We politely request that consideration is given to our proposals.

3.3 **Ashwell Parish Council** – restated objections set out in previous responses summarised as absence of local need to justify the site and adverse impacts on -

- BMV agricultural land
- Landscape and visual impacts
- Heritage impacts in particular Arbury Banks Scheduled Ancient Monument
- safety of highway network
- residential amenity
- local noise environment
- Glint and glare
- Rural character from light pollution

3.4 **Councillor Lisa Nash (Knebworth Ward)** – objects to the proposal for the following reasons -

- Planning policy - failure to take into account national and local policies which aim to protect the rural area from adverse landscape and visual impacts. These have been identified by objector's landscape consultant who concluded that the proposal "would introduce a very large scale and discordant land use into that landscape".
- Best and Most Versatile (BMV) agricultural land - ambiguous arguments presented by applicant about the agricultural value of the land. Food security impacts with greater reliance on imported food. Cattle grazing misguided and a contributory cause of global warming. Landowner has already significantly diversified their farm business.
- Traffic and highways - adverse impacts on local road network during construction and post construction periods. Revised Transport Note (TA) provided does not clarify HGV movements during construction period. Construction period will take longer. TA inconsistent with Noise Impact Assessment. An updated, accurate and transparent construction

management traffic plan is needed. Inaccurate survey data on existing road widths. Traffic survey inaccurate as it excludes certain vehicle modes.

- Fire risk - the Technical Note provided has not been considered by the Fire and Rescue Service (FRA). No decision should be made until a response has been received, This needs to take account of fire safety guidance.
- Ecology - I support the comments from the Bygrave Action Group with regard to the bat survey and the BNG assessment, both carried out by the applicant's consultants. The timing of bat survey was inappropriate. Inaccuracies in the revised Ecological Assessment. The revised Assessment also fails to plant a woodland area along the southern boundary of the site.

- 3.5 **Sir Oliver Heald MP** – although supports renewable energy projects nationwide, the proposal results in unacceptable impacts on landscape and visual grounds, loss of BMV agricultural land, the applicant's supporting technical reports – wildlife, traffic and noise - do not appear to be impartial, no details of grid connection are provided. The majority of local people support renewable energy but oppose this development as it is inappropriate.
- 3.6 **Environmental Health (Noise)** – no objection subject to conditions.
- 3.7 **HCC Rights of Way** – no additional response received. Original response confirmed no objection although condition requiring the provision of a Rights of Way Protection Plan suggested.
- 3.8 **HCC Highways** – original response confirmed that it does not wish to restrict the grant of planning permission subject to conditions relating to the following – provision of a Construction Traffic Management Plan, details of the temporary construction access, off site junction alterations at North/Bygrave Roads and a Rights of Way Protection Plan. The Revised Transport Note raised some concerns relating to visibility splays. The applicant has clarified points of concern and the Herts CC Highways now raise no objection subject to conditions.
- 3.9 **Herts CC Fire and Rescue** – No objection although more detailed fire risk assessment would be desirable in the event permission were to be granted.
- 3.10 **Herts CC Water Officer** – no objection subject to a condition to provide a fire hydrant.
- 3.11 **NHC Ecologist** – no objections subject to a condition to secure proposed biodiversity improvements.
- 3.12 **Bygrave Action Group** – restates original objections to the proposal relating to adverse impacts on landscape, highway network, loss of BMV agricultural land, noise and disturbance, absent grid connection details and an opportunistic developer. Other comments and observations on the additional/revised information and plans have been provided and can be summarised as –

- Misinterpretation of planning policy NPPF – development should be refused if impacts are or cannot be made acceptable
- Loss from arable production of Grade 2 Best and Most Versatile agricultural land and impact on food security. Land not suitable for sheep grazing
- Poorly detailed and justified farm diversification plan
- Adverse impact on wildlife – particularly birds, bats, mice, hare and badgers and from proposed lighting
- Inadequate Construction Traffic Management Plan – needs to be updated prior to decision being made
- Transport Note is based on erroneous data
- Revised access arrangements has new impacts which should necessitate the updating of supporting documents
- Proposal will have an adverse impact on the tranquillity of the area
- Site visit to existing operating solar farm was not comparable in noise terms (plant and equipment) to that proposed
- Previously identified inadequacies with submitted Noise Assessment have not been addressed – understated background and operating noises, misleading and inappropriate methodology, absence of vibration assessment
- Relocation of existing hedgerow is inappropriate. A new hedge would be more preferable
- Permissive footpaths now proposed should be open to horse riders and should be permanent
- Fire Risk Statement is poorly detailed and inadequate. A detailed assessment should be provided prior to a decision being made
- Conditions proposed by Parish Council not satisfactorily addressed
- Ecology Assessment - biased, badger information redacted, bat surveys incomplete, wider impacts on great crested newts
- BNG Assessment – improvements overstated, methodology unreliable, unknown assumptions
- Transport Note – data incorrect, omitted transport modes, modelling inaccurate, traffic from new housing development not considered, HGV movements understated
- Fire Risk Statement – information provided too generic, contradictory advice from Herts CC about advice given, details of proposal would need to be altered if guidance followed, site layout should have been informed by guidance
- Adjacent site was previously refused permission for smaller scale development. Supporting the solar farm proposal would be inconsistent with this decision.

3.13 **CPRE** – objects to the proposal on the grounds of adverse impacts on landscape character and visual impact, impact on rights of way users particularly those using the Icknield Way, noise and light pollution, contrary to local plan policy which aims to protect the countryside from inappropriate development, will result in the

industrialisation of countryside, adverse heritage impacts particularly on Arbury Banks, safety of electrical equipment, loss of BMV agricultural land, limited opportunities for livestock grazing and there are better alternative locations for such development.

3.14 **Neighbour and Local Resident Representations**

The application has been advertised by neighbour notification letters, the display of site notices and press notices. There were 110 comments received on the original consultation process in 2022.

Additional and amended information was provided in the Autumn of 2022 and a further consultation process was undertaken in December 2022. This yielded a further 31 letters of objection.

Revised traffic and transport information was submitted in June 2023 together with a noise assessment and a third consultation was carried out thereafter. This resulted in an additional 37 letters of objection being received.

Following the receipt of the additional and amended information in January 2024, neighbour notification letters were sent to all who were previously commented or were part of the initial consultation process. There were 21 responses received on the to this re-consultation process – 19 objecting and 2 supporting. For the avoidance of doubt, there is no statutory requirement for re-consultation to be carried out in relation to amended/additional plans. This is a discretionary process and typically the re-consultation period is 14 days although in this instance, 24 days was given to neighbours to respond.

Many of the original objections have been restated by responders (see paragraphs 3.32 of Appendix 1). These objections related to landscape and visual impact, nature/biodiversity and wildlife impacts, heritage impacts, highways and public rights of way impacts, amenity concerns including health, safety, noise and well-being, agricultural land and food security impacts and economic viability. Generally, responders have stated that the proposal is considered to be opportunistic and ill conceived. New issues not previously raised and which are a direct consequence of the recently submitted additional information are summarised below -

- Highways and rights of way impacts - traffic safety impacts to the main road from Baldock to the site. Parking for construction traffic. Inappropriate access with inadequate visibility. Unreliable transport surveys. Transport Note includes unreliable data and fails to consider cyclists, horse riders and buses. Unsuitable road network. Glint and glare from removed hedgerow.
- Landscape and Visual Impact – changes do not alter the significant negative impact on the rural landscape. Loss of hedgerow for additional vehicular access will increase visibility of site. Maintenance of new landscaping unclear.

- Nature/biodiversity and wildlife impacts - adverse wildlife and biodiversity impacts. ecological impact, and the misrepresentation of the bat survey and impact on bats. Ecological impact. Contrary to 'Ecological Emergency'. The Council is "committed to addressing the ecological emergency and nature recovery by identifying appropriate areas for habitat restoration and biodiversity net gain whilst ensuring that development limits impact on existing habitats in its process"
- Fire safety – site remains vulnerable to fires from batteries and equipment.
- Noise - the site visit by Members to an operational solar farm was not representative of noise that will be experienced at this site.
- Soil impacts - detrimental impact on soil. No evidence that soil can be protected for the duration of development. Soil management plan essential.
- General matters - misleading Farm Diversification Plan, panel manufacture is harmful, adjacent site for a small building was refused permission and impact from this proposal will be greater, updated construction management plan needed, all supporting reports are biased as they have been paid for by the developer, no buffer between site and adjacent land, new trees to south will affect adjacent horticultural business.

3.14.1 When previously reported to Members, there were a total of 19 representations in support of the application of which 17 were received from the applicant following a public consultation exercise. A further 2 letters of support have been received following the latest consultation exercise and these restate the original reasons of support and also acknowledge the improvements – new rights of way and reinstatement of historic hedgerow.

4.0 Planning Considerations

4.1 Site and Surroundings

4.1.1 The application site comprises a single agricultural (arable) field north and north-west of the settlement known as Bygrave and west of the Ashwell Road. It measures 53.6 hectares in area. The site is broadly rectangular in shape and extends at a maximum, circa 1050m from north to south and 590m from east to west. The south-eastern corner of the site is adjacent to residential properties. There is an existing 33KV underground electricity cable located within the site adjacent to the south-western boundary.

4.1.2 The site is bordered along the northern and western boundaries by a Public Right of Way - Bridleway Bygrave 013, which forms part of the important and historic Icknield Way and the Icknield Trail for cyclists. The northern boundary is adjacent to Cat Ditch a water way under the jurisdiction of the Beds and Ivel Drainage Board (IDB).

4.1.3 The site is outside of the settlement boundary and the south of the site abuts the Greenbelt. The wider area is rural in character with village of Ashwell located 2.5 miles north of Bygrave village. The A505 is located immediately east of the settlement.

4.1.4 The site is within the setting of listed buildings, Scheduled Monuments and is within an area of archaeological interest.

4.2 **The Proposal**

4.2.1 The proposal is for a photovoltaic (PV) solar array and ancillary development. This would consist of:

- Between 80,000 and 95,000 PV panels depending on the final selection/supplier and associated support frames set 0.8 metres from ground level and approximately 3m to top of panel;
- 12 Inverter cabins including transformers (19.6 sqm and 3m in height);
- 8MW of batteries in 14 battery storage containers (39sqm and 3m in height);
- 1 no. substation (18 square metres and a height of 3.5 metres);
- 1 equipment storage container building (19.6 square metres and 3 metres in height);
- Approximately 1.5km of new access track (between 3.6m and 6m wide using Type 1 aggregate)
- 1.8 - 2.0m high wire mesh deer fencing to site perimeter with wildlife access points;
- Two gates 2.8m high and approximately 6.2m wide;
- 59 CCTV cameras atop 4m high posts;
- Woodland and other mitigation planting;
- Hedgerow planting (new, gapping up of existing hedgerow and relocation of existing hedgerow).

4.2.2 The site generating capacity is 40MW. The proposal includes a range of inverter cabins which are used for converting the DC electricity produced by the solar panels into AC power for export to the national grid or for charging the battery systems. The inverters have different capacities but cumulatively have an AC rating of 40MW. This calculation is referred to as the 'combined-inverters method' of calculating site capacity, as adopted in NPS EN-3. It is estimated that the site would provide enough electricity for approximately 15,700 homes.

4.2.3 When Members last considered the proposal, the following supporting documents were considered. Additional and amended documents received in January this year are set out in paragraph 4.4.3 below:

- Planning Application Drawings
- Planning, Design and Access Statement and appendices
- Agricultural Land Classification Assessment

- Landscape and Visual Assessment (revised November 2022)
 - Solar Photovoltaic Glint and Glare Study
 - Cultural Heritage Assessment
 - Flood Risk Assessment and drainage Technical Note
 - Preliminary Ecological Appraisal
 - Biodiversity net gain Assessment
 - Transport Statement and preliminary Construction and Traffic Management Plan
 - Glint and Glare Assessment and appendices
 - Noise Assessment (submitted June 2023)
 - Transport Note (submitted June 2023)
- 4.2.4 The applicant indicates that the site would be decommissioned at the end of its 40-year operational life and restored to its existing arable agricultural use.
- 4.2.5 Regarding, the main elements of the proposed development, the solar panels would be mounted on a steel and aluminium frame positioned at an angle of about 30 degrees and facing south. The lowest edge of the panels would be 800mm above ground level to enable the area to be grazed by sheep. The panels would be arranged in rows and they would be up to 3m high.
- 4.2.6 Lighting units attached to the buildings above access doors activated by sensors are proposed. The development does not include any other freestanding site wide lighting.
- 4.2.7 Landscaping proposals are illustrated indicatively and would comprise grassland within the perimeter fencing, suitable for sheep grazing, species rich grassland outside the perimeter fencing, woodland planting along the western and northern boundary of the northern parcel of land, new hedgerows along Ashwell Road gapping up existing hedgerows and the management of existing hedgerows to a height of between 3 and 5 metres. All existing hedgerows would be retained with one section from the Ashwell Road frontage relocated within the site. Native hedgerows would be planted along the highway boundaries of the Site.
- 4.2.8 Energy from the solar farm will connect to the National Grid substation east of Letchworth. For the avoidance of doubt, the connection from site to the grid does not form part of this application. It has been confirmed that the connection, once decided, will be provided by a statutory undertaker, UK Power Networks, as permitted development Class B (electricity undertakings) of Part 15, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 4.2.9 Following construction of the proposed development, access would be limited to routine maintenance operations and grazing of sheep.
- 4.2.10 The applicant indicates that construction would take about 36 weeks, including testing and commissioning.

4.2.11 The applicant proposes deliveries and noise generating activities within the following days and hours:

- Monday to Friday 08.00 to 18.00
- Saturday 08.00 to 13.00
- No deliveries on Sundays or Public Holidays

4.2.12 Herts CC Highways are recommending that HGV deliveries be restricted to between 9.30am and 2.30pm to avoid the peak periods of local traffic using the road network.

4.2.13 Construction traffic would enter the site via a new vehicular access off the Ashwell Road. This would be retained post construction for emergency vehicle use. The existing farm track along the northern boundary of the site would provide access for post construction maintenance vehicles emergency vehicles.

4.2.14 Temporary construction compounds would be provided within the development site although these do not form part of the application proposals due to provisions within the GPDO which allows for these to be formed as permitted development. A condition of the provision of such compounds is the reinstatement and making good of the land following cessation of construction work.

4.2.15 The applicant has confirmed that the development will comprise of the following activities during the construction period -

- Site preparation marking out the panels and buildings on the site;
- Erection of a security fence;
- Insertion of the frames into the ground;
- Affixing panels to the mounting frames;
- Formation of trenching for the cable runs, to a depth of approximately 1m, and laying of the cables;
- Installation of the inverter and transformer cabinets;
- Connection all the cables up and backfilling the cable trenches;
- Planting of approved landscaping and mitigation and improvement works; and
- Construction of access route track from permeable materials as recommended in the Flood Risk Assessment and Surface Water Management Plan which accompanies the application.

4.3 **Decommissioning**

4.3.1 At the end of the 40-year life of the proposed Solar Farm it would be decommissioned, which 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.

4.4 **Reasons for deferral and amendments**

4.4.1 At the Planning Control Committee on 14th September 2023, Members resolved to defer making a decision on the application for the following reasons –

1. For officers to advise upon and for Members to consider late submissions relating to biodiversity.
2. For officers to advise upon and Members to consider late submissions relating to the effect of the proposal upon traffic and access.
3. Members would like to visit a comparable and operating solar farm to understand likely noise impacts arising from the proposal.
4. For officers to advise upon and for Members to consider proposed conditions by Bygrave Parish Council.
5. Members are minded to await the decision of the Secretary of State for Levelling Up, Housing and Communities as to whether or not they will be calling-in the application for his determination before making a decision on the application.

4.4.2 In relation to reason 5 for deferral, it can be confirmed that the Secretary of State has written to the Council to confirm that he no longer intends to 'call in' the application and the holding direction is withdrawn. This means that Members can now make the decision on the application.

4.4.3 To address the concerns of both Members and objectors, the applicant updated some supporting documents and provided clarification on other matters. These were received 29th January 2024 and comprised of the following –

- Covering letter to explain the additional and revised information and proposals
- Revised Preliminary Ecological Appraisal by Phlorum (dated 4th December 2023)
- Letter covering the bat activity transect initial survey by Phlorum, (dated 4th December 2023)
- Biodiversity Net Gain Assessment by Phlorum, (dated January 2023)
- Updated mitigations and enhancements plan by Third Revolution (dated 22nd January 2024)
- Updated Site layout plan by Third Revolution (dated 10th January 2024)
- Fence Plan by Third Revolution (dated 4th January 2024)
- Construction access drawing by Apex (dated 22nd January 2024)
- Construction access swept path analysis by Apex (dated 22nd January 2024)
- Construction Access – Transport Note by Apex (dated 22nd January 2024)
- Fire Risk Statement by Jensen Hughes (dated January 2024)

4.4.4 Issues arising from the submission of these documents and drawings are considered in the following sections of this report.

4.5 Keys Issues

4.5.1 The key issues identified in the initial report presented to Members in September 2023 (see Appendix 1) were (original paragraph reference in brackets) –

- Climate Change and Renewable Energy (4.5.2)
- Principle of development in the rural area (4.5.39)
- Impact upon heritage assets (4.5.46)
- Landscape and visual impacts (4.5.70)
- Local highway network impacts (4.5.93)
- Best and Most Versatile (BMV) agricultural land impacts (4.5.111)
- Flood risk and drainage impacts (4.5.121)
- Noise impacts (4.5.125)
- Ecological and biodiversity impacts (4.5.131)
- Fire risk impacts (4.5.139)
- Other matters (4.5.144)
- Planning Benefits

4.5.2 The consideration of this application is confined to (i) the reasons for deferral set out above (ii) issues arising following the revised and additional application details provided by the applicant in January this year (iii) recent changes to policy and guidance and (iv) other material considerations arising since the application was considered in September last year. The original officer report at Appendix 1 sets out detailed consideration on a number of unaffected technical matters.

4.5.3 Paragraph 11 c) of the NPPF advises that for decision taking, approving development proposal that accord with an up-to-date development plan without delay. Paragraph 12 confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making.

Climate Change and Renewable Energy

4.5.4 Since the application was considered by Members in September 2023, the National Planning Policy Framework (NPPF) has been revised (December 2023).

4.5.5 Chapter 2 'Achieving Sustainable Development', paragraph 7 restates the importance of the delivery of sustainable infrastructure -

The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner.

- 4.5.6 Chapter 14. - 'Meeting the challenge of climate change, flooding and coastal change' - remains largely unchanged save from revised paragraph numbering. Paragraph 163 (previously 158) adds the word 'significant' when recognising that even small-scale projects provide valuable contribution to significantly cutting greenhouse gas emissions -

163. When determining planning applications for renewable and low carbon development, 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 significant cutting greenhouse gas emissions;

- 4.5.7 Paragraph 157 of the NPPF states that -

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 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.

- 4.5.8 Chapter 15 – 'conserving and enhancing the natural environment' now includes a footnote (62) to consider the availability of agricultural land used for food production when formulating plans.

62 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. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

- 4.5.9 Whilst this footnote does not explicitly require the consideration of agricultural land impacts in the decision taking process, this matter was set out in the previous officer report and this is reconsidered under the section Best and Most Versatile (BMV) agricultural land impacts below.

Existing renewable energy developments in North Hertfordshire

- 4.5.10 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.
- 4.5.11 Currently in North Hertfordshire there are only two operational 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).

4.5.12 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).

4.5.13 Members will recall that they resolved to approve an application for the construction of a 49.995MW solar farm at Land to the North and East of Great Wymondley in November 2022 (Application ref 21/03380/FP). As the site was in the Green Belt, the Council were obliged to notify the Secretary of State (SoS) of their intention to approve the proposal. This application was 'called in' by the SoS in May 2023. The application was the subject of a public inquiry beginning in September 2023. In March 2024, the council received the SoS's decision which was to grant conditional permission for the proposal. In approving the application, the SoS gave significant weight to the contribution the proposal would make to meeting the government's net zero targets recognising also that it would also make a significant contribution in progressing towards net zero emissions in both the District and the County.

4.5.14 There are currently no wind farms, operational or proposed, within the district.

Principle of development in the rural area

4.5.15 There have been no changes to the considerations in relation to this matter since the application was previously considered. On this matter, Officers then concluded that -

In relation to Baldock, Bygrave and Clothall Neighbourhood Plan policy V1 and Local Plan policies SP5, CGB1 and SP9 the development would be contrary to this insofar as the development is in an area of restraint and does not meet any exceptions. The harm arising from the development is considered in more detail in the Landscape and Visual section of this report. In addition, as set out in both the NPPF and Local Plan Policy SP1, it is necessary to consider the wider the social, economic, and environmental impacts to understand whether the proposal is sustainable development. These matters are considered in the following parts of this report.

Impact upon heritage assets

4.5.16 There have been no changes to the considerations in relation to this matter since the application was previously considered. On this matter, Officers then concluded that -

Paragraph 202 of the NPPF and LP Policy HE1 require less than substantial harm to the significance of heritage assets to be weighed against the public benefits of

the proposal. This harm should be afforded great weight. 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.

Landscape and Visual impacts

- 4.5.17 Members attention is drawn to an independent landscape and visual assessment commissioned jointly by Bygrave Parish Council and the Bygrave Action Group. The previous officer report confirmed that Bygrave Parish Council raised general concerns about landscape and visual impacts arising from the proposal. The Bygrave Action Group's concerns about landscape and visual impacts were not previously reported and the independent landscape assessment was not explicitly referred to. The assessment raised concerns about the landscape and visual impacts the proposal would have concluding that the site was unsuitable. Members are reminded that the Council commissioned their own independent landscape consultant to undertake a full review of the landscape and visual assessment prepared by the applicant and this was set out in the previous officer report at paragraphs 4.5.70 to 4.5.92 (see Appendix 1). It is confirmed that both the Action Group's and Council's landscape consultants come to similar conclusions acknowledging that the proposal would result in adverse landscape and visual impacts. The issues relating to landscape and visual impacts have therefore already been independently assessed and the detailed findings of this independent landscape assessment are set out in the original officer report.
- 4.5.18 The key changes since the application was previously considered by Members comprise –
- The formation of a construction and emergency vehicular access and secondary road in an alternative location. Previously the construction access and associated road was proposed to be used for construction period only.
 - New and relocated hedgerow adjacent to emergency access road and running through centre of site from east to west boundaries.
 - Reduction in solar panels arising from emergency access road.
- 4.5.19 In the medium to long term, general views into the site from adjacent public road and rights of way would be predominantly contained by existing or proposed hedging and, along the northern boundary, a fabric screen to the site's perimeter. However, the introduction of the proposed construction and emergency access will afford additional views into the site and associated solar farm infrastructure from Ashwell Road. These visual impacts could be mitigated by the planting of additional hedging along the immediate section of new road within the site from this access. This additional hedging could be secured by condition in the event permission were to be granted. Overall, the recent revisions are not considered to result in any other significant new visual or landscape harms with the proposed

reinstatement of the historic hedgerow likely to provide some additional but limited visual relief from long-distance viewpoints in the north.

- 4.5.20 Given the foregoing, officers original overall conclusions on landscape and visual impacts remain unaffected by the proposed amendments and are as previously set out -

Officers consider that the proposal would inevitably result in some adverse landscape and visual impacts. However, through a combination of topography, existing and proposed screening, and the provision of landscaping, the adverse effects would generally be localised within 1km of the site. The proposed mitigation landscaping would be beneficial to the landscape and biodiversity. The 40-year lifetime of the scheme is a significant period. However, the harm would diminish over time as new landscaping matures and could provide benefits beyond the lifetime of the solar farm. Following decommissioning of the solar farm there would be no residual adverse landscape effects. There would be conflict with Baldock, Bygrave and Clothall Neighbourhood Plan policy V1 and Local Plan Policy NE2, the latter of which seeks to avoid unacceptable harm to landscape character and appearance. Overall, it is considered that the initial visual and landscape harm would diminish over the 40 year period and should be afforded moderate weight at the lower end in the planning balance.

Local highway network impacts

- 4.5.21 Members previously asked officers to confirm and consider late submissions relating to the effect of the proposal upon traffic and access. In addition, the applicant has provided a construction access drawing, construction access swept path analysis and updated Transport Note.

- 4.5.22 The principal highway related changes can be summarised as follows –

- New construction access point along the Ashwell Road
- Construction access to be retained post construction for emergency vehicle use only

- 4.5.23 In relation to reason 2 of the previous deferral, the applicant has confirmed that the construction period will not be affected by the commitment to a maximum of 2 HGV movements per day. This will be achieved by the implementation of a vehicle booking system that ensures deliveries are scheduled effectively and a strategy to minimise construction material quantities as much as possible. The temporary construction compound (to be provided as ‘permitted development’) will be used

for material storage and facilitates more effective transportation of materials rather than on a 'just in time' basis. This is a minimal level of HGV movements, and these would occur as part of a controlled and managed construction period, supported by a range of mitigation measures, as agreed with Herts CC Highways, as detailed at Section 4 of the Transport Note.

- 4.5.24 When initially reported to Members last year, Herts CC Highways response acknowledged that the indicative construction access plan provided sufficient detail to ensure the principle of this access in the vicinity shown was acceptable, with full design details secured through a planning condition. The applicant's transport consultant (Apex) has since carried out additional work which has resulted in a revised location of the access to that previously considered. A revised preliminary access design has also been provided. The reason for the revised access location is to minimise the amount of hedgerow needing to be removed to enable the necessary sight lines. The new access will be used by all construction vehicles including HGVs entering and exiting the site.
- 4.5.25 Following independent discussions between the applicant's transport consultant and Hertfordshire Fire and Rescue Service (HFRS) and with reference to the National Fire Chiefs Council (NFCC) guidance in relation to Battery Energy Storage Systems (BESS) sites, the applicant proposes to retain the construction access following construction of the development (previously it was proposed to be temporary for the duration of construction works). Its retention is intended to provide a second access/egress point into the site for emergency vehicles that accounts for opposite wind conditions/directions. The other point of access into the site (for maintenance and emergency vehicle use only) comprises the existing farm access adjacent to the northern boundary.
- 4.5.26 Herts CC Highways has assessed the revised drawings and Transport Note. It has confirmed that the choice of access location and visibility splay levels were based on a new speed and volume survey that the applicant undertook. Two automatic traffic counters were set up for a week, just to the north and just to the south of the proposed construction access point. 85th percentile speeds were 35.8mph northbound and 45.1mph southbound (southern ATC), and 44mph northbound and 44.2mph southbound (northern ATC). The raw speed data has also been interrogated to provide a wider picture of speed variations. From this, the most suitable stopping sight distances have been established. Manual for Streets 2 contains a number of key paragraphs in this respect to bear in mind for the context of a derestricted rural road such as this. It is considered that the Absolute Minimum splay standard is acceptable in this case, drawn to the kerb edge rather than a 1 metre offset as the applicant originally showed. Drawing number C22028-ATP-DR-TP-010 shows splays in both directions of 2.4m X 95 metres to the kerb edge (which extend to 121 metres to the carriageway centreline). This arrangement must be supported by suitable warning signage and banksmen, with full details to be provided in the Construction Traffic Management Plan. It is also confirmed that the access will be subject to a separate Road Safety Audit at the s278 stage (under the Highways Act). The design of the access would need to be altered following

cessation of construction to make it more appropriate for the proposed ongoing use of maintenance and emergency access only. In practice this will likely be reducing its width and kerb radii, but retaining visibility splays. Subject to conditions to deal with this, the provision of a Construction Traffic Management Plan, full engineering drawings of the proposed access and alterations to the junction at North Road /Bygrave Road, the proposal is considered acceptable from a highways perspective.

4.5.27 Officers acknowledge that there continues to be significant concerns from local people about the impact the construction period will have on highway safety. Herts CC Highways has confirmed that the assessment of the proposal is based on best practice and is informed by site visits, with accurate 'on-the-ground' measurements at regular intervals, cross-referenced with Ordnance Survey mapping lines, photographs, written descriptions, and further assessments. In addition, the assessment and suitability of the proposed access is informed by –

- traffic counts and speed surveys;
- speed and volume counts;
- tracking plans of large vehicles using the route;
- visibility levels (at the proposed access, the North Road/Bygrave Road junction, and forward visibility splays along the full route);
- accident data (over the past 40 years, even though the standard is only 5 years);
- site visits of the whole route undertaken both by car and on foot;
- measurements of the carriageway at key points;
- input from Herts CC Network Management team, Traffic Data and Modelling team Safety team, Rights of Way team, and Development Management team;

It is apparent from this that from a highway safety perspective, a robust and thorough assessment of the proposal has been undertaken.

4.5.28 In relation to Rights of Way (RoW), the previous report confirmed the proposal was not considered to result in any direct impacts on public RoW and that temporary indirect impacts on RoW during the construction period could be mitigated and controlled by conditions. On this basis, no new RoW routes were considered to be justified and specifically a request for an additional new bridleway from the built-up area of Ashwell Road to bridleway 013 was not considered to be reasonable or necessary. Notwithstanding this position, the applicant, in collaboration with the landowner, has reconsidered this request and has identified two new permissive footpath routes which will run adjacent to the southern and eastern boundaries of the site linking Ashwell Road to the existing bridleway 013 which runs parallel to the western and northern boundaries of the site. These additional permissive routes would improve connectivity from Bygrave to the surrounding public footpath network and bridleways. In particular, they would potentially provide safer off-road routes close to the village of Bygrave for walkers, horse riders and cyclists. Although these paths would be considered a benefit especially for local people,

they are not necessary to make the development acceptable (i.e. it is not needed to mitigate the impact the development will have on existing RoW). In the circumstances, a condition requiring the provision and retention of the path are not considered to meet the tests set out in the NPPF and associated Planning Practice Guidance. The developer has therefore committed to providing a deed of community benefit setting out the provision of these permissive footpaths and the conditions of their use.

4.5.29 Conclusions on highway and RoW impacts:

Given the foregoing, the Highway Authority has no objection to the proposal, including the proposed construction and emergency access, subject to conditions. Impacts on existing RoW previously identified can be dealt with by condition. New permissive paths are proposed but will be delivered as part of deed of community benefit. The proposal is therefore considered to comply with Local Plan Policies SP6 and T1. This matter is considered to be neutral in the planning balance.

Best and Most Versatile (BMV) agricultural land impacts

4.5.30 As set out in paragraphs 4.5.8 and 4.5.9 above, the updated NPPF includes a footnote within Chapter 15 – ‘*conserving and enhancing the natural environment*’ now consider the availability of agricultural land used for food production when formulating plans. Whilst this footnote does not require the consideration of agricultural land impacts in decision making process, this matter was addressed in some detail in the previous officer report. Officers then concluded that -

The proposal would not result in the permanent loss of BMV agricultural land and an agricultural use would continue albeit livestock grazing, which is viable in tandem with solar energy production. This is likely to result in a reduction in productivity of the land for agricultural purposes for the duration of the solar farm. In addition, the Site would eventually be able to be restored to full agricultural use with enhanced biodiversity. In this context the proposal is considered to be compliant with Local Plan Policy NE12. The proposal is considered to result in a less intensive use of agricultural use of the land for the duration of the operational period of the solar farm and although harmful, it would be moderate in the planning balance.

4.5.31 As previously confirmed, the application site would be utilised for the grazing of sheep thereby retaining an agricultural use of the land which would also provide a revenue stream that will assist the existing farming business. The continued use of the site for agricultural purposes could be secured by conditioning the submission and agreement of a grazing management plan in the event permission were to be granted. At the previous committee meeting, the landowner confirmed that they employed a shepherd who farmed circa 950 sheep across a number of local farms. The landowner also confirmed that farming was at the core of their business but had been affected by the removal of landowner subsidies. In addition to wildlife and biodiversity improvements, it

was confirmed that there was a need to diversify income streams to continue the longevity of the farming business. The solar farm would provide the family business with a certain long-term income.

- 4.5.32 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. A further WMS was published in 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 –

This means that 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.

- 4.5.33 In relation to this proposal, the applicant originally provided a document setting out the site search process and the need to utilise BMV agricultural land in this instance. This set out a detailed approach to identify potential sites. A staged process was undertaken starting with studying grid capacity maps to identify where there was opportunity to connect to the grid. In this case the Letchworth East substation was identified as having capacity. A 5km study area was created around the substation. Potential sites within the study area were then identified. These needed to –

- be available and developable
- have a minimum site area over 50ha
- have minimal planning designations (i.e. Green Belt, Areas of Outstanding Natural Beauty etc),
- be able to address / mitigate physical, environmental and planning impacts (i.e. heritage assets, landscape, Rights of Way)
- have acceptable amenity impacts (noise and visual)
- enable a cost-effective connection to grid

Brown Field Registers were then interrogated to explore whether there were any suitable previously developed sites within the Study Area. In this case, some sites were identified but these were either too small to be commercially viable or located within or close to urban area making them more suitable for housing and /or commercial use. The site search was then expanded to assess all available land within the Study Area. Outside of the built-up areas, land comprised a mixture of

Grade 2 and undefined Grade 3 BMV land. The Study Area included significant areas of Green Belt designation where fundamental aim is to prevent urban sprawl by keeping land permanently open. These areas were therefore excluded from further site search. Within the Study Area outside of the Green Belt, five potential areas identified in Wallington, Bygrave North East, Newnham, Stotfold East and Newnham West. All of the available sites were BMV agricultural land being either grade 2 or 3.

- 4.5.34 In considering the impacts that the proposed solar development at Great Wymondley would have on high value BMV agricultural land and food security, the SoS agreed with the inspector (paragraphs 28 and 29 of the decision letter). On this issue, the inspector concluded -

“The proposal would enable agricultural use of the land to continue, and there is no evidence of sufficient non-agricultural land or land of lower quality being available. Any reduction in productivity of the application site is counterbalanced by the benefit to soil condition resulting from a break in intensive agricultural production. I conclude that, due to continuing agricultural use, the proposed development would be consistent with the provisions of paragraph 174(b) of the NPPF and paragraph 5-013 of PPG concerning BMV land: in consequence it would comply with Policy NE12 of the Local Plan.”

- 4.5.35 Officers consider that the site search process demonstrates that the use of higher-grade land in this instance is necessary. The previous officer report concluded that the proposal would result in moderate harm in relation to Best and Most Versatile Land (BMV) through reducing the flexibility of agricultural use. Having regard to the SoS’s decision on the Great Wymondley scheme, who confirmed that there was no policy basis to support the Council’s approach, and the inspector’s conclusions and given the similarities between the proposal presented and the one allowed at Great Wymondley – both are located on high grade BMV agricultural land due to the lack of availability of lower quality land, both propose the continued use of the land for the grazing of sheep and both would provide a break in intensive agricultural production - Officers have revised their conclusion that the proposal would be compliant with development plan policies relating to BMV and would therefore be neutral in the planning balance.

Flood risk and drainage impacts

- 4.5.36 There have been no changes to the considerations in relation to this matter since the application was previously considered. On this matter, Officers previously concluded that -

Based on the amendments and withdrawal of the objection from the EA, it is considered that the proposal is acceptable from a drainage and flood risk viewpoint. Therefore, subject to a condition requiring the development be carried out in accordance with the revised FRA the development is considered to accord

with Local Plan policies SP11 and NE7. This matter is neutral in the planning balance.

Noise impacts

- 4.5.37 Members will recall one of the reasons for deferral at the previous meeting included a request to visit a working solar farm to understand the types of noise associated with them. A site visit took place in October 2023 at Vine Farm Shingay-cum-Wendy north of Royston. Officers and Members were accompanied by the Council's Environmental Health Officer who explained the noise sources associated with that solar farm. Officers acknowledge that no two solar farm sites and proposals will be the same with variations in plant and equipment, topography, screening and proximity to noise sensitive receptors all of which mean that every proposal needs to be considered on a case-by-case basis.
- 4.5.38 The originally submitted Noise Assessment (NA) considered the site-specific details and issues arising from the proposal. This set out the estimated noise for both the construction and operational periods of the development. Noise mitigation during construction period will be delivered through a Construction Environmental Management Plan (CEMP) which will be secured by condition. Other conditions recommended seek to restrict the days and hours of construction work and HGV and articulated vehicle deliveries. In relation to operational noise, it is confirmed that the inverters on the solar panels, battery container units, battery inverter units and substation will create noise from this development. An acoustic barrier approximately 2.5 metres in height is proposed to the Battery Energy Storage System (BESS). Modelling in the submitted noise assessment and the resulting levels at residential properties, given the distances involved, will mean that the operational noise will be inaudible at the nearest noise sensitive receptors (residential properties).
- 4.5.39 The Council Environmental Health Officer (EHO) has restated his original response raising no objection to the proposal reconfirming also that the submitted Noise Assessment (NA), including the modelling undertaken by the applicant, is acceptable. The Council's EHO has also confirmed that in his opinion an independent noise assessment is not necessary. Notwithstanding the EHO's view that the modelling assumptions made are considered to be accurate, it is acknowledged that that third parties remain concerned that the assessment is under-estimating noise levels from plant and equipment. If Members were minded to approve the application, a condition requiring the noise levels to achieve the predicted noise levels or limiting the noise levels of the installed equipment could be included.
- 4.5.40 The noise considerations and conclusions remain as set out in the previous officer report at section 4.5.125 –

Conclusion on noise

Subject to conditions to secure a CEMP and a noise barrier to the Battery Energy Storage System, there is no objection to the proposals from a noise perspective. The proposal is therefore considered to comply with Local Plan Policy D3. Officers consider that the noise impacts of the proposed development are neutral in the planning balance.

Ecological and biodiversity impacts

- 4.5.41 Members asked officers to advise them in relation to late submissions relating to biodiversity. The applicant has also provided an updated Preliminary Ecological Appraisal (PEA) dated December 2023.

