

NORTH HERTFORDSHIRE DISTRICT COUNCIL



6 June 2025

Our Ref Planning Control Committee 19 June 2025
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To: Members of the Committee: Councillors Nigel Mason (Chair), Emma Fernandes (Vice-Chair), Ruth Brown, Ian Mantle, Bryony May, Caroline McDonnell, Louise Peace, Tom Tyson, Martin Prescott, Clare Billing, Dave Winstanley and Val Bryant

Substitutes: Councillors Sadie Billing, Jon Clayden, Mick Debenham, Joe Graziano, Steve Jarvis, Claire Strong, Tina Bhartwas and Daniel Allen

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE PLANNING CONTROL COMMITTEE

to be held in the

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

On

THURSDAY, 19TH JUNE, 2025 AT 7.00 PM

Yours sincerely,

Jeanette Thompson
Director – Governance

****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 - 3 APRIL 2025 AND 15 APRIL 2025	To take as read and approve as a true record the minutes of the meeting of the Committee held on the 3 April 2025 and 15 April 2025.	(Pages 5 - 20)
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. 24/02214/FP LAND ON THE NORTH WEST SIDE OF GREEN LANE, ASHWELL, HERTFORDSHIRE, SG7 5LW REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	Erection of two 2-bed dwellings, three 3-bed dwelling and two four-bed dwellings, with associated access, landscaping and parking.	(Pages 21 - 42)

7. **24/02333/FP LAND BETWEEN PRIORY FARM AND WYMONDLEY SUBSTATION, BLAKEMORE END ROAD, LITTLE WYMONDLEY , HERTFORDSHIRE** (Pages 43 - 138)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Electrical connection between the approved Priory Farm Solar Array (application reference: 21/03380/FP) and Wymondley Substation, Blakemore End Road, St Ippolyts (as amended by plans and documents received 11th and 17th March 2025).
8. **24/02713/FP LAND AT RADWELL BURY FARM, NEWNHAM ROAD, NEWNHAM, HERTFORDSHIRE** (Pages 139 - 160)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Installation of Battery Storage System with associated infrastructure, earthworks, landscaping and access.
9. **25/00012/FP 25 MILESTONE ROAD, HITCHIN, HERTFORDSHIRE, SG5 2SZ** (Pages 161 - 172)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Change of use of dwelling to registered residential children's home (C2) to accommodate 3 children with 24hr care staff (amended plans received 6 April 2025).
10. **25/00466/FP MORRISONS SUPERSTORE, BROADWAY, LETCHWORTH GARDEN CITY, HERTFORDSHIRE, SG6 3TS** (Pages 173 - 184)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- Installation of EV charging zones, including the erection of sub-station enclosure, LV panel, meter cabinet and associated works.
11. **APPEALS** (Pages 185 - 244)
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER
- To update Members on appeals lodged and any decisions made.

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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, GERON ROAD, LETCHWORTH GARDEN CITY, SG6 3JF
ON THURSDAY, 3RD APRIL, 2025 AT 7.00 PM

MINUTES

Present: *Councillors: Elizabeth Dennis (Chair), Nigel Mason (Vice-Chair), Amy Allen, Sadie Billing, Ruth Brown, Emma Fernandes, Ian Mantle, Bryony May, Caroline McDonnell, Louise Peace, Tom Tyson and Martin Prescott.*

In Attendance: *Shaun Greaves (Development and Conservation Manager), Thomas Howe (Planning Officer), Arhamna Jafri (Locum Planning Lawyer), Susan Le Dain (Committee, Member and Scrutiny Officer), James Lovegrove (Committee, Member and Scrutiny Manager), Anne McDonald (Development Management Team Leader) and Christella Menson (Principal Planning Officer).*

Also Present: *At the commencement of the meeting approximately 4 members of the public, including registered speakers.*

147 APOLOGIES FOR ABSENCE

Audio recording – 1 minute 21 seconds

There were no apologies for absence.

148 MINUTES - 25 FEBRUARY AND 06 MARCH 2025

Audio Recording – 1 minute 30 seconds

Councillor Elizabeth Dennis, as Chair, proposed and Councillor Martin Prescott seconded and, following a vote, it was:

RESOLVED: That the Minutes of the Meetings of the Committee held on 25 February and 6 March 2025 be approved as a true record of the proceedings and be signed by the Chair.

149 NOTIFICATION OF OTHER BUSINESS

Audio recording – 2 minutes 31 seconds

There was no other business notified.

150 CHAIR'S ANNOUNCEMENTS

Audio recording – 3 minutes 00 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.

151 PUBLIC PARTICIPATION

Audio recording – 5 minutes 44 seconds

The Chair confirmed that the registered speakers were in attendance.

152 24/02606/FP Land West Of Tuthill House, Kelshall Tops, Therfield, Hertfordshire

Audio recording – 6 minutes 09 seconds

The Area Planning Officer presented the report and supplementary document and advised that:

- An update to the report had been published as a supplementary document and four conditions relating to Biodiversity Net Gain (BNG) had been included.
- An additional map had been provided in the supplementary document, which was attached to the original s106, which had been located and provided for further clarification regarding existing landscaping conditions.
- Condition 10 in the report required an amendment and instead of 'Prior to the occupation of the development hereby permitted vehicle to vehicle inter-visibility splays...', the condition should read 'No dwelling hereby permitted shall be occupied until the vehicle to vehicle inter-visibility splays...'.

The Area Planning Officer presented the report in respect of Application 24/02606/FP supported by a visual presentation consisting of plans and photographs.

The following Members asked questions:

- Councillor Ruth Brown
- Councillor Martin Prescott
- Councillor Louise Peace

In response to questions, the Area Planning Officer advised that:

- There had been no indication from County Highways that the 30mph zone would be extended and no objection or suggested conditions had been received.
- There was no objection from the Inspector to the site being outside of the settlement boundary. The objection was related specifically to the size of plot 3.
- There would be a connection point to existing rights of way, but this would be agreed at a later stage by condition.

The Chair invited Ms Lynne Bogie to speak against this application. Ms Bogie thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Applications for this site had previously been rejected by this Committee.
- There had been a similar application for a site in Barkway recently, which was outside of the village settlement, and the Officer recommendation in that case was to refuse due to the weight which should be placed on this consideration.
- There were modest benefits to the scheme, but these did not outweigh the harm done.
- The site was on a 60mph road with no provision for pedestrians.

- A recent application for Tussocks in Therfield was deemed to be unacceptable within the village boundary without the provision of a pavement. This should be applied in this case.
- This site had been specifically rejected from the adopted Local Plan.
- There was already a significant level of development in Therfield and the village could not support further luxury housing outside of the settlement boundary.

In response to a point of clarification from Councillor Ruth Brown, Ms Bogie advised that the site referenced in Barkway was a greenfield site.

The Chair thanked Ms Bogie for her contribution and invited Mr Simon Warner to speak as the agent to the applicant in support of this application. Mr Warner thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- This application represented a positive contribution on a brownfield site and was policy compliant.
- Any negatives from the site would need to demonstrably harm the location in order to refuse the application.
- Following the update to the NPPF in December 2024, this site was now considered brownfield, and the framework outlined that decisions should promote effective use of land which had previously been developed.
- The previous application had been rejected on appeal due to design, and the Inspector had outlined that this was an eminently suitable location for housing.
- This proposal reduced the size, both in height and area, of plot 3, which addressed the concerns raised by the Inspector.
- The proposals would pose no harm to the countryside, would provide a BNG and would reduce the hardstanding area with new landscaping and drainage.
- There would be a connection to the site from existing rights of way.
- There had been no objections received from statutory consultees, including the conservation and ecological officers.
- A review of this application had been conducted by an active planning barrister, who had advised that the changes made would make this application suitable for approval.

The following Members asked points of clarification:

- Councillor Ruth Brown
- Councillor Ian Mantle
- Councillor Elizabeth Dennis

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

- There would be a connection to existing rights of way which would link with a network of footpaths through the village.
- There had been no requests from Herts County Council for S106 contributions for footpath improvements.
- The site was currently vacant.
- The site had previously been used for a haulage and distribution company.

Councillor Amy Allen proposed to grant permission, with the amended Condition 10 and additional conditions in the supplementary document. This was seconded by Councillor Louise Peace.

The following Members took part in the debate:

- Councillor Martin Prescott
- Councillor Tom Tyson
- Councillor Ian Mantle
- Councillor Louise Peace
- Councillor Nigel Mason
- Councillor Ruth Brown
- Councillor Amy Allen
- Councillor Emma Fernandes

The following points were raised as part of the debate:

- The site was not within the settlement boundary and should be refused because of this.
- This development of 3 houses would not help to meet the 5-year land supply requirements.
- The site was unsightly and discordant, as outlined by the Inspector, and it was a brownfield site with previous use as a depot for industry. Therefore, the visual enhancements to the site were clear.
- The Inspector had agreed the site was eminently suitable for 3 houses and the issues identified at the appeal had been addressed in this application.
- The prevention of development outside of boundaries was intended to prevent uncontrollable spread of settlements, but this was not the case here.
- This site was developed and now derelict and it did not make sense to be considered outside of the village, as the facility had existed for years.
- It was important that this did not set a precedent for other applications on village boundaries, but in this specific case the site was not greenfield. Therefore, any application outside of a boundary which was on greenfield would be considered differently to this application.
- This application was better than for the site to be used again for haulage.
- The design of the 3 properties was good and fitted with the rural landscape and neighbouring properties, with high quality and sustainable design.
- A concern was the footpath connection to the site, which let down the sustainable credentials of the application.
- Further consideration should also be given to reduction of the 60mph road speed.
- This development would increase the 'green' on site from its current usage, with a new landscaping plan.
- The site would provide lots of greenspace and would make a positive BNG contribution.

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

RESOLVED: That application 24/02606/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager, with the following amendment to Condition 10 and the addition of Conditions 20 to 23 as follows:

'Condition 10:

No dwelling hereby permitted shall be occupied until the vehicle to vehicle inter-visibility splays of 2.4 metres by x 57 metres to the eastern direction and 2.4 metres by x 59 metres to the western direction shall be provided and permanently maintained as shown on the drawing (Ref-196661-001), Within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

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

Condition 20:

No development shall take place (including any ground works, site clearance) until a Biodiversity Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall be informed by the November 2024 Ecological Assessment Report and include the following:

- a) Review of site potential and constraints.*
- b) Details of any necessary working methods to prevent harm to wildlife.*
- c) Type and source of materials to be used where appropriate.*
- d) Persons responsible for implementing the works.*

The Method Statement must include a timetable for the delivery of measure on site and any agreed measures are to remain on site thereafter.

Condition 21:

No development shall take place until an Ecological Enhancement Plan (EEP) for the creation of new wildlife features such as hibernacula, the inclusion of integrated bird/bat and bee boxes in buildings/structures, as informed by the November 2024 Ecological Assessment Report, has been submitted to and approved in writing by the local planning authority. The agreed measures are to be implemented on site prior to the first occupation of the first dwellinghouse hereby approved and shall remain on site thereafter.

Condition 22:

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and*
- (b) the planning authority has approved the plan.*

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be North Herts Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

Condition 23:

No development shall take place until the details of the boundary treatment for the habitat protection area and access to this area, are submitted to, and agreed in writing by, the LPA and these details shall be implemented on site before the first occupation of the first dwelling hereby approved and thereafter shall remain on site.'

153 TPO/216 Land at 30 and 32 to 37 (inclusive) Garden Fields, and Land Adjacent 37, Garden Fields, Offley, Hertfordshire, SG5 3DF

Audio recording – 39 minutes 38 seconds

The Planning Officer presented the report and advised that:

- Some sections of the report had been incorrectly carried over from a previous report and therefore these needed to be updated.
- At Paragraph 6.1, reference was made to trees needing work or in decline, but this was incorrect and should instead include reference to the requirement to provide evidence for emergency works to the trees covered by the TPO.
- Paragraph 9.2 of the report could be disregarded.
- Paragraph 9.3 of the report referred to trees not being protected, but this was incorrect as most of the trees were covered by an existing TPO.
- This TPO was seeking to remove 2 of those trees, one from eastern end and one from 31 Garden Fields, and add a new tree, adjacent to the parking area at the western end.
- The reason for the addition of the new tree was following a request to complete works to the tree at the western end, at which point the tree was identified as one which required protection.

The Planning Officer presented the report in respect of TPO/216 supported by a visual presentation consisting of plans and photographs.

The following Members asked questions:

- Councillor Louise Peace
- Councillor Emma Fernandes

In response to questions, the Planning Officer advised that:

- A management company was responsible for the tree proposed to be included in this TPO.
- It was not proposed to fell any of the trees, but to remove them from the TPO, and therefore a condition could not be added for a replacement.

The Chair invited Ms Claire McNulty to speak as an objector to the application. Ms McNulty thanked the Chair for the opportunity and advised that:

- She and neighbours had previously made objections to this when notified in July and November 2024.
- The proposed TPO was unnecessary and would hinder the management of the tree, as it was on land managed by a management company and they were responsible for consideration of any works required.
- The proposed new tree to be included was not neglected or at risk and was already well looked after by residents.
- There were trees already covered in the existing TPO which posed a risk to children playing in gardens.

The Chair thanked Ms McNulty for her presentation.

The following Members asked points of clarification:

- Councillor Sadie Billing
- Councillor Martin Prescott
- Councillor Nigel Mason
- Councillor Amy Allen
- Councillor Ruth Brown
- Councillor Caroline McDonnell

In response to points of clarification, Ms McNulty advised that:

- The current process was that requests for works went to the directors of the management company to consider. The directors were happy to see the gardens maintained and, once works were approved, they would arrange a company to conduct the works.
- There was some confusion with residents unsure which trees were covered by the TPO and what was proposed in this new TPO. Therefore, some comments related to trees already covered by the existing TPO.
- It would have been beneficial for the directors of the management company to have been notified of this meeting, though she was unsure whether this had been sent and missed.

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

- The purpose of the TPO was to give the Council control of works proposed to trees before the work is completed.
- Requests to conduct work to trees covered by a TPO can be made through a simple and straightforward application process.
- In the case of emergency works, this was allowed, and photos should be taken as evidence of the required works and provided to the authority after. It was not the purpose of a TPO to leave dangerous branches in place where danger was imminent.
- In most cases where an application is made to a TPO, it would be approved.
- The TPO allowed the Council to control trees, with the main benefit being the prevention of unnecessary felling of trees which made a positive contribution to an area.
- There would be no change with this new TPO to the existing covered trees, it would only remove the 2 trees and include the additional tree referred to in the report.

Councillor Martin Prescott proposed to confirm TPO/216 and this was seconded by Councillor Ruth Brown.

The following Members took part in the debate:

- Councillor Amy Allen
- Councillor Louise Peace

Points raised during the Debate included that:

- The TPO would supersede the directors of the management company and therefore any issues which needed urgent resolution could be done, with retrospective permission sought. This should not extend the current timeframe for action.
- It would be worthwhile for a letter to be sent to residents to confirm which trees were included in the TPO and explain the situation, as it had been apparent that some confusion existed.

In response to a point raised in the Debate, the Chair advised that neighbouring properties could be contacted to advise of the TPO.

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

RESOLVED: That TPO/00216 was **CONFIRMED**.

154 PLANNING ENFORCEMENT QUARTERLY REPORT - PART 1

Audio recording – 1 hour 12 minutes 57 seconds

The Principal Planning Officer (Conservation and Enforcement) presented the Information Note entitled 'Planning Enforcement Quarterly Report – Part 1' and advised that:

- This was a short summary of work undertaken in 2024.
- Details of work to promote publicly S106 contributions were included at paragraph 6.2 of the report.
- The Infrastructure Funding Statement had been developed and was going through internal review before it would be added to the website.
- There were 2 Enforcement Notices served in 2024 – to The Cabinet, Reed and High Street, Graveley – and both of these had been appealed.

In response to a question from Councillor Ian Mantle, the Principal Planning Officer (Conservation and Enforcement) advised that:

- A lot of work to date had been picking up on work already taken place and bringing together, and reviewing, processes to ensure these worked effectively. It was important that a clear understanding of the issues was held by the whole team to ensure consistency.
- Currently the team was sufficiently resourced, but the situation could change in the future.
- Established procedure guides and best practice were being developed to ensure consistency in case of any changes to the team.

155 EXCLUSION OF PRESS AND PUBLIC

Audio recording – 1 hour 16 minutes 38 seconds

Councillor Elizabeth Dennis, as Chair, proposed and Councillor Ruth Brown 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).

156 PLANNING ENFORCEMENT QUARTERLY REPORT - PART 2

N.B. This item was considered in restricted session and therefore no recordings are available.

The Principal Planning Officer (Conservation and Enforcement) presented the Information Note entitled 'Planning Enforcement Quarterly Report – Part 2'.

The meeting closed at 9.07 pm

Chair

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES, GERON ROAD, LETCHWORTH GARDEN CITY, SG6 3JF
ON TUESDAY, 15TH APRIL, 2025 AT 7.00 PM

MINUTES

Present: *Councillors: Elizabeth Dennis (Chair), Amy Allen, Ruth Brown, Ian Mantle, Bryony May, Louise Peace, Tom Tyson, Martin Prescott, Val Bryant, Jon Clayden and Mick Debenham.*

In Attendance: *Sam Dicocco (Principal Planning Officer), Robert Filby (Trainee Committee, Member and Scrutiny Officer), Susan Le Dain (Committee, Member and Scrutiny Officer), James Lovegrove (Committee, Member and Scrutiny Manager), Tom Rea (Senior Planning Officer), Douglas Traill-Stevenson (Property Solicitor) and Melissa Tyler (Senior Planning Officer).*

Also Present: *At the commencement of the meeting there were no members of the public.*

157 APOLOGIES FOR ABSENCE

Audio recording – 1 minute 18 seconds

Apologies for absence were received from Councillors Sadie Billing, Emma Fernandes, Nigel Mason and Caroline McDonnell.

Having given due notice, Councillor Val Bryant substituted for Councillor Billing, Councillor Mick Debenham substituted for Councillor Mason and Councillor Jon Clayden substituted for Councillor McDonnell.

158 MINUTES - 20 MARCH 2025

Audio Recording – 2 minutes 2 seconds

Councillor Ruth Brown advised that under Paragraph 3 of Minute 145, '23/02935/FP' should be amended to '23/02935/OP'.

Councillor Elizabeth Dennis, as Chair, proposed, as amended, and Councillor Ruth Brown seconded and, following a vote, it was:

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

159 NOTIFICATION OF OTHER BUSINESS

Audio recording – 3 minutes 35 seconds

There was no other business notified.

160 CHAIR'S ANNOUNCEMENTS

Audio recording – 3 minutes 39 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 advised that Section 4.8.23(a) of the Constitution applied to the meeting.

161 PUBLIC PARTICIPATION

Audio recording – 4 minutes 27 seconds

There was no public participation at this meeting.

162 24/02624/RM LAND AT, HEATH ROAD, BREACHWOOD GREEN, HERTFORDSHIRE, SG4 8PL

Audio recording – 4 minutes 35 seconds

The Senior Planning Officer provided a verbal update on matters relating to Application 24/02624/RM and advised that:

- An amended landscaping plan which included boundary treatment along the north, south and west parts of the site in the form of a 1.8m close board fence had been received.
- Because of this, the recommendation at paragraph 4.3.26 in the report to add a boundary treatment condition was no longer necessary.
- They had received an amended site plan with a two-meter-wide green corridor along the northern boundary of the site as required by condition 8 of the outline permission. The Highways Authority had raised no objection to these details.

The Senior Planning Officer then presented the report in respect of Application 24/02624/RM supported by a visual presentation consisting of plans and photographs.

The following Members asked questions:

- Councillor Ruth Brown
- Councillor Louise Peace

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

- Permitted Development Rights (PDR) had not been withdrawn from the outline permission for the development.
- The developer had submitted a pre-construction energy and sustainability statement as part of the outline permission which detailed solar panels and ground source heat pumps to be included on the development.
- A swept path drawing had been received and a means of access had been included within the outline permission.

Councillor Ruth Brown proposed to grant permission, and this was seconded by Councillor Ian Mantle.

Councillor Ruth Brown proposed an amendment to include an additional condition limiting PDR on the site, and this was seconded by Councillor Louise Peace.