Ecological impacts

- 4.5.42 An updated PEA did not identify any significant changes to the site habitat since the original PEA was undertaken in 2021 with the exception of the potential to support bat roosting. A bat survey confirmed a low level of bat activity. New recommendations comprise of the following and are illustrated on an updated mitigations and enhancements plan -
- minimising the use of artificial lighting across the site (excluding the construction period)
 - the inclusion of bat boxes and log pile areas to support nesting and foraging
 - the provision of off-site mitigation of 4 no. skylark plots to the south of the proposed panel area to provide optimal nesting conditions in the long-term.
 - retention of hedges and trees along the site boundaries with the exception of approximately 11m of hedging along the eastern boundary of the site off Ashwell Road required to accommodate the construction vehicle access. This will be relocated to recreate an historic hedge within the site. This section of hedgerow is not considered to present an increased risk to any protected species.
 - areas of “biodiverse seed mixes” are included to mitigate the loss of arable habitat.
- 4.5.43 The Council's Ecologist has reviewed the PEA and commented that given the existing arable use of the site and the absence of any tree removal there is unlikely to be any impact on bats or their habitats. Other comments include –
- Bat boxes are a beneficial addition but these appear to be located in the new native copses. It's not clear how these boxes will be mounted but using existing mature trees would be preferable and locations should be clearly identified and be along existing flight paths.
 - Skylark plots are welcomed but it is noted that these are located in the biodiversity enhancement area to the south of and outside of the site within 50m of the new permissive path. Mitigation should provide undisturbed habitat and it's not clear if this path is to be fenced or not. If this is not the case, there would be concern over the potential for dogs to cause disturbance to ground nesting birds. As such if the path is not to be fenced

the applicant is advised to erect signage to require dogs to be kept on leads during the nesting season between March and August.

- The update on the badger setts is noted and the use of badger gates in the perimeter fencing is advised to ensure access to foraging areas is maintained for existing badger paths, the location and type can be conditioned.
- The provision of wildflower meadow on the site is welcomed. The site is on a chalk substrate and hence a chalk grassland mix would be appropriate.

A revised Landscape and Ecology Management Plan (LEMP) should clarify site management for grazed and wildflower areas and should also include guidance on the issues raised above. In the event permission were to be granted, this matter could be dealt with by condition.

Biodiversity

- 4.5.44 An updated Biodiversity Net Gain Biodiversity Net Gain (BNG) assessment using the latest metric (4.0) has been prepared by the applicant's ecologist. This assessment reconfirms the habitat and hedgerow uplift is over 66% for habitats and over 102% for hedgerows.
- 4.5.45 For the avoidance of doubt, the BNG can only be secured and protected for the duration of the development. A condition to secure Gains beyond this period would be neither reasonable nor enforceable.
- 4.5.46 This updated BNG assessment does not alter the original conclusion reached in the previous officer report which confirmed that there would be no harm to species and habitats and BNG and this issue would weigh moderately in the planning balance. Although a Landscape and Environmental Management Plan (LEMP) had originally been submitted to explain how BNG improvements would be delivered and managed, this would need to be amended to take account of the revisions identified in the foregoing paragraphs and provide clarity on biodiversity improvements. As previously stated, a condition to secure this is recommended in the event planning permission is granted.
- 4.5.47 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, would weigh *moderately* in the planning balance.

Fire risk/safety impacts

- 4.5.48 There are fire risks associated with the development and officers explained these in the previous report. This concluded that subject to the installation of a fire suppression system in the buildings housing batteries and transformers and a condition requiring the submission and approval of a Fire Management Plan there

was no basis for the refusal of the proposal on fire risk impacts. For the avoidance of doubt, Herts CC Fire and Rescue did not previously provide comments on the proposal.

- 4.5.49 The matter of fire safety continued to be raised by interested parties prior to the consideration of the proposal at the previous committee meeting and as part of the most recent consultation exercise. The applicant has subsequently reconsidered the issue of fire safety of the site and provided a Fire Risk Statement. In relation to site design, this has identified the need for a secondary access and road for emergency fire vehicles for the duration of the development. This is now specifically included on the latest submitted revised drawings and is further explained paragraph 4.5.24 above. In terms of other fire safety measures these are likely to include but are not limited to the provision of fire suppression systems, an Emergency Response Plan and a method to control of wastewater in the event of an incident. Fire prevention and management measures are principally controlled under Building Regulation legislation. 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.
- 4.5.50 Herts CC Fire Service has responded to the most recent consultation process. It has noted the dual site access arrangements to accommodate fire appliances and the contents of the Fire Strategy document. It specifically supports the provision of an automatic suppression system. In relation to Building Regulation requirements, the Fire Service has assumed that the development will 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. The submitted Fire Risk Statement confirms that a detailed fire strategy design for the site will need to be agreed prior to commencement with Building Control and the Herts CC Fire and Rescue Service. In addition to the Herts CC Fire Service response, Herts CC Water Officer has confirmed separately that a fire hydrant should be provided to ensure water supply to the site in the event of a fire. This and the submission of a detailed Fire Risk Statement are matters which officers would seek to secure by condition.
- 4.5.51 Given the revised site layout which includes two accesses, the applicant's commitment to providing a detailed Fire Risk Statement (to be secured by condition), the requirement for a new fire hydrant (to be secured by condition) and the absence of an objection from Herts CC Fire Officer, the overall conclusion on fire safety remains that there is no evidence to show that there would be a high risk of fire from the proposal and detailed mitigation measures will be considered

further. This matter does not weigh against the proposal but is neutral in the planning balance.

Other matters

4.5.52 Matters previously reported relating to the following topic areas remain unchanged

–

- Alternative renewable energy sources
- Alternative sites
- Residential amenity
- Aviation impacts
- Glint and glare
- Coalescence
- Soil contamination and management

4.5.53 **Section 106 and community benefits** – the application does not require any contributions or matters to be secured through a section 106 agreement. For the avoidance of doubt, financial contributions to the community would not meet the tests set out in the NPPF and the CIL Regulations for planning obligations, as they would not be necessary to make the development acceptable in planning terms nor would they be directly related to the development. However, the applicant has confirmed that it has been in contact with Bygrave Parish Council independently from the planning process to discuss a number of matters including a proposed financial payment to the community in the event that planning permission were to be granted. This together with a commitment to establishing a resident liaison group for the construction period and a method to discuss locals aspirations for the precise alignment of the permissive paths and associated landscape details would be set out in a deed of community benefit. For the reasons set out above, the provision of this deed is not a material consideration and does not form part of the planning balance or decision-making process. It is included for information only.

4.5.54 **Conditions suggested by Bygrave Parish Council** – immediately preceding the previous committee meeting, officers were asked to consider a range of conditions suggested by the parish council in the event permission were to be granted. These conditions are set out below (bold text) and officer responses are included below.

(a) No weekend or bank holiday working or deliveries.

The Council's Environmental Health Officer has recommended a condition restricting hours of construction work to 08:00 – 18:00 Monday to Friday, 8:00 – 13:00 Saturday with no deliveries or noisy activities on Sunday or bank holidays. This is a usual condition on development sites. See recommended condition 4.

(b) Work, deliveries and staff arrivals to commence no earlier than 8am and finish no later than 5pm

Deliveries are covered by draft condition 5. In relation to working hours (non-noisy activities) and staff arrivals, officers consider that it would be unreasonable to restrict these as suggested as this would create concentrations of daily vehicular activity which would be undesirable from a

highway and noise perspective. It would potentially prolong the construction period.

- (c) **Require the high-voltage cable to be laid between the site and the Letchworth sub-station in advance of construction commencing. We understand that there can be a delay of several years in connecting solar plants to the National Grid and we would not want the constructed site to lay obsolete awaiting for the connection to be made.**

The high voltage cable does not form part of the planning application and will be undertaken by a Distribution Network Operator as permitted development. This cannot therefore be conditioned. The applicant has confirmed that the grid connection capacity is available and energy deliverable as soon as the development is approved and constructed. It has also been confirmed that it is not subject to wider delays on the transmission network as suggested in mainstream media.

- (d) **The site would have to be fully operational with a short period of time, such as 2 years, as otherwise the stated urgent need for renewable energy will not be fulfilled.** The standard time period for implementation of a planning permission is three years. Officers do not consider that a condition for the development to be operational as suggested would be either reasonable, necessary or enforceable and would be contrary to planning guidance relating to the use of conditions (Planning Practice Guidance – Use of Planning Conditions Paragraph: 005). Notwithstanding this, the applicant has confirmed that it aims to construct the solar farm as quickly as possible once consented.

- (e) **Funding an independent noise assessment as part of the application.** The Council's Environmental Health Officer has reviewed the submitted noise assessment and has confirmed that it has been undertaken in accordance with good practice and guidelines. Conditions cannot require funding of any sort, such as an independent noise assessment. On this basis, officers consider that an independent noise assessment as suggested would be neither necessary nor reasonable.

- (f) **Increase size of non-developed strip on the southern edge and planting mature native trees to create an extension of Bygrave Woods from Upper Bygrave to the current Bygrave Woods, to the west of the public bridleway (Icknield Way).** The proposal presented already includes an area that will be utilised as a buffer between the village and the development site (blue edged land). This area will deliver a number of the ecological enhancements as identified in the updated Preliminary Ecological Appraisal and on the revised mitigations and enhancements plan. These enhancements will be delivered as part of the LEMP condition. Increasing this area and planting trees would be neither reasonable nor necessary.

- (g) **Create new public footpath allowing access along the newly planted southern edge from Upper Bygrave to Bygrave to the Icknield Way (at Bygrave Woods).** This matter is explained at paragraph 4.5.28 above,

(h) Create a new public bridleway along the eastern perimeter from Upper Bygrave to Cat Ditch, providing a safer alternative for cyclists, horse-riders and pedestrians. This matter is explained at paragraph 4.5.28 above.

(i) Make it a condition of planning that Pace fully finance, through an escrow account, the cost of restoring the land for agricultural use (as now) when the site is decommissioned. This should include a provision that the amount set aside is periodically reviewed to ensure that the funds are sufficient for the intended purpose.

Planning permission runs with the land not with the developer and the planning system provides legislation for the enforcement of conditions. Permission is sought for a temporary period and a condition is included to reflect this. A condition as suggested would not meet the legal tests of being necessary, enforceable, or reasonable as set out in the NPPF.

(j) Subsidising electricity use by the householders in Upper Bygrave.

This matter is set out in paragraph 4.5.52 above.

4.6 Planning Benefits

4.6.1 The applicant reiterates the need to secure emission reductions and increase renewable energy supply in their supporting Design and Access Statement. Specifically, the applicant highlights that the climate emergency has moved up the political agenda since the Government adopted a legally binding net zero emissions target. The NPPF highlights the need to support the transition to a low carbon future and to radically reduce greenhouse gas emissions (Paragraph 157). At the local level, the Council declared a Climate Emergency and set a target of achieving zero carbon emissions in the district by 2040. Local Plan Policy NE12 provides in principle support for renewable and low carbon development, subject to certain criteria. The challenges and success in transitioning to a low carbon society is dependent on developing suitable sites for renewable energy generation and battery energy storage.

4.6.2 The applicant highlights that this type of solar installation can be deployed quickly, delivering rapid emissions reductions and filling the growing electricity supply gap. This additional renewable capacity – enough to generate renewable energy to power the equivalent of about 15,700 homes - and emissions reductions of 11,300 tonnes of CO₂ per year at a time of a climate emergency, are considered to be very significant benefits. In this regard the proposal contributes significantly towards achieving the UK Government's target of net zero carbon emissions by 2035.

4.6.3 Other benefits cited by the applicant comprise –

- Biodiversity improvements
- The provision of affordable and secure energy supplies
- The business rates contributions which support delivery of local services

- Employment generation from the development and associated local benefits from employees visiting and living in the local area
- Farm diversification improving its viability

Renewable Energy Generation

- 4.6.4 A solar farm of this scale would undoubtedly make a positive contribution to renewable energy production, and it is salient to note that paragraph 163 of the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy.
- 4.6.5 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.
- 4.6.6 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. The Clean Growth Strategy 2017 anticipates a diverse electricity system based upon the growth of sources of renewable energy.
- 4.6.7 National Policy Statements (NPS) are a material consideration for the determination of major energy infrastructure. This proposal falls just short of the 50Mw threshold for it to be classified as a major infrastructure project, which would fall for the Secretary of State to determine. However, it is considered that regard may be given to these. The NPSs recognise that locally determined 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. Recently updated NPSs EN-1 and EN-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. EN-1 confirms that substantial weight should be given to projects of a Critical National Priority.
- 4.6.8 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.
- 4.6.9 The farm would deliver energy requirements for all of the new housing to be delivered as part of the recently adopted Local Plan making a very significant contribution towards installed renewable capacity in the District. This is a benefit to which it is considered very substantial weight should be attributed.

Urgent Local Need

- 4.6.10 The Council declared a Climate Emergency on 21st May 2019, and this is followed up with the publication of a Climate Change Strategy 2021-2026. 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.
- 4.6.11 Government data for electricity use within North Hertfordshire shows that in 2019 the district used a total of 506 GWh of electricity, and that in the same year only 52.6 GWh of electricity was generated in North Hertfordshire from renewable sources, which is just 10.4%. It is estimated that the proposal would generate 48.9 GWh of electricity. The National Grid indicates that nationally about 43% of our power comes from renewable sources.
- 4.6.12 As previously stated in this report, the Secretary of State recently resolved to approve the application for the construction of a 49.995MW solar farm at Land North and East of Great Wymondley (application reference 21/03380/FP). Notwithstanding this decision and the likelihood of this development coming forward, there remains a significant deficit to make up to achieve the Councils ambitious objective of achieving net zero by 2040. Moreover, as the demand for electricity is likely to increase significantly the deficit will have increased since 2019 and is likely to grow if schemes such as this are not consented as a matter of urgency.
- 4.6.13 Based upon Government data, it is understood that currently about 57.4% of North Hertfordshire's renewable electricity currently comes from solar. If this were to be scaled up proportionately then an additional 260 MWh of renewable energy from installed solar photovoltaics would be required to meet the deficit of 453.4GWh. This discounts the fact that anaerobic digestion and landfill gas could not easily be scaled up to meet the other 42.6% which would be required.
- 4.6.14 Currently no energy is generated in the district from onshore wind, hydro, sewage gas, municipal solid waste, animal biomass or cofiring. The anaerobic digester at Bygrave Lodge has an installed capacity of approximately 2.7MW. It is therefore acknowledged that the only source other than solar that potentially 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 (paragraph 163 of the NPPF and associated footnotes 57 and 58 refer). It is understood that only 16 new turbines were granted planning permission in England between 2016 and 2020 — a 96 per cent drop on the previous five years.
- 4.6.15 As previously stated, 10.4% of the total current district's electricity usage comes from renewable sources. It is estimated that the recently permitted Great

Wymondley solar farm would provide additional 31% of the district's electricity needs from a renewable source. Together, these would therefore provide a total of 45% of the district's current electricity needs with a remaining shortfall of 55%.

- 4.6.16 The Proposed Development is estimated to generate between 30-35% of district's current electricity needs and would make a significant contribution to the Council's objective to be net zero within the district by 2040.
- 4.6.17 It is considered that there is an identified and urgent need to increase renewable energy generation in North Hertfordshire and this should be afforded significant weight in the planning balance.

Need and Locational Constraints

- 4.6.18 The applicant states that it is an essential requirement for solar farms to be proximate to an existing substation (in this case Letchworth East) 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 has confirmed that the site to grid connection length (in this case approximately 5km) is derived from the yield, connection voltage, changes to prices and other grid works that maybe necessary. Every site is different meaning that distances between a site and the grid connection point can vary. In this case, the applicant confirms that the grid connection route for the proposed development is not yet confirmed with a number of options under consideration. As previously confirmed, the applicant has confirmed that grid connection works would be undertaken by UK Power Networks as a statutory undertaker and therefore this matter does not form part of the consideration of this application.
- 4.6.19 In addition to grid connection, solar curtailment is a factor that affects location. Solar curtailment is the deliberate reduction in output below what could have been produced in order to balance energy supply and demand, which results in the loss of potentially useful energy. Curtailment can be addressed by building new power lines or storage, but this can be more expensive than letting surplus power go unused.
- 4.6.20 The availability of this grid connection and the applicant's commitment to deliver the development immediately should be given substantial weight in the planning balance.

Conclusion on renewable energy benefits

- 4.6.21 Officers have considered and assessed all the aforementioned benefits 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 2030.

- 4.6.22 It is considered that the benefit arising from the generation of renewable energy by the proposed development, meeting the electricity needs of around 15,700 homes, is very substantial and that this is a planning benefit to which substantial weight can be attributed.

Wider Environmental Benefits

- 4.6.23 The development will deliver the following proposed environmental enhancements:
- Native-species woodland planning to provide visual screening, landscape integration and improved ecological connectivity;
 - New native species hedgerows for visual screening, ecological connectivity and landscape integration; and
 - Gapping-up of existing hedgerows
 - Grassland within the perimeter/stock fencing suitable for sheep grazing that provide pollen and nectar for biodiversity;
 - Species-rich grassland between field boundaries and perimeter/stock fencing to contribute to enhancing hedgerow buffer zones for improved ecological connectivity;

- 4.6.24 The applicant considers that the enhancement would provide significant biodiversity gain of about 60% in habitat units and 60% in hedgerow units, well above the emerging national target of 10% and would also take the land out of intensive arable agricultural use and provide a net carbon benefit. In addition, there would be long term visual and landscape benefits from new planting proposals.

Economic benefits

- 4.6.25 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.
- 4.6.26 There would be clear economic and energy security benefits arising from a facility that can meet the electricity needs of approximately 15,700 homes and reduce the use of fossil fuels in the production of electricity.
- 4.6.27 In the circumstances it is considered that there would be economic benefits to which significant weight can be attributed in the planning balance.

Biodiversity

- 4.6.28 The submitted Ecological Assessment confirms that biodiversity net gain (BNG) will be achieved, and the submitted Biodiversity Metric shows the extent of BNG. Herts Ecology consider that the net gains are commendable, with a net gain of approximately 60%. Officers consider that this BNG is in excess of the adopted Local Plan Policy NE4, and more than the 10% net gain that will be required by the recently enacted Environment Act 2021. The delivery of BNG can be controlled

by condition. On balance, it is considered that the net gains likely to be achieved weigh moderately in favour of the proposed development.

4.7 Planning Balance

4.7.1 As set out in this report, 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. Notwithstanding the weight attributed to different matters, some carry greater importance than others and whilst this will not be reflected in the table below, this is addressed in this section of the report.

Table 1 – Harms and benefits

Issue	Effect	Weight
Landscape and visual impact (immediate)	Harm	Moderate
Heritage	Harm (Low level of Less than substantial)	Great
<hr/>		
Renewable Energy Generation	Benefit	Substantial
Urgent Local Need	Benefit	Substantial
Economic impact	Benefit	Significant
Biodiversity	Benefit*	Moderate *
<hr/>		
Archaeology	Neutral*	None*
Noise/residential amenity	Neutral*	None*
Highway and Row safety	Neutral*	None*
Fire Risk	Neutral*	None*
Flooding and drainage	Neutral*	None*
Soil contamination	Neutral*	None*
Agricultural Land (BMV)	Neutral*	None*

* subject to conditions

4.7.2 There is a circular argument for and against the proposal. 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.

- 4.7.3 The heritage balance set out in NPPF paragraph 208 confirms that it is necessary to weigh the low, 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 small solar farms and no wind farms within the District with little prospect of the latter being proposed due to current national policy.
- 4.7.4 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 greater weight should be attributed to the clear public benefits in this instance and so there is clear and convincing justification for the low harm to the designated heritage assets. Therefore, it is considered that the proposed development would have an acceptable effect upon the significance of the heritage assets and would accord with Local Plan Policies SP13 and HE1.
- 4.7.5 Now turning to the overall planning balance, the development would result in moderate visual and landscape harm. The harm will not be permanent, albeit the 40-year life of the proposed development is very long. There is no reason to believe that the site cannot be fully restored following decommissioning.
- 4.7.6 The other considerations include those that have been afforded weight as summarised at Table1 above.
- 4.7.7 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.
- 4.7.8 When taken together, other considerations in this case clearly outweigh the harm that has been identified, particularly given that the proposed development would not be permanent.

Overall conclusion

- 4.8 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 conflict with and 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 proposed development is sustainable and there is therefore a presumption in favour of it. Overall, taken as a whole, the proposal is considered to be in accordance with the development plan and planning permission should be granted subject to conditions.

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 Pre-commencement conditions

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

7 .0 Legal Implications

- 7.1 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.

8 .0 Recommendation

That planning permission is resolved to be **GRANTED** subject to conditions set out below:

Standard Time Limit

1. 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.

Approved plans

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

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

3. The 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 (First Commercial Operation). Written notification of the First Commercial 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.

Noise

4. The hours of construction work shall be limited to 08.00hrs to 18.00hrs Monday to Friday, 08.00hrs to 13.00hrs Saturdays and no working Sundays and Bank Holidays.

Reason: In the interest of minimising noise and disturbance for the occupiers of nearby residential properties in accordance with Policy D3 in the Local Plan.

5. HGV and articulated vehicle deliveries shall be restricted to 09.30hrs to 14.30hrs Monday to Friday and no time on Saturdays, Sundays or bank holidays.

Reason: In the interest of minimising noise and disturbance for the occupiers of nearby residential properties and in the interests of highway safety in accordance with Policies D3 and T1 in the Local Plan.

6. Full details of a Construction Environmental Management Plan 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 of the development shall thereafter be carried out in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The Plan shall include the mitigations measures as set out in section

5.17 of the Noise Assessment provided by 24 Acoustics and the following additional elements:

- a) Details and timing of the removal of any site waste;
- b) measures to minimise dust during construction.
- c) site set up and general arrangements for the delivery and storage of plant including cranes, materials, machinery and equipment, temporary offices and other facilities, construction vehicle parking and loading/unloading and vehicle turning areas;
- d) construction traffic route signage, monitoring and enforcement measures;
- e) any temporary screening and hoarding details to protect neighbouring residents;
- f) end of day tidying procedures to ensure protection of the site outside the hours of construction. The construction activities shall be designed and undertaken in accordance with the code of best practice set out in British Standard 5228 1997 and with the agreed details unless otherwise agreed in writing by the Local Planning Authority;
- g) wheel washing facilities for construction vehicles leaving the site;
- h) storage and removal of building waste for disposal or recycling;

Reason: To ensure the environmental impacts of the development are controlled in the interests of minimising disruption nearby residents during construction, minimising any environmental impacts, in the interests of highway safety and amenity and in accordance with Policies D3, T1 and NE12 contained in the Local Plan. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

7. Prior to the first commercial operation of the proposed development, as per Section 6.10 and figure 4 of submitted “proposed solar and battery energy storage scheme, Ashwell Road, Hertfordshire, Noise Impact Assessment” Report reference R10082-1 Rev 1 dated 23 June 2023 prepared by 24 Acoustics, full details of the proposed sound barrier shall be submitted to and approved in writing by the local planning authority. Following approval, the barrier shall be installed prior to the development becoming operational and retained for the duration of the development.

Reason: to protect the amenity of existing residents in accordance with Policy D3 in the Local Plan. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

Decommissioning

8. Within 6 months of the cessation of the export of electrical power from the site, or within a period of 39 years and 6 months following the First Commercial Operation, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to the local planning authority for its written approval. The Scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The Scheme shall also include 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.

Flood Risk and Drainage

9. The development shall be carried out in complete accordance with the Flood Risk Assessment (FRA) dated November 2022 (author - Hydrock - 18867-HYD-XX-XX-RP-FR-0002) and specified mitigation measures (section 6) contained therein.

Reason: To ensure that the proposed development can be adequately drained and to ensure that there is no increased risk or flood on or off the site resulting from the proposed development and to ensure the mitigation measures detailed in the FRA are adhered to in accordance with the NPPF and Policy NE7 in the Local Plan.

Ecology and Biodiversity

10. No development shall commence (including ground works and vegetation clearance) until the following species and habitat protection measures have been submitted to and approved in writing by the Local Planning Authority:

- a) Wildlife Friendly Pathways through the permitted boundary fence to allow for movement and migration of reptiles indicated by but not limited to the measures set out in section 5.41 of the Preliminary Ecological Report;
- b) trees and hedge protection measures shall be protected in accordance with British Standards (BS 2012) 5837:2012 Trees in Relation to Design, Demolition and Construction. The root protection areas of any retained trees must be left free from excavation and disturbance, and protected during any proposed works.

Protection should be in the form of fencing and signs installed for the duration of the works;

Thereafter the development shall be carried out in complete accordance with the approved details and also in accordance with section 4 of the Badger Report.

Reason: To ensure that before any development commences appropriate species and habitat protection measures agreed and implemented in accordance with the NPPF and Policies NE4, NE12 and SP12 in the Local Plan. A pre-commencement condition is required as it addresses construction works.

11. Notwithstanding the submitted Landscape and Ecological Management Plan (LEMP) and the Mitigation Plan, no development shall take place until a revised LEMP has been submitted to and approved in writing by the local planning authority. The revised LEMP shall take into account the revisions and proposals set out in the revised Preliminary Ecological Appraisal dated December 2023 and should include the original management details together with clarification of the following –

- i. Bat box locations and fixing arrangements;
- ii. Measures to protect skylark plots from users of proposed new permissive footpath;
- iii. Badger gates details;
- iv. The use of a chalk grassland wildflower mix;
- v. Site management for grazed and wildflower areas;
- vi. The replacement of failed, dead or dying landscaping or biodiversity improvements.

The development shall thereafter be carried out in complete accordance with the approved LEMP.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

Detailed Landscaping scheme

12. 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:

- i. detailed planting proposals to include planting locations and dimensions, species, densities, sizes, mixes and protection and for new planting areas;
- ii. a new hedgerow to the northern site boundary, gapping up of existing hedgerows and new tree planting as illustrated the revised Mitigation and Enhancements Plan (V5).
- iii. additional hedgerows along the emergency access road to screen the proposed infrastructure from the public highway;
- iv. hard surfacing materials;

The landscaping of the site shall take place in accordance with the approved details and implementation programme. The site shall be maintained in accordance with the approved Management and Maintenance Plan for the life of the development hereby approved, and 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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

13. Within the first planting season following the completion of construction works, the agreed landscaping and biodiversity proposals 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.

Trees

14. 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. A pre-commencement condition is required as the tree protection must be in place prior to construction works commencing.

Agricultural use

15. Within one year of the First Commercial Operation of the solar farm hereby approved, a Grazing Management Plan (GMP) shall be submitted to the Local Planning Authority. The GMP shall detail which parts of the site shall be used for the grazing of livestock, during which months of the year, and how the grazing is to be managed. The GMP shall not be carried out except in accordance with the approval. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval and shall not be carried out except in accordance with that approval. Within three years of the first operational use of the solar farm, the grazing of livestock shall commence on the site in accordance with the GMP.

Reason: To ensure that part of the site remains in agricultural use in accordance with the NPPF and policy NE12 of the Local Plan.

Boundary treatments and screen

16. The fencing permitted as part of this development shall be as follows unless otherwise agreed in writing by the Local Planning Authority –

- 2 metre high wire mesh deer type to the southern, eastern and western boundaries;
- 2 metre high heavy duty wooden pressure treated post and rail fence with Equi-Fencing attached and green or black screening fabric attached to the northern boundary.

All fencing shall include Wildlife Friendly Pathways as set out in the details agreed as part of condition 12. With the exception of the fencing to the northern boundary which shall be erected prior to any development works commencing, all other boundary treatments shall be erected prior to the first commercial operational use of the solar farm. All boundary treatments shall be retained thereafter for the duration of the development.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality in accordance with policies D1 and NE12 in the Local Plan.

17. The northern boundary fence shall include a screening fabric along its entire length to a height of 2 metres. Details of the screening fabric shall be submitted to and approved in writing by the local planning authority prior to the erection of the fence. The approved fabric shall be attached to the fence prior to any development on the site commencing and thereafter shall be retained for a minimum period of 10 years from its first installation. Damaged sections of the screen shall be replaced at the written request of the local planning authority.

Reason: To safeguard users of the bridleway from glint and glare and to minimise the visual impacts of the development in accordance with policies NE12 and T1 in the Local Plan.

Archaeology

18. 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 and in accordance with the programme of work as set out in the Archaeological Brief (P01/22/0741-2). 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 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.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

19. The development shall take place in accordance with the programme of archaeological works set out in the WSI approved under condition 18.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

20. Prior to the First Commercial Operation of the development for the exportation of electricity, the site investigation and post investigation assessment has been completed in accordance with the programme set out in the WSI approved under condition 18 and the provision made for analysis and publication where appropriate.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

External appearance

21. Prior to their erection on site details of the proposed colour finishes of all solar panels, frames, ancillary buildings, cctv poles and cameras, equipment, and enclosures shall be submitted to, and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the development hereby permitted.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

Fire Suppression

22. Notwithstanding the Fire Risk Statement submitted, before the first commercial operational use of the development/ first commercial operational use of the batteries, a revised detailed Fire Risk Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall include

details of fire suppression systems to be incorporated into the site. The Statement shall also demonstrate consideration of best practice measures and guidance on the risks associated with battery storage and appropriate mitigation measures set out in publications by both the National Fire Chiefs Council and Fire Protection Association. Thereafter, the Fire Risk Statement shall be implemented and adhered to in perpetuity of the development.

Reason: to ensure that fire risks arising for the operation of the solar farm are minimised in accordance with Policies D3 and NE12 in the Local Plan.

Panel cleaning

23. Prior to the First Commercial Operation 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.

Soil Management

24. Prior to the commencement of each phase of development (Construction, Operational and Decommissioning), a Soil Management Plan shall be submitted to, and approved in writing by, the local planning authority. The plan shall include, but not be limited to 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 Agricultural Land Classification survey on 8th April 2021 by Bateman Rural Associates Limited . The Management Plan shall adhere to the guidance set out in the following documents (or any subsequent replacement versions):

- a) Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (September 2009); and.
- b) The British Society of Soil Science Working with Soil Guidance Note on Benefiting from Soil Management in Development and Construction.

The Soil Management Plan as so approved shall be implemented, and adhered to, for each phase of the development.

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.

25. 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 Commercial Operation. For the first three years following the First Commercial 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.

Highway Safety

26. Prior to the commencement of the development, a revised Construction Traffic Management Plan to CLOCS standard shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall confirm and identify details of:

- The full phasing of construction and proposed construction programme.
- The methods for accessing the site, including wider construction vehicle routing and a commitment to not using the right to way network at any time.
- The numbers of daily construction vehicles including details of their sizes, at each phase of the development, with a commitment to a maximum of 2 articulated lorry visits per day (i.e. 4 two-way trips)
- The hours of operation and hours of all construction vehicle movements, with a commitment to all HGVs visiting the site (i.e. travelling along Ashwell Road / Bygrave Road) between 9:30am and 2:30pm only (as required by condition 5)
- Details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
- Details of any hoardings.
- Control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels, and how it will be ensured dirty surface water does not runoff and discharge onto the highway.
- The provision for addressing any abnormal wear and tear to the highway, to include a Highways Before & After survey

- The details of consultation with local businesses or neighbours.
- The details of any other Construction Sites in the local area.
- Waste management proposals.
- Signage
- Further assessment of the two tighter bends along Ashwell Road close to Wedon Way, with mitigation measures outlined if identified as necessary.
- Holding areas for HGV traffic associated with the development
- Ongoing monitoring of the construction route throughout the development construction
- Details of banksmen provision

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

27. Prior to the commencement of the development construction, full engineering drawings of the construction access, as shown on drawing number C22028-ATP-DR-TP-010, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority.

The access as approved shall be in place to the satisfaction of the Local Planning Authority before construction of the development commences, and shall be the sole point of construction access at all times.

Reason: To ensure a construction access that is safe and suitable for the highway environment and to accommodate the level and type of vehicles to use it.

28. Within 6 months of the commencement of construction work, plans illustrating how the construction and emergency access will be amended to take account of the decommissioning of HGV movements and to allow for use by maintenance and emergency vehicles only shall be submitted to and approved by the Local Planning Authority, in consultation with the Highway Authority. The revised plans shall include details of width, visibility splays, vehicle tracking diagrams, permanent surface materials, and other associated highway design considerations. The approved plans shall be implemented in full to the satisfaction of the Local Planning Authority within 3 months of completion of the construction of the development and thereafter retained in perpetuity of the development.

Reason: To ensure a suitable permanent access that is safe and suitable to accommodate ongoing maintenance and emergency vehicles.

29. Prior to the commencement of any HGV movements associated with the development construction, temporary alteration works to the North Road / Bygrave

Road junction for the duration of the construction period, as shown indicatively on drawing number C22028-ATP-DR-TP-007, shall be undertaken and retained for the duration of construction period. Within 3 months of the construction work being completed, the junction shall either be returned to its original design or an alternative design which demonstrates long term betterment for highway users.

Reason: To ensure the North Road / Bygrave Road junction is safe and suitable to accommodate the level and type of vehicles to use it associated with development construction, whilst retaining a safe and suitable environment for all other highway users.

30. Prior to the commencement of the development, a Horse and Rider Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include the following –

- a) contents and locations of temporary warning signs alerting horse riders of construction of the solar farm and contact details of banksmen to help them navigate a safe route to either a nearby bridleway or safe route beyond the construction site;
- b) details of a measures/steps for the banksmen and site manager to follow in such circumstances (to include the temporary switching off of any noisy plant and machinery);
- c) contents of and location of temporary warning signs alerting motor traffic users to the presence of horses and the need to reduce speed.

The measures within the plan shall be implemented and retained in place for the duration of the construction period. Following the cessation of construction works, any temporary signage shall be removed.

Reason: To ensure the safety of horse riders for the duration of the construction period.

31. Prior to the installation of any CCTV cameras, details of measures to restrict the camera movements along the southern boundary of the application site to prevent viewing towards residential properties located on Ashwell 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.

32. Notwithstanding the Mitigation Plan submitted, no development shall take place until a revised Mitigation Plan has been submitted to and approved in writing by the Local Planning Authority. The revised plan shall include all proposed

mitigation details required by other conditions set out in this permission and shall include the following –

- (i) the precise routes of additional permissive footpaths;
- (ii) new copse areas;
- (iii) Long piles;
- (iv) Horse friendly fencing;
- (v) Reinstated and new hedgerows;
- (vi) Protected trees;
- (vii) Skylark plots.

Reason: to ensure there is a site wide plan that illustrates all the approved mitigation measures.

Fire Hydrant provision

33. Before the first commercial operational use of the batteries, details of a fire hydrant shall be submitted to and approved in writing by the local planning authority. Such details shall include provision of the mains water services for the development whether by means of existing water services, new mains, or extension to or diversion of existing services where the provision of fire hydrants is considered necessary. The hydrant shall be provided in accordance with the approved details prior to the first commercial operational use of the batteries.

Reason: To ensure adequate fire protection for the development by way of appropriately located hydrant facilities.

Battery Energy Storage System

34. Before the installation of the batteries or associated engineering works hereby permitted, a detailed layout plan of the Battery Energy Storage System compound shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in accordance with the approved details.

Reason: To ensure an appropriate layout and to understand the precise extent of associated concrete foundations in the interests of minimising the extent of operational development and soil impacts in accordance with the NPPF and policy

NE12 in the Local Plan. A pre-installation condition is required because the details must be understood before construction commences.

Proactive Statement:

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

Informatives:

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

Further information is available via the website

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

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

Further information is available via the website

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

3. 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/highwaysroads-and-pavements.aspx> or by telephoning 0300 1234047.

4. Where works are required within the public highway, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration. 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-andpavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047

5. Any proposed discharge of surface water to the watercourse will require the Beds and Ivel Internal Drainage Board's approval. The northern boundary of this site is under the statutory control of the Board and in accordance with the Board's byelaws, no development shall be permitted within 9 metres of bank top.

6. All temporary highway and post construction reinstatement works required by condition 29 shall be agreed and undertaken as part of the s278 works to be agreed with Herts County Council Highways Unit.

<u>Location:</u>	Land West of Ashwell Road, Bygrave, Hertfordshire SG7 5EB
<u>Applicant:</u>	Pathfinder Clean Energy (PACE) UKDev Ltd
<u>Proposal:</u>	Ground mounted solar photovoltaic (PV) farm including battery energy storage; continued agricultural use, ancillary infrastructure, security fencing, landscaping provision, ecological enhancements and associated works (as amended).
<u>Ref. No:</u>	22/00741/FP
<u>Officer:</u>	Peter Bull

Date of expiry of statutory period 05 July 2022

Extension of statutory period 15 September 2023

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 0.5 ha and therefore under the Council's scheme of delegation, this application must be determined by the Council's Planning Control Committee.

For the avoidance of doubt, as the site is not '*for Green Belt development, development outside town centres, World Heritage Site development, playing field development, flood risk area development or commemorative object development*' it does not require referral to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2021.

1.0 Site History

1.1 21/01446/SO - Screening Opinion – Solar Farm – No Environmental Impact Assessment required.

2.0 Policies

2.1 North Hertfordshire District Local Plan 2011 -2031

Policy SP1: Presumption in favour of sustainable development

Policy SP5: Countryside and Green Belt

Policy SP11: Natural resources

Policy SP12: Green infrastructure, landscape and biodiversity

Policy SP13: Historic environment

Policy D1: Design and sustainability

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 NE12: Renewable and low carbon energy development

2.1 Baldock, Bygrave & Clothall Neighbourhood Development Plan (2011-2031)

2.1.1 The Baldock, Bygrave and Clothall Neighbourhood Plan (BBCNP) was made in June 2021 and now forms part of the Development Plan.

Policy G3 Creating well-designed places

Policy V1 Bygrave village

2.2 National Planning policy Framework (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 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

Published in July 2011 the National Policy Statement for Energy (EN1) 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 published in July 2011 confirms the importance of renewable energy.

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

North Hertfordshire Landscape Study 2011: Area 224 (North Baldock Chalk Uplands)

2.6 Other relevant Council publications

Council Plan 2020 – 2025

North Herts Climate Change Strategy

3.0 **Representations**

Statutory and non-statutory consultees

3.1 Responses are summarised below.

3.2 **Bygrave Parish Council** – objects to the application for the following reasons;

- Creation of industrial area
- Impact on Ickneild Way
- Adverse impact of walking and cycling routes together with other local traffic users
- Impact of adjacent dwellings
- Fencing and security cameras affect walking routes
- Loss of wildlife habitats
- Impact on enjoyment of walking routes and associated mental health impact
- Misleading and biased landscaped impacts understated
- Adverse construction impacts from multiple HGV movements during 36 week construction period, inadequate roads for this volume and type of traffic
- The parish council support the principle of renewable energy although this is not the right place for this
- Contrary to government guidance and policy
- Objection is supported by MP Sir Oliver Heald QC, County Councillor Steve Jarvis and NHC Councillor Tom Tyson

3.3 **Ashwell Parish Council** – original response confirmed objections to the application for the following reasons -

- The loss of grade 2 farmland.
- The harmful visual impact on the landscape; the area was in the Landscape Character Area of the North Baldock Chalk Uplands and covered by relevant NPPF policy.
- The adverse impact on the Scheduled Ancient Monument of Arbury Banks

Reconsultation in December 2022 reaffirmed objections and added additional reasons –

Landscape

- Adverse impact on landscape character contrary to local and national policy.
- At odds landscape character assessment introducing a large scale ‘open’ use
- conflicting with the current open sweeping views.

- Appeal decision indicates use on landscape is unlikely to be perceived to be temporary.

Historic Environment

- Adverse impact on designated heritage assets contrary to local and national policies.
- Particular impact on Schedule Monument at Arbury Banks Hillfort.
- Harm to the ancient trackway that runs alongside the site.

Agricultural land

- Food production and food security is of significant importance.
- The development will lead to a loss of BMV agricultural land (Grade 2)
- Poorer quality land should be used unless it can be justified.
- National provision of land must be taken into account and alternative options sought.
- Use is not proven to be temporary
- Soil regeneration claims are questionable.

Absence of local need to justify the site

- Whilst there is a national need for more renewable energy capacity this cannot justify this unsuitable site.
- Developer accepts that local need cannot be demonstrated.
- Supporting documents justify the selection of this site to the District Council's climate emergency declaration and is misleading
- The Net Zero 2030 target is in relation to the District Council's own estate.
- A commitment to the expansion of solar farms in the District has never been put to resident voters. Nor were solar developments mentioned when the Council passed a motion in 2019 to declare a Climate Emergency, nor in its Climate Strategy, for 2021-26, nor the proposed actions for 2022-26.
- The Cabinet meeting of March 2021 did NOT discuss solar. Nor is solar mentioned – other than in the context of on-site solar for Council buildings - in the proposed actions for 2022-2027 to deliver the Council's Climate Change Strategy, published on 2 December, for the Council Cabinet meeting on 19 December 2022.
- Supporting documents deliberately mislead claiming it is not possible to ringfence for local use electricity generated from commercial sites such as these. The connection is to the national grid and the electricity can be bought by a particular supplier, but it cannot be directed to local homes or businesses. For
- these reasons, when considering the generation of commercial renewable energy it must be in the national context
- If the goal is local energy security then this can only be boosted through community schemes, rooftop solar and other renewable energy sources such as wind power.

Access and safety

- The use of Bygrave Road, which is very narrow in places will compromise the safety of other road users, especially from HGV movements.
- Vehicle weight restrictions are in place
- High number of vehicle trips on local roads
- 207 dwellings and users of Bygrave Road and circa 2000 residents of Ashwell travelling to Baldock affected
- Verges affected.
- Some known accident blackspots
- Glare to highway and bridleway users with planned mitigation taking a number of years to establish itself.
- Delivery times will impact local residents.

Noise impact

- Noise impact has said to be limited but inverters can overheat in extremely hot weather requiring the use of noisy fans to provide cooling. Given the increasing temperatures, making hot weather much more prevalent, modelling needs to be done to ensure that Bygrave residents will not be affected throughout the lifetime of the operation of the site.

Response to re-consultation (June 2023) – objections raised on the following grounds -

- Landscape character and visual impacts
- Access and safety during construction
- Nuisance during construction
- Energy contribution not justified
- Glint and glare to bridleway users
- Noise and disturbance to residential properties
- Light pollution impacts
- Inadequate grid connection

3.4 **South Cambs District Council** – no response received.

3.5 **Baldock, Bygrave and Clothall Planning Group** – objects to the proposal -

- The proposed routing of construction traffic is inappropriate, given the anticipated volume and nature of vehicular movements, the rural nature of the roads involved and the impact on residents along the route.
- It is noted that there will be an average of 8-10 heavy vehicle movements per day over 30-35 weeks, but with 30 movements a day at peak times (and, in addition, construction worker vehicles). We support the concerns expressed by Hertfordshire County Council regarding the unsuitability of the route for this traffic. It would have a significant detrimental impact on the character of Bygrave Road/Ashwell Road and the living conditions of those facing onto these roads. We are also concerned by the potential impact of this traffic on other vehicular movements at key points along the

route, such as the Bygrave Road/North Road junction in Baldock: the need for large vehicles to manoeuvre around tight corners is likely to exacerbate existing congestion problems and could be harmful to highway safety.

- We are particularly concerned by the applicant's proposal to make Bygrave Road 'suitable for HGVs', without specifying what that would mean. Development should not harm the rural character of this road, noting in particular the presence of a designated local wildlife site along part of Ashwell Road.
- Highways impacts aside, we are also concerned that the extent of new planting proposed between the development and Upper Bygrave may be inadequate to screen its visual impact, although this is difficult to judge fully from the photomontages provided

3.6 Councillor Tom Tyson (Arbury Ward) – objects to the proposal for the following reasons -

- conflict with national and local policies in the NPPF and emerging local plan by failing to protect, contribute to or enhance the natural environment
- damage the character of an important valued landscape with the imposition of a large-scale industrial installation
- result in a loss of visual amenity, harming views across open countryside
- intrude on the views from Arbury Banks, a Scheduled Ancient Monument
- remove very good quality land from agricultural use / food production
- have an adverse and hazardous impact on the Icknield Way Trail, a public right of way
- generate considerable operating noise in a tranquil rural setting close to a bridleway
- Impact on highway safety cause 5-9 months of traffic chaos and create a serious hazard at the site entrance and many other points along the route from the A507 to the site
- Loss of biodiversity
- Absence of mitigation measures

First re-consultation response (December 2022) reaffirmed original objections and elaborated as follows -

- Desk top study relating to transport and traffic issues inadequate. Detailed survey work is needed to understand these impacts fully.
- Highway works will remove a traffic island intended to protect pedestrians.
- Weight restrictions on road make use by HGVs inappropriate.
- Landscape and Visual Appraisal unavailable.
- Application does not make clear how or where the development will connect to the National Grid. The Letchworth substation is 5 km away from the application site. In addition to requiring further permissions to lay the underground cable all the way from Bygrave to Letchworth, this further detracts from the already sub-par location of the site on a technical level: the greater the distance the less efficient the transfer of energy.

- The site lies on the very fringes of viability.
- In the debate on the national need for renewable energy provision and food production, there is an easy answer in that we need both and there is room for both. If we proceed rationally and sensitively the right sites for solar farms and other green energy projects can be identified and exploited for the common good. The problem with this proposal is that its technical merit is low and the harms are great: this opportunistic plan is neither rational nor sensitive and should be refused.

Second re-consultation response (June 2023) reaffirmed original objections and added following objections -

- Revised site access - There is no detailed plan showing where the access will be and how heavy construction traffic will be able to enter and exit the site safely. Ashwell / Bygrave Road is unsuitable for the levels of HGV traffic proposed and conflict with oncoming vehicles and vulnerable road users is inevitable. Figures quoted in the Apex Transport Plan and elsewhere by PACE for restricting HGV traffic movements are inconsistent, contradictory and incoherent, creating a potentially misleading impression of the levels of traffic expected per day. The Highways Authority have not highlighted all or indeed any of the numerical inconsistencies. PACE's traffic consultants Apex have made only one site visit, their considerations are informed by aerial photos and OS maps, not on-the-ground observation. A speed survey is referred to but was conducted at an unspecified time in the past at a location some distance away from the area where the access is proposed. A new survey is required. No decision should be made until all these aspects are properly clarified.
- The A507 / Bygrave Road junction - The junction needs to be reshaped simply to allow the articulated construction vehicles into Bygrave Road. The alterations proposed to the bellmouth come at the expense of pedestrian safety and should not be allowed.
- Noise impact assessment - NHC should provide an independent noise assessment before determining the application. The paper commissioned by PACE presents average noise level predictions as maximums, both for construction noise and operating noise. There is insufficient reassurance that operating noise will not be heard from neighbouring properties, causing harm to health and well-being. The noise output from the plant will make the bridleway unpleasant and unsafe to use.
- Other concerns - Pledges made by PACE to offset the harms of the development are apathetic, there are no formal agreements in place, PACE say they will do a deal with Bygrave Parish Council once permission is granted but have not said what they are prepared to offer. The Grid Connection Plan highlights the difficulty of connecting to the Letchworth substation as the distance involved is barely commercially viable even when measured as the crow flies.

3.7 **Sir Oliver Heald MP** - objects to this large-scale industrial development in a rural location which will adversely affect constituents in Bygrave. The site is in full sight

of the historically important Arbury Banks and the development would cause the loss of grade 2 agricultural land, when growing our own food now is so important. Re-consultation response from June 2023 reiterated these concerns and raised additional objections on highway safety grounds and requested independent noise assessment be undertaken.

Additional response in June 2023 restated original objections. Suggested the Council should take an independent expert opinion on the operating noise level from the solar plant. Objects to the alterations to the junction of Bygrave Rd from Baldock to accommodate HGVs on the grounds it will be dangerous due to parked cars, blind bend and narrow roads.

- 3.8 **Historic England** – no objection
- 3.9 **Natural England** – no objection subject to conditions to protect soil resources and to ensure the satisfactory restoration of the land at the end of the temporary period.
- 3.10 **National Grid** – no assets affected by the proposal.
- 3.11 **Environmental Health (Contaminated land)** – no response received
- 3.12 **Environmental Health (Air quality)** – no objection.
- 3.13 **Environmental Health (Noise)** – no objection subject to conditions.
- 3.14 **HCC Rights of Way** – no objection although condition requiring the provision of a Rights of Way Protection Plan suggested.
- 3.15 **British Horse Society** – development likely to impact of horses and riders. A series of mitigation measures are requested and could be secured by condition.
- 3.16 **HCC Highways** – initial response confirmed that the completed scheme will not have an adverse effect on the public highway. However, serious concerns were raised regarding highway impacts during the construction phase of the scheme. An addendum to the original Transport Assessment was provided in June 2023. Following reconsultation, the highways authority has confirmed that it does not wish to restrict the grant of planning permission subject to conditions relating to the following – provision of a Construction Traffic Management Plan, details of the temporary construction access, off site junction alterations at North/Bygrave Roads and a Rights of Way Protection Plan.
- 3.17 **HCC Lead Local Flood Authority** – due to resource issues, no response provided.
- 3.18 **Beds and Ivel Internal Drainage Board** – no objection subject to advisory note alerting developer to the development restrictions adjacent to Cat Ditch and need for their consent to discharge surface water into ditch.

- 3.19 **Anglian Water** – no objection.
- 3.20 **Civil Aviation Authority** – as the airstrip adjacent the application site is unlicensed it is the responsibility of the operator, and any aircraft using the airstrip, to comply with all aviation safety requirements.
- 3.21 **Environment Agency** – objected to the application in the absence of an adequate flood risk assessment. Additional work was undertaken and the revised hydraulic model is now considered to be acceptable for the purpose of this planning application. Objection is withdrawn although any permission should be conditioned to deliver the mitigation measures set out in the Flood Risk Assessment (FRA), dated November 2022.
- 3.22 **CPRE Hertfordshire (Campaign to Protect Rural England)** – Objection -
- land is designated as Rural Area Beyond the Green Belt (RABGB) within recently adopted Local Plan which seeks to protect the countryside from inappropriate development.
 - The industrial nature of the photo-voltaic panels and associated infrastructure will change the character and appearance of the countryside in this area for a generation.
 - contrary to National Planning Policy Guidance (PPG) relating to renewable and low carbon energy in relation to special landscapes and designated areas.
 - Ministerial statements confirms that the need for renewable energy should not automatically override environmental protection.
 - Ground-mounted solar installations neither appropriate nor necessary to locate such installations on protected area of open countryside.
 - inadequate public consultation exercise undertaken by PACE.
 - Adverse impacts of designated rights of way.
 - Associated infrastructure - inverters, transformers and switchgear units, sub-stations and battery storage units will also contribute to the industrialisation of the landscape.
 - Concerns about the safety aspects of the battery storage facilities associated with large solar energy installations, including the fire risks connected with lithium-ion batteries. These are not susceptible to traditional fire-fighting techniques and we understand that the Hertfordshire Fire and Rescue Service is not equipped to deal with such risks.
 - Loss of high quality agricultural land and the impact on food security.
 - Use of land for grazing purposes not viable from a practical point of view.
 - Impact on the quality of the walking experience.
 - Adverse impact on biodiversity and wildlife
 - Impact on protected and priority species has not been demonstrated and is a statutory requirement.
 - the Council's screening opinion should be reconsidered due to the undeniable
 - environmental impacts of proposals of this magnitude.

- Supports the principle of renewable energy and suggests that this is best provided on either south-facing commercial rooftops and previously developed land.
- 3.23 **HCC Historic Environment Advisor (Archaeology)** – no objection subject to pre-construction trial trenching being undertaken. This can be secured by condition.
- 3.24 **Herts CC Fire and Rescue** – no objection but confirmation that fire suppression systems will be in place in the buildings housing batteries and transformers is requested.
- 3.25 **Herts Ecology** – no objections subject to a condition to secure proposed biodiversity improvements.
- 3.26 **Conservation Officer** – no objection as the proposal would result in less than substantial harm.
- 3.27 **Herts CC Growth and Infrastructure Unit** – no objection.
- 3.28 **Bygrave Action Group** – objects to the proposal – separate responses received in relation to transport, biodiversity, noise and general design and access matters

Transport

- Supporting statement has been amended since pre-application version.
- Inappropriate route due to narrow roads, lack of adequate passing bays, poor visibility from access, vehicle restrictions, impact on other road users, impact on road surface and proximity primary school.
- Inappropriate delivery times affecting 207 dwellings in locality
- There is a heritage verge near to the Baldock end of Bygrave Road.
- Inadequate road network with history of accidents
- Inaccurate reference made to speed restrictions along the Bygrave / Ashwell Road has a 60mph speed limit.
- Inadequate measures to protect horses.
- Similar concerns raised by HCC Highways. A section 278 agreement should not be permitted.

Additional comments on transport received June 2023

- Future CMPT would be unsafe and flawed
- Changes to junction of A507 and Bygrave Road will be unsafe for both road users and pedestrians with refuge size too small for groups of pedestrians and pavement too narrow
- route is unsuitable for HGVs, any articulated traffic will create unacceptable risks to highway users
- existing visibility poor
- roads unsuitable for additional traffic volumes particularly where high verges exist, blind bends exist

- on street parking hazardous
- concerns over glint and glare impacts

Design and Access Statement

Inaccuracies in statement –

- absence of data to support claims made about co2 savings and electricity generated
- purpose of project disingenuous as profit is motivation
- continued use of agricultural land misleading
- sheep grazing not successful in solar setting
- does not comply with planning policy
- site search is flawed as - it included BVM land only, willing landowner required, applicant only involved in land mounted solar projects,
- comparison of alternative sites misleading
- site is not set well away from the edge of Bygrave
- route of construction traffic outdated
- noise and disturbance from plant and equipment unacceptable
- glint and glare impacts unreliable
- environmental social and economic benefits not demonstrated
- applicant has limited experience in projects of this nature
- development will not be local benefit
- viewpoints are misleading
- decommissioning plan not provided including security measures to meet the costs
- community engagement was poor and some misleading comments and observations
- questionnaire included leading questions
- consultation feedback mis-representated
- contrary to local plan policies claim that solar farms have low impact misleading, existing use of the land for food
- generation and use by wildlife understated
- misleading statement on minimised visual impact
- benefits to local employment vague
- contrary to NPPF in relation to visual impacts
- loss of BMV agricultural land not substantiated
- statements relating to other use of other land/alternative sites not substantiated
- further farm diversification needs not substantiated
- recent harvests have been high yielding
- hedging will take time to establish meaning there will be views into the site for a number of years initially
- access by construction traffic will be along bridleway
- adverse landscape and visual effects
- adverse impacts on heritage assets

- harmful access to the site with temporary traffic measures causing inconvenience to local community
- glint and glare likely to occur whilst mitigation planting is established
- minimal assessment on impact to bridleway users
- glint and glare hazardous to users of adjacent airfield
- construction waste management plan not provided
- absence of any mention of festival use on adjoining land which is an additional traffic impact at certain moments of the year
- fire safety of some of the plant and equipment is not explained or assessed.

Biodiversity

- Application site and surroundings are rich in wildlife - wild birds, hare roe deer, badgers, newts (including great crested newts) due to Countryside Stewardship scheme
- Unclear whether the biodiversity assessment accurately took account of the resultant enhanced level of biodiversity one would expect for the proposed site.
- Construction period will adversely affect local ecology and biodiversity – wildflower loss along road verges, incremental verge erosion from vehicles, increased noise, increased animal road kill (especially badgers and their habitats)
- Horrendous impact on wildlife both onsite and on the Bygrave/Baldock route.
- Positive biodiversity outcome questionable.
- Lack of adequate mitigation.
- Vague references to 'precautionary approach to site clearance with regards to breeding'.
- Wildflower and grass severely limited by the shade from the panels.
- The ongoing impact of solar farms to local bird wildlife is uncertain with some studies noting an increase in bird mortality rates directly due to their presence. Lack of bird mortality monitoring.
- Absence of details relating to Biodiversity Net Gain monitoring, reporting and enforcement.
- There is no credible and unconditional (financially secured and inflation linked) undertaking that the status of the land as “agricultural” will be retained through the lifetime of the project nor is there a cast iron guarantee that when the site is decommissioned, the land will again be available for agricultural use. Further, during its life there is no similar undertaking (financially guaranteed) to ensure proper rehabilitation and removal of waste from the site.
- The CPRE report summarised our concerns well about the ongoing detriment to biodiversity
- Topography of site will accentuate glint and glare on wild birds’ flight paths will be more acute than the case of a flat field where glint and glare is more concentrated.

- Developers claim of 60% biodiversity net gain and habitats impacts questionable and needs to be more fully scrutinised.
- Developers claims about quality of existing habitats under assessed for their value and therefore biased and questionable BNG report.
- DEFRA model used to calculate BNG is open to manipulation and this view is verified by a university expert Professor Shreeve (conservation ecology at Oxford Brookes University)
- Impact on badgers and their habitats of notable concern and requires further investigation
- Constituents and residents of the locality and wider district want to ensure biodiversity is unaffected or unnecessarily damaged.

Noise

Comments received following re-consultation in June 2023 –

- Limitations on modelling work
- Inaccuracies of modelling work
- Reliance of a third party on the report
- Uncertainty in the results reported
- Construction Vibration
- Standards and Guidance
- Conclusions in 24Acoustics' Report
- Other residential receptors have been excluded
- difference in background noise levels between data collection locations
- Background noise issues omitted
- Anomalies with inclusion of background noise from passing traffic
- Clarity needed on self-generated and electrical noise
- Not all of the measures used in the report have been defined.
- inconsistency in the report as regards the hours of operation
- Results for the Knoll – night-time operation questionable

3.29 **Icknield Way Association** – objects to application as users of the public Right of Way (RoW) will experience –

- Adverse visual impact on the landscape
- HGV movements during construction period causing danger
- Glint and glare from panels
- Also impact on schedule monument nearby

3.30 **The Water Officer** – no response received.

3.31 **North Herts and Stevenage Green Party** – supports proposal as it will help the country's net zero targets. No local benefit for the community which is unfortunate. Suggests conditions relating to screening, biodiversity net gain and reinstatement of site to agricultural use at the end of the 40 year period.

3.32 **Neighbour and Local Resident Representations**

The application has been advertised by neighbour notification letters, the display of site notices and press notices. There were 110 comments received on the original consultation process. Additional and amended information was provided in the Autumn of 2022 and a further consultation process was undertaken in December 2022. This yielded a further 31 letters of objection. Revised traffic and transport information was submitted in June 2023 together with a noise assessment and a third consultation was carried out thereafter. This resulted in an additional 37 letters of objection being received. The objections and the issues raised are summarised below.

3.32.1 Planning Policy

- Solar farms such as this are not a key part of tackling the climate emergency and will not form the backbone of the new zero carbon energy system
- Government Green Revolution plan does not regard solar PV as a strategic technology to enable them to meet their Net Zero targets.
- Recent government initiatives have triggered a solar farm “gold rush” with three proposals in NHC district.
- North Herts Climate Change Strategy does not mention the need for North Herts to generate its own electricity as part of its net zero carbon emissions goal.

3.32.2 Rural area and landscape impacts

- Inappropriate scale overwhelming immediately adjacent small and historical village
- Panels will create an industrial commercial eyesore which will harm the character of Bygrave
- Cumulative impact from this development and housing proposals north of Baldock will cause coalescence
- Industrialisation of rural area from panels, fence, CCTV and other associated plant and machinery
- Beautiful countryside and views will be lost
- Will reduce the rural aspects of this area to the detriment of the public that either wish to live in or visit the countryside
- Inappropriate and inefficient for solar use due to topography of land.
- Screening will not obscure the development and will take ten years to become effective
- Topography of the land means that the stark visual impact of the development is impossible to mitigate.
- No details of lighting provided
- Site reinstatement is unrealistic due to costs.

- Creation of precedent with further application for further solar farm likely to be made and substantiated on the grounds that it was in keeping with established land use.
- Site unlikely to be returned to Grade 2 arable farmland.
- Site is part of the local chalk escarpment, which has both cultural and historical significance

3.32.3 Nature/biodiversity and wildlife impacts

- Harmful to wildlife conservation, ecology, flora and fauna.
- Sheep grazing will not benefit biodiversity and construction will disturb the soil and therefore the ecosystem within the soil.
- Adverse impact on birds, badgers and deer
- Proposed fencing would restrict wildlife movement
- Construction traffic will harm landscape and ecology
- Proposal will cause ground poisoning

3.32.4 Heritage

- Site is of cultural & historical significance and needs protection
- Harm to nearby scheduled monument - Arbury Banks – an ancient hill fort located on the Icknield Way – an ancient route through the area is understated
- Proposal does not assess impacts on heritage assets

3.32.5 Highways and public Rights of Way (RoW)

- Inappropriate traffic impacts - congestion, glint and glare, significant HGV deliveries on surrounding narrow roads, danger to pupils and school visitors
- inconvenience to road users, pedestrians and local people
- Impact on users of local footpaths and bridleways and particularly Icknield Way
- Construction traffic will cause damage to road and verges
- Access to the site is hazardous
- Bridleway users – including horses - will result in dangerous behaviour causing highway hazards
- Access road is too narrow and unsafe for large non-agricultural vehicles

3.32.6 Impacts on amenity, including health, safety, noise and wellbeing

- The noise, disturbance and disruption to local rural life during the construction period would be significant
- The visual impact of the planned site cannot be mitigated
- The solar farm backs onto housing where presently there is no other development

- Dangerous industrial plant including battery storage compounds.
- Loss of outlook from residential properties
- Noise and disturbance from machinery and inverters

3.32.7 Agriculture and agricultural land impacts

- Loss of good quality (Grade 2) agricultural land causing a less self-sufficient in home food production downgraded to Grade 5 (very poor quality agricultural land)
- Field continues to be used for crop growing
- Fertiliser costs have risen causing farmers to reduce their dependence on it and reducing crop yields. Outcome is more agricultural land is required to maintain food production.
- Less valuable/lower grade land in North Herts should be used
- Loss of agricultural land is most likely more devastating as not having electricity
- Use of land for livestock grazing poor use of high quality agricultural land

3.32.8 Economic viability

- Electricity generation claims questionable due to panel degradation and north facing slope.
- The viability of a solar farm also depends on the future price of electricity. Prices will fluctuate for different reasons.
- No guarantee that the grid will be able to take all the power generated by this solar farm at a realistic price.
- Revenue from solar can be many times that provided by agriculture which unfortunately appears to encourage a blanket presumption in favour of large scale solar energy.
- Insufficient sunshine

3.32.9 Other objections

- Alternative suitable sites - previously developed land, brownfield sites, low grade agricultural land, existing and new building rooftops, railway land, motorways – should be used
- Alternative renewable energy should be used - wind, tidal and solar energy on islands and offshore locations without decimating agricultural land
- Unanimous objection from local people, interest groups, MP and local councillor.
- Support solar but not in this location
- Increase the local carbon footprint
- Impact on future generations

- The need to switch from fossil fuels to renewable forms of energy is undeniable, but that is not to say that any renewable technology in any location must always be a good thing.
- Inadequate community consultation by applicant
- Community-led energy schemes would be preferable to commercial proposal such as this
- solar panels can easily be replaced but the countryside and local communities are much harder to restore once damaged. That ultimately has to be the aim of a greener future: to see nature and community working together.
- Danger to light aircraft and hot air balloons using the adjacent airstrip and fields.
- Safety risks for visitors to summer festival on adjacent farm land
- Likely vandalism rise when there are solar panel farms.
- Proposals are driven by commercial organisations seeking profits. It is therefore necessary to look very carefully at the long-term viability of each proposal.

3.32.10 Following the re-consultation process in December 2022, the additional issues and objections were raised –

- Proposal will require significant additional infrastructure (unspecified) in accessing/connecting to the grid which will be disruptive and harmful
- Increase flood risk to locality and affect aquifer replenishment which local properties and businesses are reliant on
- Submitted LVA biased and NHC's consultants findings should prevail
- Alternative access routes through site owners land is available and has not been considered
- Absence of local need to justify the site
- Linking the selection of this site to the District Council's target and strategy, is deeply misleading and designed to persuade local residents of local benefit when none accrues.
- Solar developments are not mentioned in either the Council's Climate Emergency nor in its Climate Strategy. Cabinet meetings did not discuss solar.
- Net Zero 2030 target is in relation to the District Council's own land and property.
- The principle of supporting the provision of solar farms in the district has not been subject to a vote by residents.
- Supporting documents includes deliberately misleading statements – electricity generated goes into the national grid and cannot be used locally.
- While it may be the case that most of the land in North Herts is high quality, that is not true of agricultural land across the UK. Local authority boundaries should not be used as a limiting factor in the search for alternative options.

- No certainty what condition soil/land will be in after 40 years
- Appeal Inspector has considered that a period of 30 years would not be perceived by those who frequent landscape would be temporary and prevail for far too long.
- 207 dwellings are directly affected by the route, as are all users of Bygrave Road.
- Landscape has little scope to accommodate the type of development being proposed and few opportunities for mitigation and enhancement. Where 'visual mitigations' are proposed, they are uncharacteristic of the area.
- The LVA identifies major to moderate adverse effects for the duration of the solar farm.
- Contrary to government's goals to halt species decline, protect our land and sea and improve soil health
- Noise and disturbance from plant and equipment

3.32.11 Following the re-consultation process in June and July 2023, 37 additional letters of objection were received which restated original objections with the additional issues and objections raised –

Highways impacts and issues that would be matters to be controlled in the Construction Traffic Management Plan. These comprised –

- route for construction traffic on narrow roads
- unsuitable for HGVs, adverse impact on highway/public users
- alterations to Bygrave Road and the A507 especially narrowing of footpath hazardous to local pedestrians including mobility and sight impaired persons and cyclists (Salisbury Road and Larkins Close)
- reduced sightline to pedestrians, will increase danger for highway users
- contrary to the Highway Code
- existing road network dangerous due to bends and narrowness – blind bend before to lower section of Bygrave Road is a challenge presently
- insufficient space for cars to pass horse riders (2m)
- contradicts the Disability Discrimination Act
- which recommends a pavement width of 1.2m
- 7.5T limit on this road, contrary to earlier advice
- precedent for other construction traffic to use road when other developments commence
- road changes will make it more dangerous
- Baldock had a bypass made to stop articulated or large lorries coming under the railway bridge or through our already very busy roads
- changes planned for this junction will cause even more delays and accidents
- at harvest time there are tractors, trailers, combines etc until gone midnight without articulated lorries as well, there isn't enough pull in places to allow cars to pass each other safely in parts

- the Highways Authority needs to cut back the overhanging vegetation on the south side more regularly - in 2023 it has not been carried out once
- alternative access road be made from the A505 or from the Newnham to Ashwell Road where the impact will be much lower
- inadequate survey work – frequency, days and times
- road has a weight limit sign of 7.5 tonnes which does not therefore allow articulated lorries on it contrary to Road Traffic Act/Highway code and liable for prosecution
- speed limits not adhered to
- survey data from other solar farm development irrelevant
- holding areas will not alleviate traffic hazards

- Independent reports needed to verify highways and noise impacts

- humidity be affected as the farm will certainly generate heat to local residents

- No cable route shown

- Air pollution

3.32.12 General supporting comments

3.32.13 The submissions in support of the application total 19 of which 17 were received from the applicant following a public consultation exercise. The comments are summarised as follows:

- There is a need to reduce the UK's GHG emissions is urgent. Government actions are woefully inadequate.
- The Ukraine war makes increasing our renewable generation even more urgent.
- Fossil fuel generation inappropriate response.
- Objectors do not suggest alternative sites.
- Commercial rooftops are unsuitable as they will not support the weight of solar panels.
- It is not an either/or - we need as much as possible.
- Vegetation, screening and topography reduces visual and heritage impacts.
- Emissions increase from loss of food production will be totally dwarfed by the effect of the low carbon electricity produced.
- Land surrounding the village has generally not been farmed in regenerative way. Margins to edge of fields have historically been narrow and wildlife has still visited the site. Rough ground will encourage some species to return to the land.
- Development is wildlife friendly and will improve biodiversity
- Minor impacts on footpaths and Arbury Banks

- Any increase in GHG emissions from food imports would be tiny compared with the reductions due to the solar farm.
- The value of the proposal is increased by the electricity storage proposed.
- More green energy is needed.
- Proposal is essential to help mitigate climate change and reach net zero targets
- Will help farm diversification

4.0 Planning Considerations

4.1 Site and Surroundings

4.1.1 The application site comprises a single agricultural (arable) field north and north-west of the settlement known as Bygrave and west of the Ashwell Road. It measures 53.6 hectares in area. The site is broadly rectangular in shape and extends at a maximum, circa 1050m from north to south and 590m from east to west. The south-eastern corner of the site is adjacent to residential properties. There is an existing 33KV underground electricity cable located within the site adjacent to the south-western boundary.

4.1.2 The site is bordered along the northern and western boundaries by a Public Right of Way - Bridleway Bygrave 013, which forms part of the important and historic Icknield Way and the Icknield Trail for cyclists. The northern boundary is adjacent to Cat Ditch a water way under the jurisdiction of the Beds and Ivel Drainage Board (IDB).

4.1.3 The site is outside of the settlement boundary and the south of the site abuts the Greenbelt. The wider area is rural in character with village of Ashwell located 2.5 miles north of Bygrave village. The A505 is located immediately east of the settlement.

4.1.4 The site is within the setting of listed buildings, Scheduled Monuments and is within an area of archaeological interest.

4.1.5 The application has been advertised as a major departure.

4.2 The Proposal

4.2.1 The proposal is for a photovoltaic (PV) solar array and ancillary development. This would consist of:

- Between 80,000 and 95,000 PV panels depending on the final selection/supplier and associated support frames set 0.8 metres from ground level and approximately 3m to top of panel;
- 12 Inverter cabins including transformers (19.6 sqm and 3m in height);
- 8MW of batteries in 14 battery storage containers (39sqm and 3m in height);

- 1 no. substation (18 square metres and a height of 3.5 metres);
 - 1 equipment storage container building (19.6 square metres and 3 metres in height);
 - Approximately 1km of new access track (between 3.6m and 4m wide using Type 1 aggregate)
 - 1.8 - 2.0m high wire mesh deer fencing to site perimeter with wildlife access points;
 - A gate 2.8m high and 6.2m wide;
 - 59 CCTV cameras atop 4m high posts;
 - Woodland and other mitigation planting;
 - Hedgerow planting (new and gapping up of existing hedgerow).
- 4.2.2 The solar array would generate up to 49GWh of electricity which it is claimed is enough to provide electricity for approximately 15,700 homes.
- 4.2.3 The application is supported by the following documents:
- Planning Application Drawings
 - Planning, Design and Access Statement and appendices
 - Agricultural Land Classification Assessment
 - Landscape and Visual Assessment (revised November 2022)
 - Solar Photovoltaic Glint and Glare Study
 - Cultural Heritage Assessment
 - Flood Risk Assessment and drainage Technical Note
 - Preliminary Ecological Appraisal
 - Biodiversity net gain Assessment
 - Transport Statement and preliminary Construction and Traffic Management Plan
 - Glint and Glare Assessment and appendices
 - Noise Assessment (submitted June 2023)
 - Transport Note (submitted June 2023)
- 4.2.4 The applicant indicates that the site would be decommissioned at the end of its 40-year operational life and restored to its existing arable agricultural use.
- 4.2.5 Regarding, the main elements of the proposed development, the solar panels would be mounted on a steel and aluminium frame positioned at an angle of about 30 degrees and facing south. The lowest edge of the panels would be 800mm above ground level to enable the area to be grazed by sheep. The panels would be arranged in rows and they would be up to 3m high.
- 4.2.6 Lighting units attached to the buildings above access doors activated by sensors are proposed. The development does not include any freestanding site wide lighting.
- 4.2.7 Landscaping proposals are illustrated indicatively and would comprise grassland within the perimeter fencing, suitable for sheep grazing, species rich grassland

outside the perimeter fencing, woodland planting along the western and northern boundary of the northern parcel of land, new hedgerows along Ashwell Road gapping up existing hedgerows and the management of existing hedgerows to a height of between 3 and 5 metres. All existing hedgerows would be retained. Native hedgerows would be planted along the highway boundaries of the Site.

- 4.2.8 Energy from the solar farm will connect to the National Grid substation east of Letchworth. For the avoidance of doubt, the connection from site to the grid does not form part of this application. It has been confirmed that the connection, once decided, will be provided by a statutory undertaker, UK Power Networks, as permitted development Class B (electricity undertakings) of Part 15, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 4.2.9 Following construction of the proposed development, access would be limited to routine maintenance operations and grazing of sheep.
- 4.2.10 The applicant indicates that construction would take about 36 weeks, including testing and commissioning.
- 4.2.11 The applicant proposes deliveries and noise generating activities within the following days and hours:
- Monday to Friday 08.00 to 18.00
 - Saturday 08.00 to 13.00
 - No deliveries on Sundays or Public Holidays
- 4.2.3 Herts CC Highways are recommending that HGV deliveries be restricted to between 9.30am and 2.30pm to avoid the peak periods of local traffic using the road network.
- 4.2.4 Construction access would be via a temporary and as yet unformed route off the Ashwell Road with the permanent maintenance access provided via the existing farm track along the northern boundary of the site.
- 4.2.5 Temporary construction compounds would be provided within the development site although these do not form part of the application proposals due to provisions within the GPDO which allows for these to be formed as permitted development. A condition of the provision of such compounds is the reinstatement and making good of the land following cessation of construction work.
- 4.2.6 The applicant has confirmed that the development will comprise of the following activities during the construction period -
- Site preparation marking out the panels and buildings on the site;
 - Erection of a security fence;
 - Insertion of the frames into the ground;

- Affixing panels to the mounting frames;
- Formation of trenching for the cable runs, to a depth of approximately 1m, and laying of the cables;
- Installation of the inverter and transformer cabinets;
- Connection all the cables up and backfilling the cable trenches;
- Planting of approved landscaping and mitigation and improvement works; and
- Construction of access route track from permeable materials as recommended in the Flood Risk Assessment and Surface Water Management Plan which accompanies the application.

4.3 Decommissioning

4.3.3 At the end of the 40-year life of the proposed Solar Farm it would be decommissioned, which 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.

4.4 Amendments

4.4.1 To address comments from the Environment Agency, Herts CC's Archaeological Advisor, Herts CC's Highways Unit and the Council's landscape consultant and to deal with other matters arising including the consideration of noise impacts the application was amended in December 2022 and June 2023 through the provision of the following documents –

- Revised Flood Risk Assessment received November 2022
- Revised LVA received November 2022
- Revised layout plan received November 2022
- Revised Transport Assessment and amended drawings received June 2023
- Supplementary Cultural Heritage geophysical survey work undertaken Spring 2023 by Community Archaeology Geophysics Group (CAGG) based at University College London
- Noise Assessment dated June 2023

4.4.2 Issues arising from the submission of these documents and drawings are considered in the following sections of this report.

4.5 Keys Issues

4.5.1 The key issues for consideration of this application for planning permission are:

- Climate Change and Renewable Energy
- Principle of development in the rural area
- Impact upon heritage assets

- Landscape and visual impacts
- Local highway network impacts
- Best and Most Versatile (BMV) agricultural land impacts
- Flood risk and drainage impacts
- Noise impacts
- Ecological and biodiversity impacts
- Fire risk impacts
- Other matters
- Planning Benefits

Climate Change and Renewable Energy

- 4.5.2 Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.5.3 Currently the Development Plan comprises the Local Plan 2011-2031 adopted in November last year.
- 4.5.4 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.
- 4.5.5 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.
- 4.5.6 **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.
- 4.5.7 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 natural gas for heating.
- 4.5.8 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.

- 4.5.9 Support for renewable energy is set out in **Section 14 of the NPPF**.
- 4.5.10 Paragraph 152 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.”*
- 4.5.11 Paragraph 155 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”*.
- 4.5.12 In determining planning applications for renewable and low carbon development, Paragraph 158 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.”*
- 4.5.13 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.
- 4.5.14 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.