The following Members took part in the debate on the amendment:

- Councillor Ruth Brown
- Councillor Louise Peace
- Councillor Martin Prescott
- Councillor Mick Debenham
- Councillor Val Bryant
- Councillor Martin Prescott
- Councillor Elizabeth Dennis
- Councillor Amy Allen

The following points were raised as part of the debate on the amendment:

- Having developments in the district with a high percentage of 3-bed dwellings and 1 to 2-bed dwellings was desirable and the already undesirable housing mix of all 4-bed dwellings on the proposed development would be made worse if they were developed into 5-bed or 6-bed dwellings.
- The affordability of the properties would be impacted if they were extended into 5-bed or 6-bed dwellings.
- Adding one or two bedrooms to each property would increase the number of vehicles used by future occupiers which would lead to more traffic and potentially congestion on the nearby roads.
- Removing PDR would not stop future occupiers from applying for planning permission to increase the number of bedrooms in the dwellings.
- Roof extensions, particularly dormers would impact the appearance of the dwellings and cause harm in this aspect to the existing site.
- There was more concern over additional bedrooms being added through the enlargement of roof space rather than outbuildings or extensions as they would need planning permission if they were larger than a certain size.

In response to points raised in the debate on the amendment, the Principle Planning Officer advised that:

- PDR only came into effect once a dwelling had been occupied, not during the construction phase. Therefore, the ten 4-bed dwellings would be built as proposed in the application and could not be extended in terms of number of bedrooms per property by the developer.
- If PDR was removed, future residents could still apply for planning permission to build additional bedrooms in the roof space of their dwellings. Their applications would be delegated to officers as householder planning applications.
- Reserved Matters were limited to appearance, layout, landscape and the amendment should be based on one of these factors, not a factor such as housing mix which was considered within the outline permission.
- Members could choose to remove PDR from all dwellings or from a specified number within the development.
- Removing rights from the development should not be done without a justified reason as they were established at a national level by the government.
- The possibility of future occupiers increasing the number of bedrooms in the dwellings should not be a reason for removing PDR on this application alone.
- Roof extensions, particularly on corner properties could impact the scale and appearance of the dwellings.

Following a vote, the amendment was **CARRIED**.

Having been proposed and seconded and, following a vote, the substantive motion was:

RESOLVED: That Application 24/02624/RM be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager, with the additional Condition 5, as follows:

'Condition 5:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Class B 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 of the North Hertfordshire Local Plan 2011 to 2031.'

163 23/00407/FP NODE COURT, DRIVERS END, CODICOTE, HITCHIN, HERTFORDSHIRE, SG4 8TR

Audio recording – 31 minutes 6 seconds

The Chair advised Members that the reports for Applications 23/00407/FP and 23/00408/LBC would be presented together.

The Senior Planning Officer informed Members that a representation had been received from a neighbour of the site and advised that:

- Their main concern around the proposed development was with the state of Drivers End Lane.
- They described the road as difficult to navigate with few passing places, having no pathway for pedestrians and being frequently flooded.
- They were looking forward to seeing Node Court restored, but before this could happen, the site access for vehicles would have to be improved.

The Senior Planning Officer then presented the reports in respect of Applications 23/00407/FP and 23/00408/LBC supported by a visual presentation consisting of plans and photographs.

The following Members asked questions:

- Councillor Jon Clayden
- Councillor Louise Peace
- Councillor Tom Tyson
- Councillor Ruth Brown
- Councillor Val Bryant
- Councillor Elizabeth Dennis
- Councillor Ian Mantle

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

- No alternative proposals had been put forward for the use of the site.
- The terraced houses would cause harm to the listed building in its setting, therefore they were undersized and uncompliant with policy to limit the damage.
- Highways had not provided any conditions for the application.

- Where the site was previously used for commercial purposes, traffic was concentrated at certain times, whereas traffic would be spread throughout the day if the site was to be used residentially as proposed.
- S106 contributions from the developer would be waived in exchange for the district gaining a listed building.
- The width of Drivers End Lane was unknown.
- There was no information on the volume or type of construction vehicles that would be deployed during the construction phase of the development.
- Drivers End Lane had several residencies along it.
- Whether the apartments would be sold on a freehold or leasehold basis would not be for the Council to decide as it was outside their remit.

In response to questions, the Principle Planning Officer advised that:

- Highways had not wished to attend the meeting and had not provided conditions for the application, however, they recommended that the visibility splay condition in the addendum should be implemented.
- If the Council decided to enforce a condition on the application for the developer to provide a construction traffic management plan, this would need approval from Highways. However, they had objected to the application in principle and would be unlikely to agree this which could cause problems for the developer going forward.
- The objection from Highways was based on visibility splays and the site location which they deemed to be unsustainable as it was car dependent.
- An objection to construction traffic resulting from the development had not been raised by Highways, therefore they would be unlikely to support the Council if they put a condition on the application for there to be a construction traffic management plan.
- Highways agreed that vehicle movement on Drivers End Lane would be greater if the site was used commercially rather than residentially as proposed.

Councillor Martin Prescott proposed to grant permission, subject to the resolution of negotiation of a S106 or legal agreement which secures the heritage benefits, which will be negotiated post-resolution and the additional Condition 25 as set out in the supplementary document. This was seconded by Councillor Amy Allen.

The following Members took part in the debate:

- Councillor Mick Debenham
- Councillor Amy Allen
- Councillor Jon Clayden
- Councillor Elizabeth Dennis
- Councillor Louise Peace
- Councillor Val Bryant
- Councillor Ruth Brown
- Councillor Bryony May
- Councillor Martin Prescott

The following points were raised as part of the debate:

- Permission should be granted as Node Court was an eyesore and it would great to see the listed building restored to its former state.
- Residents would like to see the building restored, but their biggest concern was regarding traffic.
- It was a shame that the applicant was not in attendance to answer questions on the application.

- They were being asked to suspend several important conditions when granting permission such as living space standards, greenbelt impact, sustainability, S106 contributions and an allocation of affordable housing.
- Independent assessment and viability of the site had been undertaken.
- Certain pieces of information were unavailable to help the Committee make an informed decision on the application.
- The number of units in the application were not an issue as it was an enabling development and more units should be added in order for the Council to receive S106 contributions and affordable housing from the site.
- Since 2015, multiple applications for the site had been received and withdrawn.
- It was an enabling development that would bring the listed asset back into use and resolve issues such as anti-social behaviour and fly-tipping at that location, however, it also ignored several planning policy considerations.
- Discussions on the viability of the application had been robust enough for it to be presented to the Committee.
- The Planning Control Committee considered each application based on individual merits and a decision on this application would not set a precedent for decisions on future applications.
- An amendment to defer the application until they received more information could be agreed.
- This application possessed architectural merit and more units within the application could be considered, however, this would increase the harm to the heritage asset in addition to traffic on the nearby roads.
- Single track roads such as Drivers End Lane had advantages to them in that drivers were forced to drive at lower speeds due to their layout.
- On balance, if the Committee wanted to gain a heritage asset and provide additional dwellings that would not cause excessive harm to it, the application should be approved.

In response to points raised in the debate, the Principle Planning Officer advised that:

- It was speculated that previous applications for the site had been withdrawn as evidence from the developer to prove that the bare minimum amount of harm and land usage to restore the heritage asset had not been robust enough.
- The removal of two units from the application had been negotiated to ensure that the minimum possible harm to the heritage asset had been achieved.

In response to points raised in the debate, the Chair clarified that if the application was deferred, there was a risk that it would either be appealed by the applicant, or that it would be considered by the Committee at a future meeting with little to no changes due to the heritage concerns that would make the application difficult for officers to amend.

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

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

RESOLVED: That Application 23/00407/FP be **GRANTED** planning permission subject to the resolution of negotiation of a S106 or legal agreement which secures the heritage benefits, which will be negotiated post-resolution; and Conditions and Informative as set out in the report of the Development and Conservation Manager, with added condition as may be required in association with the S106 or legal agreement, and the following additional Condition 25, as follows:

'Condition 25:

Prior to Occupation, vehicle to vehicle visibility splays of 2.4 metres by 25 metres to the both directions 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. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

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

164 23/00408/LBC NODE COURT, DRIVERS END, CODICOTE, HITCHIN, HERTFORDSHIRE, SG4 8TR

Audio recording – 1 hour 18 minutes 29 seconds

Councillor Martin Prescott proposed to grant permission with the amended Conditions 2 and 3 and this was seconded by Councillor Amy Allen and following a vote, it was:

RESOLVED: That Application 23/00408/LBC be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation Manager, with amendments to Conditions 2 and 3, as follows:

'Condition 2:

Node Court together with The Midden shall be re-thatched using Norfolk Reed with wheat straw ridges and not combed wheat reed unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031.

Condition 3:

Prior to the occupation of any units, the thatched walkway linking Node Court with The Midden shall be refurbished and confirmation of the completed works shall be submitted in writing to the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of this grade II listed building under Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031.'

165 APPEALS

Audio recording – 1 hour 20 minutes 4 seconds

The Principal Planning Officer presented the report entitled 'Planning Appeals' and advised that:

- One appeal had been allowed on a householder application for an outbuilding and PDR had been referenced in the comments from the Inspector which they would take on board for future decisions.

Tuesday, 15th April, 2025

- Another appeal had been dismissed on a new detached dwelling which showed that small sites could be defended by the Council on the grounds of character and appearance.

The meeting closed at 8.26 pm

Chair

<u>Location:</u>	Land On The North West Side Of Green Lane Ashwell Hertfordshire SG7 5LW
<u>Applicant:</u>	
<u>Proposal:</u>	Erection of two 2-bed dwellings, three 3-bed dwelling and two four-bed dwellings, with associated access, landscaping and parking.
<u>Ref. No:</u>	24/02214/FP
<u>Officer:</u>	Melissa Tyler

Date of expiry of statutory period: 13/12/2024

Extension of statutory period: 27 June 2025

Reason for Delay: consultation and amendments and in order to present the application to an available committee meeting.

Reason for Referral to Committee – Call in by Cllr Tyson in support of the objections raised by the parish council.

1.0 Policies

National Planning Policy Framework

Section 2: Achieving sustainable development

Section 4: Decision making

Section 5: Delivering a sufficient supply of homes

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable development

Section 11: Making effective use of land

Section 12: Achieving well-designed places

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

Section 15: Conserving and enhancing the natural environment

Supplementary Planning Document.

Design SPD 2011

Sustainability SPD 2024

Vehicle Parking Provision at New Development SPD

North Herts Local Plan 2011-2031 Local Plan and Proposals Map

Policy SP1: Sustainable Development in North Hertfordshire
Policy SP2: Settlement Hierarchy and Spatial Distribution
Policy SP6: Sustainable Transport
Policy SP8: Housing
Policy SP9: Design and Sustainability
Policy SP10 - Healthy Communities
Policy SP11: Natural Resources and Sustainability
Policy SP12: Green Infrastructure, Landscape and Biodiversity
Policy HS3: Housing mix
Policy T1: Assessment of Transport Matters
Policy T2: Parking
Policy D1: Sustainable Design
Policy D3: Protecting Living Conditions
Policy NE1: Landscape
Policy HE4: Archaeology

Ashwell Neighbourhood Plan

ASH1: Local of Development
ASH2: Housing Mix
ASH3: Character of Development
ASH4: Design of Development
ASH5, Flood Risk
ASH6: Environmentally sustainable design
ASH7: Protecting historic assets
ASH8: Locally significant views
ASH9: Natural Landscape and Rural Character
ASH10: Natural Wildlife Assets, Wildlife Corridors and Green Infrastructure
ASH19: Accessible Paths in the Village and Rural Areas
ASH20: Residential and Public Car Parking

2.0 Site History

- 2.1 23/02920/PRE Residential development comprising of 5no two storey dwellings with garages, vehicular access, landscaping and associated works

3.0 Representations

Statutory Consultees

- 3.1 **Herts Highways** - Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to Condition 1 and informatives 1-3.
- 3.2 **North Herts Environmental Health** - I have no objections to the proposals but make the following comments

Noise – condition

Based on submitted documentation, the installation of air source heat pumps shall be installed in a location so that associated noise levels meet the Microgeneration Certification Scheme (MCS) criteria.

Air Quality – comments

North Herts Council have specific air quality planning guidance that can be found at <http://www.north-herts.gov.uk/home/environmental-health/pollution/air-quality/air-quality-and-planning>

Application of the guidance to a development of this scale and location defines the site as being a MINOR scale development and so the following condition is recommended to ensure that appropriate local air quality mitigation is provided.

Land Contamination - Condition

The application is not supported by any information on land contamination. However, given the location and existing use no objections subject to a condition.

3.3 North Herts Ecology – conditions

Having read the submitted documents there would be no ecological objection to the proposal. The September 2024 Ecological Appraisal (EA) identifies the site as a well-managed modified grassland lawn with an area of mixed scrub to the north of the site and a small area of semi-natural broadleaved woodland spanning much of the eastern boundary. It makes recommendation for appropriate protection measures for retained trees and advises precautionary mitigation measures to avoid adverse effects on nesting birds, bats and badger. A separate Biodiversity Impact Assessment has been supplied, and this provides detail on the site's baseline Biodiversity value being 2.36 habitat units and 4.52 hedgerow units. The proposal is expected to deliver habitats to a value of 1.98 habitat units and 9.56 hedgerow units. Meeting the statutory Biodiversity Net Gain requirement for hedgerows but resulting in a net loss of 16.16% of habitat units and failing to meet the trading rules, as such the assessment advises off-site units will be sought. In addition to mandatory BNG the North Herts Local Plan also advises development should consider the inclusion of integrated features in the built fabric of dwellings such as bat, bird and bee bricks. These are also recommended in part 8 of the September EA together with hedgehog holes in fences to maintain permeability throughout the site for wildlife.

3.4 North Herts Waste - Comments

Vehicle tracking plan is for a correct size waste collection vehicle, however, drawings do not show entering/exiting the site.

Vehicles should be able to enter and exit a site in forwards motion and any reversing manoeuvres should be kept to a minimum and not more than 12m. It is important that the Highways Authority agree any proposed accesses into and out of a site onto the highway regardless of whether they adopt any new road.

Vehicular access in terms of vehicle weight, turning circles, visibility splays, width, etc, needs to be considered in the design.

More information can be found on <http://www.north-herts.gov.uk/home/planning/waste-and-recycling-provision>

3.5 Ashwell Parish Council – OBJECTION

Ashwell Parish Council wish to register their objection to the above planning application which has raised many concerns from local residents and the Parish Council, the key concerns are outlined below:

- The planning application shows a location plan illustration of Green Lane not an Ordnance Survey map. It is very important to note that previously HCC reported that the OS map was flawed, and research has showed it is not a public right of way. The road is privately owned; however, ownership of the access road has not been identified and subsequently the owner's obligations.
- When the site previously went to appeal in February 2018, the key issue by the Inspector was the access road and in particular the narrow pinch-point which measures between 3- 3.7m which impacts on road safety for pedestrians and vehicles.
- To illustrate the above, by comparison, NHC required the road in Chalk Bank Close to be made 6 metres wide. It should also be noted that there is a potential that legal issues around achieving agreement by residents on widening the road to give adequate safety standards could be considerable.
- The site in question has been the subject of a number of previous applications going back to the 1980s, all of which were rejected by NHC due to the above.
- The Parish Council ask that the Planning Officer notes that the local plan meets a 5-year supply identifying sites and windfall sites. The Ashwell Neighbourhood Plan states an adequate quantity of new development with no further windfall sites.

3.6 Neighbour Representations

Representations received from Neighbours – (All representations are available on the website in full)

33 objections have been received – Summary below:

1. No Legal Access to Site

- Green Lane is a private, unadopted road with no established public rights of way. Ownership under the "Ad Medium Filum" principle means all property owners own to the centre of the lane along their frontage.
- Access for development requires consent from multiple private landowners — many have explicitly refused to grant such rights
- Claims of existing access for garden maintenance are disputed and do not establish legal vehicular access for development.

2. Highway and Pedestrian Safety Risks

Green Lane is narrow, gravel-surfaced, and maintained privately by residents unsuitable for increased traffic.

Safety concerns include:

- Inadequate width for two-way traffic or emergency vehicles.

- Cars regularly parked, causing blind spots and congestion.
- Dangerous junction at Green Lane and Station Road, with poor visibility and history of near-misses and a previous fatal accident.
- Significant safety risks to children, pedestrians, cyclists, and horse riders.
- HCC Highways has stated the access is unsafe and unsustainable.
- New refuge points and passing spaces are inadequate to mitigate these risks.

3. Historical Rejections and Appeals

Two previous applications (2016 and 2018) were refused and upheld on appeal due to highway safety concerns. The current application does not resolve or mitigate the previously identified issues.

4. Misleading or Insufficient Planning Documentation

- Statements in the application regarding access and traffic impact are disputed or inaccurate
- Residents object to suggestions that the development will have minimal impact, citing daily practical risks and traffic reality.

10 comments of support have been received – summary below:

1. Housing Need & Affordability

Many respondents emphasize a critical shortage of affordable and suitable housing, especially for young people, first-time buyers, and those who grew up in Ashwell but were forced to move away due to a lack of housing options. The proposed mix of 2, 3, and 4-bedroom homes is widely praised for addressing different life stages and offering realistic opportunities for locals to remain or return.

2. Support for Community Sustainability

Several individuals highlight how the development would revitalize the village, sustain multigenerational living, and preserve the community spirit. Concerns about stagnation and an imbalance caused by recent executive housing developments are contrasted with this scheme's more inclusive and diverse housing mix

3. Thoughtful Design & Integration

Respondents commend the design, landscaping, and scale of the proposed development, describing it as sympathetic to the village's character. The retention of mature trees, inclusion of adequate parking, and screening from existing properties are noted as minimizing impact and maintaining the rural setting

4. Accessibility & Infrastructure

The development's proximity to village amenities and the walkability of the location are highlighted as major advantages. Many express reassurance that the Highways Department has approved the plan, indicating proper traffic and access planning, including pedestrian safety improvements like passing places

2 neutral comments have been received – summary below:

Recommendation for a condition for the inclusion of seven integrated swift bricks in the interests of biodiversity.

"No development shall take place until written details are approved by the LPA of the model and location of 5 integrated Swift bricks, to be fully installed prior to occupation and retained thereafter", in accordance with Local Plan policy NE4 and Ashwell NP policy ASH10"

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The proposal site on Green Lane, is located to the north-east of the village of Ashwell. Located within the Settlement boundary of Ashwell as defined by Policy SP2 of the Local Plan. It comprises maintained grass and trees forming part of a private rear garden to an existing residential property. The site is largely enclosed by a significant tree and hedge line significantly along the front boundary with Green Lane. To the western and northern site boundaries are arable agricultural fields. The southern boundary abuts a residential parcel with the dwelling set back from the boundary, and the eastern boundary runs alongside Green Lane with an existing access point.

4.2 Proposal

- 4.2.1 Planning permission is sought for the erection of seven dwellings, the housing mix would be two 2-bed dwellings, three 3-bed dwelling and two four-bed dwellings, with associated access, landscaping and parking.

- 4.2.2 This submission provides the following

Application Drawings including:

- Site Location Plan
- Site Layout Plan GLA-P-01B
- Plots 1 and 2 – Front and Left Hand Side Elevations GLA-P-08A
- Plots 1 and 2 – Rear and Right Hand Side Elevations GLA-P-09A
- Plot 3 – Front and Left Hand Side Elevations GLA-P-12A
- Plot 3 – Rear and Right Hand Side Elevations GLA-P-13A
- Site Street Scene GLA-P-05A
- Sketch CGI View 1 GLA-P-02A
- Sketch CGI View 2 GLA-P-03A
- Sketch CGI View 3 GLA-P-04A
- Design and Access Statement
- Transport Statement
- Landscape Layout 1139.2-01
- Energy Statement

4.2.3 The application drawings and documents have been amended to reflect the following changes because of consultation responses and discussion with Officers, and are considered in further detail below:

- Provision of additional pedestrian refuge area to the south;
- Amendment to the site boundary to include the additional refuge;
- Removal of gates from the site access to Green Lane;
- Simplification of the materials to be used for the homes

4.2.4 Proposed materials are as follows:

- Plot 1/2 – Yellow stock and slate roof
- Plot 3 – red stock, tile hanging and red roof
- Plot 4 – Yellow stock and slate roof
- Plot 5/6/7 - red stock, tile hanging and red roof

4.3 **Key Issues**

4.3.1 The key issues are:

- Principle of development and Policy compliance
- Sustainability
- Design and layout, visual impact on the character of the area
- Impact on neighbouring properties
- Standard of proposed accommodation for future occupiers
- Highway access and car parking
- Biodiversity net gain, Landscape and Ecology
- Planning Balance

Introduction to principle of development and Policy compliance

4.3.2 The North Hertfordshire Local Plan was adopted in November 2022 and is now part of the development plan, where full weight shall be given to relevant policies. The Ashwell Neighbour Plan (ANP) was made in January 2021 and forms part of the development plan and therefore full weight is given to policies of the ANP. The National Planning Policy Framework (NPPF) is a material consideration attracting significant weight.

4.3.3 Policy SP1 of the Local Plan supports the principles of sustainable development and seeks to maintain the role of key settlements as the focus for housing and to ensure the long-term vitality of the villages by supporting growth which provides opportunities for existing and new residents and sustains key facilities. The policy elaborates on this stating that planning permission will be granted for proposals that deliver an appropriate mix of homes, create high quality development that respects and improves their surroundings and provides for healthy lifestyles, provides for necessary infrastructure to support an increasing populations, protects key elements of the District's environment including biodiversity, important landscape, heritage assets and green infrastructure, the mitigates the impact on climate change.

- 4.3.4 Ashwell is defined in Local Plan Policy SP2 as a Category A village where general development will be permitted within the recently defined settlement boundary. The proposed development is within the defined settlement boundary for Ashwell. The Category A villages, normally containing primary schools, also have defined boundaries within which development will be allowed and sites have been allocated to meet the District's overall housing requirement. These villages are excluded from the policy designation (either Green Belt or Rural Area Beyond the Green Belt – see Policy SP5) which affects the surrounding countryside. The proposed dwellinghouses would be considered as windfall as the site is not allocated by Local Plan Policy SP8. Development of the site for housing would therefore be supported in principle under Policy SP2.

Ashwell Neighbourhood Plan (April 2022)

- 4.3.5 Ashwell Neighbourhood Plan is part of the statutory development plan. Policy ASH2 (B) is clear that development proposals for housing development should contribute to meeting housing needs in the neighbourhood and a Dwellings Mix Strategy should be submitted with a planning application. The policy requires that the Strategy should show how the proposal meets the needs of older residents and younger people entering into the housing market.
- 4.3.6 The proposed housing mix which includes two 2-bed dwellings, three 3-bed dwellings provides a good mix of smaller houses that could meet local need for smaller housing. The applicant had taken on board the change of dwelling house size from that proposed under the PRE-APP where they proposed a 5-bed house. The scheme proposes two 4-bed houses.
- 4.3.7 Policy ASH3 (character of development) states that the design of new development should demonstrate how it has taken account of the local context and reflected the character and vernacular of the area, using architectural variety in form and materials.

The submitted Design and Access Statement (DAS) states that “the proposed external wall finishes include red and buff brickwork; some with contrasting and non-contrasting brick details such as flat and sprung arches, stone lintels, sub-cills to windows and stonework window and door surrounds. There are also examples of painted render some with Tudor framed panels, weatherboarding, tile hanging towards the village centre. Roofs are pitched with either slates or brown mixture plain clay tiles, a few thatched properties still existing around the village. Fascia boards are mainly plain with plain or scalloped bargeboards painted white or black and many of the original dwellings have chimneys. Many of the roofs are simple front to back pitched forms but there are a number of feature gables, some of which are cantilevered, overhanging at first floor level. Entrance doors either have no covered porch at all or have simple door surrounds with either flat or small pitched roofs; some have larger covered pitched tiled roofs with decorative timber posts and struts. Fenestration styles and sizes vary from casement to sliding sash windows with either Georgian bars or more simple vertical glazing bars, they are mainly painted white but there are some examples of stained or black frames with white casements or sashes”.

Previous appeal decision

- 4.3.8 Several objections refer to the two former appeal decisions on Green Lane and it is suggested that the appeals are related to the application site. Two planning applications were refused and two appeals dismissed at Land rear of 39-59 Station Road. That site is not the same as that the subject of this application. The two applications relate to a site located outside the village boundary.

4.3.9 2015 Planning Application (15/00691/1) / 2016 Appeal – APP/X1025/W/15/3136314)

Outline Planning Application (all matters reserved, except for access) - residential development comprising of 14 dwellings with associated access off Green Lane. This application was refused on 1 July 2015 and later dismissed at appeal due to its failure to provide a safe and suitable means of access and its severe residual cumulative impact on highway safety.

4.3.10 An application for 14 homes was refused planning permission on 1 July 2015 with an appeal dismissed on 24 February 2016. The application proposed vehicular access from Green Lane with a pedestrian/cycle access onto Station Road. The application proposed re-marking Green Lane to provide 'give-way' markings and provide a passing/waiting area on Green Lane adjacent to the access to the site.

4.3.11 However, highways related Reasons for Refusal related to:

- Green Lane is an inadequate width for two-way traffic; and
- The narrow width of Green Lane is inadequate to accommodate large vehicles (e.g. delivery and refuse vehicle) satisfactorily. In the appeal, the Inspector dismissed the scheme citing the following concerns:
 - The distance vehicles would need to reverse if they met on the single-track part of Green Lane;
 - The absence of pedestrian provision on Green Lane; and
 - The single-track section impeding access by emergency vehicles.

4.3.12 2017 Planning application (16/02863/1) / 2018 Appeal – APP/X1925/W/17/3184448

Outline Planning Application (all matters reserved, except for access) - residential development comprising of 9 dwelling with associated access off Green Lane. This application was refused on 17 March 2017 and later dismissed at appeal, again due to severe harm to highway safety.

4.3.13 An application for 9 dwellings was refused planning permission on 17 March 2017 and dismissed at appeal on 22 February 2018. The same access arrangements were proposed as the 14-unit scheme, and it was refused on the same highways grounds as the original application. An updated plan was submitted during the appeal process which proposed increasing the width of Green Lane to 5.5m along the unmade part of the road (except for a 10m stretch outside no. 5 which would remain 3.7m wide). This would be secured via a Grampian planning condition. During the appeal, the Inspector remained concerned about highway safety with the following concerns: • The distance vehicles would need to reverse if they met on the single-track part of Green Lane; • The single-track section impeding access by emergency vehicles; and • Whilst the increase in width of Green Lane would overcome many of the concerns, the Inspector was concerned that, due to land ownership disputes, it may not be possible to widen the road under a Grampian condition

4.3.14 As outlined in supporting document the agent has outlined why they think that the proposed development site would overcome the previous reasons for refusal for the other site accessing onto Green Lane:

To overcome the Reasons for Refusal and the Inspector's concerns from the other site on Green Lane, the current planning application proposes a number of access arrangements:

- 2.4m by 25m visibility splays – suitable for a 20mph design speed in line with Manual for Streets / HCC guidance;

- *Closures of the existing gated site access and a new access provided slightly to the north which will serve the 7 new homes;*
- *Localised widening of Green Lane in the vicinity of the access to allow a car and refuse/emergency vehicle to pass;*
- *Provision of 2 pedestrian refuge areas which will be protected by wooden bollards; and*
- *The access into the site provides a turning head for large refuse vehicles which are used in the local area. This provides a betterment as there is currently no turning head in Green Lane.*

Five-Year Housing Land supply

- 4.3.15 Though the Local Plan is still within its date range of 2011 – 2031, the Council does not have a 5-year supply of deliverable housing land (5YHL). The current published position is 3.9 years supply. The tilted balance set out at paragraph 11 (d) of the NPPF would be engaged. Therefore, a there is a presumption in favour in terms of harm and benefits should be applied, whereby planning permission should be granted unless the application of policies in the NPPF that protect areas of assets of particular importance provides a strong reason for refusing the proposal ; or the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF take as a whole.
- 4.3.16 The principal benefit is that the development would approve 7 new dwellings on land that can be relatively easily developed, resulting in an improvement to the District's housing land supply position.
- 4.3.17 Overall, it is considered that the principle of development is acceptable within the settlement boundary of Ashwell. The site is now within the settlement boundary for Ashwell under the Local Plan and the ANP, where general development will be allowed. Therefore, there is no conflict with Policy SP2 of the Local Plan and Policy AHS1 of the ANP.

Sustainability

- 4.3.18 The overarching purpose of the planning system is to contribute to achieving sustainable development, as stated in Section 2 of the NPPF. This is considered against the three objectives of sustainable development, the economic, social, and environmental objectives.
- 4.3.19 Firstly, in terms of the economic objective, the proposed development would see the delivery of jobs during the build/construction phase and additional spending locally from future occupiers, which is a modest benefit.
- 4.3.20 Secondly, in terms of the social objective, this would add additional dwellings to the districts housing figures, whilst the scheme is modest in size, significant weight is attached as a planning benefit, given that the Council does not have a 5-year supply of housing.

- 4.3.21 In terms of the environmental objective, it is acknowledged that future occupiers of this proposal would be reliant on private vehicles for most of their needs. This issue is covered in more detail in the section below on highway matters. The site is within a category 'A' village which has primary school and some local facilities. Paragraph 83 of the NPPF states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities.
- 4.3.22 An Energy Statement has been submitted with the application. This details some sustainability measures which are predicted to achieve a 71% carbon emissions improvement beyond Part L of Building Regulations. The proposal will incorporate sustainable building features, such as an EV charging points, whilst these are now required by building regulations, a condition is recommended to secure other low carbon and energy reducing features in the construction and operational phase of the development as set out in the submitted Energy Statement. Overall, these environmental benefits are deemed appropriate relative to the scale of development proposed.
- 4.3.23 As such, it is considered that the proposal accords with the three strands of sustainability and attributed due weight in the planning balance.

Design and layout, visual impact on the character of the area

- 4.3.24 Policy D1 of the Local Plan states that planning permission will be granted provided that development responds positively to the site's local context in addition to other criteria. Policy SP9 of the Local Plan further considers that new development will be supported where it is well designed and located and responds positively to its local context. These considerations are echoed in Section 12 of the NPPF.
- 4.3.25 The application site is located to the west of Green Lane and is maintained grass and trees forming part of a large private rear garden to No. 7 Green Lane. The site is not isolated but is adjacent to residential development to the north and south. Officers consider the site could accommodate new residential development subject to acceptable siting, design, landscaping etc.
- 4.3.26 The proposed layout indicates dwellinghouses along the middle of the site, running north to south with an access off Green Lane and separate highway running parallel to Green Lane serving the proposed dwelling and those dwellings with good sized rear gardens fronting the proposed access road. There would be a tree belt between the proposed access road and Green Lane, comprising retained and proposed trees, and along the rear boundary to the proposed dwellings. The tree belt along the front boundary would soften and enhance the appearance of the development from Green Lane.
- 4.3.27 The buildings have been designed with traditional architectural forms and materials which reflects the local vernacular. The dwellings would have generous spacing between them, parking, cycle storage provision and large gardens. They would be orientated to avoid excessive solar gain. Each dwelling would benefit from an air source heat pump and electric vehicle charging point and will comply with or exceed the Building Regulations part L requirements. All the proposed dwellings would comply with the requirements of accessibility contained in the Building Regulations Part M4(2)
- 4.3.28 The application is for 7 new dwellings. I consider the density and number of dwellings would be acceptable as the large amenity areas, retained landscaping a retaining mature boundary treatment would be contextually appropriate.

- 4.3.29 Overall, it is considered that the design and layout of the proposed scheme is acceptable. As such, the proposal would accord with Policies SP9 and D1 of the Local Plan and Section 12 of the NPPF in terms of the design and layout of the scheme.

Impact on neighbouring properties

- 4.3.30 Policy D3 of the Local Plan states that planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions. Policy D1 seeks to ensure that residential development will meet or exceed the nationally described space standards.
- 4.3.31 Given the distances between the scheme and nearby dwelling houses, the proposed boundary treatment, flat topography, and the scale and layout, it is considered that this proposal would not give rise to any materially adverse harm upon the reasonable living conditions and well-being of occupiers of neighbouring dwellings.
- 4.3.32 The proposed residential use of this site would not result in any materially adverse impacts upon the reasonable living conditions and well-being of occupiers of neighbouring properties and the living conditions of future occupiers would be acceptable. This is in accordance with Section 12 of the NPPF and Policy D3 of the Local Plan.

Standard of proposed accommodation for future occupiers

- 4.3.33 The layout of the scheme would ensure that the proposed dwellings would have access to suitably sized private amenity space and benefit from other open space within the development. The orientation of the dwellings would see them all benefit from acceptable levels of daylight/sunlight.
- 4.3.34 The dwellings have been designed to meet or exceed the Nationally Described Space Standards.

Plot	Tenure	Floorspace (NDSS)
Plot 1	3 bed – Semi detached	92 m2 (84 m2)
Plot 2	3 bed – Semi detached	92 m2 (84 m2)
Plot 3	4 bed - Detached	158 m2 (97- 124 m2)
Plot 4	4 bed - Detached	181.4 m2 (97- 124 m2)
Plot 5	3 bed - Terrace	88.4 m2 (84m2)
Plot 6	2 bed - Terrace	76 m2 (70 m2)
Plot 7	2 bed - Terrace	76 m2 (70 m2)

Highway access and car parking

- 4.3.35 Green Lane is an unadopted, gravel topped, road which varies in width between 3-5.5m and acts as a shared surface for vehicles and pedestrians. Beyond the Maltings building near to Station Road there are six other detached and semi-detached dwellings served by Green Lane.

- 4.3.36 One of the main concerns raised by the Parish Council and neighbours is the Legal complication around access issues on to Green Lane. Green lane is a privately owned highway with unresolved questions over ownership, maintenance, access rights and liability. This matter is not a material planning consideration. The agent has confirmed that all highway widening works and mitigation measures via passing places for vehicles and pedestrians are deliverable by the applicant using land that they own/control.

“The proposed Green Lane improvement scheme will introduce intervisible passing bays on Green Lane, which do not currently exist. Narrower widths between these passing areas are acceptable and beneficial because narrower widths encourage slower vehicle speeds. The minimum 3.7m width complies with HCC’s design guidance for the acceptable design of shared surfaces.

• Feb 2018 Appeal identified unsafe access as a key issue – The site subject to the February 2018 appeal relates to a site to the east of Green Lane, for a larger scale of development and with a very different approach to the highway improvements suggested and were proposed to be achieved via a Grampian condition. The site subject of this application lies to the north of Green Lane and is for a smaller number of homes. The proposed highway improvements within this application are fully deliverable and are within the applicant’s ownership”

- 4.3.37 Although Green Lane is an unadopted highway Herts Highways were consulted for highway safety comments. Following a consultation response from the Highway Authority, an additional pedestrian refuge is proposed near no. 7 Green Lane and a drawing has been formally submitted to demonstrate this amendment. HCC Highways have responded and noted that: *“The applicant has provided another pedestrian refuge area as shown on drawing (Site Access Arrangements and Green Lane Improvements Rev F). This will definitely help with pedestrian access / access for all along Green Lane”*. The proposed access arrangements, including the localised widening of Green Lane, would eliminate the occasions when two vehicles meet and therefore any need for reversing. It would also ensure safe access for emergency vehicles. This overcomes previous concerns along Green Lane. The localised widening along Green Lane would occur within the applicant’s ownership, thereby removing the need for a Grampian condition. The 3 pedestrian refuge points provide safe access for pedestrians which overcomes former concerns raised regarding pedestrian safety. The highway concerns raised by North Hertfordshire District Council and the Planning Inspectorate in relation to the other site on Green Lane have therefore been overcome through this planning application.

Parking and bins

- 4.3.38 Local Plan Policy T1 requires that the development should not result in highway safety problems or to cause unacceptable impacts on the highway network, whilst Policy T2 requires that new development meet the car parking requirements. Regarding parking, the parking standards require for each new house of two or more bedrooms to have two parking spaces and between 0.25 – 0.75 visitor parking with the higher number where there are no garages and the lower number where garages are provided. Each house would have space to park at least two cars on plot, and there are three visitor parking spaces, so this proposal meets the parking requirements of the Local Plan.
- 4.3.39 Each house must provide bin storage and cycle parking for each plot. The provision of these stores are supported as providing secure cycle parking is in accordance with the parking requirements, and a bin store will prevent the bins from being left cluttering the parking area. A Condition is recommended to provide the details of the stores and their locations.

Biodiversity net gain, Landscape and Ecology

- 4.3.40 The development will retain existing trees and hedges where possible to support biodiversity and provide a mature landscape setting for the new built environment. This will be enhanced by new indigenous trees, hedges and other planting.
- 4.3.41 There is a mandatory requirement for the proposed development to achieve 10% biodiversity net gain (BNG).
- 4.3.42 The proposal shows indicative landscaping to the site and currently there are no trees here that would be removed. The indicative details need to be expanded upon and solidified. Conditions are suggested that would achieve this, as well as the baseline biodiversity.

Waste and Recycling

- 4.3.43 The proposal would incorporate a bin collection point near the large vehicle turning area, which has been shown can accommodate a refuse vehicle. Residents would be expected to present their bins to on the morning of the collection day, is circa 45m and 40m walk from the furthest dwelling, but within 30m of 5 of the dwellings. The Waste and Recycling Team were consulted on this application but did not respond but in any case, this proposed arrangement is considered to be acceptable.

Planning Balance

- 4.3.44 The Council does not have a five-year supply of deliverable housing land. The proposal would deliver seven dwellings within the settlement boundary of Ashwell. Social and economic benefits would arise from this modest housing development. Overall, the provision of the proposed development in this location within a Category A village, which would contribute towards maintaining the vitality of the village, is a planning benefit to which significant weight is attributed.
- 4.3.45 It is considered that the design and layout of the proposed scheme is acceptable, through its low-density nature that would respond positively to the site's rural location and the high-quality buildings.
- 4.3.46 The proposal will not result in any material harm to the reasonable living conditions and well-being of these neighbours, with respect to overdominance, overlooking and loss of daylight/sunlight, which attracts neutral weight in the planning balance.
- 4.3.47 Measurable gains in biodiversity will be secured via condition. Local Plan Policy NE4 requires measurable biodiversity net gain and the mandatory requirement for 10% BNG applies. Therefore, this matter is given neutral weight in the planning balance.
- 4.3.48 Whilst the site lies within a Category A village, future occupiers would be reliant upon private vehicles to meet their day-to-day needs. Whilst the Local Plan and the NPPF promote sustainable transport, NPPF paragraph 110 accepts that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In the circumstances it is considered that the site is in a sustainable rural location. Highway safety issues have been raised by the Parish Council and residents. However, these have been addressed by the applicant and the Highway Authority considers that highway safety benefits would arise from the proposed development. Overall, in terms of sustainable transport and highway safety this matter to which limited positive weight is attributed.

4.3.51 The predicted achievement of a 71% carbon emissions improvement beyond Part L of Building Regulations is a planning benefit and officers consider that this weighs moderately in favour of the proposal.

4.3.50 The proposal would have an urbanising impact upon the appearance of the site. However, the site is a large residential garden within the defined settlement boundary of Ashwell and the design of the proposed development is considered acceptable. It is considered that the adverse impacts of the proposed development are limited and that they would not significantly and demonstrably outweigh the benefits that would arise from the delivery of 7 dwellings.

4.4 Conclusion

4.4.1 It is concluded that the proposal would be sustainable development, and that planning permission should be granted subject to the recommended conditions.

4.5 Alternative Options

None applicable

4.6 Pre-Commencement Conditions

4.6.1 The agent has confirmed agreement to the pre-commencement conditions.

4.7 Climate Change

4.7.1 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.

4.7.2 An Energy statement has been submitted as part of the application. To summarise the following strategies are proposed:

- Passive - Optimised design to enable controlled solar gain and improved direct and indirect natural lighting
- Fabric - Building fabric U values have been enhanced over and above those detailed within Part L1 2021
- Heating - Individual Air Source Heat Pumps Radiators and underfloor
- Heating - Hot Water Supplied via Individual Air Source Heat Pumps Cooling
- None Ventilation - Natural Ventilation – System 1 Intermittent Extract Fans Low design air permeability (DAP)
- Lighting - Energy efficient LED Lighting where 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. No development shall take place (including any ground works, site clearance) until a Biodiversity Method Statement has been submitted to and approved in writing by the local planning authority.