- 4.5.15 The development has a capacity of 40 Mw, which would generate a significant amount of electricity from a renewable resource. This would provide for a reduction of approximately 20,000 cubic tonnes of CO2 emissions and meet the energy needs of approximately 15,700 homes through renewable energy. Government data shows that the proposed scheme would more than double the installed renewable capacity in the District. This is a very substantial benefit that attracts substantial weight.
- 4.5.16 Since the Climate Change Act 2008, several national initiatives have been introduced to help meet targets.
- 4.5.17 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.
- 4.5.18 The **Clean Growth Strategy 2017** outlines the plan to grow the national income while cutting greenhouse emissions.
- 4.5.19 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.
- 4.5.20 The **Clean Air Strategy 2019** demonstrates how the national government will tackle all sources of air pollution and boost the economy.
- 4.5.21 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 2021 to 2026. 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.
- 4.5.22 The National Grid Electricity System Operator has published an update on **Future Energy Scenarios (FES)** document.

- 4.5.23 This report sets out four possible scenarios based around two drivers: speed of decarbonisation and the level of societal change. The four scenarios are:
- Falling short
 - Consumer transformation
 - System transformation
 - Leading the way
- 4.5.24 All four scenarios 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.
- 4.5.25 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.
- 4.5.26 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.
- 4.5.27 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.
- 4.5.28 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.
- 4.5.29 Renewable energy generation is just one means of reducing carbon emissions, but it is an important one given the predicted rise in electricity consumption.
- 4.5.30 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.

- 4.5.31 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.”*
- 4.5.32 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.
- 4.5.33 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.

Existing renewable energy developments in North Hertfordshire

- 4.5.34 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.
- 4.5.35 Currently in North Hertfordshire there are only two approved small 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).
- 4.5.36 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).
- 4.5.37 Members resolved to approve an application for the construction of a 49.995MW solar farm at Land to the North and East of Great Wymondley in November 2022 (Application ref 21/03380/FP). As the site was in the Green Belt, the Council were obliged to notify the Secretary of State of their intention to approve the proposal. This application was 'called in' by the Secretary of State in May 2023. The application will now be the subject of a public inquiry beginning 12th September 2023. The decision will be made by the Secretary of State.

4.5.38 There are currently no wind farms, operational or proposed, within the district.

Principle of development

4.5.39 As part of the consideration process by officers, a Screening Opinion in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) was undertaken in May 2021. This concluded that any environmental effects that are likely to occur as a result of the proposed development could be adequately addressed by specific studies and reports accompanying the current and any subsequent future applications. An Environmental Impact Assessment was not therefore required in this instance.

4.5.40 The NPPF paragraph 7 confirms that the purpose of the planning system is to achieve sustainable development. Paragraph 8 goes onto clarify that there are three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): economic, social and environmental.

4.5.41 Paragraph 11c) of the NPPF advises that for decision taking, approving development proposal that accord with an up-to-date development plan without delay. Paragraph 12 confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making.

4.5.42 Local Plan Policy SP1: Sustainable development in North Hertfordshire supports the principles of sustainable development within the district. Policy SP5 – Countryside and Green supports the principles of the Green Belt and recognises the intrinsic value of the countryside. It confirms that a general policy of restraint in Rural Areas beyond the Green Belt through the application of our detailed policies will be applied. Policy CGB1 sets out the broad typologies of development considered acceptable within the Rural Area Beyond the Green Belt. Policy SP9 Design and Sustainability seeks to support new development where it is well designed and located and responds positively to its local context.

4.5.43 The Council has not currently identified any suitable sites for renewable energy development as recommended by the NPPF. The site comprises arable fields bounded by intermittent hedgerows. The development would cover a large area and would deliver very many rows of solar panels, numerous inverter cabins, and other buildings in the form of containers, stock/deer fencing, an access track and pole mounted 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 inevitably materially change the character and appearance of the site.

- 4.5.44 Although the site abuts the Green Belt in the south, it lies outside the Green Belt. This is a spatial designation and therefore no assessment on the impact on the Green Belt is necessary.
- 4.5.45 In relation to Baldock, Bygrave and Clothall Neighbourhood Plan policy V1 and Local Plan policies SP5, CGB1 and SP9 the development would be contrary to this insofar as the development is in an area of restraint and does not meet any exceptions. The harm arising from the development is considered in more detail in the *Landscape and Visual* section of this report. In addition, as set out in both the NPPF and Local Plan Policy SP1, it is necessary to consider the wider the social, economic, and environmental impacts to understand whether the proposal is sustainable development. These matters are considered in the following parts of this report.

Impact upon heritage assets

- 4.5.46 There are no listed buildings or other designated heritage assets within the application site. There are several designated heritage assets in the vicinity. The area is of archaeological interest and this matter is addressed separately below.
- 4.5.47 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. The LBCA Act requires special attention to be made to the desirability of preserving or enhancing the character or appearance of the conservation area. There is no reference to their setting.
- 4.5.48 Paragraph 194 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 195 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.
- 4.5.49 Local Plan (LP) 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 paragraph 202 of the NPPF 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.

4.5.50 The application is accompanied by a Cultural Heritage Baseline and Impact Assessment (CHIA) by Abrams Archaeology dated August 2021. This considers the impact of the proposed development upon the setting of the designated heritage assets. In relation to the majority of assets, the CHIA identifies limited impact on setting of assets due to the absence of intervisibility between these and the application site due to landscaping, topography and intervening built environment. However, the setting of the following assets was considered to be affected –

- scheduled monument known as 'Arbury Banks Iron Age hillfort'
- schedule monument known as 'Bowl barrow 1km south-west of Heath Farm: part of the round barrow cemetery on Deadman's Hill
- Grade II* Listed church of St Margaret of Antioch in Bygrave
- Grade II Newnham Hall
- Grade II barn on road in front of Newnham Hall
- Newnham Conservation Area

4.5.51 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."*

4.5.52 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.

4.5.53 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.

- 4.5.54 HE are a statutory consultee on proposals that affect scheduled monuments and Grade II* listed buildings. HE confirmed that the primary considerations related to the potential impact on the setting of –
- the scheduled monument known as ‘Arbury Banks Iron Age hillfort’
 - the Grade II* Listed Church of St Margaret of Antioch, Bygrave
 - the Grade II* Listed Church of St Vincent, Newnham
- 4.5.55 Historic England concluded that the proposal will result in a slight change to the setting of the scheduled monument known as ‘Arbury Banks Iron Age hillfort’. This is due to the hillfort drawing a considerable amount of significance from its landscape setting. However, the harm would be towards the lower end of less than substantial. In relation to the Grade II* Listed ‘Church of St Margaret of Antioch’ in Bygrave or the Grade II* Listed ‘Church of St Vincent’ in Newnham no harm is considered to occur.
- 4.5.56 In relation to other heritage assets, the CHIA considers eight separately listed buildings in Bygrave and Newnham. Of those considered the setting of the Grade II listed buildings at Newnham Hall and the barn on the road fronting Newnham Hall - and the Newnham conservation area were considered to be potentially affected.
- 4.5.57 The Council’s conservation officer was also consulted on the proposals in relation to the impact on heritage assets outside HE remit. He acknowledges that in relation to the setting of other heritage assets (Grade II listed buildings and Newnham conservation area), these are some distance from the application site. For this reason, no harm is considered to occur to the significance of the setting of these assets. In relation to the schedule monuments and Grade II* listed buildings, he sees no reason to hold a contrary view to that expressed by Historic England. Consequently, and solely based on a Heritage Impact Assessment, he concludes that the proposal would occasion less than substantial harm to the wider setting of the Scheduled Monument (SM) at Arbury Banks Iron Age hillfort and that this would be very much towards the lower end of the harm continuum. In light of this, he raises no objection to this development on heritage grounds on the basis that the aims of Section 16 of the NPPF as well as Local Plan Policy HE1 can be met.
- 4.5.58 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 biodiversity.
- 4.5.59 Officers consider that the proposed development would result in less than substantial harm to the significance of the Arbury Banks scheduled monument.

This would be towards the lower end of the spectrum. No harm is considered to occur to the setting of other designated heritage assets. The harm is not irreversible because it is proposed that the development would be decommissioned after 40 years with the ability to restore the land to full agricultural use. The *less than substantial harm* would persist for a significant amount of time.

Conclusion on heritage impacts

- 4.5.60 Paragraph 202 of the NPPF and LP Policy HE1 require *less than substantial harm* to the significance of heritage assets to be weighed against the public benefits of the proposal. This harm should be afforded great weight. 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.

Archaeology

- 4.5.61 The CHIA also addresses the effect upon archaeology. 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.
- 4.5.62 Paragraph 203 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.
- 4.5.63 The CHIA 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 assessment involved a number of stages – the production of an archaeological baseline report informed by the Historic Environment Record (HER) Data and analysis of other published and available material, site visits and also a geophysical survey.
- 4.5.64 Of the seven periods, the most sensitive that are likely to contain remains are the Later Prehistoric and Roman periods. The Later Prehistoric period identified their being *Medium to High* potential for archaeological remains. Where present the remains are likely to comprise trackways/droeways and/or enclosures and potentially one barrow within the site. The Roman period identified their being

Medium potential for archaeological remains. Where they do remain, they are most likely to be in the form of field systems and/or trackways for moving around the well-settled landscape. Such remains, are likely to be of *low-medium* value (sensitivity). In relation to the Medieval periods, the potential for archaeological remains is considered to be *Medium*. The field systems visible on maps and in the landscape today are, in some cases, likely to be field systems of Medieval date. The types of remains most likely to exist are agricultural in character and to comprise boundaries and trackways used to move around the area. Such remains, are likely to be of *low* value.

- 4.5.65 HCC's Archaeology Advisor was originally consulted on this application. This initial response confirmed the importance of the site due it being located within two Areas of Archaeological Significance, number 48 and 275, as identified in the Local Plan and also includes a series of cropmarks. It was noted that the immediate surrounding environment is dense with prehistoric activity, including at least five ring ditches, a polygonal enclosure, trackways, four pillow mounds and single, double and triple linears. The evidence of such numerous features in close proximity suggests a well-established and important prehistoric landscape. Whilst the work to date has helped to quantify the archaeological potential, it was likely further, as yet unidentified heritage assets of archaeological interest exist on the site. To be able to fully assess the significance of this potential and allow for effective historic environment advice and decision making, more work was recommended. An archaeological assessment of the site (trial trenching) in advance of a decision on planning consent was recommended to better understand the impact of the proposed development upon the potential remains.
- 4.5.66 Subsequent to this, discussions between officers, Herts CC and the applicant occurred to explore whether there were alternatives to carrying out pre-determination trial trenching. This resulted in the Community Archaeology Geophysics Group (CAGG) based at University College London being approached by the Herts CC Archaeology Unit to undertake a research led project in the form of comparative geophysical survey work. The purpose of this project was to test and compare the results of the original geophysical survey provided by the applicant to assist Herts CC Archaeological Advisor in providing accurate historic environment advice.
- 4.5.67 The results of these additional surveys (including magnetometry, earth resistance and magnetic susceptibility surveys) revealed that the two main archaeological features detected by CAGG - the road and the round barrow - had already been detected by the applicant's survey work. A small number of 'possible' features were highlighted. In general, these had relatively weak magnetic signatures and did not appear to be ferrous. None, however, fitted into a recognisable pattern or were in dense clusters which might indicate an archaeological site. Given the low levels of magnetism seen in the soils, it was strongly suspected that any flint foundations would remain undetected. In conclusion, the additional geophysical survey work did not particularly support the call for higher density surveys, although this was more to do with this site than the arguments in general.

4.5.68 Following re-consultation, HCC's Archaeology Advisor commented that the combined results of the geophysical survey work undertaken identified a number of potentially significant below ground archaeological features including three likely prehistoric ring ditches, a number of linears and a trackway, which extends the full length of the site. As previously mentioned, the site itself lies within two Areas of Archaeological Significance as identified in the Local Plan and includes a series of cropmarks. The immediate surrounding environment is dense with prehistoric activity, including at least five ring ditches, a polygonal enclosure, trackways, four pillow mounds and single, double and triple linears. The evidence of such numerous features in close proximity suggests a well-established and important prehistoric landscape. Given, the foregoing, HCC's Archaeological Advisor has amended the original advice confirming that whilst trial trenching is still necessary, this no longer needs to be undertaken prior to the determination of the application. No objection is therefore raised subject to an appropriately worded conditions to deal with this matter.

Conclusions on archaeological impacts

4.5.69 The proposal is considered to be compliant with local plan policy HE4. Officers agree that the impact of the proposed development on archaeology can be adequately addressed by planning condition and therefore subject to the recommended conditions, this matter is neutral in the planning balance.

Landscape and Visual Impacts

4.5.70 The proposal comprises a large-scale solar farm. Given its nature and scale, there will inevitably be some 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 open countryside. For the avoidance of doubt, it does not include any nationally designated protected land such as Areas of Outstanding Natural Beauty (AONB).

Landscape Character

4.5.71 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. The site does not form part of any designated landscape.

4.5.72 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 is of a level that is more than just open countryside. Residents have confirmed that they value the countryside within and around the application site. However, there is nothing

in the comments that would result in elevating the application site to that of an NPPF valued landscape.

- 4.5.73 Local Plan 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

- 4.5.74 Across England 159 National Character Areas (NCA) have been identified and the application site is located within NCA 87: East Anglian Chalk and is described as comprising '*a visually simple and uninterrupted landscape of smooth, rolling chalkland hills with large regular field enclosed by hawthorn hedges, with few trees and expansive views to the north*'. On a regional level there is an East of England Landscape Framework and assessment has also been undertaken at a County level.
- 4.5.75 The Council published the North Herts Landscape Study as part of its Local Development Framework in 2011. This is based upon the Hertfordshire Landscape Character Assessment (LCA) and subsequent sensitivity and capacity work. The application site is within the LCA 224 North Baldock Chalk Uplands. Key characteristics comprise Rolling chalk landform, small rounded chalk knolls, large rectilinear fields in arable, large to medium regular geometric plantations and nucleated settlements. Distinctive features within this LCA are identified as being - A1(M), A505, railway, telecommunications masts (Lodge Farm), Lower Icknield Way, abuts suburban edge of Baldock and pylons crossing the western edge. For the avoidance of doubt, the site does not fall within any statutory or national designated landscape area such as Area of Outstanding Natural Beauty (AONB) or National Park.
- 4.5.76 In terms of visual and sensory perception the Study suggests that it comprises a large-scale tranquil agricultural land, the absence of boundary enclosures and some woodlands. The study notes that the LCA identifies a settled landscape, dating back to prehistoric times, with a wealth of archaeology, mostly medieval settlements and mostly large scale, modern, agricultural and arable fields not rare with typical pressures associated with urban fringes. The landscape character sensitivity is identified as low with overall medium landscape value. The Study considers that the local landscape is of *medium* value. It goes on to say that the local landscape has a medium susceptibility to the type of development proposed. Overall, it is assessed that the local landscape has a medium sensitivity to the type of solar farm development proposed.

The submitted Landscape and Visual Assessment (LVA)

- 4.5.77 The application is accompanied by a LVA by Briarwood Landscape Architecture (a Chartered Member of the Landscape Institute) which identifies the landscape and visual effects of the proposed development. In applying a standard methodology and professional judgement, the LVA sets out conclusions of the impact of the proposal.
- 4.5.78 The LVA 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).
- 4.5.79 The LVA undertakes an assessment of visual and landscape effects during the construction phase, and operational phase. It proposes mitigation measures and these are set out in the design of the proposed development.
- 4.5.80 The LVIA identifies the sensitivity and residual effects as follows -
- NCA designation - sensitivity is considered to be *Low* with their being *Negligible Adverse* effect in year 1 and year 10 and beyond
 - LCA designation - concludes that there will be *Minor Adverse* effects in year 1 and after year 10
 - Local area (under 1km) - the sensitivity is considered to be *Medium* with *Minor Adverse* effects in years 1 and 10.
- 4.5.81 The LVA identifies twelve visual receptors (PRoW and roads). The majority of these are considered to be of *high* sensitivity. Of these, nine were identified as having either *moderate or major adverse* effects in year 1. In year 10 and beyond, five of the viewpoints were considered to have *moderate adverse* effects. The majority of the adverse visual effects are from within 1km of the site. The LVA finds that the visual effects would be *significant* in the short term, but views of the site would be minimised by topography and new screening/planting. In this context, it says that the proposed development would have no greater than *minor adverse* effect on views in the wider study area, which would not be significant. The LVA suggests that the *medium and long-term* landscape and visual effects of the proposed development would *not be significant*, with long term benefits from the proposed mitigation following decommissioning of the solar farm.
- 4.5.82 Other key LVA conclusions –
- The prevailing intensive rural and settled agricultural character and predominantly rural landscape would remain
 - The development would not appreciably harm or physically the distinctive existing landscape elements and features associated with the site.
 - The new planting would enhance the landscape in the long term and mitigate PRoW impacts
 - Biodiversity improvements across the site would allow for a continue agricultural use of the land and result in better landscape management

- The proposed solar farm would add some limited complexity to the character of the local landscape but would not appear overtly prominent or dominant.
- The key characteristics of the local landscape would not be changed and would prevail.
- The higher level of visual effects would generally be experienced from closer proximity to the site boundary due to topography and screening.
- it is considered that the proposed development would have a limited effect and harm on the visual amenity of the wider landscape beyond the site boundary

First review of the LVA (August 2022)

4.5.83 The Council commissioned consultants (The Landscape Partnership) to review the application and the submitted LVA.

4.5.84 The consultants agree that the sensitivity of the arable land is *Medium* and would experience a *High* magnitude of change and a *Major* effect. It is considered that the Site is of *Medium* landscape value, and ordinary large arable landscape that does not fall within the definition of a '*valued landscape*' for the purposes of the NPPF. The sensitivity of the site to solar development is on balance considered to be *Medium*. This is due to -

- the large scale arable landscape;
- the relatively low height of the solar panels
- the uniform treatment across a single arable field
- the existing enclosure and the lack of formal designations.

4.5.85 The review confirms that the LVA has largely been prepared in an appropriate and clear manner providing a proportionate assessment. The methodology submitted is broadly in accordance with recognised standards. The effects that are of the greatest importance are those noted as *Major - or Major/Moderate*.

4.5.86 Key conclusions of the review are –

- The baseline assessment of landscape character and visual receptors is broadly sufficient except for the omission of reference to sections of the NCA 224 North Baldock Chalk Uplands.
- Although there is a lack of existing intrusive features in the area, the open undulating character and that the proposal would be visible from locations within 1km of the site, the sensitivity of the site to solar development is on balance considered to be *Medium* due to the large-scale arable landscape, the relatively low height of the solar panels, the uniform treatment across a single arable field, the existing enclosure and the lack of designations.
- It is agreed that the effect of the land use would be *Major* but disagree that it would be beneficial as field would be seeded to form grassland. The LVA omits to consider the effect on the land use as result of the introduction of

the solar panels over the majority site together with the associated infrastructure. While these may be reversible elements, they would still be present for 40 years.

- the magnitude of change to the local landscape (within 1km) of the site would not be Low but Medium and a resultant Moderate Adverse effect as opposed to Minor Adverse in the LVA.
- In relation to larger scale units the effect on LCA 224 North Baldock Chalk Uplands would be greater at *Moderate Adverse* compared to Minor Adverse due to its central location within LCA 224 and as it would represent a new distinctive feature.
- It is agreed that the majority of the *Adverse* visual effects are from within 1km.
- Disagree with the LVA where it concludes that there will be no *Major* adverse effects at Year ten.
- The proposed mitigation is not considered sufficient to reduce the *Major* effects to *Neutral*. There would still be a *Major* adverse effects on receptors on PRoW There is also likely to be a *Major/Moderate* adverse effect on the residential property located north east of the site - The Knoll – although this is unlikely to result in the property being an ‘unattractive place to live’.
- More extensive mitigation is required to help offset some of the greater effects at close quarters as set out in Section 5.6 above. These improvements would result in a small reduction on the solar panel area.
- Overall, the site has a moderate capacity to accommodate a solar farm of the proposed scale. There would be some residual adverse effects after Year 10 on character and visual receptors.

Amendments to the LVA and mitigation scheme (November 2022)

4.5.87 The submitted Landscape and Visual Assessment (LVA) was updated in November 2022 following the review by the Council’s consultant (TLP). Also, some elements of the scheme layout were at the same time updated together with changes to the proposed mitigation measures. The applicant’s consultant confirms that not all comments made by the Council’s consultant are accepted and that there remains differences of professional opinion. The changes to the LVA comprise -

- Baseline Context - Updated to refer to the revised version of Landscape Character Area (LCA) 224 (North Baldock Chalk Uplands).
- Proposed Development and Mitigation Measures - updated to provide additional mitigation measures which comprise – (i) A new tree copse has been added to the north-west corner of the site which separates the retained public right of way from the proposed security fence and solar panels and (ii) Additional trees are proposed near the site entrance in the north-eastern corner.
- The applicant has declined to include a new hedgerow along the northern boundary of the site to provide screening from the adjoining bridleway on the grounds that the LCA guidelines suggest that mitigation planting should not necessarily fully enclose development.” The updated LVA has been amended to address this issue stating that whilst “some solar panels would

be visible from the right of way... the height and angle of the closest panels would help to screen views of much of the proposed development.” The LVA provides additional commentary over the operational effects of the proposal which will “ultimately be temporary, given the finite 40-year operation period, and the fact that the proposed development is reversible.”

- Effect on Landscape Elements and Features – references now made to “season change”, loss of arable production and gapping up of hedgerows along Ashwell Road bringing biodiversity improvements.
- Effect on Landscape Character - updated to include commentary on the magnitude of change and the scale of effect on the local character together with the sensitivity and magnitude of change to both NCA and LCA. Mitigation measures are considered to make a positive contribution to both the site and the wider landscape.
- Visual Assessment - the assessment for each of the 12 selected viewpoints has been amended to take account of comments and additional mitigation measures. It acknowledges that there continues to be differences in professional judgment between the two consultants as to scale and/or nature of the other 6 viewpoints.

Second review of the LVA (December 2022)

- 4.5.88 Following the changes to the LVA and the additional mitigation proposals, the Council's consultant was asked to undertake a further review on behalf of the Council. The additional mitigations measures are now included in the proposals for the site as shown on Drawings UKF092/09 and 10 Version 5 including planting to the north-east, north-west, south-east and confirmation of gapping up of the hedgerow along Ashwell Road to the east. These changes are all welcome.
- 4.5.89 The omission of the recommended hedge to the northern boundary south of Bygrave 013 that has not yet been included. This is despite the fact there would be clear open views along the bridleway (for walkers and equestrians) into the site and solar farm with no mitigation for the high sensitivity receptors. There is no clear reasoning why this is not included. A hedge in this location would only need to occupy a width of c 2-3m, would not shade the panels and would provide habitat continuity. A suitable hedge would serve to provide mitigation on the northern boundary in a similar manner to that provided for receptors using Bygrave 013 along the western boundary. TLP still recommend this additional hedge to the north feature is included in the proposals to ensure the mitigation are acceptable.
- 4.5.90 The landscape proposals as outlined on Drawings UKF092/09 and 10 Version 5 show the principles but are not sufficiently detailed. If the application is approved Conditions should be included to be approved provide prior to commencement of development for:
- A detailed landscape scheme providing information of: locations and dimensions, species, densities, sizes, mixes and protection and for new planting areas.
 - A timescale for implementation and replacement of any failures.

- A Landscape Environmental Management Plan (covering a 40 year period)
- There remain some matters of difference between the TLP and the LVA relating to the level and nature of effect on landscape character and 4 of the 12 representative viewpoints. TLP consider some effects would be relatively greater and adverse rather than neutral in nature. These differences between the LVA and TLP relate to are matters of professional judgment.

4.5.91 The Council's consultant reaffirms its original conclusion which stated that the site has a moderate capacity to accommodate a solar farm of the proposed scale. There would be some residual adverse effects after Year 10 on character and visual receptors which should be set against the benefits of the proposals in the planning balance. Additional mitigation measures comprising a new hedge along the northern boundary is recommended. This could be conditioned in the event permission were to be granted.

Conclusions on landscape and visual impacts

4.5.92 Officers consider that the proposal would inevitably result in some adverse landscape and visual impacts. However, through a combination of topography, existing and proposed screening, and the provision of landscaping, the adverse effects would generally be localised within 1km of the site. The proposed mitigation landscaping would be beneficial to the landscape and biodiversity. The 40-year lifetime of the scheme is a significant period. However, the harm would diminish over time as new landscaping matures and could provide benefits beyond the lifetime of the solar farm. Following decommissioning of the solar farm there would be no residual adverse landscape effects. There would be conflict with Baldock, Bygrave and Clothall Neighbourhood Plan policy V1 and Local Plan Policy NE2, the latter of which seeks to avoid unacceptable harm to landscape character and appearance. Overall, it is considered that the initial visual and landscape harm would diminish over the 40 year period and should be afforded moderate weight at the lower end in the planning balance.

Impact upon the local highway network

4.5.93 Presently, there is one ungated access serving the site and wider agricultural holding and this is located off the Ashwell Road and comprises a track that runs along the northern boundary of the site. Ashwell Road links the village of Ashwell to the north with Baldock in the south-west. At the section nearest to Baldock, the road is known as Bygrave Road.

4.5.94 Ashwell Road is a unnumbered classified single carriageway two-way road that is subject to the national speed limit of 60mph

4.5.95 There is an existing agricultural land access along the northern boundary of the site. Originally it was proposed that this would provide access during both the construction and operational phases of the development. However, following discussions between the applicant and Herts CC Highways (HCCH) the revised

proposal means that this existing access would provide access to the site for maintenance purposes only. The applicant now proposes that a new temporary vehicular access is created along the Ashwell Road for the construction period. A plan illustrating the approximate location of this access is provided at Appendix A.

- 4.5.96 A Transport Statement and provisional Construction Traffic Management Plan (TS and CTMP) was submitted with the application which identified the anticipated transportation and highways matters associated with the proposed development. It estimates the traffic generation of the construction phase only, which would take about 30-35 weeks as once operational trips to the site would be limited to the occasional light goods vehicle for maintenance and would be very minor in nature.
- 4.5.97 The TS and provisional CTMP confirms that during the construction phase there would be on average between 4 and 5 deliveries per day, assuming a 5.5 day working week. Frequency of deliveries will vary, so during the peak delivery period, an upper estimate of 15 deliveries per day is envisaged equating to 30 vehicle trips per day. Vehicles would comprise of a mixture of low loader, rigid HGVs, pickups, flatbed, waste trucks as well as articulated vehicles.
- 4.5.98 Construction vehicles would approach the site via the A507 from the A1/M1 northbound approximately 2.2km southwest of the site. The route from the A507 would see vehicles turn left into Bygrave Road and continue straight on to Ashwell Road before reaching the temporary site access. The same route would be used for vehicles leaving the site and returning to the A507. A map of the route is provided at Appendix B.
- 4.5.99 A temporary construction compound is proposed towards the southern end of the application site. The compound will be used for the parking and turning of construction vehicles including cars and vans. It will also be used to store some construction materials. It should be noted that the compound does not form part of the planning application as permitted development rights exist for such areas to be created and used in connection with a permitted development site (*Schedule 2, Part 4 - Temporary buildings and uses Class A – temporary buildings and structures*). Notwithstanding this, in the event permission were to be granted a more detailed Construction Traffic Management Plan (CTMP) can be required by planning condition that identifies, manages, and mitigates against the impacts of construction related traffic.
- 4.5.100 As part of the initial response (April 2022) the HCCH confirmed that although it was generally satisfied that the completed scheme will not have an adverse effect on the public highway, there were serious concerns regarding the highways impacts during the construction of the scheme including the use of the proposed access by HGV traffic. Given that the construction arrangements would be key to the acceptability of the scheme, the highway authority recommended that these issues be dealt with prior to determination. Confirmation was also sought on issues relating to glint and glare upon local highway users.

4.5.101 The applicant's highways consultants – Apex Transport Planning - entered into discussions with the HCCH to identify specific shortcomings and areas that need to be addressed. HCCH made clear during discussions that a thorough assessment of the construction traffic route to include surveys to ascertain carriageway widths and how large HGVs can pass one another during the construction period was needed.

4.5.102 In June 2023 the applicant submitted additional information including revised plans and an addendum to the Transport Assessment. These were informed by additional surveys which have been verified by HCCH. The summary of revisions comprise –

- limiting the HGV movements to 2 trips (4 movements) a day
- limiting the hours that HGVs can use the route between the hours of 9.30am and 2.30pm
- the creation of a temporary vehicular access to the site for construction traffic south of the existing access with the provision of solar powered bollards
- confirmation that no part of the PROW within the site will be used as part of the access track for construction vehicles;

4.5.103 The following additional measures would also be undertaken/clarified –

- Additional road safety analysis
- Provision of additional signage such as 'pedestrians in road' along Ashwell Road
- HGV holding areas which enable HGVs to stop, call ahead and check all is clear, before proceeding
- Regular monitoring of the full route, from the junction with North Road up to the site access.
- Consideration of grass verges being damaged in places, debris being carried out onto the highway, or other highway damage
- Road cleaning along the route if necessary
- Minor road widening / passing places to be considered

4.5.104 Temporary alterations to the junction of North Road and Bygrave Road to facilitate the HGV movements during the construction phase are also proposed. It should be noted that these are outside of the application site within the public highway and do not form part of the material considerations on this proposal. These matters will be dealt with under the Highways Act under a S278 agreement. Concerns and objections raised by third parties on these temporary alterations to the junction have been passed to HCCH who have considered these as part of their latest consultation response.

4.5.105 HCCH provided an updated consultation response in August 2023. An extract of their response is set out below –

Since our last consultation response, the applicant has been in detailed discussions with the Highway Authority. The Highway Authority acknowledges the concerns raised by some local residents, and indeed shared some of these concerns when the application was first submitted. However, over the course of the past few months, the detailed discussions with the applicant have generally been positive and reached a point where the mitigation and restrictive measures now to be put in place throughout the duration of construction will suitably address the issues. Our Network Management team and Safety team have been involved throughout these discussions. The key details of these discussions is outlined below, although it should be stressed that further details of some aspects still needs to be provided by the applicant through a revised Construction Traffic Management Plan, to be secured by condition, as recommended above.

CONSTRUCTION ROUTE ASSESSMENT:

Following our last consultation response which recommended refusal, the Highway Authority highlighted to the applicant that much of their work looking at the suitability of Ashwell Road as a construction route was based on a desktop review. For example, vehicle tracking diagrams had been overlaid onto somewhat crude aerial imagery. As such, the Highway Authority made clear to the applicant that if they continued to propose this route then detailed site visits are needed, with accurate 'on-the-ground' measurements at regular intervals, cross-referenced with OS mapping lines, pictures, and written descriptions. In short, a robust assessment showing likely impacts on all highway users is needed, with any necessary mitigation, including a clear overview of proposed daily levels. A Transport Note (TN) was then submitted in February 2023 in response to this. Within this, the applicant outlined traffic count surveys that they had undertaken over a 9 day period in January 2023 (17/1-26/1). This showed total average weekday flow along Ashwell Road is 1049 vehicles. Of these, an average of 46 HGV movements were recorded. Average speeds recorded are in the region of 36-37mph, but 85th percentile speeds are in the region of 44-46mph, suggesting a higher standard deviation (i.e. greater variance in speed distribution). The raw speed survey supports this observation. Peak HGV flow is observed between 8-9am at 11 movements, and this represents 1 such vehicle every 5 minutes. Separate turning count surveys were undertaken at four locations where public right of way routes join Ashwell Road, as documented in section 2.3 of the TN. This showed overall relatively low levels of pedestrian movements from these right of ways to/from Ashwell Road, walking along short sections, however it should be acknowledged that pedestrian levels are likely to increase in the summer months. The TN then splits up the Bygrave Road / Ashwell Road route into four sections and undertakes detailed tracking assessments based on measured road widths. This shows that whilst there are constrained sections of highway meaning it would be tight for an articulated lorry and a car to pass by one another, these constrained sections have good forward visibility from sections of highway which are wide enough to accommodate such

movements. As such, on the basis of the observed speeds, drivers of vehicles have sufficient forward views to ensure one of them holds back to allow the other to pass, in order to avoid passing at these typically short sections of more constrained carriageway widths. The one section where the applicant did propose carriageway widening due to a narrowing on a bend was on immediate approach to the proposed construction access. However, later discussions have now seen the applicant agree to move the construction access point further south, thereby avoiding the need for this particular widening work. Following submission and review of this TN, the Highway Authority then requested further information from the applicant and we undertook our own in-depth review of all accidents along the proposed construction route since records began in the early 1980s, i.e. a 40 year period (the standard approach is a 5 year review). This showed that there have been several accidents as a result of drugs, alcohol, falling asleep, etc. This is obvious human fault, with no highway design cause. Similarly, there are several recorded accidents over this 40 year period arising from clear driver error (e.g. a driver pulling out into the path of an oncoming vehicle). Again, this does not suggest an intrinsic highway design issue as a cause. There are a small number of recorded accidents over this 40 year period along the route involving pedestrians and cyclists, but no obvious pattern to them and they have been infrequent. Notably, there has been no pedestrian/cyclist accidents along this route since 2001. The only section along which the accident data might suggest more of trend is around the two tighter bends along Ashwell Road close to Wedon Way. There have been a number around this point where inappropriate speed was flagged in the associated police accident report. Whilst accidents arising from speeding is still essentially driver error, the historic accident data trend here means it is reasonable to expect the applicant to examine this specific section of the route in more detail, and potentially propose additional measures such as warning signage. The applicant was seeking around 4 articulated lorry visits per day, but we have made clear that an absolute maximum of 2 articulated lorry visits per day is permissible (i.e. a total of 4 two-way movements per day). This will reduce the incidence of other highway users meeting such a vehicle along this route. In addition, all HGVs of whatever size must only use this route between 9:30am and 2:30pm, to avoid peak hours, avoid school opening and closing times, and avoid the existing/observed Ashwell Road HGV peak times.

NORTH ROAD / BYGRAVE ROAD JUNCTION:

Turning to the proposed widening of the North Road / Bygrave Road junction, our Safety team has not identified significant initial concerns, but do observe the following with the applicant's plan:

- i) Care will be needed in moving the refuge island in the bellmouth closer to the main carriageway, as the visibility to the right may be partly obstructed if the keep left bollard is poorly located.
- ii) Visibility to and from the junction may be degraded by new vegetation growth, in particular, overhanging vegetation to the south along North Road / the southern visibility splay. In addition, overhanging vegetation on the downward slope of Bygrave Road when approaching North Road is notable. This new

growth should be cut back more frequently, with larger vehicles being present and turning at the junction, since they take longer to complete such manoeuvres. The concerns raised by some third parties about this proposed change are noted, however, it should be stressed that the new design will be in place for a temporary period of less than 12 months to facilitate a development which seeks to introduce renewable energy to tackle the urgent climate crisis. Clearly this in itself would not make an inappropriate design acceptable, but pragmatically we are satisfied that a short term small reduction in footway width does not meet the adverse safety or 'severe' tests of paragraph 111 of the NPPF. Crucially, the relocated central refuge island will be 1.5 metres in width, which meets the acceptable limit as outlined in our Roads in Herts guidance. The current refuge island is 1.6 metres in width, and the temporary reduction by 10cm is not considered severe. The pedestrian crossing distance to the north of this over the bellmouth will be 8.5m, and to the south 7m. These are not unreasonable crossing distances for a short term change. It should also be noted that by moving the the crossing point slightly closer to the junction, the level of visibility for a pedestrian about to cross from the north to the south is improved compared to the current situation. The level of visibility for a pedestrian about to cross from the south to the north will remain largely unchanged as shown on the plan, but recognising the vehicle movements will increase through this access during construction it is justified to ask the applicant to examine this in more detail. In practice this likely means cutting back of vegetation along the southern side of Bygrave Road on approach to the junction. This vegetation is all within public highway land and so cutting back can be secured. We would, however, not wish to see mature trees along here cut significantly back. In addition it may be justified to request the stationing of banksmen at this junction during the most intensive periods of construction activity to help aid people crossing this junction. Further consideration of this is covered within the wording of condition 1 above. All changes to the public highway, including to the North Road / Bygrave Road junction, will need to go through the s278 process and a further stage 2 road safety audit – in good time, and work completed to our satisfaction before commencement of the development. In terms of reinstating the junction after construction, we note that the bellmouth alterations would remove the grass verge separating the carriageway from the narrow footway at the junction. There may instead be an opportunity to widen the footway permanently by providing a simple low retaining structure (such as kerb flags on edge), to retain the base of the bank behind the footway.

CONSTRUCTION ACCESS:

Turning to the proposed construction access serving the site, the applicant has now agreed to move this further south to reduce the distance travelled along Ashwell Road. Drawing number C22028-ATP-DR-TP-009 shows the indicative location, with the final location to be determined through condition with all necessary supporting information (e.g. visibility splays, tracking diagrams, etc).

GLINT & GLARE / BRIDLEWAY (RIGHT OF WAY):

The glint and glare reports show that Ashwell Road is not in the direct line of glint and glare.

OTHER MATTERS:

It is noted that there is a 7.5 tonne weight restricted limit along Bygrave Road, but our Network Management team has confirmed that the wording within the Order for this, dated 11/2/1987, means this site is exempt due to the loading/unloading clause. The applicant has spoken of holding bays but there remains limited detail of this. Any HGV on site can be held back if another is approaching, but those travelling to the site do not seem to have any hold-back options at the moment. In their revised CTMP the applicant should identify the proposed holding areas which enable HGV drivers of the largest HGVs to stop, call ahead and check the exit route is clear before proceeding. There may be other options such as the use of GPS tracking. There should be a clause within the CTMP that ensures regular monitoring of the full route, from the junction with North Road up to the site access. The CTMP should be a live document, updated at intervals to respond to any observations identified and potential changes to the work programme.

CONCLUSION:

The proposed construction route is to be used for the short term (up to 35 weeks), and largely provides good forward visibility to constrained width sections. Articulated lorries will be limited to 2 per day, and all HGV movements to be outside peak times. The proposed changes to the North Road / Bygrave Road junction will not notably reduce the pedestrian refuge island width, and will improve visibility for a pedestrian crossing north to south. Once completed the operational vehicle movements will be very low. Some key additional information is still needed, as outlined in the conditions at the start, but the Highway Authority is now satisfied that the broad principle of using this route is acceptable subject to the mitigations and limitations set out.