The Statement shall be informed by September 2024 Ecological Appraisal and include the following:

- a) Review of site potential and constraints.
 - b) Details of any necessary working methods to prevent harm to wildlife.
 - c) Type and source of materials to be used where appropriate.
 - d) Persons responsible for implementing the works. Ecological Enhancements
- No development shall take place until an Ecological Enhancement Plan (EEP) for the creation of new wildlife features such as hibernacula, the inclusion of integrated bird/bat and bee boxes in buildings/structures and hedgehog holes in fences, as informed by the September 2024 Ecological Appraisal, has been submitted to and approved in writing by the local planning authority.

Reason: To ensure development is ecologically sensitive and secures biodiversity enhancements in accordance with the National Planning Policy Framework.

2. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:
 - (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
 - (b) the planning authority has approved the plan.The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be North Hertfordshire District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>).

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

3. 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.

4. 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.

5. Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved drawing number (ITL16680-GA-017) The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: To ensure that the level of visibility for pedestrians, cyclists and vehicles is satisfactory in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018). INFORMAVTIVES HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980.

6. Prior to the commencement of the development, a detailed construction management plan shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
- a) The construction programme and phasing
 - b) Hours of operation, delivery and storage of materials
 - c) Control of dust and dirt arising from groundworks and construction
 - d) Waste management proposals
 - e) Mechanisms to deal with environmental impacts such as noise, air quality, light and odour during construction.

Reason: In the interests of environmental impacts. Based on submitted documentation, the installation of air source heat pumps shall be installed in a location so that associated noise levels meet the Microgeneration Certification Scheme (MCS) criteria.

7. In the event that contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken by a competent person, in accordance with BS10175:2011. A written report of the findings should be forwarded for approval to the Local Planning Authority. Following completion of remedial measures a verification report shall be prepared that demonstrates the effectiveness of the remediation carried out. No part of the development should be occupied until all remedial and validation works are approved in writing.

Reason: To protect human health and to ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990.

8. 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.

9. Prior to the commencement of development, a vegetation/tree protect plan shall be Submitted to and approved in writing by the Local Planning Authority to show how existing vegetation proposed for retention, will be protected during construction. The approved plan shall be implemented on site unless otherwise agreed in writing by the Local Planning Authority.

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.

10. 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, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

11. 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.

12. The trees and hedgerows to be retained shall not be felled, uprooted, removed or otherwise destroyed or killed (other than works required for routine management and maintenance) without the prior written agreement of the Local Planning Authority. Any replacement hedgerows or trees shall be agreed in writing by the Local Planning Authority and shall be maintained for the lifetime of the development.

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

13. 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.

14. Before the occupation of any of the dwellings hereby permitted, the car parking facilities, shown on the approved plans, shall be marked out and made available, and shall thereafter be kept available solely for the parking of motor vehicles.

Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development.

15. The garages hereby approved shall be retained for car parking purposes and for no other purpose incidental to the enjoyment of the dwellinghouse unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure their use is maintained for the stated purpose.

16. Prior to the first occupation of the development hereby approved, a scheme for the screening of the bin stores and the details of external cycle parking shall be submitted to and approved in writing by the LPA. The approved scheme shall be installed prior to occupation and the development and thereafter retained.

Reason: To ensure acceptable design and provision of cycle parking in accordance with Policies D1 and T2 of the adopted North Hertfordshire Local Plan 2011 - 2031.

17. Energy and sustainability measures as detailed in the approved Energy Statement July 2024 must be implemented on site for each dwelling prior to its first occupation.

Reason: To reduce carbon dioxide emissions and promoting principles of sustainable construction and the efficient use of buildings in accordance with Policies SP9 and D1 of the North Hertfordshire Local Plan 2011 to 2031.

18. No development shall take place until an Ecological Enhancement Plan (EEP) for the creation of new wildlife features, has been submitted to and approved in writing by the local planning authority. These shall include:

1. One integrated bat box per dwelling should be incorporated in the design of the building;
 2. Hedgehog highways should be formed to ensure hedgehogs can freely forage across the site - one hedgehog gap per fence should be created;
 3. One integrated bird box and swift bricks per dwelling should be incorporated in the design of the building;
 4. The provision of bee and insect habitats across the site
- and the agreed measures are to be implemented on site prior to the first occupation of the first dwellinghouse and thereafter retained on site.

Reason: To ensure development secures bio diversity enhancements in accordance with Policy NE4 of the Local Plan.

19. Prior to any above ground works being commenced, full details of all external lighting for the development shall be submitted to and approved in writing by the Local Planning Authority. This should include non-intrusive light fittings and locations designed to minimise light spill into adjoining residential properties. Thereafter, the development shall be completed in complete accordance with the approved details.

Reason: In the interests of residential amenity and to minimise light nuisance.

20. No gates shall be provided across the access to the site.

Reason: In the interests of local visual amenity and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through early engagement with the applicant at the pre-application stage 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. AN1) Extent of highway: Information on obtaining the extent of public highway around the site can be acquired from the County Council's website at:

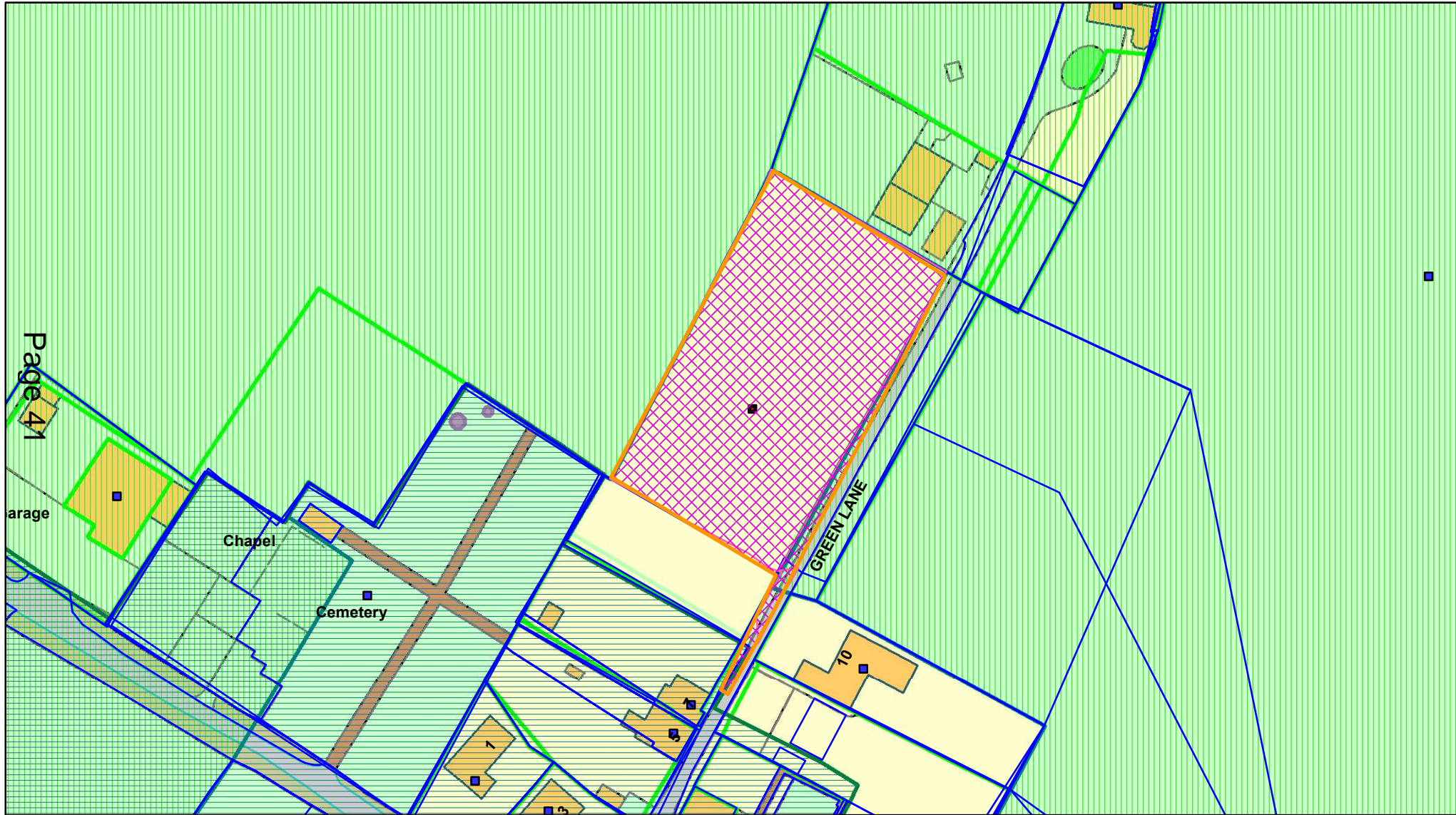
www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/extent-of-highways.aspx.

2. AN2) 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 County Council website at:

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

3. AN3) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at:

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



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<u>Location:</u>	Land Between Priory Farm And Wymondley Substation Blakemore End Road Little Wymondley Hertfordshire
<u>Applicant:</u>	Mr Luke Rogers
<u>Proposal:</u>	Electrical connection between the approved Priory Farm Solar Array (application reference: 21/03380/FP) and Wymondley Substation, Blakemore End Road, St Ippolyts (as amended by plans and documents received 11th and 17th March 2025).
<u>Ref. No:</u>	24/02333/FP
<u>Officer:</u>	Paul Chaston

Date of expiry of statutory period

Wednesday 29 January 2025

Extension of statutory period

Thursday 12 June 2025

Reason for Delay

Amendments to the application including the red line site boundary and delays in receiving additional information.

Reason for Referral to Committee

The site area for this application exceeds 1 hectare. Under the Council's scheme of delegation, the application must be determined by the Council's Planning Control Committee.

1.0 Site History

- 1.1 21/03380/FP – Full planning application for solar farm with associated battery storage containers, transformer stations, storage buildings, fencing etc. including means of access. This application was resolved to be granted by NHDC planning control committee on 22 November 2022, but the application was called-in by the Secretary of State (SoS) for determination. Following a call-in inquiry, the development was approved on 11 March 2024.

2.0 **Policies**

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

Adopted 8th November 2022.

Policy SP1: Sustainable Development in North Hertfordshire
Policy SP5: Countryside and Green Belt
Policy SP6: Sustainable transport
Policy SP12: Green infrastructure, landscape and biodiversity
Policy SP13: Historic Environment
Policy T1: Assessment of transport matters
Policy NE2: Landscape
Policy NE4: Biodiversity and geological sites
Policy NE7: Reducing flood risk
Policy HE1: Designated heritage assets
Policy HE3: Non-designated heritage assets
Policy HE4: Archaeology

2.2 **National Planning Policy Framework**

Section 2: Achieving sustainable development

Section 13: Protecting Green Belt land
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment

2.3 **Wymondley Parish Neighbourhood Plan (September 2019)**

Policy NHE1: Landscape Character
Policy NHE2: Biodiversity
Policy NHE3: Wildlife and Ecology
Policy NHE9: Historic Character and Heritage Assets
Policy GB1: Green Belt
Policy FR1: Flood Risk
Policy TM1: Roads

3.0 **Representations**

Consultees

3.1 **NHDC Environmental Health (Contaminated Land)** – No objection.

3.2 **NHDC Environmental Health (Air Quality)** – No objection.

3.3 **NHDC Environmental Health (Noise)** – No objection.

3.4 **NHDC Ecology** – No objection subject to conditions and the submission of a Biodiversity Net Gain Plan.

3.5 **HCC Highways** – No objection.

3.6 **HCC LEADS Archaeology** – No objection subject to three conditions.

3.7 **National Grid** – No objection subject to an agreement with the applicant and National Grid for the part of the cable route that is located on National Grid land.

3.8 **St Ippolyts Parish Council** – No objection.

3.9 **Neighbour and Local Resident Representations**

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, one objection has been received.

3.10 The objection and issues raised are summarised as follows:

- Electromagnetic fields
- Electrical hazards
- Noise pollution
- Aesthetic concerns
- Habitat disruption
- Stray voltage and grounding issues
- Maintenance related disruptions
- Electrical interference
- Fire hazard
- Safety during extreme weather

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 This application relates to the solar farm scheme located to the north-east of Little Wymondley and the east of Great Wymondley which was granted planning permission in March 2024 (Council reference: 21/03380/FP).

4.1.2 The solar farm scheme was resolved to be granted by NHDC on 22 November 2022. The application was subsequently called-in by the Secretary of State (SoS) for determination. Following a call-in inquiry, the development was approved on 11 March 2024.

4.1.3 The current planning application relates to two areas of land, the first of which extends from the Stevenage Road/Arch Road/Blackmore End Road roundabout to the west of Little Wymondley in a south-westerly direction adjacent to Ash Brook before turning south towards the Wymondley substation. The second consists of land from the southern edge of the solar farm site in a roughly south-westerly direction adjacent to Wymondley Nursing Home before joining Stevenage Road and heading west along Stevenage Road up to the junction of Priory Lane and Tower Close. The exact location of the two areas of land can be seen in greater detail in the accompanying Statutory Plans and General Arrangement Plans.

- 4.1.4 The application site consists of two areas of land covering a total area of approximately 1.71 hectares including agricultural fields, greenfield land, woodland, public highway, road verges, a public bridleway, and would also cross Ash Brook watercourse in two locations.

4.2 **Proposal**

- 4.2.1 This application seeks full planning permission for an underground electricity cable route around 1.9km in length which would be installed from the Priory Farm Solar Array site to National Grid's Wymondley Substation. The underground cable installation would comprise two HV cable circuits and one fibre cable circuit. The cables would be wholly buried underground, within a trench that would be 900-1350mm deep and 900mm wide.
- 4.2.2 The previously approved solar farm scheme 21/03380/FP included a grid connection cable from the solar farm National Grid's Wymondley Substation off Blakemore End Road, St Ippolyts. The approved cable route runs from the solar farm site, west along Gravely Lane, before heading south along Priory Lane. The cable route then runs west along Stevenage Road, before heading south down Blakemore End Road, west along Sperberry Hill, and then north into Wymondley Substation.
- 4.2.3 The applicant has indicated that the reason for this subsequent application is to provide an alternative grid connection cable route that would be less disruptive than the currently approved route. The amended cable route would avoid the use of Graveley Lane, Priory Lane, Blakemore End Road and Sperberry Hill, which in turn would prevent the need for any temporary road closures on Priory Lane and Graveley Lane. The applicant has confirmed that whilst the amended route would still utilise part of the highway network (Stevenage Road), the affected section of Stevenage Road could be kept open during the works, with one-way signalised traffic controls employed to safely manage the flow of vehicles.
- 4.2.4 The application is supported by the following documents:
- Planning Application Drawings
 - Planning Statement
 - Ecological Assessment
 - Arboricultural Impact Assessment
 - Heritage Impact Assessment
 - Transport Statement

4.3 **Key Issues**

- 4.3.1 The key issues are:
- Principle of the proposed development and effect upon Green Belt
 - Effect upon residents and neighbouring properties
 - Highways Matters
 - Impact upon Heritage and Archaeology
 - Ecology and Biodiversity
 - Trees and Landscaping

Principle of the proposed development and effect upon the Green Belt

4.3.2 Planning permission was previously granted for an underground grid connection cable as part of the solar farm scheme 21/03380/FP. The current planning application proposes an alternative underground grid connection cabling route to serve the solar farm. On this basis, it is considered that the proposal is acceptable in principle.

4.3.3 The site is in the open countryside within the Green Belt, with a small section of the site along Stevenage Road, located within the Little Wymondley settlement boundary. Local Plan Policy SP5 therefore applies which states:

"We support the principles of the Green Belt and recognise the intrinsic value of the countryside. Green Belt and Rural Areas Beyond the Green Belt are shown on the Policies Map."

4.3.4 The applicant has confirmed that no above ground development is proposed. The construction phase is expected to last around 8 to 10 weeks. Therefore, any disruption would only be on a temporary basis. Once installed, the underground cables would not be visible and there would be no associated operational phase activities. Furthermore, the proposal would not result in the loss of agricultural land.

4.3.5 It is therefore concluded that due to the subterranean nature of the proposed development, there would be no impact upon the Green Belt, and the proposal would accord with Local Plan Policy SP5.

4.3.6 The development pertains to an engineering operation, and due to the cables subterranean nature, no harm would occur to the openness or purposes of the Green Belt. The development would accord with paragraph 154.(h) of the National Planning Policy Framework.

Effect upon residents and neighbouring properties

4.3.7 The applicant has clearly identified the benefits of this alternative grid connection cabling route when making a comparison with the previously approved cabling route. I agree with the applicant that by virtue of the new route using fewer public roads, this would be far less disruptive overall to local residents, especially during the construction and installation phase. The Highways Authority have also confirmed that they welcome this approach from a highway safety point of view.

4.3.8 One neighbour objection was received which has raised numerous concerns. These concerns are summarised in paragraph 3.10 of this report. Although I accept that residents may experience some noise and disruption associated with the construction phase, this would only be for a temporary period and was deemed to be acceptable by the Secretary of State by virtue of the previous cabling route approved through the solar farm application.

- 4.3.9 The applicant has confirmed that once installed, the cabling would be entirely underground and not visible above ground level. Based on the information presented by the applicant within the submission, I am satisfied that there would not be any electrical or fire hazard related issues associated with the proposal. Regarding all other matters, I am satisfied these have been addressed through the application supporting documents or are matters that can be suitably addressed by condition.

Highway Matters

- 4.3.10 The applicant has indicated that the reason for this application is to provide an alternative grid connection cable route that would be less disruptive than the currently approved route by omitting Graveley Lane, Priory Lane, Blackmore End and Sperberry Hill. The applicant has also set out details of proposed mitigation measures in 3.8.2 of their accompanying Planning Statement to minimise disruption during the construction phase. HCC Highways have confirmed in their consultation response that they welcome this approach from a highway safety point of view.
- 4.3.11 The accompanying Transport Statement (dated October 2024) confirms that all works associated with the grid connection cable route will be carried out by licence under Section 50 of the New Roads and Street Works Act. Therefore, the Highways Authority expects that works and traffic management associated with highway safety will be monitored by HCC's Network Management Team and covered by Section 50 licence compliance.
- 4.3.12 In conclusion on this matter, the proposed development would not result in any adverse impacts upon highway safety and would comply with policy T1 of the North Herts Local Plan.

Impact upon Heritage and Archaeology

- 4.3.13 The proposal is for the installation of a cabling route which would require the excavation of a narrow trench with limited wider ground works. As a result of this, the applicant undertaken a Heritage Impact Assessment which is attached to Appendix C of the Planning Statement.
- 4.3.14 The report concludes there are varying degrees of archaeological potential throughout the cabling route ranging from low potential up to high potential and proposes the implementation of an appropriate archaeological mitigation strategy that is designed to take cognisance of the possible impacts upon heritage assets by the proposal and avoid, minimise or offset any such impacts as appropriate.
- 4.3.15 In response, the Senior Historic Environmental Advisor from Hertfordshire LEADS has recommended a suitable mitigation strategy and the imposition of conditions requiring the submission of an Archaeological Written Scheme of Investigation to agree the scope of the works required, and the subsequent submission of a Site Investigation and Post Investigation Assessment.
- 4.3.16 The proposed development would comply with policy HE4 of the North Herts Local Plan.