4.5.106 The British Horse Society (BHS) and Herts CC Rights of Way (RoW) unit have raised concerns about the impacts on the adjacent bridleway 013 both during operational and construction periods of the development and have requested mitigation measures. These comprise – a new temporary riding route along Ashwell Road, fencing and hedge planting along the northern boundary adjacent to bridleway 13 and a new bridleway south of the site to link Ashwell Road to bridleway 13.

4.5.107 In relation to operational impacts on horse riders, guidance on solar farm developments published by BHS confirms that –

“Standard photovoltaic panels...are designed to absorb rather than reflect light for efficiency (reflected light is wasted energy) and although the amount of reflection varies with the component materials and the angle, the incidence of glare or dazzle is usually significantly less than from glass and will not be uniform throughout a period of sunlight, assuming that the panel is static. Any reflection is unlikely to be

a direct problem to horses, riders or carriage-drivers because of the angles and distances involved. The panels will also not reflect heat, because this too would be wasted energy.”

4.5.108 Notwithstanding the above advice, a Glint and Glare Assessment provide by applicant considered 19 bridleway receptors within 1km of the application site. Upon reviewing the intervisibility between the site and the receptors, glint and glare impacts were identified to be Low (0-20 hours per year) at 16 receptors and None at the remaining three receptors. Once long term (planting) mitigation was taken into consideration, impacts remain Low at 3 receptors reduce to None at 16 receptors. Based on the foregoing, the report confirms that it is highly unlikely that there will be any unreasonable impacts on horse riders from glint and glare. The bridleway will be used for maintenance vehicles visiting the solar farm during its operation phase. Given the occasional nature of such visits and the small-scale type of vehicle that is likely to be used, this is not considered to have any notable impact on the bridleway or its users. Given this, the request for an additional new bridleway from the built-up area of Ashwell Road to bridleway 013 is neither reasonable nor necessary. To mitigate visual impact of the development on bridleway users, the existing open northern boundary of the application site can be screened with a new native species hedgerow together with a temporary screening fabric attached to the proposed new boundary fence. These measures can be secured by condition in the event that permission is granted. In conclusion, there are not considered to be any operational impacts on bridleway users that cannot be mitigated.

4.5.109 In relation to construction impacts, it is confirmed that the applicant is no longer intending to utilise the bridleway for construction purposes. Nonetheless, RoW and the BHS have both raised concerns about impacts on horse riders using both Ashwell Road and the bridleway 013. To compensate for these impacts a temporary route for horse riders along Ashwell Road was suggested. The provision of a new temporary route along the highway is not feasible as it would be on land outside the applicant's control. However, the safe management of horse riders along this stretch of Ashwell Road could be undertaken by the applicant's construction banksmen together with appropriate traffic signage. This matter could be dealt with by the imposition of a Horse and Rider Management Plan condition.

Conclusions on highway and RoW impacts

4.5.110 Given the foregoing, the Highway Authority no longer objects to the proposal subject to conditions. RoW impacts can be dealt with by alternative condition to the one proposed by HCCH as set out above. The proposal is therefore considered to comply with Local Plan Policies SP6 and T1. This matter is considered to be neutral in the planning balance.

Best and Most Versatile (BMV) Agricultural Land impact

4.5.111 Local Plan Policy NE12 seeks to determine applications for solar farms on the best and most versatile land (BMV) in accordance with national policy. in Guidance from

Government 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.

- 4.5.112 Natural England data suggest the land is classified Grade 2 agricultural land. The Agricultural Land Classification statement submitted with the application confirms the site is indeed Grade 2 land. 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, with a high proportion located outside of the Green Belt.
- 4.5.113 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 174 part (b) of the NPPF requires consideration of the economic and other benefits of the best and most versatile agricultural land. Footnote 58 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.
- 4.5.114 However, 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. In its response, Natural England confirms that the proposed development, 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 a minimum of 800mm 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 during 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 conditioning the submission and agreement of a grazing management plan in the event permission were to be granted.
- 4.5.115 It is understood that the EU's Common Agricultural Policy was replaced with a new domestic subsidy scheme, the Environmental Land Management scheme which pays farmers for the delivery of environmental benefits including taking 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.

- 4.5.116 It should be noted that the specific way agricultural land is used is not a matter 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.
- 4.5.117 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. The most 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 UK Food Security report published by the government in December 2021, confirmed that 'the biggest medium to long term risk to the UK's domestic food production comes from climate change and other environmental pressures like soil degradation, water quality and biodiversity.' It goes on to confirm that 'Climate change poses a risk to UK food production already, and this risk will grow substantially over the next 30 to 60 years. Minimising the extent of global warming and addressing the risks it poses to food production are both essential to future food security.'
- 4.5.118 Soil is a finite 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. Natural England have recommended that any grant of planning permission should be made subject to conditions to safeguard soil resources.
- 4.5.119 Weighing in favour of the proposal is that the applicant proposes to improve the biodiversity potential of the application site through biodiversity improvements including the planting of trees, hedges and grassland and this is a matter addressed in considering the benefits of the proposed development.

Conclusion on impact on BMV Agricultural Land

- 4.5.120 The proposal would not result in the permanent loss of BMV agricultural land and an agricultural use would continue albeit livestock grazing, which is viable in tandem with solar energy production. This is likely to result in a reduction in productivity of the land for agricultural purposes for the duration of the solar farm. In addition, the Site would eventually be able to be restored to full agricultural use with enhanced biodiversity. In this context the proposal is considered to be compliant with Local Plan Policy NE12. The proposal is considered to result in a less intensive use of agricultural use of the land for the duration of the operational period of the solar farm and although harmful, it would be moderate in the planning balance.

Flood Risk and Drainage

- 4.5.121 Policies SP11 and NE7 seek to ensure that development does not result in unacceptable flood risk. The applicant provided a Flood Risk Assessment (FRA) with the application. This site falls within Flood Zones 1, 2 and 3 with some photovoltaic panels at the northern part of the site located within Flood Zone 3. The Environment Agency initially raised an objection to the proposal on the grounds that the development is appropriate to the Flood Zone in which it is located and adequately assess the flood risk at the site using an appropriate method, fails to include an assessment of the impact of climate change using appropriate climate change allowances and did not demonstrate that adequate flood risk mitigation measures had been included in the design of the proposed development to ensure the development will be safe for its lifetime.
- 4.5.122 Negotiations between the EA and the applicant's flood consultants resulted in a revised FRA being submitted in November 2022. Following re-consultation, the EA confirmed that the revised FRA addressed their concerns with the hydraulic model and now consider that the model is acceptable for the purpose of the development. Subsequent to this they confirmed that they withdrew their objection subject to the development being carried out in accordance with the revised FRA. This matter can be dealt with by condition in the event that planning permission were to be granted.
- 4.5.123 In addition, the Beds and Ivel Internal Drainage Board who are responsible for Cat Ditch to the north of the site have raised no objection. They have suggested that an advisory note is included in the event permission is granted alerting developer to the development restrictions adjacent to Cat Ditch and need for the Board's consent in the event that the developer wishes to discharge surface water into ditch.

Conclusion on flood risk

- 4.5.124 Based on the amendments and withdrawal of the objection from the EA, it is considered that the proposal is acceptable from a drainage and flood risk viewpoint. Therefore, subject to a condition requiring the development be carried out in accordance with the revised FRA the development is considered to accord with Local Plan policies SP11 and NE7. This matter is neutral in the planning balance.

Noise

- 4.5.125 Local Plan Policy D3 seeks to protect the living conditions of existing residential properties. A Noise and Vibration Assessment (NA) was submitted in June 2023. This considers the noise impacts during both the construction and operational stages of the development. The NA is informed by background noise data collected by the applicant's noise consultant.

- 4.5.126 Regarding noise from the operation of the solar array, the NA identifies the potential noise sources comprising inverters, battery containers and substation. It concludes that the maximum predicted noise contribution would be less than existing background noise levels. This is achievable providing a 2.5 metre high acoustic barrier is installed around the Battery Energy Storage System. Although this was not identified as part of the initial proposals, it can be secured by condition in the event that planning permission is granted. Subject to this, the Council's Environmental Health Officer raises no concerns regarding operational noise.
- 4.5.127 In relation to construction noise, the NA considers impacts arising from the 36 week construction period. Paragraph 5.1 of the NA confirms that deliveries and noise generating activities will only take place as follows -
- Monday to Friday 08.00 to 18.00
 - Saturday 08.00 to 13.00
 - No deliveries on Sundays or Public Holidays
- 4.5.128 The NA identifies a range of noise impacts from traffic, plant, machinery and other activities. It goes on to list a range of mitigation measures that should be included in a Construction Environmental Management Plan (CEMP). The Council's Environmental Health Officer agrees that that it would be feasible, in principle, to achieve construction noise levels that are at or below the target noise levels required by BS 5228. Mitigation measures should be delivered through a CEMP which can be secured by condition. Other conditions recommended seek to restrict the days and hours of construction work and HGV and articulated vehicle deliveries.
- 4.5.129 Third parties have raised concerns about the validity and accuracy of the NA undertaken by the applicant's noise consultant. Officers can confirm that the NA was carried out by a qualified acoustician affiliated to the Institute of Acoustics the UK's professional body for those working in acoustics, noise and vibration. The methodology and findings reached on this technical matter have been carried out in accordance with the necessary standards and guidance. In reviewing the submitted assessment, the Council's Environmental Health Officer has confirmed that she has previous experience of assessing developments of this nature. The comments from third parties received in connection with the latest consultation process have been reviewed by the Council's Environmental Health Officer who has carried out an additional review of the submitted NA. It is considered that the assessment is satisfactory.

Conclusion on noise

- 4.5.130 Subject to conditions to secure a CEMP and a noise barrier to the Battery Energy Storage System, there is no objection to the proposals from a noise perspective. The proposal is therefore considered to comply with Local Plan Policy D3. Officers consider that the noise impacts of the proposed development are neutral in the planning balance.

Ecological and biodiversity impacts

4.5.131 A Preliminary Ecological Appraisal (PEA) by Phlorum was submitted with the application which provides an assessment of likely ecological effects in relation to the proposal. This involved a desktop study to identify any known features or species of ecological importance and habitat surveys and assessments. A separate biodiversity net gain assessment was also undertaken

4.5.132 The site survey revealed the following habitats: arable, poor semi-improved grassland, ruderal vegetation, scattered scrub, trees, hedgerow and a dry drainage ditch. In relation to species and habitats the findings comprised –

- Reptiles - moderate potential to support reptiles around the field margin and a negligible potential to support reptiles on the arable field.
- Great Crested Newts - negligible potential for breeding newts and a low potential for foraging and commuting newts
- Bats - moderate potential for roosting bats and a moderate potential for foraging bats and this is restricted to the hedgerows and tree lines
- Birds - high potential for breeding birds around the boundary.
- Badgers - high potential for breeding badgers and high potential for foraging and commuting badgers.
- Hazel Dormouse - negligible potential to support breeding dormice.
- Water Voles - negligible potential to support breeding
- water voles and low potential to support commuting and foraging water voles.
- Otters - negligible potential to support breeding otter and low potential to support commuting otter.
- Stag Beetles - low potential for stag beetle at the boundaries
- Hedgehogs - low potential for hedgehogs.
- Invasive plants - no species listed on the Schedule 9 of the Wildlife and Countryside Act (1981 amended) were noted on-site during the site survey.
- Features of National Importance - the closest designated site of national importance for nature conservation is Ashwell Springs SSSI located 2.3km to the north. The site does not provide any supporting habitat for this SSSI.

4.5.133 With the exception of a small section of hedgerow along the Ashwell Road which will be used to create a temporary access for the construction period, there will be no other loss of hedgerow. Once construction had been completed, the hedge and any associated grassed verge would be reinstated. Herts CC Ecology (HCCE) have confirmed that this is unobjectionable providing the hedge is replaced with suitable native species. The development does not include the removal of any trees and therefore recommendations relating to bat and bird impacts are not relevant.. In the event that planning permission is granted, these matters could reasonably be dealt with by way of a condition.

- 4.5.134 Concerns have also been raised by residents relating to the impact upon wildlife and the proposed fencing which would restrict movement of wild animals. It is confirmed that the proposed fence would include points within the proposed fencing where wildlife can enter the site from the ground. Specific details of these measures could be secured by condition in the event planning permission is granted.
- 4.5.135 HCCE were consulted on this application and have confirmed that they have no reason to disagree with the assessment that the development will result in minimal ecological impact. However, this outcome is dependent on the recommendations and mitigation measures – including landscaping and biodiversity measures together with the recommendations set out in the Badger Report. Conditions to ensure that these matters are addressed adequately are recommended in the event that planning permission is granted.
- 4.5.136 In relation to Biodiversity Net Gain (BNG), currently local plan policy requires developments to deliver an unspecified improvement over baseline. The submitted BNG metric confirms that an additional 76.85 units will be delivered as part of the development through habitat improvements and additional tree and hedgerow planting across the site and on land within the control of the applicant. This is estimated to equate to 60% increase in biodiversity across the site and other land controlled by the applicant. A Landscape and Environmental Management Plan (LEMP) has been submitted by the applicant. HCCE confirm that this LEMP is acceptable. In the event that planning permission were to be granted, a condition would be necessary to ensure the BNG is delivered and managed over the lifetime of the development.
- 4.5.137 HCCE has confirmed that sheep grazing should allow the land to regenerate after being intensively managed. The solar panels will be positioned at an appropriate height and spacing to allow for this. Grazing will prevent the grass the animals can reach from becoming rank or from scrub becoming established. Biodiversity enhancement through new native planting and wildflower seed sowing, and from resting the soil from intensive farming for 30-40 years is considered by HCCE to be commendable.

Conclusion on ecology and biodiversity

- 4.5.138 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, would weigh moderately in the planning balance.

Fire Risk

- 4.5.139 Objectors have raised fire risk, in relation to solar farms. There have been reported cases of fires at Solar Farms.

- 4.5.140 The British Research Establishment National Solar Centre (BRE NSC) was commissioned by the Department for Business, Energy and Industrial Strategy to lead a three-year 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.
- 4.5.141 The applicant has indicated that fire suppression systems will be in place in the buildings housing batteries and transformers and is happy to accept a condition requiring the submission and approval of a Fire Management Plan in the event that planning permission is granted.
- 4.5.142 The Hertfordshire Fire and Rescue service were consulted on the application and requested confirmation that fire suppression systems will be in place in the buildings, housing batteries and transformers. The applicant has confirmed that such measures will be installed and are happy to provide details in the event that permission were to be granted.

Conclusion on fire risk

- 4.5.143 There is no evidence to show that there would be a high risk of fire at the proposal. Given that fire suppression measures would be in place 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.

Other matters

- 4.5.144 **Alternative renewable energy sources – 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 renewal 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.
- 4.5.145 **Alternative sites** - previously developed land, brownfield sites, low grade agricultural land, existing and new building rooftops, railway land, motorways 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. The applicants have confirmed that there are no previously developed sites of the scale of the proposal within the district, where a solar farm could be delivered. It is possible to deploy PV panels in other situations as cited above. 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 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 a number of factors principally access to the national grid and/or capacity limitations. It is also confirmed that there is no policy requirement for the energy produced to be “needed” or used “locally”.

- 4.5.146 **Residential amenity** – Bygrave village lies immediately south-east of the application site. The distance between these various properties and the closest panels, together with the existing and proposed intervening vegetation, means that the proposal would not be visible from residential curtilages. Similarly, the proposed CCTV cameras would be a significant distance from the nearest residential properties. For this reason, it is unlikely that these will result in any loss of privacy. Nonetheless, in the event that planning permission were to be granted a condition to restrict camera views would safeguard occupier’s amenity. In relation to the property known as ‘The Knoll’ north east of the application site, the Council’s landscape consultant has concluded that there is likely to be a Major/Moderate adverse effect on one property, The Knoll, but this is unlikely to result in the property being an ‘unattractive place to live’. In summary, the proposal does not result in any unacceptable harm on living conditions of residential properties. 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. This has been confirmed by the Council’s Environmental Health Officer.
- 4.5.147 **Aviation impacts** – there is an unlicensed airfield immediately to the west of the application site. The Civil Aviation Authority (CAA) has confirmed that in this situation it is necessary for the airfield’s operator and its users to assess risks. In relation to glint and glare, currently there is no evidence to suggest that there is any risk to the safety of aircraft pilots. The operator of the airfield is aware of the application and raises no objections.
- 4.5.148 **Glint and Glare** – aviation, highway and rights of way impacts are considered in foregoing parts of this report. In relation to residential properties, no impacts are considered to occur due to distance and or intervening screening.
- 4.5.149 **Coalescence** – concerns about the coalescence of Bygrave village with Baldock are raised due to the allocated housing site north of Baldock which will alter the boundary of Baldock bringing it closer to Bygrave. The proposed solar farm will create a new temporary built edge to Bygrave in the north but it will not give rise to coalescence given there remains significant distance between the site and Baldock in the south-west and Ashwell to the north.
- 4.5.150 **Farm Diversification** – paragraph 84 of the NPPF gives support in principle for the diversification of agriculture. The site represents 7% of the total farm holding and the farmer has confirmed that it will enable him to provide greater security of income following recent changes in farming policy and support for agricultural

landowners and ensuring the farm remains competitive and viable in the long term. Paragraph 84 of the NPPF supports the principle of farm diversification.

- 4.5.151 **Soil contamination and management** – concerns about ground contamination have been raised by some responders. Potentially this could occur during the different phases of the development – construction, operational and decommissioning. Natural England have recommended conditions to deal with protection of soil protection and this has already been considered in this report under ‘Best and Most Versatile (BMV) Agricultural Land’. Conditions are suggested to ensure that soil is protected and managed for the duration of the development.
- 4.5.152 **Section 106 matters and community benefits** – these have been raised by interested parties. The applicant does not propose any such benefits as part of the development. In any event, such benefits or contributions would probably not meet the tests set out in the Framework and the CIL Regulations for planning obligations, as they would not be *necessary* to make the development acceptable in planning terms nor would they be *directly related* to the development. However, the applicant has indicated that it would be willing to enter into discussions with the local community about benefits. Such discussions and agreements would be independent of the Council and its officers.

4.6 Planning Benefits

- 4.6.1 The applicant reiterates the need to secure emission reductions and increase renewable energy supply in their supporting Design and Access Statement. Specifically, the applicant highlights that the climate emergency has risen up the political agenda since the Government adopted a legally binding net zero emissions target. The NPPF highlights the need to support the transition to a low carbon future and to radically reduce greenhouse gas emissions (Paragraph 152). At the local level, the Council declared a Climate Emergency and set a target of achieving zero carbon emissions in the district by 2030. Local Plan Policy NE12 provides in principle support for renewable and low carbon development, subject to certain criteria. The challenges and success in transitioning to a low carbon society is dependent on developing suitable sites for renewable energy generation and battery energy storage.
- 4.6.2 The applicant highlights that this type of solar installation can be deployed quickly, delivering rapid emissions reductions and filling the growing electricity supply gap. This additional renewable capacity – enough to generate renewable energy to power the equivalent of about 15,700 homes - and emissions reductions of 11,300 tonnes of CO₂ per year at a time of a climate emergency, are considered to be very significant benefits. In this regard the proposal contributes significantly towards achieving the UK Government's target of net zero carbon emissions by 2035.
- 4.6.3 Other benefits cited by the applicant comprise –
- Biodiversity improvements

- The provision of affordable and secure energy supplies
- The business rates contributions which support delivery of local services
- Employment generation from the development and associated local benefits from employees visiting and living in the local area
- Farm diversification improving its viability

Renewable Energy Generation

- 4.6.4 A solar farm of this scale would undoubtedly make a positive contribution to renewable energy production, and it is salient to note that paragraph 158 of the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy.
- 4.6.5 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.
- 4.6.6 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. The Clean Growth Strategy 2017 anticipates a diverse electricity system based upon the growth of sources of renewable energy.
- 4.6.7 National Policy Statements (NPS) are a material consideration for the determination of major energy infrastructure. This proposal falls just short of the 50Mw threshold for it to be classified as a major infrastructure project, which would fall for the Secretary of State to determine. However, it is considered that regard may be given to these. 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. Draft updates to NPSs 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.
- 4.6.8 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.
- 4.6.9 The farm would deliver energy requirements for all of the new housing to be delivered as part of the recently adopted Local Plan making a very significant contribution towards installed renewable capacity in the District. This is a benefit to which it is considered very substantial weight should be attributed.

Urgent Local Need

- 4.6.10 The Council declared a Climate Emergency on 21st May 2019, and this is followed up with the publication of a Climate Change Strategy 2021-2026. 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.

- 4.6.11 Government data for electricity use within North Hertfordshire shows that in 2019 the district used a total of 506 GWh of electricity, and that in the same year only 52.6 GWh of electricity was generated in North Hertfordshire from renewable sources, which is just 10.4%. It is estimated that the proposal would generate 48.9 GWh of electricity. The National Grid indicates that nationally about 43% of our power comes from renewable sources.
- 4.6.12 As previously stated in this report, Members resolved to approve an application for the construction of a 49.995MW solar farm at Land to the North and East of Great Wymondley in November 2022 (Application ref 21/03380/FP). As the site was in the Green Belt, the Council were obliged to notify the Secretary of State of their intention to approve the proposal. This application was 'called in' by the Secretary of State in May 2023. The application will now be the subject of a public inquiry with a decision made by the Secretary of State. In the absence of any recently approved proposals for energy generation, there is a significant deficit to make up to achieve the Councils ambitious objective of achieving net zero by 2040. Moreover, as the demand for electricity is likely to increase significantly the deficit will have increased since 2019 and is likely to grow if schemes such as this are not consented as a matter of urgency.
- 4.6.13 Based upon Government data, it is understood that about 57.4% of North Hertfordshire's renewable electricity currently comes from solar. If this were to be scaled up proportionately then an additional 260 MWh of renewable energy from solar photovoltaics would be required to meet the deficit of 453.4GWh. This discounts the fact that anaerobic digestion and landfill gas could not easily be scaled up to meet the other 42.6% which would be required.
- 4.6.14 Currently no energy is generated in the district from onshore wind, hydro, sewage gas, municipal solid waste, animal biomass, plant biomass or cofiring. It is therefore acknowledged that the only source other than solar that potentially 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 (paragraph 158 of the NPPF and associated footnote 54 refer). It is understood that only 16 new turbines were granted planning permission in England between 2016 and 2020 — a 96 per cent drop on the previous five years.
- 4.6.15 The Proposed Development would, almost double the existing renewable energy generation capacity in North Hertfordshire and make a significant contribution to the Council's objective to be net zero within the district by 2040.

- 4.6.16 It is considered that there is an identified and urgent need to increase renewable energy generation in North Hertfordshire and this should be afforded significant weight in the planning balance.

Need and Locational Constraints

- 4.6.17 The applicant states that it is an essential requirement for solar farms to be proximate to an existing substation (in this case Letchworth East) 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 has confirmed that the site to grid connection length (in this case approximately 5km) is derived from the yield, connection voltage, changes to prices and other grid works that maybe necessary. Every site is different meaning that distances between a site and the grid connection point can vary. In this case, the applicant confirms that the grid connection route for the proposed development is not yet confirmed with a number of options under consideration. As previously confirmed, the applicant has confirmed that grid connection works would be undertaken by UK Power Networks as a statutory undertaker and therefore this matter does not form part of the consideration of this application.

- 4.6.18 In addition to grid connection, solar curtailment is a factor that affects location. Solar curtailment is the deliberate reduction in output below what could have been produced in order to balance energy supply and demand, which results in the loss of potentially useful energy. Curtailment can be addressed by building new power lines or storage, but this can be more expensive than letting surplus power go unused.

- 4.6.19 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.

Conclusion on renewable energy benefits

- 4.6.20 Officers have considered and assessed all the aforementioned benefits 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 2030.

- 4.6.21 It is considered that the benefit arising from the generation of renewable energy by the proposed development, meeting the electricity needs of around 15,700 homes, is very substantial and that this is a planning benefit to which substantial weight can be attributed.

Wider Environmental Benefits

- 4.6.22 The development will deliver the following proposed environmental enhancements:
- Native-species woodland planting to provide visual screening, landscape integration and improved ecological connectivity;
 - New native species hedgerows for visual screening, ecological connectivity and landscape integration; and
 - Gapping-up of existing hedgerows
 - Grassland within the perimeter/stock fencing suitable for sheep grazing that provide pollen and nectar for biodiversity;
 - Species-rich grassland between field boundaries and perimeter/stock fencing to contribute to enhancing hedgerow buffer zones for improved ecological connectivity;

4.6.23 The applicant considers that the enhancement would provide significant biodiversity gain of about 60% in habitat units and 60% in hedgerow units, well above the emerging national target of 10% and would also take the land out of intensive arable agricultural use and provide a net carbon benefit. In addition, there would be long term visual and landscape benefits from new planting proposals.

Economic benefits

4.6.24 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.

4.6.25 There would be clear economic and energy security benefits arising from a facility that can meet the electricity needs of approximately 15,700 homes and reduce the use of fossil fuels in the production of electricity.

4.6.26 In the circumstances it is considered that there would be economic benefits to which significant weight can be attributed in the planning balance.

Biodiversity

4.6.27 The submitted Ecological Assessment confirms that biodiversity net gain (BNG) will be achieved, and the submitted Biodiversity Metric shows the extent of BNG. Herts Ecology consider that the net gains are commendable, with a net gain of approximately 60%. Officers consider that this BNG is in excess of the adopted Local Plan Policy NE4, and more than the 10% net gain that will be required in the future by the Environment Act 2021. The delivery of BNG can be controlled by condition. On balance, it is considered that the net gains likely to be achieved weigh moderately in favour of the proposed development.

4.7 Planning Balance

4.7.1 As set out in this report, 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. Notwithstanding the weight attributed to different matters, some carry greater importance than others and

whilst this will not be reflected in the table below, this is addressed in this section of the report.

Table 2 – Harms and benefits

Issue	Effect	Weight
Landscape and visual impact (immediate)	Harm	Moderate
Heritage	Harm (Low level of Less than substantial)	Great
Agricultural Land (BMV)	Harm	Moderate (lower end)
<hr/>		
Renewable Energy Generation	Benefit	Very Substantial
Urgent Local Need	Benefit	Substantial
Economic impact	Benefit	Significant
Biodiversity	Benefit*	Moderate *
<hr/>		
Archaeology	Neutral*	None*
Noise/residential amenity	Neutral*	None*
Highway and Row safety	Neutral*	None*
Fire Risk	Neutral*	None*
Flooding and drainage	Neutral*	None*
Soil contamination	Neutral*	None*

* subject to conditions

- 4.7.2 There is a circular argument for and against the proposal. 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.
- 4.7.3 The heritage balance set out in NPPF paragraph 202 confirms that it is necessary to weigh the low, 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 small solar farms and no wind farms within the District with little prospect of the latter being proposed due to current national policy.

- 4.7.4 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 greater weight should be attributed to the clear public benefits in this instance and so there is clear and convincing justification for the low harm to the designated heritage assets. Therefore, it is considered that the proposed development would have an acceptable effect upon the significance of the heritage assets and would accord with Local Plan Policies SP13 and HE1.
- 4.7.5 Now turning to the overall planning balance, the development would result in moderate visual and landscape harm. The harm will not be permanent, albeit the 40-year life of the proposed development is very long. There is no reason to believe that the site cannot be fully restored following decommissioning.
- 4.7.6 The other considerations include those that have been afforded weight as summarised at Table 2 above.
- 4.7.7 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.
- 4.7.8 When taken together, other considerations in this case clearly outweigh the harm that has been identified, particularly given that the proposed development would not be permanent.

Overall conclusion

- 4.8 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 conflict with and 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 proposed development is sustainable and there is therefore a presumption in favour of it. Overall, taken as a whole, the proposal is considered to be in accordance with the development plan and planning permission should be granted subject to conditions.

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 Pre-commencement conditions

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

7 .0 Legal Implications

7.1 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.

8 .0 Recommendation

That planning permission is resolved to be **GRANTED** subject to conditions set out below:

Standard Time Limit

1. 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.

Approved plans

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

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

3. The 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 (First Commercial Operation). Written notification of the First Commercial 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.

Noise

4. The hours of construction work shall be limited to 08.00hrs to 18.00hrs Monday to Friday, 08.00hrs to 13.00hrs Saturdays and no working Sundays and Bank Holidays.

Reason: In the interest of minimising noise and disturbance for the occupiers of nearby residential properties in accordance with Policy D3 in the Local Plan.

5. HGV and articulated vehicle deliveries shall be restricted to 09.30hrs to 14.30hrs Monday to Friday and no time on Saturdays, Sundays or bank holidays.

Reason: In the interest of minimising noise and disturbance for the occupiers of nearby residential properties and in the interests of highway safety in accordance with Policies D3 and T1 in the Local Plan.

6. Full details of a Construction Environmental Management Plan 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 of the development shall thereafter be carried out in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The Plan shall include the mitigations measures as set out in section 5.17 of the Noise Assessment provided by 24 Acoustics and the following additional elements:

- a) Details and timing of the removal of any site waste;
- b) measures to minimise dust during construction.
- c) site set up and general arrangements for the delivery and storage of plant including cranes, materials, machinery and equipment, temporary offices and other facilities, construction vehicle parking and loading/unloading and vehicle turning areas;
- d) construction traffic route signage, monitoring and enforcement measures;
- e) any temporary screening and hoarding details to protect neighbouring residents;
- f) end of day tidying procedures to ensure protection of the site outside the hours of construction. The construction activities shall be designed and undertaken in accordance with the code of best practice set out in British Standard 5228 1997 and with the agreed details unless otherwise agreed in writing by the Local Planning Authority;
- g) wheel washing facilities for construction vehicles leaving the site;
- h) storage and removal of building waste for disposal or recycling;

Reason: To ensure the environmental impacts of the development are controlled in the interests of minimising disruption nearby residents during construction, minimising any environmental impacts, in the interests of highway safety and amenity and in accordance with Policies D3, T1 and NE12 contained in the Local Plan. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

7. Prior to the first commercial operation of the proposed development, as per Section 6.10 and figure 4 of submitted “proposed solar and battery energy storage scheme, Ashwell Road, Hertfordshire, Noise Impact Assessment” Report reference R10082-1 Rev 1 dated 23 June 2023 prepared by 24 Acoustics, full details of the proposed sound barrier shall be submitted to and approved in writing by the local planning authority. Following approval, the barrier shall be installed prior to the development becoming operational and retained for the duration of the development.

Reason: to protect the amenity of existing residents in accordance with Policy D3 in the Local Plan. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

Decommissioning

8. Within 6 months of the cessation of the export of electrical power from the site, or within a period of 39 years and 6 months following the First Commercial Operation, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to the local planning authority for its written approval. The Scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The Scheme shall also include 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.

Flood Risk and Drainage

9. The development shall be carried out in complete accordance with the Flood Risk Assessment (FRA) dated November 2022 (author - Hydrock - 18867-HYD-XX-XX-RP-FR-0002) and specified mitigation measures (section 6) contained therein.

Reason: To ensure that the proposed development can be adequately drained and to ensure that there is no increased risk of flood on or off the site resulting from the proposed development and to ensure the mitigation measures detailed in the FRA are adhered to in accordance with the NPPF and Policy NE7 in the Local Plan.

Ecology and Biodiversity

10. No development shall commence (including ground works and vegetation clearance) until the following species and habitat protection measures have been submitted to and approved in writing by the Local Planning Authority:

a) Wildlife Friendly Pathways through the permitted boundary fence to allow for movement and migration of reptiles indicated by but not limited to the measures set out in section 5.41 of the Preliminary Ecological Report;

b) trees and hedge protection measures shall be protected in accordance with British Standards (BS 2012) 5837:2012 Trees in Relation to Design, Demolition and Construction. The root protection areas of any retained trees must be left free from excavation and disturbance, and protected during any proposed works. Protection should be in the form of fencing and signs installed for the duration of the works;

Thereafter the development shall be carried out in complete accordance with the approved details and also in accordance with section 4 of the Badger Report.

Reason: To ensure that before any development commences appropriate species and habitat protection measures agreed and implemented in accordance with the NPPF and Policies NE4, NE12 and SP12 in the Local Plan. A pre-commencement condition is required as it addresses construction works.

11. The development shall be carried out in complete accordance with the Landscape and Landscape and Ecological Management Plan (LEMP) submitted 21 October 2022.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

Detailed Landscaping scheme

12. 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
- timescales for implementation;
- a Management and Maintenance plan covering the life of the development (to include for the checking of planting failures and their replacement).
- a new hedgerow to the northern site boundary, gapping up of existing hedgerows and new tree planting as illustrated the revised Mitigation and Enhancements Plan (V5).
- details of a replacement hedgerow to the eastern boundary to be planted following the cessation of the temporary vehicular access for the construction period.

The landscaping of the site shall take place in accordance with the approved details and implementation programme. The site shall be maintained in accordance with the approved Management and Maintenance Plan for the life of the development hereby approved, and 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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

13. Within the first planting season following the completion of construction works, the agreed landscaping and biodiversity proposals 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.

Trees

14. 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. A pre-commencement condition is required as the tree protection must be in place prior to construction works commencing.

Agricultural use

15. Within one year of the First Commercial Operation of the solar farm hereby approved, a Grazing Management Plan (GMP) shall be submitted to the Local Planning Authority. The GMP shall detail which parts of the site shall be used for the grazing of livestock, during which months of the year, and how the grazing is to be managed. The GMP shall not be carried out except in accordance with the approval. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval and shall not be carried out except in accordance with that approval. Within three years of the first operational use of the solar farm, the grazing of livestock shall commence on the site in accordance with the GMP.

Reason: To ensure that part of the site remains in agricultural use in accordance with the NPPF and policy NE12 of the Local Plan.

Boundary treatments and screen

16. The fencing permitted as part of this development shall be as follows unless otherwise agreed in writing by the Local Planning Authority –

- 2 metre high wire mesh deer type to the southern, eastern and western boundaries;
- 2 metre high heavy duty wooden pressure treated post and rail fence with Equi-Fencing attached and green or black screening fabric attached to the northern boundary.

All fencing shall include Wildlife Friendly Pathways as set out in the details agreed as part of condition 12. With the exception of the fencing to the northern boundary which shall be erected prior to any development works commencing, all other boundary treatments shall be erected prior to the first commercial operational use of the solar farm. All boundary treatments shall be retained thereafter for the duration of the development.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality in accordance with policies D1 and NE12 in the Local Plan.

17. The northern boundary fence shall include a screening fabric along its entire length to a height of 2 metres. Details of the screening fabric shall be submitted to and approved in writing by the local planning authority prior to the erection of the fence. The approved fabric shall be attached to the fence prior to any development on the site commencing and thereafter shall be retained for a minimum period of 10 years from its first installation. Damaged sections of the screen shall be replaced at the written request of the local planning authority.

Reason: To safeguard users of the bridleway from glint and glare and to minimise the visual impacts of the development in accordance with policies NE12 and T1 in the Local Plan.

Archaeology

18. 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 and in accordance with the programme of work as set out in the Archaeological Brief (P01/22/0741-2). 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 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.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

19. The development shall take place in accordance with the programme of archaeological works set out in the WSI approved under condition 18.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

20. Prior to the First Commercial Operation of the development for the exportation of electricity, the site investigation and post investigation assessment has been completed in accordance with the programme set out in the WSI approved under condition 18 and the provision made for analysis and publication where appropriate.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

External appearance

21. Prior to their erection on site details of the proposed colour finishes of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the development hereby permitted.

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. A pre-commencement condition is required because the investigation works must be undertaken before construction commences.

Fire Suppression

22. Before the first commercial operational use of the development, a Fire Safety Management Plan to include but not limited to details of fire suppression systems for all buildings shall be submitted to and approved in writing by the local planning authority. Thereafter, the Fire Safety Management Plan shall be implemented and adhered to in perpetuity of the development.

Reason: to ensure that fire risks arising for the operation of the solar farm are minimised in accordance with Policies D3 and NE12 in the Local Plan.

Panel cleaning

23. Prior to the First Commercial Operation 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.

Soil Management

24. Prior to the commencement of each phase of development (Construction, Operational and Decommissioning), a Soil Management Plan shall be submitted to, and approved in writing by, the local planning authority. The plan shall include, but not be limited to 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 Agricultural Land Classification survey on 8th April 2021 by Bateman Rural Associates Limited . The Management Plan shall adhere to the guidance set out in the following documents (or any subsequent replacement versions):

- a) Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (September 2009); and.
- b) The British Society of Soil Science Working with Soil Guidance Note on Benefiting from Soil Management in Development and Construction.

The Soil Management Plan as so approved shall be implemented, and adhered to, for each phase of the development.

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.

25. 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 Commercial Operation. For the first three years following the First Commercial 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.

Highway Safety

26. Prior to the commencement of the development, a revised Construction Traffic Management Plan to Construction Logistics and Community Safety (CLOCS) standard shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall confirm and identify details of:

- The full phasing of construction and proposed construction programme.
- The methods for accessing the site, including wider construction vehicle routing and a commitment to not using the right to way network at any time.
- The numbers of daily construction vehicles including details of their sizes, at each phase of the development, with a commitment to a maximum of 2 articulated lorry visits per day (i.e. 4 two-way trips)
- The hours of operation and hours of all construction vehicle movements, with a commitment to all HGVs visiting the site (i.e. travelling along Ashwell Road / Bygrave Road) between 9:30am and 2:30pm only.
- Details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
- Details of any hoardings.
- Control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels, and how it will be ensured dirty surface water does not runoff and discharge onto the highway.
- The provision for addressing any abnormal wear and tear to the highway, to include a Highways Before & After survey
- The details of consultation with local businesses or neighbours.
- The details of any other Construction Sites in the local area.
- Waste management proposals.
- Signage

- Further assessment of the two tighter bends along Ashwell Road close to Wedon Way, with mitigation measures outlined if identified as necessary.
- Holding areas for HGV traffic associated with the development
- Ongoing monitoring of the construction route throughout the development construction
- Details of banksmen provision

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

27. Prior to the commencement of the development, a revised construction access plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, within the area along Ashwell Road identified on indicative plan C22028-ATP-DR-TP-009. The revised construction access plan shall include full details of access location, width, visibility splays (based on a new speed survey at this highway location), vehicle tracking diagrams, surface materials, and other associated highway design considerations. The access as approved shall be in place to the satisfaction of the Local Planning Authority before construction of the development commences and shall be the sole point of construction access at all times. The access shall be decommissioned with the highway and verges reinstated in full including a replacement boundary hedgerow as agreed pursuant to condition 12 to the satisfaction of the Local Planning Authority within three months of construction work being completed.