Ecology and Biodiversity

- 4.3.17 The applicant has provided a detailed Ecological Assessment report of the likely ecological effects of the cable installation. A copy of the report is attached to Appendix A of the Planning Statement.
- 4.3.18 The report confirms that the survey area does not form part of any statutory designated sites. Furthermore, no direct or indirect impacts on statutory designated site for nature conservation are anticipated by virtue of separation distance, the restricted scale and nature of proposed development and lack of functionally linked land.
- 4.3.19 The survey area does contain one non-statutory designated site; Wymondley Substation Local Wildlife Site (LWS). Direct impacts are anticipated at Wymondley Substation LWS to facilitate the new cable installation. However, the impact is small and will be mitigated for via the implementation of a soil management scheme. A suitable pre-commencement condition has been imposed to address this matter.
- 4.3.20 The proposed development is subject to mandatory Biodiversity Net Gain (BNG) requiring a minimum of a 10% net gain for habitat units. This is a benefit brought about by the proposed development. The applicant has confirmed in the technical note produced by Avian Ecology (dated 04 March 2025) that the narrow characteristics of red line boundary of the cabling route site mean that there is limited scope to achieve 10% on-site net gain, with the provision of an off-site mitigation area being a more realistic proposition, possibly within the boundaries of the consented solar farm site (Council reference: 21/03380/FP). This would be in addition to the BNG that would be delivered under planning permission 21/02280/FP, but modest in comparison, given that the extant permission would deliver far in excess of 10% BNG. NHDC's senior ecologist has confirmed that off-site mitigation would be an acceptable approach, the exact details of which can be agreed through the submission of a Biodiversity Net Gain Plan.
- 4.3.21 In conclusion on this matter, the proposal would accord with Local Plan Policies SP12 and NE4.

Trees and Landscaping

- 4.3.22 A tree survey of the cabling route together with an Arboricultural Impact Assessment are attached to Appendix B of the Planning Statement. The tree survey confirms that the application site includes a total of thirteen individual trees, sixteen groups of trees, three woodlands and one hedgerow. Further details are provided on the Tree Survey Plan drawings (Drawing Nos. 12556-T-04 and 12556-T-05). The proposed cable route passes a diverse collection of deciduous and coniferous species, with over half of the surveyed material being graded as high and moderate quality. Much of the material is mature roadside planting, or groups of trees and woodland forming riparian planting and screening features. There are no veteran or ancient trees or woodland located on or adjacent to the site.

- 4.3.23 The applicant has confirmed that the proposal would not result in the need to remove any trees, woodland or hedgerows due to the construction methods that will be utilised along the route which includes mechanically excavated trench, trenchless HDD solutions, broken trench/hand digging techniques and the routing of the cable trench to make use of existing gaps in tree cover where possible.
- 4.3.24 On the basis of the above, it is therefore concluded that the proposal would not result in any adverse impacts relating to trees or landscaping on or adjacent to the application site, and there would be no conflict in relation to Local Plan Policies NE2 and NE4.
- 4.3.25 The use of best and most versatile agricultural land has been considered. The route runs close to the boundaries of grade 3 agricultural land. Given the subterranean nature of the cabling route, and its siting close to field boundaries, no loss of best and most versatile agricultural land would occur pursuant to the proposal.

Planning Balance and Conclusions

- 4.3.26 Following an assessment of the application, it is considered that the proposed development is acceptable in principle by virtue of the previous underground grid cabling route approved as part of the solar farm application 21/03380/FP. Also of significance, is the reasoning behind this application to provide an alternative cabling route and the direct correlation this has with the solar farm permission 21/03380/FP.
- 4.3.27 I agree with the applicant's assertions that the new route would be less disruptive to local residents and road users in terms of traffic management during the construction phase by virtue of the new route requiring far fewer public roads to accommodate the cabling route.
- 4.3.28 In terms of the effect upon the Green Belt, I consider there would be no material harm. In essence, the proposed development is for an engineering operation with no associated permanent structures or development proposed above ground level. Although there would be some disruption associated with the construction phase, this disruption would be temporary lasting around 8 to 10 weeks. Once installed, the cabling would be entirely underground and not visible.
- 4.3.29 The proposed development is also subject to 10% mandatory biodiversity net gain (BNG), which is a benefit brought about by the scheme.
- 4.3.30 Overall, the proposal would accord with the relevant local plan policies, and where applicable, I am satisfied other matters can be suitably addressed by condition.

4.4 Alternative Options

None applicable (see 'Key Issues' section of this report above).

4.5 Pre-Commencement Conditions

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

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 full planning permission be **GRANTED** subject to the following conditions and informatives:

1. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:
 - (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
 - (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be North Hertfordshire District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply

(<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>).

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

2. 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.

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

- Drawing No. 3656-01-002a – Statutory Plan (1 of 3)
- Drawing No. 3656-01-002b – Statutory Plan (2 of 3)
- Drawing No. 3656-01-002c – Statutory Plan (3 of 3)
- Drawing No. 3656-01-003a – General Arrangement (1 of 3)

- Drawing No. 3656-01-003b – General Arrangement (2 of 3)
- Drawing No. 3656-01-003c – General Arrangement (3 of 3)
- Drawing No. 3656-01-004 – Cable Trench Details Plan
- Transport Statement 3656-01-TS01 produced by Axis dated October 2024
- Heritage Impact Assessment produced by AOC Archaeology dated July 2024
- Arboricultural Assessment (Rev A) produced by FPCR dated July 2024
- Ecological Assessment Report (v2) produced by Avian Ecology dated August 2024
- Ecological/BNG Information Note produced by Avian Ecology dated 4 March 2024

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

4. 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 comply with the provisions of Local Plan Policy HE4.

5. No development shall take place (including ground works or vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) should be informed by the 2024 Ecological Assessment and include the following:
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of “biodiversity protection zones”.
 - c) Practical measures to avoid or reduce impacts during construction to include Reasonable Avoidance Measures (RAM's) for Herptiles and Hedgehogs.
 - d) The location and timing of sensitive works to harm to biodiversity features.

- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

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

Reason: To safeguard the living conditions of nearby residents and to ensure that construction works do not have a harmful environmental effect during the construction phase of the development.

6. During the installation of underground cables, no spoil or material shall be stored adjacent to Stevenage Road, Little Wymondley within the extent of flood zone 3, nor along any part of Priory Lane.

Reason: To ensure that the storage of spoil and other material does not impede flood water flows nor increase flood risk during construction of the development, and to comply with Policy NE7 of the North Hertfordshire Local Plan 2011-2031.

7. No excavation of tranches for cabling within Wymondley Transforming Station Local Wildlife Site (LWS) shall take place until a soil management plan has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall include the following:

- i) An ecological survey of the route across the LWS.
- ii) Details relating to the lifting, storage and replacement of turves, including the season when this will take place.
- iii) Proposed aftercare and management.

The works shall be undertaken in accordance with the approved management plan.

Reason: To minimise the impact upon the ecological and biodiversity interest of the Wymondley Transforming Station LWS in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031.

8. During the construction phase of the development hereby approved, no construction activities shall take place outside of the following hours: Monday to Friday 08:00-18:00, and Saturdays 08:00-13:00. No construction activities shall take place at any time on Sundays or bank holidays, and piling shall only be undertaken between 09:00 and 17:00 Monday to Friday.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

9. No development shall take place until an Arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing by, the local planning authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

Reason: To protect trees hedgerows, and to safeguard the character and appearance of the area.

Proactive Statement:

Planning permission has been granted for this proposal. The Council has 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:

Highways Informatives

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

AN1) Street works licence (New Roads and Street Works Act - Section 50): The applicant is advised that they are not authorised to carry out any work within the Public Highway and that to do so they will need to enter into a legal agreement with the Highway Authority (NRSW agreement). This consent is separate and additional to any planning permission that may be given. Before proceeding with the proposed development, the applicant shall obtain the requirements and permission for the associated placement of apparatus within the adjacent highway as part of the proposal via the County Council's website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/permit-scheme/east-of-england-permit-scheme.aspx> or by telephoning 0300 1234 40047. This should be carried out prior to any new apparatus is placed within the highway.

AN2) Gravel / shingle driveways: Where loose gravel or shingle is used, a suitable measure to prevent material spilling onto the road/footpath/verge must be installed. It is an offence under section 148 of the Highways Act 1980 to deposit debris onto 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. Further information is available by telephoning 0300 1234047.

AN3) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

7.0 **Appendices**

7.1 Appendix 1 – Secretary of State (SoS) decision letter for application 21/3380/FP.

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Department for Levelling Up,
Housing & Communities

Phil Roden
Well House Barns
Bretton
Chester
CH4 0DH

Our ref: APP/X1925/V/23/3323321
Your ref: 21/03380/FP

11 March 2024

By email only
Philliprod@axis.co.uk

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY AGR 4 SOLAR LTD
LAND AT GRAVELEY LANE AND TO THE EAST OF GREAT WYMONDLEY,
HERTFORDSHIRE.
APPLICATION REF: 21/03380/FP**

This decision was made by Simon Hoare MP, Parliamentary Under Secretary of State for Local Government, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard Clegg BA(Hons) DMS MRTPI who held a public local inquiry which sat for 7 days between 12 to 22 September 2023 into your clients' planning application for the following development: Proposed solar array with associated battery storage containers and ancillary development including means of access and grid connection cable on land at Graveley Lane and to the east of Great Wymondley, Hertfordshire, in accordance with application Ref. 21/03380/FP, dated 6 December 2021.
2. On 26 May 2023, this application was called in for decision by the Secretary of State by a direction, made under Section 77 of the Town and County Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, but disagrees with his recommendation. He has decided to grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to the IR.

Matters arising since the close of the inquiry

4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 December 2023. The Secretary of State referred back to parties on 17 January 2024. At the same time the updated versions of National Policy Statements (NPS) EN-1 and EN-3 were referenced back for parties to comment on. A list of representations received in response to this letter is at Annex A. These representations,

and responses to them, were circulated to the main parties. The responses covered a range of issues, including, among other matters, the increased emphasis on the requirement for renewable energy, and that this policy statement referred to Nationally Significant Infrastructure Projects (NSIPs) of 50MW or more, which this application is not, and the amendments in relation to Best and Most Versatile (BMV) agricultural land. The Secretary of State has taken these representations into account when reaching his decision. Conclusions on specific matters are set out below. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.

5. Provisions relating to mandatory Biodiversity Net Gain (BNG) have been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permission granted for applications made before this date are not subject to mandatory BNG.

Policy and statutory considerations

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of the North Hertfordshire Local Plan (2011-2031), the Wymondley Parish Neighbourhood Plan (2015-2031) and the Hertfordshire Minerals Local Plan Review (2002-2016). The Secretary of State agrees with the Inspector at IR5.1 that the Hertfordshire Waste Core Strategy and Development Management Policies Document, and Hertfordshire Waste Site Allocations Document are not relevant to the application proposal. The Secretary of State considers that relevant development plan policies include those set out at IR5.2-5.8.
8. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), plus the other publications listed at IR5.9.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Emerging plan

10. The emerging Hertfordshire Mineral and Waste Local Plan 2040 is at consultation stage. The Local Planning Authority (LPA) has consulted upon a draft version of the Plan and are currently reviewing those comments.
11. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the emerging plan is at an early stage, the Secretary of State affords it very limited weight in the determination of this application.

Main issues

12. The Secretary of State agrees that the main issues are those set out by the Inspector at IR 12.1.

Green Belt

13. The Secretary of State agrees with the Inspector and parties that the proposal represents inappropriate development in the Green Belt (IR12.2).

14. For the reasons given in IR12.3-12.4, the Secretary of State agrees with the Inspector that the proposal would have an adverse impact insofar as the spatial aspect of openness is concerned (IR12.3), and would result in a significant loss of openness, both spatially and visually, in the Green Belt (IR12.4).

15. For the reasons given at IR12.6-12.9 the Secretary of State agrees that the introduction of development onto the site, would be harmful to purposes of the Green Belt (a) to check the unrestricted sprawl of large built-up areas, (b) to prevent neighbouring towns merging into one another, (c) assisting in safeguarding the countryside from encroachment and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

16. Policies SP5 of the Local Plan and GB1 of the Neighbourhood Plan refer to the need to demonstrate Very Special Circumstances (VSCs), and to ensure compliance with Government Green Belt policy respectively. Paragraphs 152-153 (formerly 147-148) of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSCs. VSCs will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Secretary of State has gone on to consider these matters. His conclusion on whether VSCs exist, and therefore on whether the application complies with Policies SP5 and GB1 is set out at paragraph 39 below.

Climate Change and Energy Security

17. As a renewable energy scheme, the Secretary of State finds that the proposal accords with Local Plan policy SP11(a). The Secretary of State notes that the proposal would have a 49.995MW export capacity during peak operation (IR4.1) representing an important contribution to the Government's expectation of a five-fold increase in solar deployment by 2035 (IR12.13), and that the District and County Councils both declared a Climate Emergency in 2019 (IR12.14). He further notes that planning permission has only been granted for two solar farms in North Hertfordshire: that both are small with generating capacities of 6MW and 5MW, and that no permission has been granted since 2015 (IR12.15). Local Plan Policy SP1 looks to ensure sustainable development in North Hertfordshire, and specifically refers to providing the necessary infrastructure required to support an increasing population. Like the Inspector in IR5.5, the Secretary of State concludes that Policy SP1 lends support to the application proposals.

18. With regard to the weight to be attached to the development's contribution towards renewable energy targets, the Secretary of State disagrees with the Inspector's conclusion at IR12.16 that these carry significant weight (IR12.16). Rather, he considers that, for the reasons given in paragraph 17 of this letter, plus the generation of sufficient electricity to meet the requirements of about 31% of the homes in the District (IR12.15), and the significance of that contribution towards moving away from reliance on fossil fuel sources of energy, that substantial weight should be afforded to this benefit. .

Character and Appearance

19. The Secretary of State agrees that although the site is considered to be of low sensitivity in landscape terms and to have low-moderate visual sensitivity, its open views would be sensitive to the introduction of further urbanising features (IR12.18). He further agrees that there would be no alteration to the field pattern, and the proximity of the motorway reduces the susceptibility to change (IR12.19). For the reasons given at IR12.19 the Secretary of State agrees that there would be a moderate adverse impact on the landscape character area, both following construction (year 0) and when planting had become established (year 10).
20. The Secretary of State agrees that additional planting would be a positive contribution to the character of the site and its environs (IR12.21). He further agrees that the replacement of large arable fields would represent a major and adverse change to the landscape of the site and given the scale of development, planting would not materially lessen the impact on the local landscape (IR12.21). He agrees that the proposal would not recognise the intrinsic character and beauty of the stretch of countryside to the east of Great Wymondley. For the reasons given at IR12.22 the Secretary of State agrees that the proposed development would not adversely affect the setting of the Chilterns National Landscape approximately 5.3km to the west.
21. For the reasons given at IR12.23 the Secretary of State agrees that in the short-term the introduction of the solar farm would have major to moderate adverse effects from parts of the Hertfordshire Way and Graveley Lane. For the reasons given in IR12.24, the Secretary of State agrees that when planting becomes established it would not compensate for the restriction of views across the open fields of the site from Graveley Lane and the Hertfordshire Way. For the reasons given in IR12.25-12.28, the Secretary of State agrees with the Inspector that the sensitivity of users of the A1(M) is low (IR12.25). Further to this, he agrees that from Graveley Road and the nearby castle remains in Great Wymondley, only heavily filtered views towards the site are available, and planting would restrict these even further and that from western edge of Graveley, the development would have a negligible effect (IR12.27). He also agrees that planting reduces levels of harm to minor for the footpaths described in IR12.26. Like the Inspector, he considers that the proposed development would have a damaging effect on the character and appearance of the area, and it would therefore be contrary to Local Plan Policies SP12, NE2 (IR12.29) and D1, which requires proposals to respond positively to their local context (IR12.64).

Habitats and Biodiversity

22. For the reasons given at IR12.30-12.34, the Secretary of State finds concern with the certainty over the mitigation proposed for displaced skylarks and agrees with the Inspector's conclusion that this carries moderate weight against the proposal (IR12.38).
23. The Secretary of State finds the delivery of BNG of 205.96% in habitat units and 102.29% in hedgerow units (IR12.37) would be a significant positive contribution resulting from the development. He therefore agrees with the Inspector's conclusion at IR12.38 that this carries significant weight.

Heritage Assets

24. For the reasons given at IR12.40-12.45, the Secretary of State agrees with the Inspector at IR12.45 that the proposal would detract from the setting of Great Wymondley Conservation Area (GWCA) and the scheduled monument of Great Wymondley Castle,

with the harm to the GWCA at the upper end of the less than substantial harm spectrum and to the castle at the lower end.

25. The Secretary of State has carefully considered the reasons given at IR12.46-IR12.49 in relation to the grade I listed Wymondley Priory, however he disagrees with the Inspector's assessment at IR12.49 that the proposal would cause serious harm to the setting of the scheduled monument, together with that of the grade I listed priory and the grade II* listed nearby tithe barn, and less than substantial harm to the contribution which setting makes to their significance. As set out at IR12.48 the intervisibility between the priory and the application site is limited, and the proposed planting would restrict this further. The Secretary of State considers that the proposed development retains visual separation between the priory complex and the farmland setting would remain as a result of the proposed development, as would the ability to appreciate the contribution of that setting to the significance of the priory complex. He therefore concludes that there would be a moderate level of harm to the setting of the scheduled monument. Like the Inspector concludes at IR12.48, the Secretary of State agrees concern does not extend to the conduit head due to its concealment by existing trees and whose relationship with the main complex across open farmland would remain distinct.
26. For the reasons given at IR12.50-12.51, the Secretary of State agrees with the Inspector that the proposed development would not materially affect the setting of the grade II* listed St. Mary's Church and the grade II listed buildings at Graveley Hall Farm.
27. As per paragraph 205 (formerly 199) of the framework, at IR12.89 the Inspector assigns great weight to the collective harm to all the Heritage Assets and concludes the proposal would conflict with Local and Neighbourhood Plan policies. The Secretary of State notes out of the four groups of heritage assets, the Inspector finds no material effect to two groups. The Secretary of State notes the Inspector's analysis of paragraph 208 of the Framework (formerly paragraph 202) and the Inspector's assessment of the public benefits of the scheme at IR12.87-88. The Inspector does not find conflict with Local Plan policies HE3 and HE4, relating to heritage, with which the Secretary of State agrees. Local Plan policy SP13 explains that, when considering the impact of 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. Local Plan policy HE1 requires less than substantial harm to the significance of a designated heritage asset to be assessed against the public benefits of the development proposed, mirroring the heritage test set out in paragraph 208 (formerly paragraph 202) of the Framework. He has returned to this matter at paragraph 38 below.

Agricultural Land

28. For the reasons given at IR12.55-12.61 the Secretary of State agrees that the proposed development would be consistent with the provisions of paragraph 180(b) (formerly 174) of the Framework. Like the Inspector, the Secretary of State agrees the proposal would enable agricultural use of the land to continue through grazing.
29. Footnote 62 of the Framework, concerning the importance of the availability of agricultural land used for food production has been given further consideration in relation to this application. The Secretary of State upholds his opinion that the proposed development would be consistent with paragraph 180(b) (formerly 174) of the Framework and finds the updated Footnote 62 to have limited bearing on the application.

Site Selection

30. The Secretary of State notes the Inspector's concerns set out at IR12.77 and his conclusion that the site selection exercise does not provide clear support for the development of the solar farm on the application site. He has carefully considered the assessment of six extra-high voltage substations, and six 132kV substations, plus the applicant's evidence at IR7.1 and 7.2 concerning engagement with other potential sites to the west and south. He disagrees with the Inspector's conclusions in this regard and in his judgement, he considers that the selection of the application site followed a robust and reasonable approach to site selection.
31. Further to this, the Secretary of State agrees with the Inspector for the reasons given at IR12.79 and IR12.88 that the scheme's availability and deliverability and the urgency of addressing the climate crisis, are matters which lend significant support to the proposal, and he considers these matters attract significant weight.

Other benefits or disbenefits to be weighed in the planning balance

32. The Secretary of State agrees that the economic benefits arising from employment (IR12.86) and the reversibility of the development (IR12.88) should be taken into account and considers they should hold limited weight.
33. Furthermore, the Secretary of State agrees that the reduction in flood risk (IR12.68) and the provision of permissive paths (IR12.85) should carry moderate weight.

Planning conditions

34. The Secretary of State had regard to the Inspector's analysis at IR12.87, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning balance and overall conclusion

35. For the reasons given above, the Secretary of State has found that the application is in conflict with Local Plan policies SP12, NE2 and D1 in relation to impact on landscape and character. With regard to heritage, the Secretary of State, like the Inspector finds that there is compliance with Policy HE3 and HE4, however given his findings with regard to the heritage balance set out at para 38 below, he also finds, unlike the Inspector, that the proposals are compliant with policies SP13 and HE1. He also finds the application to be compliant with local policies relating to biodiversity, BMV land and flooding. The Secretary of State also finds that the proposal is in accordance with Policy SP5 and NP Policy GB1 given that he deems (in para 39 below) that there are VSCs which outweigh the harm to the Green Belt. Given his findings in respect of Green Belt and heritage matters above, and his overall conclusions in respect of the scheme, the Secretary of state also concludes that the scheme complies with Local Plan policies SP11(a) and SP1. Taking into account his conclusions set out above, the Secretary of State has concluded that overall, the application is in broad compliance with the development plan taken as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
36. Weighing in favour of the proposal is the production of renewable energy which the Secretary of State considers carries substantial weight, including the wider environmental

benefits associated with increased production of energy from renewable sources, as set out in paragraph 156 (formerly 151) of the Framework and the contribution which the proposals make to the generation of sufficient electricity to meet the requirements of about 31% of the homes in the District; the BNG contribution which carries significant weight, and the deliverability of the scheme which is afforded significant weight. Further to this are the positive benefits arising from the reduction in flood risk and contribution to permissive footpaths, to which moderate weight is afforded and from the reversibility of development and economic benefits from employment, which carry limited weight.

37. Weighing against the proposal is harm to the Green Belt which carries substantial weight, harm to heritage which carries great weight and uncertainty about mitigation for displaced Skylarks which carries moderate weight. Further to this, harm is found to the impact on views from Graveley Lane and the Hertfordshire Way which carries considerable weight, to the landscape of the site and its immediate surroundings which carries significant weight and to the effect on landscape character area which carries moderate weight.
38. The Secretary of State has considered paragraph 208 (formerly paragraph 202) of the Framework. He considers that the public benefits of the proposal do outweigh the less than substantial harm to the designated heritage assets and therefore, in his judgement, the Framework's heritage balance is favourable to the proposal.
39. The Secretary of State has considered paragraph 153 (formerly paragraph 148) of the Framework. He considers that 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, and therefore considers that VSCs exist.
40. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the overall accordance with the development plan and the material considerations in this case indicate that permission should be granted.
41. The Secretary of State therefore concludes that planning permission for the application should be granted.

Formal decision

42. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby grants planning permission for a solar array with associated battery storage containers and ancillary development including means of access and grid connection cable, in accordance with application Ref. 21/03380/FP, dated 6 December 2021.

Right to challenge the decision

43. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
44. A copy of this letter has been sent to North Hertfordshire Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

L. Thomas

Decision officer

This decision was made by the Parliamentary Under Secretary of State for Local Government, Simon Hoare MP, on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

Representations received in response to the Secretary of State's reference back letter of

Party	Date
Joint Objector's Group – Jed Griffiths	28 January 2024
Axis (on behalf of the applicant)	31 January 2024

Representations received in response to the Secretary of State's recirculation letter of

Party	Date
North Hertfordshire Council	7 February 2024
Joint Objector's Group – Jed Griffiths	12 February 2024

Annex B List of Conditions

- 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.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
 - i) Drawing No. 3004-01-001 Rev B – location plan
 - ii) Drawing No. 3004-01-002 Rev B – statutory plan (location plan)
 - iii) Drawing No. 3004-01-003 Rev F – general arrangement (site plan)
 - iv) Drawing No. 3004-01-012 Rev F – landscape proposals
 - v) Drawing No. 3004-01-004 – illustrative PV frame and panels
 - vi) Drawing No. 3004-01-005 – indicative inverter-transformer station
 - vii) Drawing No. 3004-01-006 – storage building
 - viii) Drawing No. 3004-01-007 – control building
 - ix) Drawing No. 3004-01-008 – switchgear building
 - x) Drawing No. 3004-01-009 – battery storage container
 - xi) Drawing No. 3004-01-010 Rev A - indicative deer/stock fencing, access track and CCTV
 - xii) Drawing No. 3004-01-011 – typical cable trench
 - xiii) Drawing No. 3004-01-D04 – proposed passing place and junction visibility splays
 - xiv) Drawing No. 3004-01-D05- forward visibility splays
 - xv) Drawing No. 3004-01-ATR03 - swept path assessment – northern access
 - xvi) Drawing No. 3004-01-ATR01 Rev D - swept path assessment construction phase.

Reason - To provide certainty.

- 3) Notwithstanding condition No 2, no development (excluding demolition, tree protection works, groundworks/investigations) shall take place until details (including layout, materials, colour and finish) of the following have been submitted to and approved in writing by the Local Planning Authority:
 - i) solar panels and frames.
 - ii) CCTV columns.

iii) Satellite communication dish and column.

iv) Location of ancillary buildings, and details of equipment and enclosures

The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: To protect the character of the area.

- 4) Within 1 month of the date of first export of electricity to the National Grid (the date of first export) confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date of first export. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work and an ecological assessment report detailing site requirements in respect of retaining ecological features.

The scheme of decommissioning work and the ecological assessment report shall be submitted to and approved in writing by the Local Planning Authority no later than 39 years from the date of first export and subsequently implemented as approved.

Reason - For the protection of the Green Belt and in accordance with the time limited nature of the application.

- 5) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works (the early decommissioning scheme) and an ecological assessment report detailing site requirements in respect of retaining ecological features (the early ecological assessment report) shall be submitted no later than 3 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved early decommissioning scheme and the approved early ecological assessment report shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.

Reason - The use and associated buildings and structures are not in accordance with national and local policy for the protection of the Green Belt. The use and associated buildings and structures should therefore be removed as soon as possible if the solar farm is no longer required.

- 6) No development shall take place (including demolition, ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include details of the following:
- i) A timetable for the construction works.
 - ii) The control and management of noise and dust during the construction phase.
 - iii) On-site waste management.
 - iv) A risk assessment of potentially damaging construction activities.

- v) Identification of biodiversity protection zones.
- vi) Physical measures and sensitive working practices to avoid or reduce impacts during construction (which may be provided as a set of method statements).
- vii) The location and timing of sensitive works to avoid harm to biodiversity features.
- viii) The times during the construction period when specialist ecologists need to be present on site to oversee works.
- ix) Responsible persons and lines of communication.
- x) The role and responsibilities on site of an ecological clerk of works or similar competent person.
- xi) The use of protective fences, exclusion barriers and warning signs.
- xii) Soil management across the site.
- xiii) A flood management plan, which shall include a requirement for the contractor to sign up to the Environment Agency flood warning service, and which shall set out the actions to be taken in the event that a flood alert and/or flood warning is received from the Environment Agency (including a requirement that no new trenches are excavated until the Environment Agency has issued an All Clear).
- xiv) Construction and storage compounds, and post-construction reinstatement of these areas.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

Reason – To safeguard the living conditions of nearby residents, to ensure that construction works do not have a harmful environmental effect, and to ensure that there is no obstruction to flood water flows and no increase in flood risk elsewhere during construction of the development.

- 7) During the installation of underground cables, no spoil or material shall be stored adjacent to Stevenage Road, Little Wymondley within the extent of flood zone 3, nor along any part of Priory Lane.

Reason: To ensure that the storage of spoil and other material does not impede flood water flows nor increase flood risk during construction of the development, and to comply with Policy NE7 of the North Hertfordshire Local Plan 2011-2031.

- 8) No development shall take place until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include details of the following:

- i) Construction vehicle numbers, type and routeing.
- ii) Access arrangements onto the site.
- iii) Traffic management measures

- iv) Areas designated for car parking, loading/unloading and vehicle turning.
- v) Wheel washing facilities.
- vi) Arrangements for the cleaning of site entrances, internal site tracks and the adjacent public highway.

The development shall be implemented in accordance with the approved CTMP throughout the construction period.

Reason - In the interest of highway safety, to safeguard the living conditions of local residents, and to ensure that construction traffic does not have a harmful environmental effect.

- 9) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include the following:
- i) Description and evaluation of features to be managed.
 - ii) Ecological trends and constraints on the site that might influence management.
 - iii) The aims and objectives of management.
 - iv) Appropriate management options for achieving aims and objectives.
 - v) Prescriptions for management action.
 - vi) A work schedule, including an annual work plan capable of being rolled forward over five-year periods to a minimum period of 30 years from the date of first export of electricity to the grid.
 - vii) Details of the organisation responsible for implementation of the plan.
 - viii) Ongoing monitoring and remedial measures.
 - ix) Details of species selected to achieve target habitat conditions as identified in the biodiversity metric 4.0 and stated and marked on plans.
 - x) Measures to safeguard wildlife, in accordance with paragraphs 4.7.1-4.7.46 of the Ecological Assessment Report ref AxisL-043—1480.
 - xi) Details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured.
 - xii) The means by which contingencies and/or remedial action will be identified, agreed and implemented in order that the development delivers the biodiversity objectives of the approved scheme.

The development shall be carried out in accordance with the approved LEMP.

Reason - To ensure the delivery of measurable biodiversity net gain.

- 10) No development shall take place until a fire risk management plan (FRMP) has been submitted to, and approved in writing by, the Local Planning Authority. The FRMP

shall include details of battery management, response to fire at the development, and emergency vehicle access.

Reason - To manage fire risk and ensure public safety.

- 11) No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document). The lighting shall be installed in accordance with the approved scheme.

Reason: To prevent light pollution, to protect the character of the area, and to avoid harm to bats.

- 12) Notwithstanding any details submitted, no development shall take place until details of hard and soft landscaping (the landscaping scheme) have been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include details of the following:

- i) A timetable for implementation of the scheme.
- ii) External hard surfacing materials.
- iii) Means of enclosure.
- iv) Proposed and existing services above and below ground.
- v) Soft landscape works including planting plans, written specifications for cultivation and other operations associated with plant and grass establishment, and schedules of plants including species, plant sizes and proposed numbers or densities.
- vi) Finished levels and contours.

The landscaping shall be implemented in accordance with the approved scheme and timetable. Any tree or shrub which forms part of the approved landscaping scheme, and which, within a period of 5 years from planting, fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

Reason – To safeguard the character and appearance of the area.

- 13) Notwithstanding the submitted Archaeological Mitigation Strategy – Written Scheme of Investigation (WSI) by AOC Archaeology Group, ref 25806/80064, no development shall take place until the pre-development actions specified in a revised WSI, which has been submitted to and approved in writing by the local planning authority, have been completed. The scheme shall include:

- i) The programme and methodology of site investigation and recording.
- ii) Identification of the no-dig areas.

- iii) The programme for post investigation assessment.
- iv) Arrangements for analysis of the site investigation and recording.
- v) Arrangements for publication and dissemination of the analysis and records of the site investigation.
- vi) Arrangements for archive deposition of the analysis and records of the site investigation.
- vii) Nomination of a competent person or organisation to undertake the works set out within the revised WSI.

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

Reason –To safeguard and to ensure the investigation and recording of archaeological assets within the site.

14)No excavation activities shall be undertaken within the no-dig areas identified in the revised WSI.

Reason - To safeguard archaeological assets within the site.

15)During the construction phase of the development hereby approved no construction activities shall take place outside the following hours: Monday to Friday 08:00-18:00, and Saturdays 08:00-13:00. No construction activities shall take place at any time on Sundays or bank holidays, and piling shall only be undertaken between 09.00 and 17.00 Monday to Friday.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

16)No noise generating plant shall be installed before details of such plant and any mitigation measures, which demonstrate compliance with the source noise levels detailed in Section 6.2.3 of the Noise Impact Assessment reference R21.0906/DRK dated 7 October 2021, have been submitted to, and approved in writing by, the Local Planning Authority. The plant shall be installed in accordance with the approved scheme.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

17)No development, including ground works and ground preparation works, shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submitted surface water drainage scheme shall include:

- i) Methods to ensure that surface water run-off generated from the development site does not exceed run-off rates from the undeveloped site for the corresponding rainfall event up to and including 1 in 100 years + climate change critical storm.

- ii) Methods to ensure that the scheme provides betterment in respect of the pre-development overland flow paths for the 1 in 30-year event.
- iii) A condition survey of the 285m culvert that crosses the northern part of the site.
- iv) Retention of the existing overland flow pathways across the site free of obstruction.
- v) Detailed drawings of the attenuation basins including location, size, volume, depth, inlet and outlet features, connecting pipe runs and all calculations and modelling to ensure that the scheme caters for all rainfall events up to and including the 1 in 100 year plus climate change event.
- vi) Detailed drawings of all proposed discharge locations, including headwall details, and evidence of land ownership with evidence of any required third-party permissions.
- vii) Run-off quality treatment.
- viii) Provision of half drain down times for surface water drainage features within 24 hours.
- ix) Silt traps for protection of any residual tanked elements.
- x) Arrangements for maintenance and management of the scheme.
- xi) A timetable for implementation of the scheme.

The development shall be carried out in accordance with the approved scheme and timetable.

Reason – To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

18) No development shall take place until a scheme of interim and temporary drainage measures during the construction period have been submitted to, and approved in writing by, the local planning authority. The scheme shall provide full details of the responsibility for maintaining the temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Construction shall be carried out in accordance with the approved scheme.

Reason - To ensure adequate drainage provision and to prevent flooding and pollution offsite.

19) No electricity shall be exported to the National Grid, until, upon completion of the surface water drainage/flood management works for the development hereby permitted, the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i) Provision of a verification report, including evidence demonstrating that the approved construction details and specifications have been implemented in

accordance with the surface water drainage scheme. The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structures (during construction and final make up) and the control mechanism.

- ii) Provision of a complete set of built drawings for site drainage.
- iii) A management and maintenance plan for the sustainable drainage features and drainage network.
- iv) The management and maintenance plan for the sustainable drainage features and drainage network shall be implemented as approved.

Reason - To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

20) No excavation of trenches for cabling within Wymondley Transforming Station Local Wildlife Site (LWS) shall take place until a soil management plan has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall include the following:

- i) An ecological survey of the route across the LWS.
- ii) Details relating to the lifting, storage and replacement of turves, including the season when this will take place.
- iii) Proposed aftercare and management.

The works shall be undertaken in accordance with the approved management plan.

Reason - To minimise the impact upon the ecological and biodiversity interest of the Wymondley Transforming Station LWS in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031.

21) No development shall take place until an arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing by, the local planning authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

Reason - To protect trees and hedgerows, and to safeguard the character and appearance of the area.

22) No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing, by the local planning authority. The skylark mitigation strategy shall include details of the following:

- i) Identification of the proposed area for the implementation of mitigation.
- ii) Details of how the area will be managed.
- iii) Arrangements to secure the delivery of proposed measures, including a timetable of delivery; and a management and monitoring plan for a period of not less than 5 years

from the date of first export of electricity to the grid. Ecological monitoring reports should be submitted to the Local Planning Authority in year 2 and year 5 of the plan.

- iv) Identification of persons responsible for implementing the measures included in the strategy.

The development shall be carried out in accordance with the approved strategy and timetable, and the mitigation measures shall be retained for the lifetime of the development.

Reason – To provide alternative foraging and nesting opportunities for skylarks displaced from the application site.

- 23) No electricity shall be exported to the National Grid until a grazing management plan (GMP) has been submitted to and approved in writing by 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. Within three years of the date of first export, the grazing of livestock shall commence on the site in accordance with the GMP. The approved GMP shall be implemented thereafter. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing and shall not be carried out except in accordance with the approved revised GMP.

Reason - To ensure that agricultural use continues on the site.

- 24) No electricity shall be exported to the National Grid until a scheme relating to the proposed permissive footpaths shown on submitted drawing No. 3004-01-003 Rev F has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of surfacing, a timetable for implementation, signage, waymarks and interpretative panels relating to the proposal. The footpaths shall be implemented and made available for public use in accordance with the approved scheme and timetable.

Reason - To enhance pedestrian movement within and around the site.

- 25) No development shall take place until detailed engineering drawings of the accesses, as shown on plans ref 3004-01-D04 and 3004-01-D05, have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include details of hardsurfacing for at least the first 20 metres from the back edge of the carriageway and associated drainage, and visibility splays of 2.4m x 105m to the west and 2.4m x 148m to the east, within which there shall be no vertical obstruction between 0.6m and 2m. No other development shall take place until the site accesses arrangements have been constructed in accordance with the approved drawings.

Reason – In the interest of highway safety.

- 26) No development shall take place until detailed engineering drawings of the passing bay on Graveley Lane, as shown on plans ref 3004-01-D04 and 3004-01-D05 have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include measures to demonstrate how the passing bay will be prevented from being used for parking purposes. No other development shall take place until the passing bay has been provided in accordance with the approved drawings.

Reason – In the interest of highway safety and the free movement of traffic.

27) Within 3 months of completion of construction, both accesses shall be modified in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority. The revised designs shall reduce the width of both site accesses and provide associated tighter kerb radii to accommodate ongoing maintenance and agricultural vehicles.

Reason: To ensure the provision of an appropriate standard of access for the operational development and to protect the character and appearance of the area.

28) Within 3 months of completion of construction, the passing bay on Graveley Lane shall be removed, and the verge/embankment and vegetation reinstated, in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area and in the interest of biodiversity.



Report to the Secretary of State for Levelling Up, Housing & Communities

by Richard Clegg BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Date 11 December 2023

TOWN AND COUNTRY PLANNING ACT 1990 NORTH HERTFORDSHIRE DISTRICT COUNCIL

APPLICATION BY AGR 4 SOLAR LTD

Inquiry opened on 12 September 2023

Land at Graveley Lane and to the east of Great Wymondley

File Ref: APP/X1925/V/23/3323321

File Ref: APP/X1925/V/23/3323321

Land at Graveley Lane and to the east of Great Wymondley, Hertfordshire.

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 26 May 2023.
- The application is made by AGR 4 Solar Ltd to North Hertfordshire District Council.
- The application Ref 21/03380/FP is dated 6 December 2021.
- The development proposed is described as 'a photovoltaic solar array on land at Priory Farm to the east of Great Wymondley, North Hertfordshire'.
- The reason given for making the direction was that the Secretary of State decided, in the light of his policy on calling in planning applications, that the application should be called in.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - a) The extent to which the proposed development is consistent with Government policies for protecting Green Belt land as set out in the National Planning Policy Framework (NPPF) (Chapter 13);
 - b) The extent to which the proposed development is consistent with Government policies for meeting the challenge of climate change, flooding and coastal change as set out in the NPPF (Chapter 14);
 - c) The extent to which the proposed development is consistent with Government policies for conserving and enhancing the natural environment as set out in the NPPF (Chapter 15);
 - d) The extent to which the proposed development is consistent with the development plan for the area; and
 - e) Any other matters the Inspector considers relevant.
- The inquiry sat for seven days: 12-15, 19, 20 & 22 September 2023.
- Site visits took place on 21 & 22 September 2023.

Summary of Recommendation: That planning permission be refused.

1. Procedural Matters

- 1.1 The Joint Objectors Group (JOG), comprising Great Wymondley Village Association and Wymondley Parish Council, served a statement of case in accordance with Rule 6(6) of the Town and Country Planning (Inquiries procedure) (England) Rules 2000, and it took a full part in the proceedings of the inquiry. Together with the Applicant and the Local Planning Authority (LPA) it is a main party in the consideration of this application.
- 1.2 A case management conference was held on 18 July 2023 to consider the ongoing management of the case and arrangements for the inquiry. There was no discussion of the merits of any parties' cases at the conference. A note of the meeting (core document 139 (CD139)) was posted on the website for the inquiry, which can be accessed via the following link: [Solar Farm Public Inquiry North Herts Council \(north-herts.gov.uk\)](https://www.north-herts.gov.uk/solar-farm-public-inquiry). The website includes all core documents.
- 1.3 On the application form, the location of the site is given as *Priory Farm, Graveley Lane, Great Wymondley*. At the case management conference, it was agreed that the site should be referred to as *Land at Graveley Lane and to the east of Great Wymondley*, and I have identified it accordingly in the application details above.
- 1.4 It was also agreed at the case management conference that the proposal should be described as *a solar array with associated battery storage containers, and*

ancillary development including means of access and grid connection cable, and I have considered the application on this basis.