Reason: To ensure a construction access that is safe and suitable for the highway environment and to accommodate the level and type of vehicles to use it.

28. Prior to the commencement of any HGV movements associated with the development construction, the North Road / Bygrave Road revised junction arrangement, as shown indicatively on drawing number C22028-ATP-DR-TP-007, shall be in place to the satisfaction of the Local Planning Authority. The junction shall be returned to its original design, or an alternative design which demonstrates long term betterment (as agreed by the Highway Authority), within three months of construction work being completed.

Reason: To ensure the North Road / Bygrave Road junction is safe and suitable to accommodate the level and type of vehicles to use it associated with development construction, whilst retaining a safe and suitable environment for all other highway users.

29. Prior to the commencement of the development, a Horse and Rider Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include the following –

- a) contents and locations of temporary warning signs alerting horse riders of construction of the solar farm and contact details of banksmen to help them navigate a safe route to either a nearby bridleway or safe route beyond the construction site;
- b) details of a measures/steps for the banksmen and site manager to follow in such circumstances (to include the temporary switching off of any noisy plant and machinery);
- c) contents of and location of temporary warning signs alerting motor traffic users to the presence of horses and the need to reduce speed.

The measures within the plan shall be implemented and retained in place for the duration of the construction period. Following the cessation of construction works, any temporary signage shall be removed.

Reason: To ensure the safety of horse riders for the duration of the construction period.

30. Prior to the installation of any CCTV cameras, details of measures to restrict the camera movements along the southern boundary of the application site to prevent viewing towards residential properties located on Ashwell 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.

Proactive Statement:

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

Informatives:

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

Further information is available via the website

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

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

Further information is available via the website

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

3. 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/highwaysroads-and-pavements.aspx> or by telephoning 0300 1234047.

4. Where works are required within the public highway, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website. <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047

5. Any proposed discharge of surface water to the watercourse will require the Beds and Ivel Internal Drainage Board's approval. The northern boundary of this site is under the statutory control of the Board and in accordance with the Board's byelaws, no development shall be permitted within 9 metres of bank top.



Scale:	1:7500 (A3)
Redline:	53.62 ha / 132.5 acres
Filename:	UKF092 EXT.dwg

Drawing Title: UKF092_08 Location Plan	Site: ----
Date: 11/03/2022	Revision: 0

Key

Planning Application Area ———

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<u>Location:</u>	45 West Street Lilley Luton Hertfordshire LU2 8LN
<u>Applicant:</u>	Mrs Emma Talbot
<u>Proposal:</u>	Two storey side extension and single storey rear extension. Insertion of rooflights to existing outbuilding and erection of detached single garage following demolition of existing garage
<u>Ref. No:</u>	23/01749/FPH
<u>Officer:</u>	Ben Glover

Date of expiry of statutory period: 26/09/2024

Extension of statutory period: 31/01/2024

Reason for Delay: Application awaiting a date for committee.

Reason for Referral to Committee: Application called in by Cllr Barnard if minded to refuse for the following reason:

Email Call-in dated 16/08/23:

"With regard to the above application, I can confirm that I have visited the application site, and viewed the plans as submitted.

I am in favour of granting this as submitted.

It is situated in the centre of the village, albeit "side on" to the little lane off the through road.

There is a very positive planning gain to be made, by removing the ghastly pre-cast, elderly concrete garage, and re-siting a new timber garage set back further into the plot. The ridge heights are complimentary, materials used to match existing, and similar fenestration.

The original height accommodates a one and half ridge, whereas the proposed ridge, similar, will allow for a first floor bedroom, necessary to house the current family.

I hope that the application can be approved. It "ticks the boxes" in this special location.

In the event that there is likely to be a recommendation for refusal, I would like this to be "called in" for debate and decision by the Planning Committee, and I will register to speak in its favour, as a Councillor Advocate".

Email Call-in dated 09/11/23:

"I've read Mark Simmons' report and recommendations on the above application. I cannot agree with some of his points, such as the impact on the conservation area, in view of the fact that the proposed extension will not be visible from the street. His comments on materials change addressed as a condition.

Marks comments around the number of 2 bedroomed houses in N. Herts. Is not relevant, especially when this application is to provide for a particular family need.

I am aware that you have previously visited the location, and that you wasn't opposed to the principle.

No local opposition is recorded.

If you are minded to refuse, I would like this to be determined at committee. I will represent as a Councillor Advocate."

1.0 **Site History**

1.1 Concurrent Listed Building Consent Application – 23/01750/LBC.

1.2 20/01260/LBC - Erection of two storey side extension – Refused on 02/12/2020.

Refused for the following reason:

"The proposed development, by reason of its design and lack of convincing justification would result in harm to the special character of the Grade II Listed Building and appearance of the Lilley Conservation Area. The proposal would therefore fail to comply with Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, Section 16 of the National Planning Policy Framework and Policy HE1 of the Emerging North Hertfordshire Local Plan 2011-2031 incorporating the main modification (Nov 2018)."

1.3 20/01259/FPH - Erection of two storey side extension and detached single garage following demolition of existing garage. Alteration to existing outbuilding – Refused on 02/12/2020.

Refused for the following reason:

"The proposed development, by reason of its design and lack of convincing justification would result in harm to the special character of the Grade II Listed Building and appearance of the Lilley Conservation Area. The proposal would therefore fail to comply with Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, Section 16 of the National Planning Policy Framework and Policy HE1 of the Emerging

North Hertfordshire Local Plan 2011-2031 incorporating the main modification (Nov 2018).”

- 1.4 15/00361/1LB - External alterations to include remodelling rear dormer, inserting 1no rear roof light and replace doors on side elevation together with re-roofing and internal alterations (as amended by drawing no.1421.01 Rev A received on 14/04/2015) – Granted Conditional Consent on 16/04/2015.

2.0 **Policies**

2.1 National Planning Policy Framework (2023)

Section 12 – Achieving well-designed and beautiful places

Section 13 – Protecting Green Belt Land

Section 16 – Conserving and enhancing the historic environment

2.2 North Hertfordshire Local Plan (2011-2031)

SP5 – Countryside and Green Belt

SP9 – Design and Sustainability

SP13 – Historic Environment

D1 – Sustainable Design

D2 – House Extensions and Replacement Dwellings

D3 – Protecting Living Conditions

HE1 – Designated Heritage Assets

T2 – Parking

2.3 Supplementary Planning Document

Vehicle Parking at New Development SPD (2011)

3.0 **Representations**

3.1 **Site Notice:**

Start Date: 09/08/2023

Expiry Date: 01/09/2023

3.2 **Press Notice:**

Start Date: 10/08/2023

Expiry Date: 02/09/2023

3.3 **Neighbour Notifications:**

Four representations have been received all in support of the application. The neighbouring representations are summarised below and can be viewed in full on the NHC website:

- Support planning application.
- House is not suitable for a growing family and house prices in Lilley are rising.
- The extension will contribute to making Lilley more family-friendly and attractive to young families.

- Extension is sympathetic and discreet minimizing visibility from the road.
- Removal of the old and dilapidated garage which is an eyesore which will improve neighbourhood.
- The applicants are active members of the community sitting on the parish council and helping at events.
- The development will not change the look of the village.

3.4 **Parish Council / Statutory Consultees:**

Lilley Parish Council – No comments received.

NHC Conservation Officer – Objection. See appendices.

Archaeology – No comments received.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1** 45 West Lane is a 1 ½ storey end terraced dwelling situated on the west side of West Lane, Lilley. The property is a Grade II Listed Building situated within the Lilley Conservation Area and Green Belt. The list entry for the application site reads as follows:

“4 houses in one block. C17 and early C18 with later changes. No. 45 timber framed brick cased, the rest red brick, with steep old red tile roofs. An L-shaped 1 1/2-storeys block facing S and E with 5 and 4 gabled dormer windows at the eaves and flush casement windows. On a prominent corner site. No. 45 at W end of S range has a 2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor. Included for group value.”

- 4.1.2** The property benefits from a large garden to the side and rear of the dwelling and an existing single storey detached garage and single storey outbuilding.

4.2 **Proposal**

- 4.2.1** Planning permission is sought for the erection of a two-storey side extension and single storey rear extension. Permission is also sought for the erection of a new detached garage to replace the existing garage.

4.3 **Key Issues**

- 4.3.1** The key issues for consideration are as follows:

- The principal of development within the Green Belt;
- The impact of the proposed development upon Designated Heritage Assets;
- The acceptability of the design of the proposed development and its impact on the character and appearance of the locality.
- The impact the proposed development would have on the living conditions of neighbouring occupiers.
- The impact the development would have on car parking provision in the area,
- The impact that the development would have on the environment.

Impact on the Green Belt:

- 4.3.2 Paragraph 142 of the National Planning Policy Framework (NPPF) sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open with the essential characteristics of Green Belts being their openness and permanence.
- 4.3.3 Paragraph 152 of the NPPF states that “*inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*”.
- 4.3.4 Paragraph 153 of the NPPF states “*when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*”
- 4.3.5 Paragraph 154 of the NPPF sets out several exceptions to inappropriate development in the Green Belt. Paragraph 154 c) provides the following exceptions:

“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”.

and

“the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces”

- 4.3.6 The proposed development consists of the erection of a two-storey side extension and single storey rear extension. The increase in the floorspace of the host dwelling is set out in the table below:

	Total Floorspace (m2)	Total Increase (m2)	Total Increase (%)
Existing	101	-	-
Proposed	148	+47m2	+46.5%

- 4.3.7 The proposed development would, on balance, not result in an unacceptably disproportionate addition over and above the size of the original building. Therefore, it is considered that the development would not be inappropriate development in the Green Belt and therefore the applicant is not required to demonstrate very special circumstances in this case.
- 4.3.8 The proposed replacement garage would feature a similar footprint to that of the existing garage which is to be demolished. Whilst the replacement garage would be taller, the replacement building is not considered to be materially larger than the one it replaces.
- 4.3.9 Given the above, it is considered that the proposed development would accord with the provisions set out within Local Plan Policy SP5 and Green Belt policies as set out in the National Planning Policy Framework.

Impact to Designated Heritage Assets:

- 4.3.10 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that “In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of planning powers in conservation areas, “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.
- 4.3.11 Paragraph 203 of the NPPF states that when “*determining applications, local planning authorities should take account of... the desirability of new development making positive contribution to character and distinctiveness*”.
- 4.3.12 Paragraph 205 of the NPPF sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.
- 4.3.13 Paragraph 206 of the NPPF sets out that any harm to the significance of a designated heritage asset should require clear and convincing justification.
- 4.3.14 Paragraph 208 of the NPPF states “*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*”.
- 4.3.15 Policy HE1 of the North Herts Local Plan states:
- “Planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they (as applicable):*
- a) *Enable the heritage asset to be used in a manner that secures its conservation and preserves its significance;*
 - b) *Incorporate a palette of materials that make a positive contribution to local character or distinctiveness, where it is appropriate and justified; and*
 - c) *Will lead to less than substantial harm to the significance of the designated heritage asset, and this harm is outweighed by the public benefits of the development, including securing the asset’s optimum viable use.”*
- 4.3.16 It should be noted that the previous application (20/01259/FPH) for a two-storey side and single storey rear extension was refused for the reason set out in paragraph 1.3 of this report.
- 4.3.17 The current proposed scheme is similar to the previously refused scheme although the side extension has been slightly reduced to be set back from the front elevation of the host property. It is also noted that the previously proposed front dormer has been omitted and changes have been made to the fenestration proposed.

4.3.18 Following consultation with the Senior Conservation Officer, the proposed development is considered to fail to remain sympathetic to the host building. The extension would unbalance the appearance of the host property within the terraced group of dwellings and would result in less than substantial harm to both the listed building and the appearance of the Lilley Conservation Area.

4.3.19 The Senior Conservation Officers comments are included below in the appendices. An extract of the Conservation Officer comments summarising their position on the application is included below:

“Nos. 41, 42, 44 and 45 form a predominantly brick-faced, elongated L-plan built form sitting perpendicular to the road with gabled, through-eaves, dormer windows, on a prominent corner site. The building’s significance is attributed to its date of construction and the fact that it is ‘timber framed brick cased’ with a ‘2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor’. The significance of this terrace also lies in the fact that it sits alongside no.48 (Church Cottage) which is also grade II listed and broadly similar. Both buildings are in the Lilley Conservation Area and the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. By reason of the extension’s height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace’s existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is considered to be less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 66(1) and & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.”

4.3.20 The development would not deliver any public benefits and no convincing justification has been put forward that would overcome the harm to the listed building identified. The proposed development would therefore fail to satisfy the provisions of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 16 of the National Planning Policy Framework (2023) and would conflict with Local Plan Policy HE1 which only permits developments that would lead to less than substantial harm to the significance of designated heritage assets, such as listed buildings, where the public benefits would outweigh that harm.

Impact on Neighbouring Amenities:

4.3.21 A core planning principle set out in the NPPF is to always seek to secure a high standard of amenity for existing and future occupants of land and buildings. This principle is reflected in the provisions of Policy D3 of the North Hertfordshire Local Plan.

4.3.22 No neighbouring objections have been received.

4.3.23 The application site is neighboured by No. 44 West Street and No. 46 West Street.

- 4.3.24 The proposed extension to the host dwelling would be set away from party boundaries with nearby properties. The development would not result in any unacceptable harm to the amenities of the nearby neighbouring occupiers by reason of the siting of the development.
- 4.3.25 The proposed replacement garage would sit close to the party boundary with No. 46 West Street. The garage would be single storey in height and is sited to the north of the neighbouring property. The development would therefore not result in any unacceptable overbearing impact or loss of light to the neighbouring occupiers.
- 4.3.26 Given the above, the proposed development would not result in any unacceptable impact to the amenities of the neighbouring occupiers and would be in compliance with both local and national planning policies.

Highways & Parking:

- 4.3.27 The proposed development would result in the creation of one additional bedroom. The site however benefits from sufficient off-street car parking to accommodate the increased sized of the property. No objection is raised to the impact of the development upon parking in the area.

Environmental Implications:

- 4.3.28 Section 14 of the NPPF sets out how the planning system should support the transition to a low carbon future. The principles set out in Section 14 are reflected in Policy D1 of the North Herts Local Plan, which sets out that development proposal should take all reasonable opportunities to reduce energy consumption and waste, retain existing vegetation and propose new appropriate planting, and future proof for changes in technology and lifestyle.
- 4.3.29 The proposed development, by virtue of its limited scale in general terms together with the sustainable location would have no significant implications for the local environment in terms of carbon emissions and therefore would be generally in compliance with Section 14 of the NPPF and Policy D1.

4.4 Conclusion

- 4.4.1 The proposed development, by reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm to the heritage significance of this listed building would be less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. The NPPF confirms at paragraph 205 that great weight should be given to the conservation of such heritage assets. Furthermore, there is no convincing justification put forward in support of this proposal as required by paragraph 206 of the NPPF. The development would fail to satisfy the provisions of Sections 66(1) and & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the

aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.

5.0 **Alternative Options**

5.1 None applicable

6.0 **Pre-Commencement Conditions**

6.1 N/A

7.0 **Legal Implications**

7.1 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.

8.0 **Recommendation**

8.1 That planning permission be **REFUSED** for the following reason:

The proposed development, by reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 16(2) and & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

7.0 **Appendices**

7.1 Senior Conservation Officer Comments:

North Hertfordshire District Council

Building Conservation comments

File Ref: 23/01749/FPH & 23/01750/LBC

Date: 06/11/2023

Planning Officer: BG

Address: 45 West Street, Lilley, Luton, Hertfordshire LU2 8LN

Subject: See below

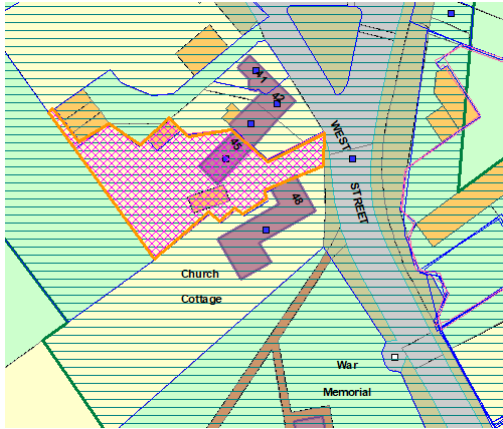
- **23/01749/FPH** - Two storey side extension and single storey rear extension. Insertion of rooflights to existing outbuilding and erection of detached single garage following demolition of existing garage.
- **23/01750/LBC** - Two storey side extension and single storey rear extension and internal alterations. Repair of external brickwork.

Introduction

Nos.41, 42, 44 and 45 West Street are situated within the Lilley Conservation Area. Contrary to the submitted Heritage Statement stating that this terraced block is grade II* listed, the properties are grade II listed and the list entry for these properties reads as follows:

4 houses in one block. C17 and early C18 with later changes. No. 45 timber framed brick cased, the rest red brick, with steep old red tile roofs. An L-shaped 1 1/2-storeys block facing S and E with 5 and 4 gabled dormer windows at the eaves and flush casement windows. On a prominent corner site. No. 45 at W end of S range has a 2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor. Included for group value.

The property benefits from a large garden to the side and rear of the dwelling and an existing single-storey, detached garage and single-storey outbuilding.



Nos.41, 42, 44 and 45 are also read alongside no.48 (Church Cottage) which is separately listed and is also a predominantly brick-faced, elongated L-shape built form with gabled, through-eaves, dormer windows sitting perpendicular to the road (see image above right taken from the cover of the submitted Heritage Statement). Although Church Cottage was later extended to the rear, this monochrome image illustrates the relationship between both 'linear' 'L-plan' listed buildings. The Google Maps images below shows the current appearance of these buildings.



Reproduced from 'Google Maps'

Image capture Mar 2021

The Local Plan and NPPF

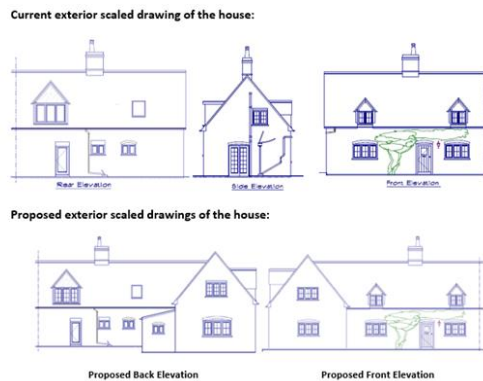
Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 is relevant as are the following paragraphs of the NPPF:

- 194 (local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting)
- 197 c) (desirability of new development making a positive contribution to local character and distinctiveness),

- 199 (great weight should be given to the asset's conservation),
- 200 (clear and convincing justification), and
- 202 (harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use).

The Proposal

In late 2019, application ref:19/02834/PREH was submitted for 'Erection of two storey side extension and garage following demolition of existing garage and alteration to existing outbuilding' and on the 13 February 2020 a formal officer response was issued. The scheme under consideration was as follows:



The list entry provides an initial assessment of what is considered significant to this 4-house block. The description is short and provides limited commentary of the block's interior but is not exhaustive. In my opinion it is the block's date of construction (C17 and early C18 with later changes) and the fact that there are two specific references no.45 which are significant i.e. 'timber framed brick cased' and 'W end of S range has a 2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor'.

Although the terrace is not symmetrical, the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. The front appearance of this dwelling makes a positive contribution to the appearance of the conservation area. The flat roof garage, on the other hand, significantly detracts from the front setting to this listed building. Furthermore, apart from the overly large rear gable dormer, the two other sides of this listed building also contribute positively to the building's appearance. The north-east end of this block terminates with a gable cross-wing, this should not be regarded as establishing a precedent for extending the opposite end of the block. In 2019 I stated that extending no.45 would not only elongate the terrace but would also imbalance the appearance of no.45.

Under appn ref: 20/01260/LBC, the previously proposed two-storey cross-wing at the south-west end of the listed block was changed to a two-storey addition with a flush roof plane and flush front elevation. I noted that the addition would still, however, result in a relatively large increase in floorspace and volume above that of the original dwelling.



I stated that by extending flush with the roof plane and flush with the front elevation together with the catslide arrangement at the rear wrapping around the original end of the terraced cottage, means that the host building's form would be less well defined. At the pre-app stage, I raised an in-principle objection to an extension at first floor and I maintained that view in 2020. I also said that there is no convincing justification for the loss of fabric at first floor resulting from the formation of a new opening off the landing.

I also previously raised the following concerns:

- What would be 4no. sets of double-casement windows to the proposed bedroom 2. In addition, the following matters are of concern;
- The size and position of the large glazed ground floor opening in the west (side) elevation straddling the junction between gable and catslide;
- Straight (presumably soldier course lintels);
- The relatively tight position of the 2no. double casements relative to the gable verge on the west elevation.

At the time, I produced a sketch of what I considered to be an acceptable way forward and this would have provided some additional accommodation at ground floor only and would be similar to the form of outbuildings previously removed.



With respect to the current proposal, I note that:

- The extension is set in from the front elevation and set down from the ridge, however, its height together with the 'wrap around' effect of the lean-to means that it is not sufficiently subservient to the host building to be considered acceptable.
- The previously proposed 4no. sets of double-casement windows to the proposed bedroom 2 have been reduced to a double-casement rear dormer and a three-light end window (the later also sits better in the half-hipped end when compared with the 2no. double casements previously sought).
- The previously proposed large, glazed, ground floor opening in the west (side) elevation straddling the junction between gable and catslide has been replaced by a more centralised pair of glazed doors.
- The straight (presumably soldier course) lintels are replaced with cambered heads.



In my opinion, a future proposal for a front dormer would be more problematic to resist if the principle of a first floor is conceded and the scheme would potentially reach a similar point as that of the 2020 scheme. I also said previously that a lean-to below the existing rear dormer would allow sufficient space to place the WC here instead of within the extension. This would negate the impact of the wrap-around. Furthermore, the smooth-rendered finish to the extension would significantly cover over the existing facing brickwork transforming the building's appearance when viewed from the rear or end on to the extent that it would no longer read as a two-cell, brick-faced C17 and early C18 listed building. Even though I am objecting to the principle of additional accommodation at first floor, the fact that the previous scheme was facing brick meant that that proposal is considered arguably more in keeping than the current scheme.

I am not aware of any study having been undertaken regarding grade II listed 2-bedroom dwellinghouses in North Herts that are capable of being extended due to site size/configuration or have already been extended. My feeling is that there may be a relatively small number that remain 2-bed and the question is, where is the line drawn with respect to developing these smaller properties? Is it appropriate to simply allow extensions because there is space to do so or due to a family's circumstances as is the case here or should, as I suggest is the case, each proposal is considered on its own merits. There will be occasions such as this site, where retaining the character of the cottage is a key consideration.



Recommendation

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (para 193, NPPF). It is considered that the proposal will harm the special character of the listed building and the appearance of the Lilley Conservation Area. I, therefore, raise an **OBJECTION**. I suggest the following reasons for refusal:

23/01749/FPH

Nos. 41, 42, 44 and 45 form a predominantly brick-faced, elongated L-plan built form sitting perpendicular to the road with gabled, through-eaves, dormer windows, on a prominent corner site. The building's significance is attributed to its date of construction and the fact that it is 'timber framed brick cased' with a '2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor'. The significance of this terrace also lies in the fact that it sits alongside no.48 (Church Cottage) which is also grade II listed and broadly similar. Both buildings are in the Lilley Conservation Area and the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. By reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is considered to be less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.

23/01750/LBC

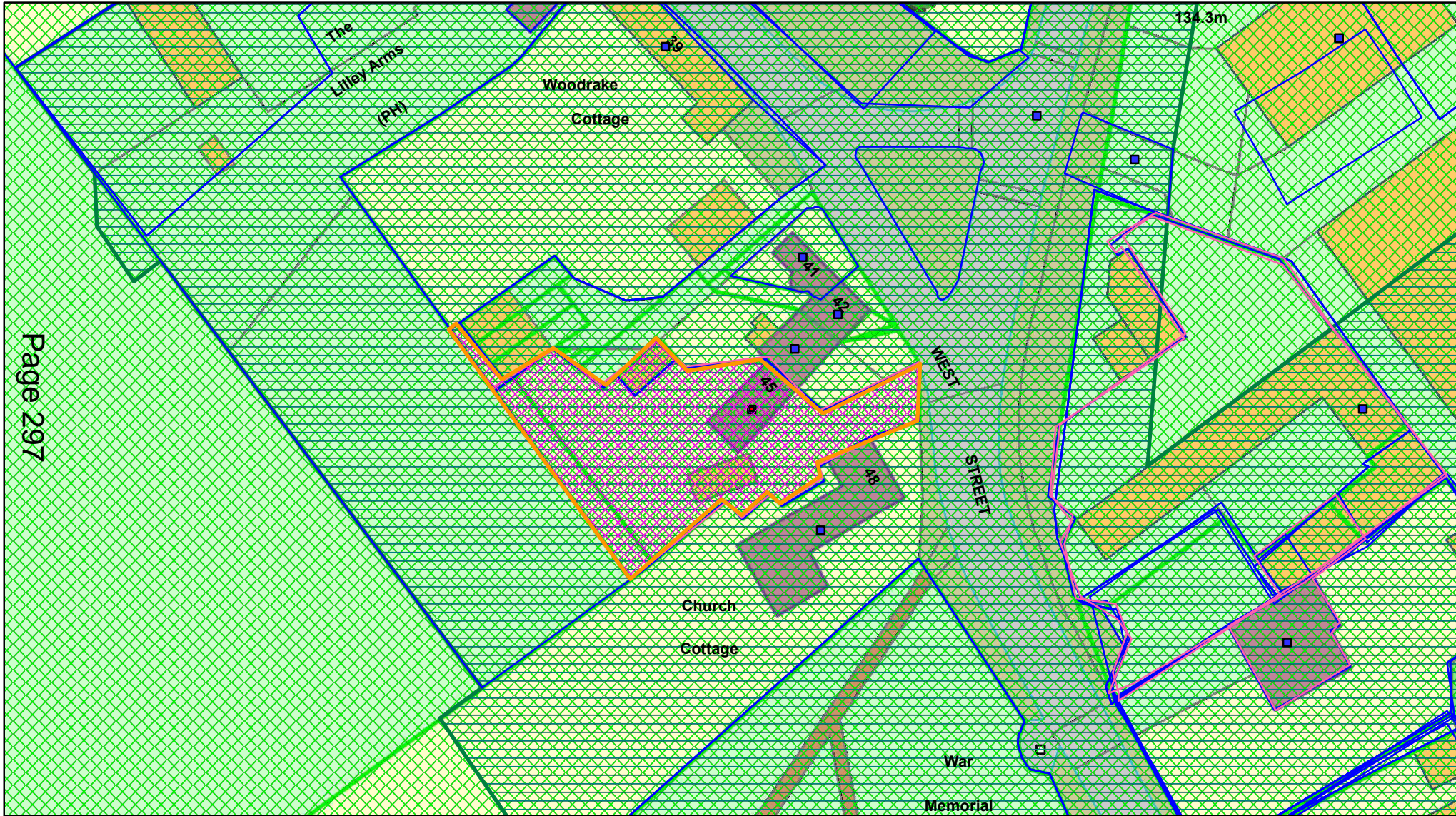
Nos. 41, 42, 44 and 45 form a predominantly brick-faced, elongated-plan built form sitting perpendicular to the road with gabled, through-eaves, dormer windows, on a prominent corner site. The building's significance is attributed to its date of construction and the fact that it is 'timber framed brick cased' with a '2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor'. The significance of this terrace also lies in the fact that it sits alongside no.48 (Church Cottage) which is also grade II listed and broadly similar. Both buildings are in the Lilley Conservation Area and the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. By reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is considered to be less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 16(2) and & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.

Mark Simmons

Senior Conservation Officer

NORTH HERTFORDSHIRE DISTRICT COUNCIL

23/01749/FPH 45 West Street, Lilley, Luton, Hertfordshire, LU2 8LN



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<u>Location:</u>	45 West Street Lilley Luton Hertfordshire LU2 8LN
<u>Applicant:</u>	Mrs Emma Talbot
<u>Proposal:</u>	Two storey side extension and single storey rear extension and internal alterations. Repair of external brickwork.
<u>Ref. No:</u>	23/01750/LBC
<u>Officer:</u>	Ben Glover

Date of expiry of statutory period: 26/09/2024

Extension of statutory period: 31/01/2024

Reason for Delay: Application awaiting a date for committee.

Reason for Referral to Committee: Application called in by Cllr Barnard if minded to refuse for the following reason:

Email Call-in dated 16/08/23:

"With regard to the above application, I can confirm that I have visited the application site, and viewed the plans as submitted.

I am in favour of granting this as submitted.

It is situated in the centre of the village, albeit "side on" to the little lane off the through road.

There is a very positive planning gain to be made, by removing the ghastly pre-cast, elderly concrete garage, and re-siting a new timber garage set back further into the plot.

The ridge heights are complimentary, materials used to match existing, and similar fenestration.

The original height accommodates a one and half ridge, whereas the proposed ridge, similar, will allow for a first floor bedroom, necessary to house the current family.

I hope that the application can be approved. It "ticks the boxes" in this special location.

In the event that there is likely to be a recommendation for refusal, I would like this to be "called in" for debate and decision by the Planning Committee, and I will register to speak in its favour, as a Councillor Advocate".

Email Call-in dated 09/11/23:

"I've read Mark Simmons' report and recommendations on the above application. i cannot agree with some of his points, such as the impact on the conservation area, in view of the fact that the proposed extension will not be visible from the street. His comments on materials change addressed as a condition.

Marks comments around the number of 2 bedroomed houses in N. Herts. Is not relevant, especially when this application is to provide for a particular family need.

I am aware that you have previously visited the location, and that you wasn't opposed to the principle.

No local opposition is recorded.

If you are minded to refuse, I would like this to be determined at committee. I will represent as a Councillor Advocate."

1.0 **Site History**

1.1 Concurrent Householder Planning Application – 23/01749/FPH.

1.2 20/01260/LBC - Erection of two storey side extension – Refused on 02/12/2020.

Refused for the following reason:

"The proposed development, by reason of its design and lack of convincing justification would result in harm to the special character of the Grade II Listed Building and appearance of the Lilley Conservation Area. The proposal would therefore fail to comply with Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, Section 16 of the National Planning Policy Framework and Policy HE1 of the Emerging North Hertfordshire Local Plan 2011-2031 incorporating the main modification (Nov 2018)."

1.3 20/01259/FPH - Erection of two storey side extension and detached single garage following demolition of existing garage. Alteration to existing outbuilding – Refused on 02/12/2020.

Refused for the following reason:

"The proposed development, by reason of its design and lack of convincing justification would result in harm to the special character of the Grade II Listed Building and appearance of the Lilley Conservation Area. The proposal would therefore fail to comply with Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, Section 16 of the National Planning Policy Framework and Policy HE1 of the Emerging North Hertfordshire Local Plan 2011-2031 incorporating the main modification (Nov 2018)."

1.4 15/00361/1LB - External alterations to include remodelling rear dormer, inserting 1no rear roof light and replace doors on side elevation together with re-roofing and internal alterations (as amended by drawing no.1421.01 Rev A received on 14/04/2015) – Granted Conditional Consent on 16/04/2015.

2.0 **Policies**

2.1 National Planning Policy Framework (2021)

Section 16 – Conserving and enhancing the historic environment

2.2 North Hertfordshire Local Plan (2011-2031)

SP1 Historic Environment
HE1 Designated Heritage Assets

3.0 **Representations**

3.1 **Site Notice:**

Start Date: 09/08/2023

Expiry Date: 01/09/2023

3.2 **Press Notice:**

Start Date: 10/08/2023

Expiry Date: 02/09/2023

3.3 **Neighbour Notifications:**

Four representations have been received all in support of the application. The neighbouring representations are summarised below and can be viewed in full on the NHC website:

- Support planning application.
- House is not suitable for a growing family and house prices in Lilley are rising.
- The extension will contribute to making Lilley more family-friendly and attractive to young families.
- Extension is sympathetic and discreet minimizing visibility from the road.
- Removal of the old and dilapidated garage which is an eyesore which will improve neighbourhood.
- The applicants are active members of the community sitting on the parish council and helping at events.
- The development will not change the look of the village.

3.4 **Parish Council / Statutory Consultees:**

Lilley Parish Council – Support the application.

NHC Conservation Officer – Objection. See appendices.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 45 West Lane is a 1 ½ storey end terraced dwelling situated on the west side of West Lane, Lilley. The property is a Grade II Listed Building situated within the Lilley Conservation Area and Green Belt. The list entry for the application site reads as follows:

“4 houses in one block. C17 and early C18 with later changes. No. 45 timber framed brick cased, the rest red brick, with steep old red tile roofs. An L-shaped 1 1/2-storeys block facing S and E with 5 and 4 gabled dormer windows at the eaves and flush casement windows. On a prominent corner site. No. 45 at W end of S range has a 2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor. Included for group value.”

- 4.1.2 The property benefits from a large garden to the side and rear of the dwelling and an existing single storey detached garage and single storey outbuilding.

4.2. **Proposal**

- 4.2.1. Listed building consent is sought for the erection of a two-storey side extension and single storey rear extension. Internal alterations are also proposed. Repairs are also proposed to existing brickwork.

4.3. **Key Issues**

- 4.3.1 The key issues for consideration includes the impact the proposed development would have on the special character, setting, and significance of the Listed Building.

- 4.3.2 Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that *“In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

- 4.3.3 Paragraph 203 of the NPPF states that when *“determining applications, local planning authorities should take account of... the desirability of new development making positive contribution to character and distinctiveness”*.

- 4.3.4 Paragraph 205 of the NPPF sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.

- 4.3.5 Paragraph 206 of the NPPF sets out that any harm to the significance of a designated heritage asset should require clear and convincing justification.

- 4.3.6 Paragraph 208 of the NPPF states *“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”*.

- 4.3.7 Policy HE1 of the North Herts Local Plan states:

“Planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they (as applicable):

- a) *Enable the heritage asset to be used in a manner that secures its conservation and preserves its significance;*

- b) *Incorporate a palette of materials that make a positive contribution to local character or distinctiveness, where it is appropriate and justified; and*
- c) *Will lead to less than substantial harm to the significance of the designated heritage asset, and this harm is outweighed by the public benefits of the development, including securing the asset's optimum viable use."*

4.3.8 It should be noted that the previous application (20/01260/LBC) for a two-storey side and single storey rear extension was refused for the reason set out in paragraph 2.2 of this report.

4.3.9 The current proposed scheme is similar to that of the previously refused scheme although the side extension has been slightly reduced to be set back from the front elevation of the host property. It is also noted that the previously proposed front dormer has been omitted and changes have been made to the fenestration proposed.

4.3.10 It is considered that the now proposed scheme has not overcome the original reason for refusal.

4.3.11 The Senior Conservation Officer has concluded the following:

"Nos. 41, 42, 44 and 45 form a predominantly brick-faced, elongated-plan built form sitting perpendicular to the road with gabled, through-eaves, dormer windows, on a prominent corner site. The building's significance is attributed to its date of construction and the fact that it is 'timber framed brick cased' with a '2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor'. The significance of this terrace also lies in the fact that it sits alongside no.48 (Church Cottage) which is also grade II listed and broadly similar. Both buildings are in the Lilley Conservation Area and the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. By reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is considered to be less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031."

4.3.12 In consideration of the Senior Conservation Officers comments, the proposed development would fail to remain sympathetic to the host building and would unbalance the appearance of the property within this terraced group, the proposed development would result in less than substantial harm to the designated heritage asset. The proposed development would not deliver any public benefits and no convincing justification for the development has been put forward. The proposed development would fail to satisfy the provisions of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 16 of the National Planning Policy Framework (2023).

4.4. **Conclusion**

- 4.4.1 It is considered that the proposal would occasion less than substantial harm to the listed building's special character. Therefore, the proposal would fail to satisfy the provisions of Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims of Section 16 of the NPPF and the aims of Policy HE1 of the North Hertfordshire Local Plan 2011-2031.

5.0 **Alternative Options**

- 5.1 None applicable

6.0 **Pre-Commencement Conditions**

- 6.1 N/A

7.0 **Legal Implications**

- 7.1 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.

8.0 **Recommendation**

- 8.1 That Listed Building Consent be **REFUSED** for the following reason:

The proposed development, by reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 16(2) and & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.

7.0 **Appendices**

- 7.1 Senior Conservation Officer Comments:

North Hertfordshire District Council

Building Conservation comments

File Ref: 23/01749/FPH & 23/01750/LBC

Date: 06/11/2023

Planning Officer: BG

Address: 45 West Street, Lilley, Luton, Hertfordshire LU2 8LN

Subject: See below

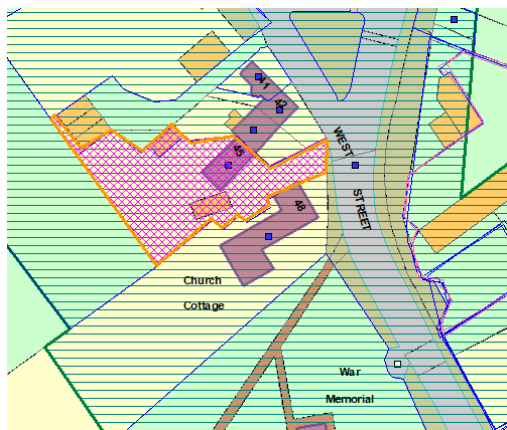
- **23/01749/FPH** - Two storey side extension and single storey rear extension. Insertion of rooflights to existing outbuilding and erection of detached single garage following demolition of existing garage.
- **23/01750/LBC** - Two storey side extension and single storey rear extension and internal alterations. Repair of external brickwork.