- 1.5 The statement of common ground between the Applicant and the LPA (CD140) identifies the plans which were considered by the LPA. The location plan (CD13) only shows a short section of the cable route, whereas it is clear from the planning and design & access statement¹ and the statutory plan (CD14) that the full length of the cable route to Wymondley sub-station forms part of the application site. The submitted plan of the construction phase swept paths at the site accesses from Graveley Lane (CD28) had not been updated with the revised access configuration on the north side of the road, as shown on the site plan (CD16) and the plan of the revised northern access arrangements (CD27). Revised plans were submitted during the inquiry by the Applicant to address these discrepancies (CDs 208 & 217): there was no dispute from other parties that the revised plans correctly show the proposed scheme. I am satisfied that no prejudice would be caused to any party by taking the revised plans into account in considering the application, and I have proceeded accordingly.
- 1.6 The site plan (CD16) shows two surface water attenuation basins, whereas in evidence to the inquiry, the Applicant's flood risk witness proposed three such basins (CD163, para 4.32). It is suggested by the main parties that, should planning permission be granted, a surface water drainage scheme would be required by means of a condition. That scheme would include details of attenuation basins. Moreover the main parties, including the JOG, had the opportunity to discuss the proposed surface water drainage arrangements at the inquiry. I do not consider that the proposed change would materially alter the proposal nor that any prejudice would be caused by taking it into account in my consideration of the proposed development.
- 1.7 On drawing ref 3004-01-D04 (CD25), the plan which shows the southern access junction visibility splays includes a note which incorrectly refers to the 2.4m x 105m splay envelope as being to the east of the junction. It is clear from the plan that this splay envelope is on the west side of the junction.
- 1.8 On 5 September 2023, shortly before the inquiry was due to open, the Government issued a revised version of the NPPF (CD56). The revised NPPF was drawn to the attention of the main parties, and it is this version which I have taken into account in my consideration of the application.
- 1.9 The Chilterns Area of Outstanding Natural Beauty (AONB) has been referred to in documents for this case and was mentioned at the inquiry. On 22 November 2023, all AONBs became known as national landscapes. Consequently, I have referred to The Chilterns AONB as The Chilterns National Landscape in this report. The policy status of the area is unchanged
- 1.10 The matters on which the Secretary of State particularly wishes to be informed refer to Chapter 14 of the NPPF. The content of this chapter concerning coastal change is not relevant to the application, and I have framed my main considerations accordingly (below, para 12.1).

¹ CD14, para 2.1.1.

- 1.11 This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Sections 7 - 10 set out the material points of the parties' cases, and do not form part of the conclusions. Lists of possible conditions, appearances and inquiry documents are appended.

2. The Site and Surroundings

- 2.1 The main part of the site comprises two large parcels of land to the north and south of Graveley Lane, a minor road which runs between Great Wymondley and Graveley. On the east side of this land is the A1(M) motorway, and Priory Lane leads south from the western end of Graveley Lane to Little Wymondley.
- 2.2 The site lies in an area of countryside between the towns of Letchworth Garden City, Hitchin and Stevenage, where the two large parcels form part of a more extensive area of gently undulating agricultural land, including fields in arable use. The small settlements of Great Wymondley and Graveley are nearby: Great Wymondley is a short distance to the west of the main part of the application site, whilst Graveley is situated on the east side of the A1(M). Little Wymondley is about 600m to the south-west of the southern parcel of the site, and the cable route passes along roads through this settlement to the sub-station at Wymondley Transforming Station which is further to the south-west. The transforming station is contained by Wymondley Transforming Station Local Wildlife Site (LWS)². The Chilterns National Landscape is about 5.3km to the west³.
- 2.3 There are a large number of heritage assets in the vicinity of the site⁴. Great Wymondley Conservation Area includes several listed buildings, and to the south is the main part of the scheduled monument of Wymondley Priory: a detached part of the monument – the Conduit Head – is situated within a field about 70m to the west of the southern parcel of the application site. There is evidence of a Roman settlement between Great Wymondley and the site⁵, and archaeological remains have been found on and around the land.
- 2.4 The application site amounts to about 88ha, the majority of which (84.7ha) is contained in the parcels of land to the north and south of Graveley Lane. This land slopes down in a westerly and south-westerly direction from about 110m above Ordnance Datum (AOD) to about 90m AOD⁶. It is currently cultivated as arable fields, with hedgerows and groups of trees on field boundaries. In terms of land quality, 32.2% is grade 2 and 67.8% is sub-grade 3a⁷, categories which are recognised in the NPPF as being included in the best and most versatile (BMV) agricultural land. The Applicant has submitted an extract from Natural England's Likelihood of BMV maps, which also identifies much of the land in the surrounding area as having a high likelihood of falling within the BMV category⁸.

² CD7, paras 4.2.5 & 4.2.6.

³ CD140, para 2.1.5. The location of the AONB is shown on the maps at CDs 211 & 212.

⁴ CD5 -Heritage Impact Assessment – see plans at figures 2-5 and site gazetteer at appendix 2.

⁵ CD2, para 2.1.13.

⁶ CD140, para 2.1.7.

⁷ CD169, para 3.4.

⁸ CD169, para 3.2 and insert 2.

A long-distance footpath – the Hertfordshire Way – runs along the northern and north-eastern boundaries of the northern parcel of farmland. The site also includes the cable route along roads through Little Wymondley to the sub-station, and two strips of land along field boundaries to the west of the southern parcel. With the exception of about 700m of the cable route along Stevenage Road which is in flood zone 3, the site is in flood zone 1⁹.

3. Planning History

- 3.1 My attention has not been drawn to any previous relevant planning applications on the appeal site.

4. The Proposal

- 4.1 The proposed development is described in the statement of common ground and shown on the submitted plans¹⁰. It would have the capacity to export up to 49.995MW of electricity to the National Grid during peak operation¹¹. Solar panels would extend in arrays across the large fields which comprise the north and south parcels of the site. A geophysical survey identified three concentrations of anomalies of archaeological origin¹². These have been used to define archaeologically sensitive areas where the panels would be installed using a no-dig method¹³. Elsewhere the panels would be mounted on posts driven into the ground.
- 4.2 A number of inverter/ transformer stations and battery storage containers would be located alongside access tracks within the two parcels, and a control building, a storage building, and a switchgear building would be positioned close to the access to the northern parcel. Access to both parcels would be taken directly from Graveley Lane: to the southern parcel by an upgraded field access, whilst a new access would be formed to the northern parcel. Tree and hedgerow planting would be undertaken within and around the site, and a 12m buffer would be established around the perimeter of the fields to encourage an increase in biodiversity. Planting would also take place on the two strips of land to the west of the southern parcel. Stock fencing to a height of 2.1m would be erected around the arrays and set back from the buffer strips and boundary planting, and close circuit television cameras (CCTV) would be mounted on 4m high posts on this part of the site.
- 4.3 The drainage scheme proposed for the site includes three surface water attenuation basins and three surface water detention basins to hold water from the access tracks and hardstandings and from the panelled part of the site respectively. At the inquiry, the Applicant's flood risk witness confirmed that, notwithstanding their differing names, all the basins were intended to attenuate surface water flow.

⁹ CD6, section 4.2 and figure 5.

¹⁰ CD140, section 3. The submitted plans are listed in table 3.1, with amendments to the location and northern access swept path plans as referred to in para 1.5 of this report.

¹¹ CD156, para 2.3.3.

¹² CD167, paras 4.4-4.6.

¹³ The no-dig areas are shown on both the general arrangement and landscape plans (CDs 16 & 24). An example of the installation of solar panels without ground penetration is shown in CD213.

- 4.4 The output from the solar panels would be connected to the grid at Wymondley GSP sub-station by a cable running underneath Graveley Lane, Priory Lane, Stevenage Road, Blakemore End Road and Sperberry Hill.
- 4.5 The application seeks permission for an operational life for the development of 40 years, following which it would be decommissioned and the site restored¹⁴. During operation of the solar farm, the land within the stock fence would be used for the grazing of sheep, and a condition was suggested by the Applicant to secure this intention¹⁵.
- 4.6 Permissive footpaths would be provided as part of the scheme. On the northern parcel, a path would be formed along the western and southern boundaries, with the latter extending across land at the eastern end of the site to join the Hertfordshire Way. In addition a footpath would be provided on the southern side of Graveley Lane from its junction with Priory Lane and Graveley Road to a point opposite the south-west corner of the northern parcel.

5. Planning Policies and Guidance

The Development Plan

- 5.1 The Development Plan comprises the North Hertfordshire Local Plan 2011-2031 (CD39a, adopted 2022), Wymondley Parish Neighbourhood Plan 2015-2031 (CD40, adopted 2018), Hertfordshire Minerals Local Plan Review (CD241, adopted 2007), Hertfordshire Waste Core Strategy and Development Management Policies Document (adopted 2012), and Hertfordshire Waste Site Allocations Document (2014)¹⁶. The two waste development plan documents are not relevant to the appeal proposal.

The Local Plan

- 5.2 With the exception of a short length of the cable route in Little Wymondley, the application site is in the Green Belt¹⁷. Policy SP5 makes clear that development proposals within the Green Belt should only be permitted where very special circumstances have been demonstrated. Natural resources and sustainability are the subject of Policy SP11 which, amongst other provisions, supports proposals for renewable and low carbon energy developments in appropriate locations. The solar arrays would be installed on BMV agricultural land (above, para 2.4): Policy NE12 says that proposals for solar farms on such land are to be determined in accordance with national policy.
- 5.3 Policy SP12 includes a commitment to respect landscape character, scenic beauty, and locally sensitive features, particularly in relation to The Chilterns AONB (National Landscape). Other parts of the policy concern the protection of designated nature conservation sites, with priority given to international and national sites ahead of local sites, and seeking to ensure measurable net gains for biodiversity. Proposals should not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area (Policy NE2), and permission should only be granted for proposals affecting the setting

¹⁴ CD140, para 3.1.2.

¹⁵ CD218, suggested condition 22.

¹⁶ CD140, para 5.1.1.

¹⁷ See the Local Plan Policies Map for Hitchin, Letchworth Garden City and Baldock, CD39d.

of the AONB (National Landscape) if they at least conserve its special qualities, distinctive character and biodiversity, amongst other considerations. Policy NE4 reiterates the requirement for all development to deliver measurable net gains for biodiversity.

- 5.4 A series of policies concerns the historic environment. Strategic Policy SP13 explains that, when considering the impact of 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. In accordance with Policy HE1, proposals affecting designated assets or their settings will be permitted where, amongst other considerations, they lead to less than substantial harm to the asset's significance and this harm is outweighed by the public benefits of the development. Where harm would be caused to a non-designated asset, permission should only be granted if a balanced judgement has been made which assesses the scale of harm or loss of significance (Policy HE3). Archaeology is addressed by Policy HE4: proposals should demonstrate how archaeological remains will be preserved and incorporated into the layout if in situ preservation is considered preferable.
- 5.5 Other policies of relevance include SP1, SP6, D1, and NE7. Policy SP1 supports proposals which provide the infrastructure required to support an increasing population, and Policy SP6, which is concerned with sustainable transport, requires, amongst other measures, applicants to demonstrate the safety of their proposals. Policy D1 requires proposals to respond positively to their local context, and Policy NE7 stipulates that development is located outside flood zones 2 and 3 where possible and is designed to ensure that the risk of flooding is reduced and not increased elsewhere.

The Neighbourhood Plan

- 5.6 The Neighbourhood Plan includes a number of policies of relevance to the proposed development. Policy GB1 concerns the Green Belt: proposals should comply with Government policy and not impact negatively in terms of visual impact on the openness of the Green Belt landscape. Where appropriate, applications should be accompanied by an assessment of their impact on landscape character (Policy NHE1).
- 5.7 Policy NHE2 requires that, where appropriate, proposals are supported by measures to ensure net gains in biodiversity, and Policy NHE3 stipulates that proposals affecting designated sites should comply with the relevant European, national and local policy requirements. Under Policy NHE8, appropriate native species are expected to be used in landscaping schemes. Proposals affecting heritage assets and their settings must comply with national planning policy and the Development Plan (Policy NHE9). Policy FR1 is concerned with flood risk, and makes clear that proposals which would result in an increase in risk will not be supported.

The Minerals Local Plan Review

- 5.8 A large part of the site falls within a minerals safeguarding area for sand and gravel shown on the policies map for the emerging Hertfordshire Minerals and Waste Local Plan 2040. Minerals Policy 5 is concerned to prevent mineral sterilisation. Extraction is encouraged prior to other development where any significant mineral resources would otherwise be sterilised, and development

proposals will be resisted within areas of potential mineral resource which would prevent future extraction unless certain circumstances apply.

National planning policy and guidance

5.9 I have had regard to national planning policy and guidance contained in the NPPF and Planning Practice Guidance (PPG). The National Policy Statement (NPS) for Energy (CD57) and that for Renewable Energy Infrastructure (CD58) are of relevance to the proposal, and, whilst their weight is limited, I have also taken into account the draft NPSs on these subjects (CDs 59 & 60). The British Energy Security Strategy (BESS) expects a fivefold increase in the deployment of solar capacity from 14 gigawatts (GW) in 2022 (to 70GW) by 2035¹⁸.

6. Agreed Matters

6.1 A signed statement of common ground (CD140) between the Applicant and the LPA sets out matters agreed by those parties. Matters agreed include the following:

- The farmland within the site is a mixture of grade 2 and grade 3a land.
- The site is not covered by any statutory landscape or ecological designation, and it does not constitute a valued landscape as referred to in paragraph 174(a) of the NPPF.
- Field boundaries are defined by established hedgerows which limits visibility from Great Wymondley, sections of the Hertfordshire Way and sections of Graveley Lane.
- The proposal would cause less than substantial harm, at the lower end of the spectrum, to the significance of the following designated heritage assets, through development within their settings:
 - i) Graveley Hall, grade II listed building
 - ii) St Mary's Church, Little Wymondley, grade II* listed building
 - iii) Wymondley Priory, scheduled monument
 - iv) The Priory, grade I listed building
 - v) Tithebarn at Wymondley Priory, grade II* listed building
 - vi) Barn and stable at Priory Farm, grade II listed building
 - vii) Garden walls at The Priory, grade II listed building
 - viii) Conduit Head, grade II listed building
 - ix) Wymondley Castle, scheduled monument
 - x) Castle Cottage, grade II listed building
 - xi) Wymondley Hall, grade II* listed building
 - xii) Great Wymondley Conservation Area

¹⁸ CD46, page 19.

- Construction work would take place between 0800 and 1800 from Monday to Friday and between 0800 and 1300 on Saturday. Piling would be undertaken between 0900 and 1700 from Monday to Friday.
- Those Development Plan policies considered relevant.
- North Hertfordshire District Council and Hertfordshire County Council have both declared a climate change emergency.
- The LPA has not granted planning permission for a commercial renewable energy generation scheme since 2015.
- The capacity of the development (49.995MW, above para 4.1) would meet the needs of about 17,756 homes, which is about 31% of the homes in North Hertfordshire and would provide for a reduction of about 20,289 cubic tonnes of CO₂ emissions annually.
- The proposal would produce a biodiversity net gain of over 205% in habitat units and 102% in hedgerow units.
- The harm to the Green Belt and any other harm is clearly outweighed by other considerations, including the wider environmental benefits of the scheme, and very special circumstances exist in this case.

7. The Case for the Applicant

Introduction

- 7.1 Wymondley GSP is considered to be the only substation into which this scheme can connect. Site identification takes account of the availability of substations which would not be constrained by solar curtailment, that is action by National Grid to reduce the output of solar energy generation to balance energy supply. Six extra high voltage (EHV) substations were identified in areas of low-moderate curtailment and where there may potentially be Grid capacity. However each is subject to constraints in terms of the physical size and capacity of the substation itself (as opposed to the grid), and/or the limitations imposed by an urban location, the level of disruption likely to be involved in establishing a connection, and the cost of the cable route¹⁹. Details relating to the technical capacity of substations are set out in the supplementary table for Grid connection and site identification submitted at CD233.
- 7.2 It is potentially possible to connect to National Grid 132kV substations, of which six were identified²⁰. The reason for connecting at Wymondley GSP rather than other substations is the type and viability of the connection. It is likely that all other connections would have resulted in a 132kV connection, which is substantially more expensive, and is generally only viable for connections above 50MW²¹. Four kilometres is considered to be the maximum distance radially from the point of connection to a site, and the area of search was set at that dimension²². Beyond that, the evidence was of an exponential increase in costs

¹⁹ The substations are shown on figure 5.2, and details of the constraints are set out in para 5.4.76 of CD2 and para 1.9 of CD232.

²⁰ CD2, para 5.4.73.

²¹ CD232, 2.4 & 2.5.

²² CD232, para 3.1.

and complexity and the scheme would not be built. A number of landowners were interested in engaging with the project. Some were further to the west and closer to the National Landscape. A site to the south was the subject of discussions with another operator who has now secured consent for a battery energy storage system. A connection offer for Wymondley has been secured, and, if planning permission is granted, it is expected that the solar farm could be connected to the grid by 2025-26. In contrast, the current lead-time for connection following a new request is 46 months²³. As a result, the application site was chosen because it was available, deliverable, unconstrained at a high-level appraisal and viable. There are no non-Green Belt alternatives for the proposed development.

- 7.3 There is an immediate and pressing need for deployment of renewable energy generating infrastructure across the UK, which is intrinsically linked to the legally binding obligations to reach net zero by 2050. The proposed development would make a material contribution to meeting the amended Climate Change 2008 targets. Central Government has emphasised through national policy that continued deployment of solar farms is a key part of the UK's transition to achieving a low carbon economy, switching to carbon free energy generation by 2035, as set out as a commitment in the Net Zero Strategy of 2021²⁴, and tackling climate change.

Green Belt

- 7.4 It is acknowledged that all solar farms are inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The solar arrays would introduce substantial development in terms of ground cover due to the quantity of arrays within the scheme. Furthermore, the associated access track, substation, inverter stations, fencing and CCTV facilities would result in additional built form that would further diminish the openness of the Green Belt spatially. Nevertheless, the solar arrays would be relatively modest in mass and footprint, and would be spaced out at regular intervals, reducing the overall scale of the development. Furthermore, the scheme would be in place for a temporary 40 years period. It would then be fully demounted, and the land returned to its former condition. Therefore, the impact on the openness of the Green Belt would be reduced, with the site ultimately reinstated to its former open character. Consequently, both spatially and visually, the proposed development would result in limited and temporary harm to the openness of the Green Belt.
- 7.5 The proposal would accord with the first two purposes for including land within the Green Belt²⁵, and the last two are not relevant to the application. The development would introduce built development to a countryside location. However, the site adjoins the A1(M) and thus is in an area which is already degraded by urbanising influences. The proposed development would be of a low height and would sit within the landscape framework, such that once the proposed mitigation planting was established it would not be intrusive. Harm in terms of encroachment would be limited.

²³ Connection times were given in oral evidence by Mr Collier.

²⁴ CD44, page 94.

²⁵ The purposes for including land in the Green Belt are set out in paragraph 138 of the NPPF.

Landscape and visual harm

- 7.6 The proposal would increase the influence of built development across the site, resulting in a moderate adverse effect. However, the pattern of vegetation cover in the landscape is such that tree belts and hedgerows would provide considerable screening, greatly reducing the overall extent over which the proposed development would be perceived as a new landscape characteristic. The effect on landscape character would not be substantial beyond the site boundary, with a moderate to minor adverse effect, which would not be significant, and landscape harm would be limited.
- 7.7 There would be limited visibility of the proposed development due to its low height, existing screening, and the influence of landform. In the short-term, major to moderate adverse visual effects would occur from parts of the Hertfordshire Way along the northern boundary of the site and from part of Graveley Lane. From these routes the adverse visual effects relate to gaps in the existing boundary vegetation. In the long-term, once the proposed mitigation planting has established, the visual effects would reduce, and would be no greater than moderate adverse from a limited number of locations in close proximity to the site.