Introduction

Nos.41, 42, 44 and 45 West Street are situated within the Lilley Conservation Area. Contrary to the submitted Heritage Statement stating that this terraced block is grade II* listed, the properties are grade II listed and the list entry for these properties reads as follows:

4 houses in one block. C17 and early C18 with later changes. No. 45 timber framed brick cased, the rest red brick, with steep old red tile roofs. An L-shaped 1 1/2-storeys block facing S and E with 5 and 4 gabled dormer windows at the eaves and flush casement windows. On a prominent corner site. No. 45 at W end of S range has a 2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor. Included for group value.

The property benefits from a large garden to the side and rear of the dwelling and an existing single-storey, detached garage and single-storey outbuilding.



Nos.41, 42, 44 and 45 are also read alongside no.48 (Church Cottage) which is separately listed and is also a predominantly brick-faced, elongated L-shape built form with gabled, through-eaves, dormer windows sitting perpendicular to the road (see image above right taken from the cover of the submitted Heritage Statement). Although Church Cottage was later extended to the rear, this monochrome image illustrates the relationship between both 'linear' 'L-plan' listed buildings. The Google Maps images below shows the current appearance of these buildings.



Reproduced from 'Google Maps'

Image capture Mar 2021

The Local Plan and NPPF

Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 is relevant as are the following paragraphs of the NPPF:

- 194 (local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting)
- 197 c) (desirability of new development making a positive contribution to local character and distinctiveness),
- 199 (great weight should be given to the asset's conservation),
- 200 (clear and convincing justification), and
- 202 (harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use).

The Proposal

In late 2019, application ref:19/02834/PREH was submitted for 'Erection of two storey side extension and garage following demolition of existing garage and alteration to existing outbuilding' and on the 13 February 2020 a formal officer response was issued. The scheme under consideration was as follows:

Current exterior scaled drawing of the house:



Proposed exterior scaled drawings of the house:



The list entry provides an initial assessment of what is considered significant to this 4-house block. The description is short and provides limited commentary of the block's interior but is not exhaustive. In my opinion it is the block's date of construction (C17 and early C18 with later changes) and the fact that there are two specific references no.45 which are significant i.e. 'timber framed brick cased' and 'W end of S range has a 2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor'.

Although the terrace is not symmetrical, the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. The front appearance of this dwelling makes a positive contribution to the appearance of the conservation area. The flat roof garage, on the other hand, significantly detracts from the front setting to this listed building. Furthermore, apart from the overly large rear gable dormer, the two other sides of this listed building also contribute positively to the building's appearance. The north-east end of this block terminates with a gable cross-wing, this should not be regarded as establishing a precedent for extending the opposite end of the block. In 2019 I stated that extending no.45 would not only elongate the terrace but would also imbalance the appearance of no.45.

Under appn ref: 20/01260/LBC, the previously proposed two-storey cross-wing at the south-west end of the listed block was changed to a two-storey addition with a flush roof plane and flush front elevation. I noted that the addition would still, however, result in a relatively large increase in floorspace and volume above that of the original dwelling.



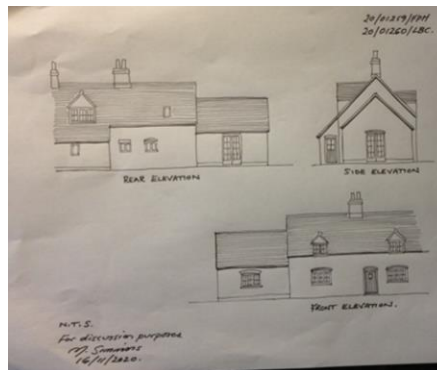
I stated that by extending flush with the roof plane and flush with the front elevation together with the catslide arrangement at the rear wrapping around the original end of the terraced cottage, means that the host building's form would be less well defined. At the pre-app

stage, I raised an in-principle objection to an extension at first floor and I maintained that view in 2020. I also said that there is no convincing justification for the loss of fabric at first floor resulting from the formation of a new opening off the landing.

I also previously raised the following concerns:

- What would be 4no. sets of double-casement windows to the proposed bedroom 2. In addition, the following matters are of concern;
- The size and position of the large glazed ground floor opening in the west (side) elevation straddling the junction between gable and catslide;
- Straight (presumably soldier course lintels);
- The relatively tight position of the 2no. double casements relative to the gable verge on the west elevation.

At the time, I produced a sketch of what I considered to be an acceptable way forward and this would have provided some additional accommodation at ground floor only and would be similar to the form of outbuildings previously removed.



With respect to the current proposal, I note that:

- The extension is set in from the front elevation and set down from the ridge, however, its height together with the 'wrap around' effect of the lean-to means that it is not sufficiently subservient to the host building to be considered acceptable.
- The previously proposed 4no. sets of double-casement windows to the proposed bedroom 2 have been reduced to a double-casement rear dormer and a three-light end window (the later also sits better in the half-hipped end when compared with the 2no. double casements previously sought).
- The previously proposed large, glazed, ground floor opening in the west (side) elevation straddling the junction between gable and catslide has been replaced by a more centralised pair of glazed doors.
- The straight (presumably soldier course) lintels are replaced with cambered heads.



In my opinion, a future proposal for a front dormer would be more problematic to resist if the principle of a first floor is conceded and the scheme would potentially reach a similar point as that of the 2020 scheme. I also said previously that a lean-to below the existing rear dormer would allow sufficient space to place the WC here instead of within the extension. This would negate the impact of the wrap-around. Furthermore, the smooth-rendered finish to the extension would significantly cover over the existing facing brickwork transforming the building's appearance when viewed from the rear or end on to the extent that it would no longer read as a two-cell, brick-faced C17 and early C18 listed building. Even though I am objecting to the principle of additional accommodation at first floor, the fact that the previous scheme was facing brick meant that that proposal is considered arguably more in keeping than the current scheme.

I am not aware of any study having been undertaken regarding grade II listed 2-bedroom dwellinghouses in North Herts that are capable of being extended due to site size/configuration or have already been extended. My feeling is that there may be a relatively small number that remain 2-bed and the question is, where is the line drawn with respect to developing these smaller properties? Is it appropriate to simply allow extensions because there is space to do so or due to a family's circumstances as is the case here or should, as I suggest is the case, each proposal is considered on its own merits. There will be occasions such as this site, where retaining the character of the cottage is a key consideration.



Recommendation

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (para 193, NPPF). It is considered that the proposal will harm the special character of the listed building and the appearance of the Lilley Conservation Area. I, therefore, raise an **OBJECTION**. I suggest the following reasons for refusal:

23/01749/FPH

Nos. 41, 42, 44 and 45 form a predominantly brick-faced, elongated L-plan built form sitting perpendicular to the road with gabled, through-eaves, dormer windows, on a prominent corner site. The building's significance is attributed to its date of construction and the fact that it is 'timber framed brick cased' with a '2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor'. The significance of this terrace also lies in the fact that it sits alongside no.48 (Church Cottage) which is also grade II listed and broadly similar. Both buildings are in the Lilley Conservation Area and the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. By reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is considered to be less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 66(1) and & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.

23/01750/LBC

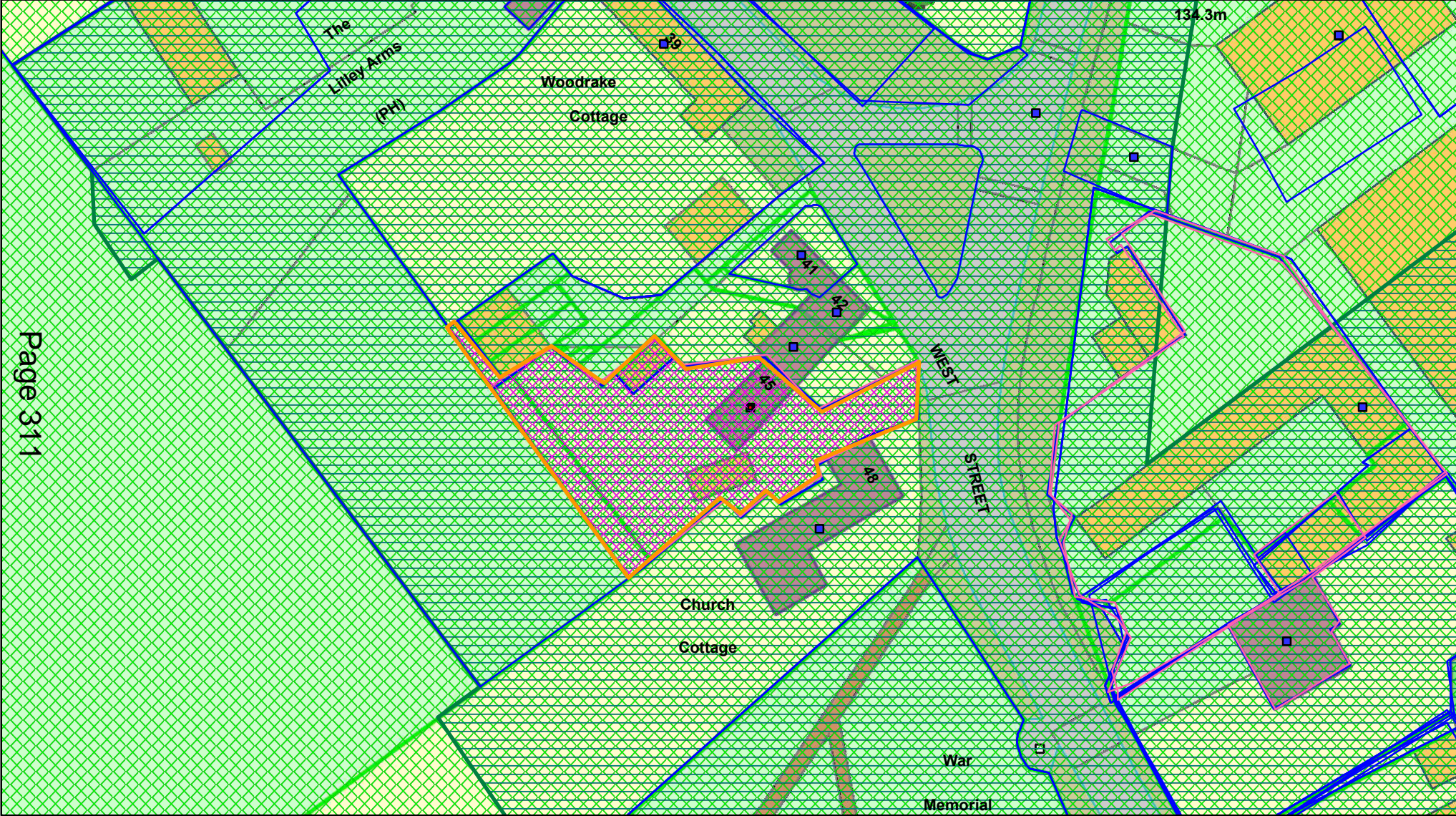
Nos. 41, 42, 44 and 45 form a predominantly brick-faced, elongated-plan built form sitting perpendicular to the road with gabled, through-eaves, dormer windows, on a prominent corner site. The building's significance is attributed to its date of construction and the fact that it is 'timber framed brick cased' with a '2-cells, lobby entry, internal chimney plan and axial floor beams to inserted floor'. The significance of this terrace also lies in the fact that it sits alongside no.48 (Church Cottage) which is also grade II listed and broadly similar. Both buildings are in the Lilley Conservation Area and the south (front) elevation to no.45 is well-balanced with an off-centre doorway and central ridge stack with a ground floor 3-light window and first floor double-casement through-eaves dormer either side of these. By reason of the extension's height and rendered finish together with the catslide arrangement at the rear wrapping around the original gable end of the terraced cottage, it would have both a contrasting and non-subservient impact upon the host building, detracting from the terrace's existing elongated brick-faced appearance and would unbalance the appearance of no.45 occasioning harm thereto. The degree of harm is considered to be less than substantial. The building already has an optimum viable use, and the proposal would not deliver any public benefits. Furthermore, there is no convincing justification put forward in support of this proposal. The development would fail to satisfy the provisions of Sections 16(2) and & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 – 2031.

Mark Simmons

Senior Conservation Officer

NORTH HERTFORDSHIRE DISTRICT COUNCIL

23/01750/LBC 45 West Street, Lilley, Luton, Hertfordshire, LU2 8LN



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<u>Location:</u>	Land On The North Side Of Pirton Road Holwell Hertfordshire SG5 3SN
<u>Applicant:</u>	Andrew Davidson
<u>Proposal:</u>	Erection of six dwellings with associated access, landscaping and parking (as amended by plans received 06/02/24 and 15/02/24)
<u>Ref. No:</u>	22/01687/FP
<u>Officer:</u>	Andrew Hunter

Date of expiry of statutory period:

1 December 2023

Reason for delay and Extension of statutory period:

Negotiations with the applicant, re-consultation following amended plans, and Committee cycles. Extension of time agreed to 21 June 2024.

Reason for referral to Committee:

The application has been called in by Cllr Louise Peace if minded to approve and for the following reasons:

The parish council believes the proposed site is outside the village boundary.

Highways issues / dangerous access

Style of houses is not in keeping with the surrounding properties.

Not enough parking.

Stress on already at-capacity sewage.

BNG.

1.0 **Site History**

1.1 None.

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
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
SP13 - Historic environment

T1 – Assessment of transport matters
T2 – Parking
HS1 – Local Housing Allocations
HS2 – Affordable Housing
HS3 – Housing mix
D1 – Sustainable Design
D3 – Protecting Living Conditions
D4 – Air quality
NE2 – Landscape
NE4 - Biodiversity and geological sites
NE6 - New and improved open space
HE1 - Designated heritage assets
HE4 - Archaeology

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 places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

3.0 **Representations**

3.1 **Neighbouring Properties:**

One objection has been received from Old Church House on the following grounds:

- Does not vary significantly from the original. Little reduction in density from previous 9 dwellings.
- There are large numbers of houses of this type in the Holwell area.
- Does not satisfy the demand for affordable housing.
- Addresses very few of previous concerns from residents and consultees.
- Car ports overshadowing the western aspect of Old Church House.

Fifteen objections were received, to previous plans for nine dwellings, on the following grounds:

- Number of dwellings seems excessive for the plot.
- Relatively large houses. Out of character.
- Significant negative visual impact.
- The rationale relies heavily on the previous use of the site as agricultural land in the last century. The current built core would be extended to the north-west.
- Bin stores, bike stores and fence lines are not well defined. Locations of heat source pumps are unclear.
- Location and proposed access are a concern.
- The plot is on a tight bend.
- Lack of detail of the access with no visibility splay.
- Additional traffic.
- Increased parking.
- Loss of parking in entrance area to field.
- Reliant on private cars.
- Access for construction would cause significant traffic problems.
- Setting and privacy of Old Church House (neighbouring listed building) would not be maintained. Overbearing and overlooking.
- Close proximity to Grade I listed church and potential archaeological damage.
- Concrete surfaces with no green spaces or trees.
- Habitat for wildlife and impacts on ecology.
- A pond near the site would be affected.
- Likely have an impact on existing infrastructure, notably sewers.
- Holwell can't cater for additional load on local services.
- The development won't make any contribution to infrastructure.
- Highly unlikely to be affordable housing. Would much prefer starter homes.
- Struggle to find any positives.
- No contamination assessment provided.
- Potential for structural damage to nearby buildings.
- Infringes covenant that states that Church Farm should have full and clear visibility of St Peter's Church at all times.
- Flooding from pond that could be affected by building works.
- Amended plans do not address concerns raised.

3.2 **Holwell Parish Council:**

Comments March 2024 (for present 6 dwelling scheme)

Holwell Parish Council continue to object to this planning application for the following reasons:

We believe the proposed site is outside of the village boundary.

The exit of the development is on a blind corner, on a sometimes busy road with cars, buses and farm vehicles, making it a danger.

The proposed development has dark cladding, on the properties, which is not in keeping with the village aesthetics.

There are not many proposed allocated parking spaces and the roads surrounding the development are already at full capacity.

We already know that the sewage system in Holwell is at capacity and a further development of six properties would make the situation worse.

There is a lot of wildlife on and around the proposed site and the development would have an adverse effect on the nature.

For these reasons, Holwell Parish Council object to the planning application.

Comments July 2022 (for original 9 dwelling plans)

Holwell Parish Council strongly object to this application for the following reasons;

The proposed development is outside the built boundary of the village, which would have an adverse effect on the village and permission could set a precedent for future developments in villages.

It is close to listed residential buildings and a Grade 1 listed church, possibly causing structural damage to them.

The proposed site is on a dangerous bend in the village with parked cars already an issue at times when large vehicles are going through the village. The access to and from the site is not safe as visibility around the bend could be hazardous.

There are 3 working farms in the village who use the road regularly with large farm vehicles and at times get stuck around the location of the bend with the issue of parked cars.

The proposed development is not affordable housing for first time buyers or families on a low income.

The sewage plant at Holwell is already at capacity and there are regular back of drains throughout the village.

Holwell is an unsustainable village with no shops, school, public services etc. The buses run infrequently so residents need to use cars and with the proposed development of 9, 4-bedroom houses that is possibly adding another 18 or more cars to a village which already has parking and traffic issues.

No garages, sheds or bin stores are visible in the plans. There is little in the way of gardens to enhance the visual aspect of the development.

The development would have a huge impact on wildlife. The site is currently a feeding ground for bats and owls who are regularly seen and the owls are successfully breeding. Lighting, noise and disruption of a building site and development would likely change this dramatically.

Many residents from the village are opposed to the development and Holwell Parish Council are representing their views with this objection. It is an ugly, overdevelopment of a small site which would not enhance our village in any way.

3.3 **Statutory Consultees:**

3.4 Hertfordshire County Council Growth and Infrastructure - Planning obligations should only be sought for residential developments that are major development, which is defined in the National Planning Policy Framework as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more and the number of dwellings is unknown. Therefore, we will not be seeking financial contributions.

3.5 Waste Officer – No objections.

3.6 Environmental Health (Noise/Land Contamination/Air Quality) – No objections.

3.7 Housing Supply Officer - In my opinion the site is within the built core of the village and following adoption of the current Local Plan the proposals for the provision of nine dwellings and the reduced number of six dwellings does not meet the threshold for affordable housing in accordance with Policy HS2: Affordable housing.

3.8 Hertfordshire County Council highways officer – Recommends that permission be refused for the following reasons:

The amendments include car ports as shown on drawing OAK PL-01. Manual for Streets 8.3.41 recommends a minimum size of 6 x 3 meters. The carports therefore, should 6 x 6 meters internal dimensions.

(See Appendix 1 for full text and previous responses).

3.9 Lead Local Flood Authority - This application does not meet the threshold requirements for the LLFA to respond, as there is no known local flood risk to this proposed development and it is a minor application.

3.10 Conservation Officer – Whilst not wishing to delay the determination of this application, the matters raised above regarding Plots 1 & 2 and open space are important and that, if taken on board, would potentially enhance the scheme's character and identity. Await feedback and subject to the suggested conditions, I am likely to raise **NO OBJECTION** on the basis that the development would satisfy the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031.

(See Appendix 1 for full text).

3.11 County Council Archaeology – No objections subject to conditions.

(See Appendix 1 for full text).

3.12 Hertfordshire Ecology – Ecological report provides sufficient information for determination.

(See Appendix 1 for full text).

3.13 Herts and Middlesex Wildlife Trust - Objection: Biodiversity net gain not assessed, no buffers to adjoining hedges, in conflict with the recently approved local plan.

3.14 North Herts Archaeological Society - The Society OBJECTS to this planning application.

The site is located within a defined Archaeological Area and yet the applicant has not submitted a Desk-based Archaeological Assessment, contrary to NHDC planning policies. We note that NHDC has consulted its archaeological advisers at HCC Historic Environment.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site is largely undeveloped grassland with trees and vegetation on or near its boundaries, with the exception of hardstanding and a vehicular access off Holwell Road in the south-east corner of the site. There are three areas edged in blue adjacent to the site, which contain small trees, vegetation and hedges, and a small pond in the north-western blue edged area.

4.1.2 A public footpath is near the west boundary of the site between trees, with open countryside beyond. Open countryside also extends north of the NW part of the site. To the north, NE and east of the site are three dwellings, with the northern and southern of these dwellings being Grade II listed buildings (Church Farm, and Old Church House, respectively).

4.1.3 To the south of the site is a bend in the road where Holwell Road and Pirton Road meet. Extending west off this bend is an access track that leads to agricultural land. On the other side of this track to the south is a terrace of four two-storey high dwellings, with more dwellings extending further to the south down Pirton Road. South and south-east of the site is Grade II listed St Peter's Church and its grounds including cemetery. East of St Peter's Church and east of Old Church House are dwellings that are mostly two storeys, and a curved terrace of bungalows.

4.1.4 The site, and all of Holwell, is in the Rural Area beyond the Green Belt. Holwell is a Category B village in the Local Plan under Policy SP2.

4.2 **Proposal**

4.2.1 Planning permission is sought for the development of the site to residential, with 6 dwellings proposed. These would be two storeys with pitched roofs sited to the rear of the site, arranged as two detached dwellings and two pairs of semi-detached dwellings. Plots 1 to 4 would have four bedrooms, and plots 5 and 6 would have three bedrooms.

4.2.2 Vehicular access would be via the existing field access on Holwell Road, which would also be widened. Each dwelling would have two parking spaces, with spaces for two of the dwellings under a car port with a pitched roof. Two visitor spaces would be on near the car port. Other hard and soft landscaping is also proposed, with each dwelling having its own private garden. Excluding the access road, the southern third of the site would remain undeveloped.

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 heritage assets.
- Whether the proposal would provide an acceptable standard of accommodation for future occupiers of the dwellings.
- 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 quality of landscaping proposed and the impact the proposed development would have on trees.
- The impact that the proposed development would have on ecology and protected species.
- The impact of the proposal on drainage and flood risk.
- The impact of the proposal on archaeological assets.
- The requirement for planning obligations.

Principle of Development:

4.3.2 In the adopted Local Plan, the site is in the Rural Area beyond the Green Belt (RA). Holwell is identified as a Category B village by Policy SP2 of the Local Plan. Such villages do not have defined village boundaries, unlike Category A villages. Local Plan Policy SP2 states that infilling development which does not extend the built core of the village will be allowed in Category B villages. Policy CGB1 sets out criteria as to when development will be acceptable in principle in the RA, with a) referring to infilling development as specified by Policy SP2. The key question is whether the proposed development would comply with SP2.

4.3.3 The Local Plan defines infill development as:

The development of a relatively small gap between existing buildings.

There are buildings to the south, east and north-east, but not to the west and north-west. It is considered that the site is mainly viewed and read from Pirton Road and Holwell Road when in this part of Holwell, where the site is open and undeveloped east of Old Church House (which also includes the land edged in blue).

4.3.4 There is another dwelling to the south of the site, No. 10 Pirton Road, separated from the site by an access track to agricultural land to the west and trees/vegetation on the north side of the track. The site is on the outside at a near 90-degree corner where Pirton Road and Holwell Road meet. It is considered that the site appears as a gap between No. 10

and Old Church House when taking the shape of this part of the road into account and appears as a gap between buildings when taking into consideration the locations of the closest buildings. For these reasons, it is considered that the proposal is infilling development.

- 4.3.5 The proposed development should also not extend the built core of Holwell. It is considered that the site is within the central area of Holwell as development is nearby in numerous directions and it is accessed off the main through-road. The proposed dwellings would not extend further west than No. 10 Pirton Road, would be to the south of Church Farm, and would not extend into the wider countryside as the development would be separated from it by a footpath and a pond to the north-west. The proposal is considered acceptable in principle and would comply with Policies SP2 and CGB1 of the Local Plan.

Character and appearance:

- 4.3.6 The site is in central Holwell and would be accessed from the main road that goes through it, and as Policy SP2 allows some development in Category B villages, it is considered that the location of the development would be sustainable.
- 4.3.7 The site is part of an undeveloped open gap, and with the retention of front boundary vegetation it would make a positive contribution to this part of Holwell and the locality. The proposal would further develop this part of Holwell. However, as the dwellings would be to the rear of the site behind trees and vegetation, views of the dwellings would be substantially obscured from public vantage points. In addition, the scheme has been redesigned to improve their appearance and better reflect the semi-rural context of the site and the nearby dwellings off Gurney's Lane to the east.
- 4.3.8 The site is approx. 0.33 ha, which with the 6 dwellings proposed would equate to the proposed development being 18.1 dwellings per hectare in density. This density is higher than dwellings on Gurney's Lane to the east and north, which are on larger plots. The density would also be higher than most dwellings to the south, although it would be comparable or less than other nearby dwellings such as Rand's Close to the east and St Peter's Green to the south.
- 4.3.9 The proposed density and number of dwellings proposed are not considered detrimental to the character and appearance of this part of Holwell, also taking into account the distance of the dwellings from the road to the south and intervening vegetation. The proposed internal layout would not appear dominated by parking and hardstanding and would be integrated into soft landscaping and planting, which would be in keeping with the undeveloped character of the site and this part of Holwell.
- 4.3.10 The sizes, designs and external materials of the individual dwellings are considered acceptable. Each dwelling would have acceptable refuse storage that would not appear cluttered within the site.
- 4.3.11 On the basis of the advice from the Council's Conservation Officer who raised no objections to the original 9 dwelling proposal, the proposed development of 6 dwellings is not considered harmful to the setting and significance of the three nearby listed buildings (as such impacts are required to be assessed by paragraph 205 of Section 16 of the NPPF). The layout and design of the development is considered acceptable. The

proposal complies with Policies SP9, SP13, D1 and HE1 of the Local Plan, and Sections 12 and 16 of the NPPF.

Impacts on Neighbouring Properties:

- 4.3.12 The closest dwelling to the south is No. 10 Pirton Road. The closest proposed dwelling to No. 10 would be approx. 33.6m away with trees and vegetation between, which is considered sufficient to not cause loss of amenity. The proposed development is not considered harmful to the amenity of No. 10 Pirton Road and other dwellings to the south.
- 4.3.13 The three closest dwellings are to the east, are Church Farm, The Stables, and Old Church House. Of the proposed dwellings, plots 1 and 2 would be sited sufficiently far from these three dwellings that they would not cause overbearing impacts, loss of light or privacy.
- 4.3.14 Plots 3 and 4 would be on the far side of the site and would not cause overbearing impacts and loss of light to the dwellings to the east. The closest distance to the boundary with Church Farm of those plots would be approx. 10.1m, which is not considered excessively short and is acceptable. Continuing with Church Farm, the other proposed dwellings would be the same distance from its boundary and at least 30m from the dwelling itself, which is sufficient to avoid overbearing impacts, loss of light and privacy. The car port building will not affect the amenity of Church Farm.
- 4.3.15 The dwelling known as The Stables is to the south of Church Farm. Of the proposed development, only Plot 6 could potentially affect it. Plot 6 would be approx. 27.7m from the rear of The Stables, which is considered sufficiently far to avoid loss of amenity to any main habitable rooms. Plot 6 would be approx. 3.8m from the rear garden boundary of The Stables. However, this would not cause loss of privacy as no first floor side windows are proposed. Plot 6 would be visible from the rear garden of The Stables, however it is not considered that it would appear overbearing or cause loss of light as it would be set off the boundary, obscured by 3m high vegetation, and sited near the south-west rear corner of the garden which is wide. Impacts on the amenity of The Stables are considered acceptable.
- 4.3.16 Old Church House (OCH) is the remaining closest dwelling to the proposed development. Only Plot 6 and the car port have the potential to cause loss of amenity to OCH, as the other dwellings proposed would be sited sufficiently far away. Plot 6 itself would be approx. 12.1m from the boundary with OCH, and 13.3m from the dwelling of OCH, which is considered sufficiently far to not cause overbearing impacts and loss of light and would also benefit from being obscured to some extent by vegetation up to 3m high. No loss of privacy would occur as no side openings are proposed, and the front openings would primarily provide views of the site.
- 4.3.17 The car port building would be more visible than the main dwelling. The building would be approx. 8.9m from the boundary with OCH, which is not considered harmful due to its small size and screening from vegetation. It is not considered that loss of amenity would be caused to OCH or any other dwellings.
- 4.3.18 Regarding the objections received, many have been addressed elsewhere in this report. Impacts on sewerage are not material considerations for the application. Each dwelling would have its own private garden. New trees can be required by condition. A contaminated land assessment was not required to be submitted with the application.

However, this matter can be controlled by condition if permission is granted. The development would be sufficiently far from the closest buildings to avoid causing structural impacts, and in any case any damage that could be caused would be a civil matter to be resolved between the relevant parties. The existence of any restrictive covenants are not material planning considerations. Construction work would be sufficiently far from the nearby pond to be affected. The proposal complies with Policy D3 of the Local Plan.

Amenity of Future Occupiers:

- 4.3.19 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 of future and existing users*”. Paragraph 135 (f) is largely reflected in Policies SP9 and D1 of the Local Plan.
- 4.3.20 The proposed dwellings would not adversely affect neighbouring land uses, buildings, trees/vegetation, and structures. Their main habitable room windows would receive adequate outlook and light and would meet the nationally described space standards. The rear private gardens of the dwellings would be of an acceptable size and quality.
- 4.3.21 There would be some overlooking of the rear garden of Plot 3 from first floor side windows of Plot 2, and of the rear garden of Plot 1 from first floor front windows of Plot 2. The rooms serving the windows that would cause this overlooking would however serve bathrooms or be secondary and could be required to be obscure glazed by condition if permission was to be granted. Future living conditions are acceptable, and the proposal complies with Policy D1 of the Local Plan.

Highways and Parking:

- 4.3.22 Each dwelling would have more than two bedrooms, and the Council’s parking standards require a minimum of two parking spaces for such dwellings. Each dwelling would have two spaces; therefore, this requirement would be met. Some objections have been received relating to loss of parking at the front of the site, which would be the case if the development went ahead as two cars can be parked in the present vehicular entrance. These are not however formal parking spaces and are largely on the applicant’s land who could restrict access to the hardstanding at the field entrance.
- 4.3.23 One secure covered cycle parking space is required for each dwelling, which are indicated on the proposed site plan. Further details would be required of these by condition if permission was to be granted.
- 4.3.24 For visitor parking, under the parking standards 4.5 spaces should be provided as a minimum (0.75 spaces per dwelling as none would have garages). Two spaces are proposed, therefore there would be a shortfall of three spaces. The Council’s parking standards state that reductions in visitor parking provision will be considered where:

1. *Alternative publicly available off-street parking is available within 2 minutes’ walk of the site;*
2. *Visitor parking arising from small-scale (i.e. infill) development can be accommodated on-street without compromising highway safety, the amenity of existing residents or the ability for businesses to operate; or*

3. Relevant evidence is submitted by the applicant which supports a reduction in standard and considers existing and future car ownership and likely visitor demand.

- 4.3.25 In considering the above, there is no public off-street parking nearby. The shortfall would be three spaces, which would be small and could be accommodated informally within the development if necessary within the site, in the form of tandem parking and parking on wider parts of the access road. Therefore, it is considered that scenario 2 would be complied with. In this case, providing reduced visitor parking can allow for more of the site to be used for soft landscaping and planting, benefitting the overall appearance of the development. Visitor parking is considered acceptable.
- 4.3.26 The County Council highways officer is recommending refusal on the basis of the proposed car port being 6m x 3m internally, not 6m x 6m internally. The internal dimensions of the car port measure 5.8m by 5.3m, however this is considered relevant to the assessment of parking provision required by NHDC rather than by the highway authority. Each parking space in the car port would measure 5.3m by 2.8m, which is considered a sufficient size and is acceptable. There is also an inconsistency with the highways officer comments, in that no objections were raised to car ports of a similar size on 26 April 2023.
- 4.3.27 The highways officer has not objected to the widened access and its impacts on the public highway including the development as a whole, therefore this is considered acceptable. Traffic generation is anticipated to be small and would not therefore adversely affect the capacity of the local highway network. Internal manoeuvrability within the site is acceptable.
- 4.3.28 The highways officer had recommended that a condition be imposed that requires improvements to the St Peters Church bus stop on the west side of Pirton Road through the provision of raised Kassel kerbing providing better access to the waiting area to the front of the stop (in comments of 11 October 2022). This bus stop is to the south of the site, beyond the entrance to St Peter's Green, and would be accessible to potential residents by an existing paved footway leading from the site entrance to the bus stop. The highway response suggests occupants would walk off the road onto pavement where the stop is. However, it is considered most likely that the existing footway would be used to reach the bus stop. This condition is not therefore considered necessary and does not meet the tests required for conditions. The proposal is considered to comply with Policies T1 and T2 of the Local Plan, and Section 9 of the NPPF.

Trees and Landscaping:

- 4.3.29 The site has trees and some smaller vegetation on or near its boundaries, which would not be affected by the proposed development. The interior of the site is grassland with some small shrubs, of which there are no objections to their removal and replacement. The development would be considered to include an acceptable balance of hard and soft landscaping, with soft landscaping between the longer parking areas which would soften the visual impacts of these parking spaces. If permission was to be granted, further details of landscaping would be required by condition. The proposal therefore complies with Policies D1 and NE2 of the Local Plan, and Sections 12 and 15 of the NPPF.

Ecology:

- 4.3.30 An ecological survey was submitted with the application did not find protected species and notable habitats, with Herts Ecology stating that the report concludes the site to be of limited ecological value. The comments from Herts Ecology are given significant weight, with them concluding that the likelihood of an adverse ecological impact is low, but the report suggests reasonable precautionary measures to ensure that legally protected species are not harmed.
- 4.3.31 The most notable habitats are a pond to the north-west (outside the site) which would not be affected by the development; and trees, most of which would be retained (and those not retained would be replaced). The survey also proposes various enhancement measures that would be considered to provide a biodiversity net gain. If permission was to be granted, a condition would require a Landscape and Ecological Management Plan to be submitted and approved to secure all of the proposed biodiversity measures. 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

- 4.3.32 The Lead Local Flood Authority (LLFA) have not provided detailed comments for the application as the application is a minor application, and there is no known local flood risk to the development. The majority of the site would be of soft landscaping, and undeveloped areas would also be left around most of the edges of the site, both of which would allow for drainage of surface water. The development is not considered harmful to the pond due to the distance of the proposed dwellings and hardstanding from it, and the development is also on a lower ground level. No concerns have been raised in relation to potential surface water run-off. The proposal complies with Policies NE7 and NE8 of the Local Plan.

Archaeology

- 4.3.33 The site is in an Area of Archaeological Significance identified in the Local Plan. This includes the historic core of the village of Holwell, the 17th century farmstead of Lordship Farm, and other sites, including Church Farm.
- 4.3.34 The County Council Archaeologist (CCA) has provided detailed comments on the proposal, including considering the comments of the North Hertfordshire Archaeological Society. The CCA has stated that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest, requiring appropriate surveys and recording. These can be required to be carried out by planning conditions as recommended by the CCA. The proposal therefore complies with Policy NE4 of the Local Plan and Section 16 of the NPPF.

Planning obligations

- 4.3.35 The proposed development is for 6 dwellings and is therefore under the threshold for affordable housing provision of more than 10 dwellings. The proposal is also minor development, therefore the County Council Growth and Infrastructure Unit are not seeking contributions towards education etc. No other obligations or contributions are being

sought by consultees. Therefore, it is not considered that any planning obligations or contributions can be reasonably sought.

Climate Change Mitigation:

4.3.36 The NPPF supports the transition to a low carbon future and the increased use of renewable energy sources. North Hertfordshire District Council has declared itself a Climate Emergency authority and its recently adopted Council Plan (2020 – 2025) seeks to achieve a Council target of net zero carbon emissions by 2030 and protect the natural and built environment through its planning policies. Local Plan Policy D1 seeks to reduce energy consumption and waste. To assist in achieving these aims, Electric Vehicle Charging points would be required by condition to be installed on each of the proposed new dwellings. The applicant has also stated in their Planning Design and Access Statement that the dwellings would be heated via air source heat pumps and significant insulation would be used, therefore further helping to minimise climate change. If permission was to be granted, further details of the heat pumps would be required by condition.

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 conditions:

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

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

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

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

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

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

4. Prior to the commencement of the approved development, the following landscape details shall be submitted:

a) which, if any, of the existing vegetation is to be removed and which is to be retained

b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting

c) the location and type of any new walls, fences or other means of enclosure; and details of all hard surfacing proposed

d) metrically scaled drawings of the bin stores and cycle stores, showing their sizes, designs, appearance, external dimensions, external materials and finishes.

The development shall then be completed in accordance with the approved details.

Reason: To ensure the submitted details are sufficiently comprehensive to enable proper consideration to be given to the appearance of the completed development and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

5. 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.

6. The car port shall be used only for the accommodation of private motor vehicles or for purposes incidental to the dwellings to which they relate and they shall not be used for or in connection with any form of trade, business or commercial activity.

Reason: To safeguard the residential character of the locality, parking provision, and the amenities of residents, both of which would be prejudiced by the activities and visual intrusion likely to be associated with a commercial activity and to comply with Policy D1 and Policy T2 of the North Hertfordshire Local Plan 2011 to 2031.

7. The first floor front elevation and east side elevation windows of the Plot 2 dwelling shall be obscure glazed.

Reason: In the interests of privacy and amenity. To comply with Policy D3 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. No development approved by this permission shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:

- A Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination;
- A Phase 2 Site Investigation (where shown as necessary the Phase 1 Desk Study);
- A Phase 3 Remediation Scheme (where shown as necessary by the Phase 2 Site Investigation)

All such work shall be undertaken in accordance with BS:10175:2011 or other appropriate guidance issued by the regulatory authorities. The work shall be sufficient to ensure that measures will be taken to mitigate any risks to human health and the wider environment.

Reason: To protect human health and to ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990. To comply with Policy NE11 of the Local Plan.

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

Reason: In the interests of archaeology. To comply with Policy HE4 of the Local Plan.

11. The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition 10.

Reason: In the interests of archaeology. To comply with Policy HE4 of the Local Plan.

12. The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 10 and the provision made for analysis and publication where appropriate.

Reason: In the interests of archaeology. To comply with Policy HE4 of the Local Plan.

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

The content of the LEMP shall include the following:

- a) Demonstrating a biodiversity net gain within the site
- b) The matters raised in the letter from Herts Ecology dated 13/09/22 relating to tree replacement, and the Recommendations and Enhancements set out in section 5 of the Preliminary Ecological Assessment (date July 2022).

The approved plan shall be implemented in accordance with the approved details.

Reason: To ensure biodiversity net gain and to comply with Policy NE4 of the Local Plan.

Proactive Statement

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

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Planning Application 22/01687/FP - Appendix 1

Land On The North Side Of Pirton Road, Holwell, Hertfordshire, SG5 3SN

Consultee Responses

Hertfordshire County Council highways officer

Recommends that permission be refused for the following reasons:

The amendments include car ports as shown on drawing OAK PL-01. Manual for Streets 8.3.41 recommends a minimum size of 6 x 3 meters. The carports therefore, should 6 x 6 meters internal dimensions.

The Highway Authority is unable to recommend planning permission until a new drawing is provided with the required measurements as discussed above.

Comments 26 April 2023:

Does not wish to restrict the grant of permission.

The amendments are contained to the dwellings in respect of design. There are no impacts on the surrounding highway network, therefore the High Authority maintain the previous comments and do not oppose the amendments.

Comments 11 October 2022:

Does not wish to restrict the grant of permission subject to the following conditions.

COMMENTS

This is an AMENDED PROPOSAL for the erection of nine 4-bed dwellings with associated access, landscaping and parking. Pirton Road is maintainable by the highway authority and is unclassified and provides a local access function in the road hierarchy. The vehicle speeds past this site are limited to 20 mph. There have been no recorded accidents near the site in a rolling 5-year period.

DRAWINGS

The Highway Authority note the submission of materials in support of the planning application, including drawing numbers: C4t5/FOU/HOL1 - P2-01 Rev A, C4t5/FOU/HOL1 - P1-01 Rev A, Existing Site Plan, C4t5/FOU/HOL1 - S00, C4t5/FOU/HOL1 - S10 Rev A, Proposed Site Plan, and Design & Access Statement (D&A), Transport Statement, and letter from Patrick Eggenton 7th October 2022.

SUSTAINABILITY

'Cycle Infrastructure Design' DfT Local Transport Note 1/20 (July 2020) recommends for cycle parking storage should be 2m (1.8m is acceptable) in length by 0.3m space between cycles. There should be parking for 1 cycle per dwelling. Outside cycle parking should be covered and lockable. The provision of well-located, safe and secure cycle parking for residents and visitors is a key factor in encouraging people to cycle as an alternative to using the private car. Cycle parking must be provided in line with LTP Note 1/20.

PEDESTRIAN / VEHICLE ACCESS

After consultation with the applicant, drawing SK10 Rev A (Re letter 7th October) now provides a raised table across the bell mouth extended 12 meters into the site with accompanying footway on the south side. This is welcomed. Section 6.4 of the TS states: 'The nearest bus stops are located at St. Peter's Church with circa 84 metres south of the proposed development where service 89 can be boarded. To promote sustainable travel for residents of the site it is recommended to upgrade the St Peter's Church bus stop with kassel kerbing. This style of kerbing allows easy access for wheelchair users. Please see condition above.

SWEPT PATH

Drawing SK11 demonstrates a swept path for a recycling vehicle. Drawing SK10 Rev A demonstrates hatched areas of no parking allowing service vehicles to manoeuvre safely within the site and exit in a forward gear.

VISIBILITY

The Highway Authority are satisfied that drawing SK02 demonstrates acceptable visibility splays for pedestrians however, forward visibility for vehicles about to turn into the site, see drawing SK14.

EMERGENCY ACCESS

The nature of the site and the proposals access must show that a fire service vehicle can get within 45 meters from the public highway (As required in accordance with MfS 6.7.2). Alternatively, a drawing showing a fire service vehicle can enter and exit the site in a forward gear. Guidance can be found in 'MfS', 'Roads in Hertfordshire; A Design Guide' and 'Building Regulations 2010: Fire Safety Approved Document B Vol 1 – Dwellings'. The required revised swept path for a recycling vehicle has been demonstrated on drawing SK11

TRIP GENERATION

The site has been unused for quite some time and any historic trips will most likely be less than that generated by nine dwellings. The proposals therefore will ultimately generate more trips from this access.

The TS section 6.11 states: The proposed 9 dwellings are likely to generate vehicle generate 4 vehicle trips (1 in / 3 out) in the AM peak hour (08:00 – 09:00) equating to approximately 1 vehicle trip every 15- minutes, and 5 vehicle trips (3 in / 2 out) in the PM peak hour (17:00- 18:00) equating to 1 vehicle trip every 12-minutes. These additional vehicle trips would have a negligible impact on the local road network.

The Highway Authority are content such level of trips in itself would not present an unacceptable impact on local highway conditions.

REFUSE / RECYCLING

The proposals for recycling bin storage are in line with Manual for Streets MfS 6.8.9 residents should not be required to carry waste more than 30m and be within 25m of the kerbside/bin collection point

CONCLUSION

Hertfordshire County Council as Highway Authority has considered that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways and consequently have no objections on highway grounds subject to the above recommended planning conditions and highway informatives.

The amendments are contained to the dwellings in respect of design. There are no impacts on the surrounding highway network, therefore the High Authority maintain the previous comments and do not oppose the amendments.

Conservation Officer

I previously commented on 01/12/2022, 28/02/2023 and 27/04/2023.

I raised no objection to the previously amended iteration partly because I was under the impression that the scheme was acceptable in planning terms and that planning permission was unlikely to be resisted. I took the view that some improvements had been made to the scheme but I remained of the view that my comments regarding car port/garage plan, the rear elevation of Pots 1-3, the soldier arches to the openings on Units, 1, 2, 3, 6, 7, 8 & 9, the brackets to the through-eaves gables of Unit 2, the lack of a plat band to Plots 4 & 5 and the car-dominated layout were all valid design matters that would potentially have enhanced the scheme's character and identity yet further. However, I concluded that I would raise no objection.

The question is whether what has not been submitted is a well-designed layout that incorporates house types with high quality elevations?

My first query relates to the tranche of land that remains open to the left of the site entrance. Whilst there may be some ecological and design benefit of maintaining a managed area of green open space on site, I see there also being a design benefit of moving the unit on Plot 1 away from Plot 2 and potentially redesigning this unit. If the open area is left as an unmanaged open area, then presumably this would leave the door ajar for a further submission later to develop this land.

If the purpose of the resubmission was to in part to reduce dwelling numbers, then to secure this in the long term, I wonder whether a well-designed (may be even larger) dwelling on Plot 1 but placed more centrally on a plot that combines the open land and Plot 1 would remove any prospect of further development and also ease the relationship between the dwellings on Plots 1 & 2. Currently, whereas the repetition of house types for Plot 3 & 4 and for Plots 5 & 6 works reasonably well as these are two distinct pairings, I find the repetition of house types for Plot 1 & 2 which are detached slightly more disappointing and have particularly wide side gables and no chimney stacks. Also, if these dwellings are to be rendered, I would encourage a drip detail over windows rather than the soldier courses shown.

A variation of house-type on Plot 1 would serve to provide some additional interest and it may even be possible to achieve both aims above e.g. larger Plot 1 and an open area, if the southern boundary to Plot 1 is limited to the red line above.

Maybe Plot 1 could have a brick-faced ground floor and even a jettied first-floor and that both Plots 1 & 2 could incorporate a chimney stack(s). Admittedly, a jetty detail to Plot 1 will require the gabled porch to be reconsidered but the jetty concept is a design feature to be encouraged. The gable proportions and chimneys stacks of the previous scheme (below right) worked better, in my opinion, when compared with the current Unit 1. If the dwelling to Plot 1 was repositioned further to the south, rather than having two parking spaces in front of Plot 1, perhaps two covered, weatherboarded carport spaces could perhaps then be positioned to the north of Plot 1 giving separation between the two-storey building forms that are Plots 1 and 2.

I raise no objection to Plots 3 & 4 and 5 & 6.

Suggested conditions

Apart from the standard time condition, it is important in my view that the windows are of sufficiently high quality for this new build (for instance at least something like the Residence 9 system (below left), Bereco (below right) or similar) and with appropriate roof materials i.e.

natural slate and clay machine plain tiles as a minimum (not concrete). Brick samples should also be stipulated.

Recommendation

Whilst not wishing to delay the determination of this application, the matters raised above regarding Plots 1 & 2 and open space are important and that, if taken on board, would potentially enhance the scheme's character and identity. Awaiting feedback and subject to the suggested conditions, I am likely to raise **NO OBJECTION** on the basis that the development would satisfy the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would satisfy the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031.

County Council Archaeology

Please note that the following advice is based on the policies contained in the National Planning Policy Framework.

The development site is in an Area of Archaeological Significance identified in the Local Plan. This includes the historic core of the village of Holwell, the 17th century farmstead of Lordship Farm, and other sites, including Church Farm [Historic Environment Record No 15876, LB Grade II]. Holwell is recorded as Holewelle in an Anglo-Saxon charter dated AD 969 (Gover et al, The Place-Names of Hertfordshire, EPNS, Cambridge, 1938).

Church Farm House is an early post-medieval building, the earliest part of which dates from c.1500, but which is documented in Court Rolls as the home of John atte Church, in 1365 (Gover et al, 1938). The southernmost of its substantial range of farmyard buildings were located within the proposed development site, and are shown on the c.1901 Ordnance Survey map. 20th century aerial photographs reproduced in the Planning Design and Access Statement submitted with the application appear to show that some of these buildings were present at the time the photographs were taken, but other, more recent buildings are also present. All these buildings have been demolished.

It is stated in the Planning Design and Access Statement that 'There remains a significant amount of hardstanding and hardcore in the form of roadways and building foundations from the previous use' and that 'The land is of low quality and has been left to overgrow'. This land use is not immediately apparent on vertical aerial photographs dating to 2000, 2010, and 2016, which show a fairly closely mown grassland site, but this may now not be the case.

The development site is immediately opposite the parish church of St Peter, which though built in 1877, occupies the site of its medieval predecessor [HER 11828].

I note the comments submitted by the North Hertfordshire Archaeological Society with regard to the potential significance of the place-name Holewelle, the presence of the historic spring, and also the possible significance of this space, located between the spring and the parish church.

I believe that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest and I recommend that the following provisions be made, should you be minded to grant consent:

1. An archaeological field survey to locate, plan and record any visible remains of the foundations of the demolished buildings on the site, prior to any development commencing;

2. The archaeological trial trench evaluation of the proposed development site, taking account of the results of the archaeological field survey, prior to any development commencing;

3. Such appropriate mitigation measures indicated as necessary by this evaluation

These may include:

- the preservation of any remains in situ, if warranted, by amendments to the design of the development if this is feasible,
- appropriate archaeological excavation of any remains before any development commences on the site, with provisions for subsequent analysis and publication of results,
- archaeological monitoring of the groundworks of the development, including service trenches, landscaping, and any other ground impact, as appropriate (this should include a contingency for preservation or further investigation of any remains encountered and provisions for subsequent analysis and publication of results);

4. The analysis of the results of the archaeological work with provision for the subsequent production of a report and an archive, and the publication of the results, as appropriate;

5. Such other provisions as may be necessary to protect the archaeological and historic interests of the site.

I believe that these recommendations are both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal. I further believe that these recommendations closely follow the policies included within Policy 16 (para. 205, etc.) of the National Planning Policy Framework. In this case three appropriately worded conditions on any planning consent would be sufficient to provide for the level of investigation that this proposal warrants.

Hertfordshire Ecology

Summary of advice

- Ecological report provides sufficient information for determination.
- The recommendations in the Preliminary Ecological Appraisal (PEA) should be followed and secured by condition.
- A Landscape and Ecological Management Plan (LEMP) should be provided by condition.

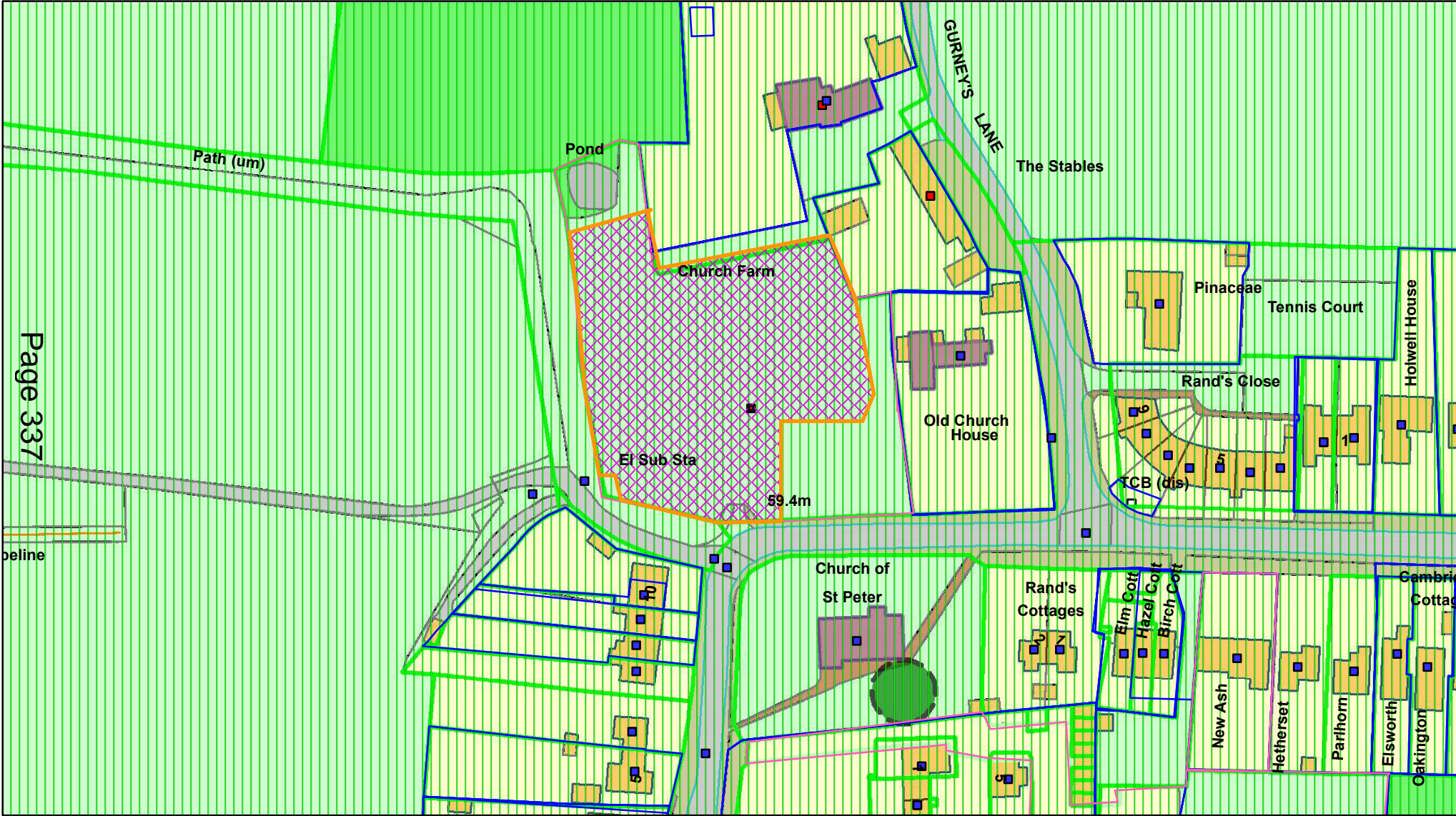
Comments

The Site is a field with rough grassland with a boundary of scrub, trees and hedgerows. A pond lies outside the red line boundary to the north of the site. A Preliminary Ecological Appraisal including further Reptile Surveys and Great crested newt Assessment, dated July 2022 and prepared by Skilled Ecology, has been submitted in support of this application. The report concludes the site to be of limited ecological value. Specific reptile and eDNA surveys undertaken in April and May did not record reptiles on site or the likelihood of Great crested newts in the nearby pond. The PEA provides an adequate assessment of the impact of the proposals and are based on appropriate survey methods and effort. The likelihood of an adverse ecological impact is low, but the report suggests reasonable precautionary measures to ensure that legally protected species are not harmed.

Trees will be replaced on a one-for-one basis or two-for-one for any mature trees. Hedgerows will include native species. Reasonable and sensible enhancement measures for bats, birds and invertebrates and sensitive lighting have been suggested. The landscaping scheme will include native and/or wildlife attracting species and wildflower meadow mix. The recommendations and enhancements in the report should be followed. To bring all these biodiversity aspirations together, I advise a LEMP is produced by condition. This should cover at least 5 years and provide details of the maintenance and management practices to be followed and the location of any habitat boxes/features.

NORTH HERTFORDSHIRE DISTRICT COUNCIL

22/01687/FP Land on the North Side of Pirton Road, Holwell, Hertfordshire, SG5 3SN



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PLANNING APPEALS DECISION

APPELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APPEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Mr Fursland	Erection of one detached 4-bed dwelling to include garage in basement, landscaping and creation of vehicular access onto Hitchin Road.	Land Adjacent To 48 Hitchin Road Weston	23/00949/FP (Appeal A)	Appeal Dismissed on 5 April 2024	Delegated	<p>Joint Appeal decision with 23/01698/FP</p> <p>The Inspector concluded that both developments proposed in Appeals A and B would be inappropriate development in the Green Belt and would erode its sense of openness. The development, in this regard, would conflict with the requirements of Policy SP5 (Countryside and Green Belt) of the North Hertfordshire Local Plan 2011- 2031 (LP) and the Framework. The Inspector also concluded that both the proposed houses would have a significant adverse effect upon the character and appearance of the area. The developments, in this regard would conflict with the requirements of LP Policy D1 (Sustainable Design). Amongst other matters, this seeks to ensure that developments respond positively to the site's local context and minimise the visual impact of parking provision.</p>

Mr Fursland	Erection of one detached 4-bed dwelling to include garage in basement, landscaping and creation of vehicular access onto Hitchin Road.	Land Adjacent To 48 Hitchin Road Weston	23/01698/FP (Appeal B)	Appeal Dismissed on 5 April 2024	Delegated	See above.
Steve Saward	Erection of one single storey 3-bed residential dwelling following demolition of existing garage including alterations to existing vehicular access/driveway and associated works.	38 Heathfield Royston Hertfordshire SG8 5BN	23/00830/FP	Appeal Dismissed on 9 April 2024	Delegated	The Inspector concluded that the proposal would result in harm to the character and appearance of the area. It would not therefore gain support from policies SP9 (Design and Sustainability) or D1 (Sustainable Design) of the North Hertfordshire Local Plan 2011- 2031 which only supports development that is well designed and responds positively to its context, including taking all reasonable opportunities to create or enhance the public realm. It also conflicts with the Framework which seeks development that functions well and adds to the overall quality of the area.
Mr Chris Hunt	Conversion of existing 3-bed house into two single level independent apartments (one 2-bed and one 1-bed). Erection of one 1-bed adjoined house and creation of 4 additional parking spaces (as amended by plans received 17th May 2023).	165 Weston Way Baldock Hertfordshire SG7 6JG	23/00392/FP	Appeal Dismissed on 17 April 2024	Delegated	The Inspector stated that the proposal would appear very prominent, dominant, and overbearing when viewed from the neighbour's aspect to the detriment of the living conditions of 2 William Way. The proposed development therefore conflicts with policies D1 (Sustainable Design) and D2 (House extensions, replacement

						dwellings and outbuildings) of the North Hertfordshire Local Plan 2011- 2031 and the provisions of the Framework. These policies, amongst other things, seek to ensure that the new development does not dominate adjoining properties.
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**PLANNING CONTROL COMMITTEE
PLANNING APPEALS LODGED**

DATE: 13 June 2024

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mr Alex Richmond	05 April 2024	Removal of condition 3 relating to plot 213 only (Permitted Development Rights) of planning permission 05/01838/1 granted 17.02.2006 for Approval of details of 93 dwellings comprising a mixture of 1, 2, 3, 4 & 5 bedroom flats, terraces and detached houses, 53 garages, 102 parking spaces and ancillary works.	11 Whernside Drive Great Ashby SG1 6HW	23/02026/S73	Written Representations
Mr & Mrs Kumar	17 April 2024	Variation of condition 2 (revised plans PL07D) of planning permission 21/03472/FP granted 29.04.2022 for erection of one detached 6-bed dwelling following demolition of existing dwelling, to add boundary wall, railings and gates	16 Priory Way Hitchin SG4 9BL	23/00924/S73	Written Representations
Mr B Retkin	09 May 2024	Permission in Principle: Erection of two detached dwellings and two semi-detached dwellings following demolition of existing bungalow	64 Pondcroft Road Knebworth SG3 6DE	23/02198/PIP	Written Representations
Mr And Mrs R Jones	15 May 2024	Single storey front and rear extensions to existing redundant barn to facilitate conversion into one 4-bed dwelling and landscaping (as amended by plans received 2nd February 2024).	Marshfield Barn New Inn Road Hinworth SG7 5HB	23/02947/FP	Written Representations
Mr T Jensen And Ms J Tubby	28/5/24	Erection of two detached four-bedroom dwellings together with associated vehicular access and car parking, private gardens, hard and soft landscaping, and private footpaths. External alterations to the existing dwelling including works to the existing two storey bay	Standelfield Standhill Road Hitchin Hertfordshire SG4 9AE	23/00887/FP	Written Representations

		window on the south east facing elevation and the insertion of new windows to the south west and north east facing elevations. (Amended plans recieved 16.10.2023)			
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Appeal Decision

Site visit made on 3 April 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2024

Appeal Ref: APP/X1925/W/23/3332761

165 Weston Way, Baldock, Hertfordshire SG7 6JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Chris Hunt against the decision of Central Bedfordshire Council.
 - The application Ref is 23/00392/FP.
 - The development proposed is the conversion of existing 3 bed house into 2 single level independent apartments - 1 x 2bed and 1 x 1bed. Construction of a new 1bed house adjoined to 165 Weston Road with garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupants of the neighbouring property at 2 Willan Way.

Reasons

4. The appeal site comprises an end terrace property on the western side of Baldock. It approaches Letchworth Garden City and shares a similar vernacular. The existing building is characteristic of those in the locality, being built in an Arts and Crafts style featuring a large gable, render and weatherboarding under a tiled roof. Other properties in the locality are similarly styled with features from the same design movement including catslide roofs and dormer windows.
5. The site is set on a roughly triangular corner plot with the side and rear boundary being shared with 2 Willan Way. As a consequence of this arrangement, both 165 Weston Way and 2 Willan Way have relatively small rear gardens, although this is made-up-for by the generous space to the sides and fronts of both the properties.
6. The proposed extension would be located adjacent to, and in proximity to, the boundary with 2 Willan Way. It would present an imposing mass of unbroken walling and roofing to this aspect. Due to the arrangement of these two neighbouring houses, this would be directly visible from the facing rooms of 2 Willan Way and from the outdoor private garden area. The juxtaposition of the

two properties means that this new extension would appear very prominent, dominant and overbearing when viewed from this neighbour's aspect to the detriment of the living conditions of the occupants of 2 Willan Way. The proposed development therefore conflicts with policies D1 and D2 of the North Herts Local Plan 2011-2031 and the provisions of the Framework. These policies, amongst other things, seek to ensure that new development does not dominate adjoining properties.

7. I recognise there is a desire to use the proposed built form to restrict overlooking from 2 Willan Way. It is not within my remit to comment on this scheme which has already been permitted and, in any case, that proposal was clearly considered acceptable on its own merits.

Conclusion

8. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

Nick Bowden

INSPECTOR



Appeal Decision

Site visit made on 12 March 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/X1925/W/23/3326023

38 Heathfield, Royston, Hertfordshire SG8 5BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by 1418 Development & Consulting Ltd against the decision of North Hertfordshire District Council.
 - The application Ref 23/00830/FP, dated 7 April 2023, was refused by notice dated 26 June 2023.
 - The development proposed is a residential dwelling to the rear of 38 Heathfield, including demolition of existing garage at 38 Heathfield, and alteration and extension of the existing vehicular access and driveway, and associated works.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the character and appearance of the area.

Reasons

3. The proposal would result in a new dwelling to the rear of the existing house at 38 Heathfield. The council is concerned that the proposal would detract from the existing character of the area which is characterised by detached properties with relatively open frontages which contain significant levels of planting. It is also evident that many Heathfield properties have large rear gardens which include mature planting that is evident from the road. Many of the houses are set back and as a result, it is the landscaping that is the most prominent aspect of the character of the area, with the buildings themselves, sitting relatively subserviently within this context. There are some areas, including some properties opposite the appeal site, where houses are not set as far back from the road and frontage vegetation is more limited but overall, the character is perceived as being a low density neighbourhood with buildings set unobtrusively within the mature landscape setting.
 4. The proposed dwelling would be to the rear of the existing house which would screen much of the new building. There is a similar bungalow to the rear of the adjoining property, 40 Heathfield, which represents an oddity within this area, being the only perceptible development in-depth. That property is not prominent in the street scene but it is evident. The combination of the driveway
-

to that property and the open driveway and parking area to the front of number 40 results in a greater prominence of development generally. The limited perception of the dwelling to the rear of number 40 is due in part to the landscaping within the front garden of the appeal property and along the side boundary between them.

5. The planning statement suggests that there would be no loss of trees on site. It is evident that some trees have already been felled in the area of the proposed dwelling. A survey drawing or tree constraints/protection plan has not been provided. The Proposed Site Plan shows two different demarcations for trees but it is unclear what these different markings represent. The existing access passes between two substantial trees which allow for only its current very narrow width. The plan suggests that the access would be altered and moved to the west. It would appear therefore that at least one of these substantial trees would be lost. There is also a tree just in front of the house, to the side of the existing access, which is not shown on the plan. It would appear that this may also be lost to the new area for parking and turning.
6. No trees are shown for part of the length of the side boundary to the front of the existing house and no planting is proposed other than to the rear. Whilst some of the vegetation between these properties is situated alongside the adjacent driveway and some remains shown alongside the new driveway, it appears that significant amounts of vegetation would be lost. There is no clear information to demonstrate what is to be retained; whether the trees or large bushes could be retained without harm during construction; or whether they would survive with the revised layout.
7. The landscape setting of these properties is crucial with regard to maintaining the existing character of the area. From the information presented and my findings during my visit, it would appear likely that the frontage vegetation and the side vegetation would be significantly reduced and the revised alignment of the access would prevent or restrict meaningful replacement planting. In the absence of clear evidence to the contrary in this regard, it is likely that the proposal would increase the prominence of the neighbouring rear property which is already out of character. It would also result in greater exposure of the dwelling proposed. This would consolidate the scale and prominence of development in-depth in this area. Even if it could be demonstrated that existing vegetation would be retained, the scale of the new parking area to the front of the existing property; the new driveway; and the combined driveways and parking areas of the two neighbours to the west, would result in a considerable expanse of surfacing with more limited planting, to the detriment of the general landscape setting. This represents poor design in this particular context.
8. On the basis of the evidence presented, the proposal would result in harm to the character and appearance of the area. It would not therefore gain support from policies SP9 or D1 of the North Hertfordshire Local Plan 2022 (LP) which only supports development that is well designed and responds positively to its context, including taking all reasonable opportunities to create or enhance the public realm. It also conflicts with the *National Planning Policy Framework 2023* which seeks development that functions well and adds to the overall quality of the area.

9. Much has been made of the dormer bungalow to the rear of number 40 which was permitted in 1999. I do not have the details of the policies that were in place at that time but in any event, I must consider the current proposal on the basis of the current policies. That dwelling, although appearing at odds with the surroundings, currently has a relatively limited wider impact given the scale of development to the frontage plot and the retained landscaping, particularly within and adjacent to, the appeal property. Its presence does not suggest that similar developments would not erode the existing positive characteristics of the area.
10. The council consider this to be an accessible location for new housing and therefore the principle would be acceptable with regard to LP policy SP2. They accept that the proposal would bring social and economic benefits from its construction and the provision of a new dwelling. The more efficient use of land and the social and economic contributions the occupants of a new dwelling would bring would also offer support for the proposal. Reference is also made to the environmental benefits incorporated into the design. Although this represents only a single dwelling, these matters, taken together, offer considerable weight in favour of the proposal.
11. Whilst I have had full regard to the benefits of this proposal, the information submitted does not demonstrate that the development overall, would not result in considerable harm to the character and appearance of the area. It would result in more surfacing, less landscaping and a greater perception of uncharacteristic in-depth development. This environmental harm would also represent poor design in this context. I conclude that the matters in support of the proposal, including the lack of local objections, are not sufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR

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Appeal Decisions

Site visit made on 27 February 2024

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2024

Appeal A Ref: APP/X1925/W/23/3331750

Land at Longmeadow, Hitchin Road, Weston SG4 7AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Fursland against the decision of North Hertfordshire District Council.
 - The application Ref is 23/00949/FP.
 - The development proposed is the erection of one dwelling with partial basement off new access.
-

Appeal B Ref: APP/X1925/W/23/3331751

Land at Longmeadow, Hitchin Road, Weston SG4 7AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Fursland against the decision of North Hertfordshire District Council.
 - The application Ref is 23/01698/FP.
 - The development proposed is the erection of one, four-bed dwelling with partial basement off new access.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Main Issues

3. The main issues relevant to these appeals are:
 - whether the proposed developments are inappropriate in the Green Belt, and the effect upon the openness of the Green Belt;
 - the effect of the development upon the character and appearance of the area; and
 - if the developments are inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the developments.

Reasons

Whether inappropriate development in the Green Belt and the effect on openness

4. The appeal site straddles the boundary of the Metropolitan Green Belt. Policy SP5 of the North Hertfordshire Local Plan (the Local Plan) supports the

principles of the Green Belt and states that proposals should not result in inappropriate development. Furthermore, Paragraph 152 of the National Planning Policy Framework (the Framework) identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As Policy SP5 does not provide examples of inappropriate development, I have had regard to the Framework, at Paragraph 154. This regards the erection of such new buildings as generally being inappropriate in the Green Belt but lists some exceptions. This list includes limited infilling in villages.

5. The site is located on land between 48 Hitchin Road and Longmeadow. However, there would be a relatively large distance between the proposed house and Longmeadow when considering the local context, which means the site has an open character. Moreover, Longmeadow and the house proposed in Appeal A would not be readily viewed alongside one another. This means that even though the new house would be in a garden, it would not be part of a continuous and consistent line of built development owing to the separation from neighbouring buildings and its proximity to the road. In consequence, irrespective of whether the site is in a village, the house proposed through Appeal A would not be a limited infill.
6. Although the house proposed in Appeal B is of smaller construction, the fact that it would not be sited as part of a continuous line of built-up development means that even though this house could be in a village, it cannot be regarded as being a limited infill.
7. In terms of openness, the site consists of a gently undulating garden, lacking in significant permanent structures, or areas of hard standing. Although the front boundary is marked by a fence, the site has a verdant appearance and therefore does not appear as being part of a built-up area. The developments would result in a notable increase in the overall level of buildings in the Green Belt, particularly recognising the lack of buildings currently on the site. This would result in an erosion of the spatial sense of openness. In addition, this increase in built form would be viewed from the road, where currently there are limited views of nearby buildings. This means that there would be an erosion of the visual sense of openness in the Green Belt.
8. Paragraph 155 of the Framework identifies some types of development that might not be considered inappropriate in the Green Belt. This includes engineering operations, providing that they preserve the Green Belt's openness; and do not conflict with the purposes of including land within it. The development in Appeal B includes a car parking area. Owing to the scope of activities that would be required to facilitate its construction, such as groundworks, it would be an engineering operation.
9. In terms of openness, the site consists of a gently undulating garden, lacking in significant permanent structures, or areas of hard standing. Although the front boundary is marked by a fence, the site has a verdant appearance and therefore does not appear as being part of a built-up area, even if a house were to be constructed at the site, due to its prominence.
10. The car parking would require the removal of a section of the bank adjacent to Hitchin Road. The appellant's Statement of Case estimates that this has a height of 2m, which means that the bank is a prominent defining feature in the vicinity. In addition, the car parking spaces require some levelling works and

the installation of hard surfacing. These operations, taken cumulatively, would result in an increase in the overall level of built form at the site. Therefore, the car parking would erode the Green Belt's spatial sense of openness.

11. The inclusion of a retaining wall near the car parking, combined with the presence of parked vehicles means additional and permanent physical features would be present. These would be readily visible from Hitchin Road. This element of the development in Appeal B would result in a loss of the Green Belt's visual sense of openness.
12. Paragraph 143 of the Framework sets out the purposes of including land in the Green Belt. The proposed developments would be of an engineered appearance due to the removal of features such as the bank, the providing of level hard standing and the presence of parked vehicles. As the site currently features few elements of built form, the proposals would result in the encroachment into the countryside by an urban form of development. In consequence, both proposed developments would conflict with the purposes of including land in the Green Belt.
13. The land on the opposite side of Hitchin Road has been allocated for a residential development of up to 40 houses, with some existing houses nearby. Whilst these sites are not in the Green Belt, part of the appeal site is within it. The Framework, at Paragraph 145, is unambiguous that changes to the Green Belt's boundaries should be made only through the plan-making process. Policy SP5 confirms that, as part of the evolution of the Local Plan, a thorough review of the Green Belt's boundaries took place. In result, I must consider whether the schemes before me are inappropriate and their effect upon the Green Belt's openness, irrespective of the form of forthcoming and existing developments.
14. My attention has been drawn to previous appeal decisions. These appeal decisions relate to sites a significant distance from the appeal site, where the proposals were assessed against different development plan policies. Nonetheless, it is apparent from the submitted documents that the previous houses that were allowed were typically located parallel with existing homes or sited further back from a front boundary. Additionally, these previous developments have a notably different layout from the appeal schemes before me and do not have the same effects upon the openness of the Green Belt. In result, they do not lead me to forego my previous findings.
15. I therefore conclude that both developments proposed in Appeals A and B would be inappropriate in the Green Belt and would erode its sense of openness. The developments, in this regard, would conflict with the requirements of Policy SP5 and the Framework.

Character and appearance

16. The appeal site consists of a large garden area. Although not an infill, the site is at the edge of the village. Existing houses are typically constructed to modest proportions, with low eaves heights and are recessed from the road. Dormer windows occur on an infrequent basis. Landscaping is often in front of houses, with much of the car parking being located to the side of buildings. These factors, when combined, mean that the surrounding area has an open and traditional built character.

17. To facilitate the installation of the proposed car parking, a section of the bank adjacent to Hitchin Road would need to be removed. This is a notable feature. Furthermore, the positioning of the car parking area directly in front of the house would create a more engineered appearance in contrast to the existing verdant and softer character.
18. The house proposed in Appeal B would have several notable differences between it and the existing homes in Hitchin Road. Firstly, although there would be some limited landscaping, the front wall of the basement would be readily viewable from the street, along with the rest of the front elevation. In addition, the presence of box dormers on the front roof slope creates the impression that the proposed house would be of three storeys in height. Moreover, to provide sufficient internal room for the users of the third storey, the eaves of the house would be immediately above the first-floor windows. Therefore, the roof of the house would be large. These factors, when combined, create a bulky design.
19. In consequence, the bulkier form of the houses proposed in Appeal B would erode the open and traditional character and would appear incongruous. This harmful impact would be compounded by the prominence of the building from local vantage points.
20. The house in Appeal A would feature the same jarring and discordant architectural features. However, the adverse effects would be greater due to the inclusion of a projecting gable element on the house's front elevation. In addition to creating a large house, it would also mean that not all the front roof slope would face the road like several nearby houses. Therefore, even though the ridge height of the proposed house would be slightly lower than neighbouring houses, the resultant development would have a greater bulk and would appear strident. The development would also be readily viewable from Hitchin Road.
21. Although the proposals would retain some of the site's landscaping and additional planting would take place, the positioning of the different proposed houses is such that it would be readily perceptible. Therefore, landscaping would not overcome my preceding findings.
22. I therefore conclude that both the proposed houses would have a significant adverse effect upon the character and appearance of the area. The developments, in this regard, would conflict with the requirements of Local Plan Policy D1. Amongst other matters, this seeks to ensure that developments respond positively to the site's local context and minimise the visual impact of parking provision.

Other considerations

23. The appellant has not advanced any further points in favour of the appeal scheme. However, both appeal proposals would result in an increase in the local housing supply, but there is no evidence before me that indicates that there is a notable shortfall of housing in the Council's area. Therefore, this is a matter of limited weight.
24. The construction of a dwelling and its occupation would generate some economic benefits. However, some of these would be time-limited in duration and there is no evidence before me that would demonstrate that existing

services and businesses are experiencing a diminished number of customers. Therefore, this matter carries a limited amount of weight.

Other Matters

25. The proposals could be constructed from appropriate materials and would feature items such as solar panels, electric car charging points and rainwater recycling. Furthermore, it is unlikely that the living conditions of the occupiers of neighbouring properties would be eroded or that there would be an adverse effect upon highway safety. However, such matters would ensure conformity with other development plan policies or building regulations and therefore do not outweigh my findings in respect of the main issues.

Planning Balance and Conclusion

26. Paragraphs 152 and 153 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

27. I have concluded that the appeal schemes would be inappropriate development and would, by definition, harm the Green Belt. In coming to this conclusion, I found that the appeal schemes would result in an adverse impact on the openness of the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt. In addition, the proposals would have a significant adverse impact upon the character and appearance of the area, to which I also attribute a significant amount of weight.

28. The other considerations I have identified, whilst carrying limited weight as matters in favour of the proposals, would not outweigh the cumulative harm I have identified. As such the harm to the Green Belt, and any other harm resulting from the proposals, would not be clearly outweighed by the other considerations. Thus, the very special circumstances necessary to justify either of the developments do not exist and therefore the proposals would fail to adhere to the local and national policies that I have already outlined. Therefore, for the preceding reasons, both the appeals should be dismissed.

Benjamin Clarke
INSPECTOR

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