Heritage

- 7.8 The Heritage Impact Assessment identified a high potential for remains of prehistoric, Roman and medieval date within the site²⁶. A subsequent geophysical survey identified three concentrations of anomalies of archaeological origin²⁷. The design of the development within the archaeologically sensitive areas would be achieved by a no dig solution which would be secured by condition²⁸, and which would avoid a requirement to bury cables below ground. Where unknown remains are concerned, the provision detailed in the written scheme of investigation (WSI) for a 3% evaluation outside the three archaeologically sensitive areas would provide a means of recording or ensuring preservation of any significant buried remains in place.
- 7.9 Insofar as designated heritage assets are concerned, visibility of the proposed development would be limited across the landscape and specifically from the majority of designated assets located within 2km of the site²⁹. The zone of theoretical visibility which takes account of existing features demonstrates limited visibility from Great Wymondley Conservation Area. The Conservation Area Character Statement for Great Wymondley (CD 93) identifies key views and character photographs, none of which would be adversely affected by the proposed development. There would be only limited visibility of the proposed development from the churchyard of the grade II* listed St Mary's Church at Little Wymondley. Similarly, there would be limited visibility from the grounds of Wymondley Priory. The historic landholding relationships between the site and surrounding designated assets were also considered. This resulted in identification of less than substantial harm to the Graveley Farm assets and Great Wymondley Conservation Area.

²⁶ CD5, paras 5.2.7, 5.3.8, 5.4.7.

²⁷ See figures 23, 29, 30 & 32 in CD32.

²⁸ The intended no dig areas are shown on the general arrangement plan, CD16.

²⁹ CD107 zone of theoretical visibility and designated heritage assets, figure 2.

Ecology

- 7.10 Subject to the imposition of appropriate conditions, no nature-focused consultee or organisation has objected to the application or raised substantive concerns. The current ecological value of the site is almost exclusively in its hedgerows, woodland and managed field margins. The open fields offer little by the way of refuge or food for wildlife, and are intensively managed for food production, including the use of agricultural chemicals.
- 7.11 Field survey data was used to aid the design of the proposed development with the resultant layout avoiding hedgerows and woodland and incorporating 12m field margins. The scheme would include substantial areas of habitat creation and enhancement, in particular new areas of grassland, native species woodland and hedgerows. These habitats would increase the ecological value of the application site for a large number of species and further strengthen ecological connectivity with the wider countryside.
- 7.12 There would be impacts on some species. Largely these would be limited to the construction phase; however standard good-practice measures secured by planning conditions would ensure legislative and policy compliance and minimise effects. Once construction is completed, populations of these temporarily impacted species would recover and with the habitat creation implemented, can be expected to strengthen. Inevitably, those few bird species which rely on open fields would be unable to persist within the application site. Skylark is a ground-nesting species which prefers open habitats, and the breeding bird survey had estimated 15 territories or pairs of skylarks within the application site³⁰. There is little evidence of nesting by skylark occurring within solar farms, and the development would potentially displace this activity³¹. Such species are, though, entirely dependent on the cropping regime in any one year, and can be lost where markets dictate other priorities. Moreover, the Applicant has agreed to a condition requiring the delivery of a skylark mitigation plan³² which would ensure that the local population of this species is secured for at least the next 30 years.
- 7.13 With regard to bats, the boundary habitat, hedgerows and linear planting, which provide support for these species would be maintained and improved. Gaps or mammal gates would be installed in the perimeter fencing to allow small mammals to move into and out of the site³³.
- 7.14 The proposed development would not adversely affect any statutory designated sites for nature conservation. Temporary impacts on the Wymondley Local Wildlife Site could not be avoided as the substation connection is entirely within the LWS; however, these will be limited to the digging of a temporary trench with subsequent reinstatement.
- 7.15 The application includes a biodiversity net gain (BNG) calculation, using the recently developed Metric Version 4.0 system (CD237). The BNG calculations show a substantial BNG increase, 205.96% in habitat units and 102.29% in

³⁰ Paragraph 3.5.2 of the Ecological Assessment Report (CD7) refers to 19 pairs of skylarks. The Applicant's ecology witness explained that this figure included four pairs within the wider survey area which extended beyond the application site – see figure 6 of CD7.

³¹ Oral evidence by the Applicant's ecology witness.

³² See possible condition No 21 in CD218 and the illustrative skylarks plots plan at CD 219.

³³ CD7, para 4.7.21.

hedgerow units, which would be substantially above the forthcoming 10% requirement under the Environment Act 2021³⁴. The proposed development accords with the requirement in Policy NE4 of the Local Plan to deliver a measurable biodiversity gain and contribute to ecological networks, and with paragraphs 174 and 179 of the NPPF.

Transport

- 7.16 Construction is the most onerous phase for a solar farm in traffic terms and would last around 36 weeks. In the first 4 weeks there would be 40 two-way heavy goods vehicle (HGV) and 120 two-way light vehicle (staff) movements per day³⁵. Volumetrically, that is equal to one additional vehicle movement every 4 minutes or so, on average, and would be imperceptible. In the following 32 weeks there would be 8 two-way HGV and up to 120 two-way light vehicle (staff) movements per day. In the operational phase there are likely to be in the order of 1 to 2 visits per week in a light vehicle by a maintenance engineer, on average. The decommissioning phase would mirror the construction phase but with traffic more evenly spread out. All deliveries and HGV movements to the site would be routed via the A1(M) Junction 9, the A505, the B197 and Graveley Lane. This route would avoid sensitive receptors in local settlements and congested areas.
- 7.17 Perhaps most disruption would be experienced during the installation of the cable route. However, the roadworks would be phased, and each phase would be shorter than construction on the main site, perhaps one to two weeks in length. They would be agreed as part of a separate consenting regime (a section 50 licence) with the Local Highway Authority, and diversions and traffic management measures would be in place.

Agricultural land

- 7.18 The proposal is a temporary form of development and the majority of the land beneath the solar panels would remain in agricultural use, through sheep grazing, for the 40 years operational life of the solar farm. After this, it would be returned to full agricultural use following decommissioning. Removing land from intensive agricultural use for the life of the development would improve soil health by increasing the organic matter in the soil and improving soil structure and drainage, a consideration acknowledged in a recent appeal decision for a solar farm which included the use of arable land³⁶.
- 7.19 Whilst there may be limited harm associated with the temporary loss of versatility and function of the farmland, there would be long-term benefits to soil health, soil structure and carbon sequestration. Overall, there would be no harm to the best and most versatile land.
- 7.20 There is no planning policy to require land to be used for food production; there is no food security crisis or concern; the Government funds arable land conversions to grassland, and is not seeking increased food production as a consequence; the actual implications of retaining the site for food production would be modest (119 tonnes per annum from a national production of 24

³⁴ CD237, page 7, headline results.

³⁵ CD10 Transport Statement, tables 4.2 & 4.3.

³⁶ CD121, para 21.

million tonnes of cereals³⁷), whereas the benefits in terms of carbon sequestration, organic matter, reduced erosion, reduced compaction and improved biodiversity would be substantial.

Flood risk

- 7.21 The main part of the site has a low - very low risk of surface water flooding. The flood risk assessment indicated the potential presence of four overland flow pathways across the site³⁸. Detailed hydraulic modelling indicates that the maximum depth of flooding for all pathways and events would be less than 100mm even during the 1 in 100 year event (plus climate change)³⁹. The panels, inverter/transformer containers, storage building, control building and battery storage containers would all be raised above ground. The switchgear building would not be raised, but it would not be located on a defined overland flow pathway. As such overland flow pathways would be unobstructed. In the no dig areas, concrete sleds which run perpendicular to the panels would not impede flow.
- 7.22 A 700m length of the cable route along Stevenage Road is located in land indicated to be at a high risk of flooding from Ash Brook (flood zone 3). The cable installation works would not increase flood risk elsewhere because the cables would be laid within narrow trenches located in the highway and relatively short lengths of trenches⁴⁰ would be excavated with re-instatement generally occurring within one week. It is agreed that no spoil would be stored adjacent to Stevenage Road or on Priory Lane⁴¹, and that a requirement to this effect should be included in a condition concerning a construction management plan.
- 7.23 Little Wymondley has a history of flooding, with reports of incidents between 1926 and 1956, in 1968, 1993, 2000-01, 2013, 2014, 2016, 2019 and 2020⁴². The principal source of flooding is Ash Brook, and the main part of the site falls within the catchment of this watercourse. The site is currently bare earth for a significant part of the year, whilst the panelled site will comprise grassland. This is expected to significantly reduce peak runoff rates. Moreover six basins would store surface water, which would be released at a controlled rate. Peak run-off from the site would be reduced by 14.3% for the present-day 1 in 30 year event, and 3.6-4.8% for larger events, assuming that the site comprises grassland both prior to and after development⁴³. The actual betterment is expected to be greater because the site is bare earth for part of the year. The proposal would reduce the peak runoff rates from the main site, thereby reducing peak flood flows in the Priory Lane Stream, along Priory Lane and hence in Little Wymondley.

³⁷ CD169, paras 6.18 & 6.19.

³⁸ CD6, section 4.3 and figures 6 & 7.

³⁹ CD31, para 14.

⁴⁰ 50-100m, Technical Note 01 – Assessment of Grid Connection Route Cable Laying Process, para 17 (CD216).

⁴¹ CD216, paras 29 & 30.

⁴² CD40 Neighbourhood Plan, para 8.6; CD87 Flood investigation Report – Little Wymondley – Hertfordshire CC, section 2.

⁴³ CD163 Dr Tilford's proof, tables 1 & 2.

Benefits

7.24 Other considerations relied on to outweigh the harm caused by inappropriateness and any other harm are:

- i) The significant national need to reduce carbon emissions and address the global challenge of climate change.
- ii) The urgent national need for renewable energy generation to achieve net zero by 2050 and a net zero electricity system by 2035.
- iii) The significant local need to deliver on North Hertfordshire's declaration of a climate emergency and commitment to achieve a net zero District by 2040⁴⁴.
- iv) The significant constraint posed by the extent of the existing Green Belt and AONB (National Landscape) designations within North Hertfordshire.
- v) The wider environmental benefits associated with the landscape proposals which would deliver a biodiversity net gain well above the emerging national target of 10%; would reduce carbon emissions by taking the land out of intensive arable agricultural use; and would increase carbon sequestration in the soils and proposed vegetation.
- vi) The reversibility of the proposed development, such that the land could be easily returned to its current use.
- vii) The availability of the grid connection at Wymondley, and the deliverability of the development in the context that North Hertfordshire has not consented a commercial scale renewable energy generation scheme since 2015.

Consistency with policies on climate change and flooding

7.25 Chapter 14 of the NPPF supports the development of renewable and low carbon energy and associated infrastructure, such as the proposal. Paragraph 155 of the NPPF sets out that the planning system should help increase the use and supply of renewable and low carbon energy such as the proposed development. There is no requirement to demonstrate a need for the proposed development. However, the significant shortfall in delivery of solar generation capacity in the context of the 70GW 2035 target in the BESS should be given substantial weight in the planning balance. The proposed development is in accordance with Chapter 14 in respect of directing development away from areas at risk of flooding and ensuring that flood risk is not increased elsewhere.

Consistency with policies for conserving and enhancing the natural environment

7.26 The proposed development would not have any significant effects on any valued landscape or on the setting of The Chiltern Hills National Landscape. In addition, landscape and visual effects would be localised, and in the case of visual effects could be mitigated effectively within 5-10 years. Following decommissioning, there would be beneficial effects associated with the retention of hedgerow and

⁴⁴ CD65A, page 11.

woodland planting. Overall, the landscape and visual effects should be given moderate weight in the planning balance.

- 7.27 There would be no significant harm to nature conservation as a result of the proposed development, but there would be significant positive biodiversity gains during the operational life of the solar farm and beyond. As such, the proposed development would not conflict with Chapter 15 of the NPPF.

Consistency with the Development Plan

- 7.28 The solar farm would not lead to permanent loss of BMV land, and the proposed development accords with Policy NE12. Policy SP11 of the Local Plan supports proposals for renewable and low carbon energy development in appropriate locations, and the suitability of the location of the proposed development has been demonstrated. A landscape and visual impact assessment has demonstrated compliance with criteria in Policy NE2 of the Local Plan. The impact of the proposal on landscape character has been assessed in accordance with Policy NHE1 of the Neighbourhood Plan, and the proposed development would respect landscape character, scenic beauty and locally sensitive features and would comply with Policy SP12 of the Local Plan. Any harm to heritage would be outweighed by the wider benefits of the scheme, and there would be compliance with Policies HE1, HE2⁴⁵, HE3 and HE4 of the Local Plan and Policy NHE9 of the Neighbourhood Plan. There would be significant biodiversity net gain and the development would comply with Policy NE4 of the Local Plan and Policies NHE2 and NHE3 of the Neighbourhood Plan. Highway safety issues have been addressed to the satisfaction of the Local Highway Authority, and the proposed development accords with Local Plan Policy SP6. Drawing all of the policy strands together very special circumstances would exist and Policy SP5 of the Local Plan concerning the Green Belt would be satisfied. The proposed development accords with Green Belt policy and as a result, accords with the Development Plan when read as a whole.

Conclusions

- 7.29 The point of connection to the grid has to be at Wymondley GSP, and there are no suitable non-Green Belt alternative locations for the development. The harm would be clearly outweighed by other considerations, and the proposal would comply with Green Belt policies in the Development Plan and the NPPF. Action is required now to dramatically alter the current path of future greenhouse gas emissions within the District and nationally. The proposed development would be built. It is requested that a recommendation be made for planning permission to be granted.

8. The Case for the Local Planning Authority

Green Belt

- 8.1 The proposal would be inappropriate development in the Green Belt, and it would give rise to significant harm to openness in both spatial and visual terms. The introduction of development into an area of land where currently there is none would diminish the openness of the Green Belt. However the extent of the

⁴⁵ Policy HE2 is concerned with heritage assets at risk. It is not referred to in the statement of common ground (CD140) as a relevant Development Plan policy.

spatial effect would be moderated to some extent by the open areas between and under the solar panels and the various landscape buffer zones. In relation to the visual impact on openness, this adverse impact would relate principally to an intermittent range of views around the site but, in accordance with the analysis undertaken by the Applicant's Landscape and Visual Impact Assessment (LVIA, CD4) and the LPA's consultants, this impact would in time be mitigated by the proposed planting. The LPA recognises the lengthy operational period, and this is why it gives little weight to the temporary nature of the proposal.

- 8.2 A review of the Green Belt in 2016 (CD143) considered the contribution that specific parcels of land made to the purposes of the Green Belt. The land to the north of Graveley Lane is included in sub-parcel 14f and the land to the south in sub-parcel 10c. Both these sub-parcels were assessed as making a significant contribution to the purposes of the Green Belt⁴⁶.
- 8.3 The impact of the proposal in relation to the purposes of the Green Belt is judged to constitute limited harm to purposes (a) (to check the unrestricted sprawl of large built-up areas) and (b) (to prevent neighbouring towns merging into one another), as well as significant harm to purpose (c) (to assist in safeguarding the countryside from encroachment). As the LPA considers that the very special circumstances test is made out, it does not consider that the proposal conflicts with NPPF Green Belt policy or Local Plan Policy SP5. It does however consider that there would be some conflict with Wymondley Neighbourhood Plan Policy GB1, which defers to national policy but further states that development proposals should not impact negatively on Wymondley Parish, particularly in terms of visual impact on the openness of the Green Belt landscape.
- 8.4 There has been a net gain in Green Belt in North Hertfordshire following the adoption of the Local Plan of approximately 4,000 hectares, resulting in the Green Belt coverage of the district rising from about 38% to about 47%. This is due to the substantial area of new Green Belt around Offley and Whitwell added through Policy SP5(b).

The challenge of climate change

- 8.5 The draft NPS EN-3 is a material consideration in the determination of this application and an articulation of the most up-to-date Government thinking on issues relating to solar development. It confirms the Government's commitment to sustained growth in solar capacity to ensure that progress is made to meeting net zero emissions⁴⁷. It describes solar as being a key part of the Government's strategy for low-cost decarbonisation of the energy sector⁴⁸, aligning with the Energy White Paper's (December 2020, CD136) description of solar as one of the key building blocks of the future generation mix⁴⁹. The draft NPS also recognises the important role that solar has to play in delivering the

⁴⁶ CD143, table 3.1. An update to the Review was produced in 2018 to take explicit account of the effect of proposed development on the visual dimension of openness in addition to the spatial dimension. The assessment that sub-parcels 10c and 14f make a significant overall contribution to the purposes of the Green Belt was unchanged (CD135, table 2).

⁴⁷ CD60, para 3.10.1.

⁴⁸ CD60, para 3.10.1.

⁴⁹ CD136, page 45.

Government's goals for greater energy independence and it expresses support for solar development that is, as here, co-located with other functions such as agriculture to maximise the efficiency of land use⁵⁰. The draft NPS refers to the BESS objective that the Government expects a five-fold increase in solar deployment by 2035 with the current approximate capacity being 14GW.

- 8.6 Having regard to the assessment that the solar farm would meet the equivalent of the electricity demand from approximately 31% of the homes within North Hertfordshire (above, para 6.1), the LPA considers that this development would make a very significant contribution to providing energy from a renewable source. The proposal is strongly supported by national and local policy regarding the deployment of renewable energy, and very substantial and substantial positive weight should be accorded to its contribution towards renewable energy generation at a national level and meeting local needs respectively.
- 8.7 The absence of the site's allocation in a development plan for solar or other renewable energy development is not an impediment to permission being granted. It is usual for local planning authorities to consider and approve proposals for development that have not been specifically allocated in a development plan. There is an imperative at a national level for the speedy delivery of renewable energy and no requirement that it only be delivered on allocated land.

The character and appearance of the area

- 8.8 There would be significant landscape harm in that the proposal would result in moderate to major adverse impacts at the site and at a local scale in landscape character terms, but improvements to the landscape character area would be achieved following decommissioning due to landscape mitigation measures. There would be some significant adverse effects in respect of views from parts of the Hertfordshire Way in the early years of the operation of the development, but these would be effectively mitigated through planting such that the medium to long term effects would not be significant. The adverse landscape character and visual impacts of the proposal should be given moderate negative weight in the planning balance. Although the proposal is not in landscape terms unacceptable overall, the harm gives rise to an element of conflict with Policy NE2 of the Local Plan, specifically criterion (b).

Habitats and biodiversity

- 8.9 There has been no objection to the proposal from any nature conservation organisation or consultee. Following the submission of a revised biodiversity net gain assessment based on the updated metric, Hertfordshire Landscape, Ecology, Archaeology, Design & Sustainability (LEADS) service has confirmed its advice that it has no ecological objections subject to the imposition of conditions (CD220). The LPA accepts its advice that the *predicted biodiversity net gain is ambitious but, in principle can be achieved*, and that a BNG well in excess of the Government's proposed minimum requirement of 10% would be delivered and that impacts on biodiversity do not represent a fundamental constraint on the proposed development. The matters about which the JOG is concerned are

⁵⁰ CD60, para 3.10.2.

appropriately addressed by conditions, which would require further details to be submitted and agreed by the LPA in due course.

Heritage assets

- 8.10 The LPA's, the Applicant's and Historic England's views⁵¹ as to the heritage impact of the proposal are in broad alignment. It is agreed between these parties that the proposal would give rise to less than substantial harm at the lower end of the scale to a number of local designated heritage assets through development within their setting. The position of the JOG's witness that there would be substantial harm to a large number of assets is an outlier, and very limited weight should be afforded to this evidence, in contrast to the views of the other main parties and Historic England.
- 8.11 The potential archaeological significance of the site is not in dispute. It is recognised, in the light of the conclusions of the Applicant's geophysical survey and the advice received from the Hertfordshire County Council Archaeological advisor, that the site has high potential for significant archaeological remains. The LPA, on the advice of the County's archaeological advisor, is satisfied that the mitigation strategy put forward by the Applicant to be secured by condition, which includes substantial no dig areas in the locations of high potential and trial trenching across 3% of the remainder of the site, is appropriate and accords with relevant national and local policy⁵².

Agricultural land

- 8.12 The most recent government thinking on best and most versatile agricultural land is that expressed in draft NPS EN-3, which states that land type should not be a predominating factor in solar site selection. It also states that where possible, brownfield, contaminated and industrial land should be used and that poorer quality land should be preferred over higher quality land, avoiding the use of BMV land where possible⁵³. Although the Written Ministerial Statement from 2015 refers to compelling evidence being required for solar farms to be located on BMV land, this is now rather aged and a number of documents have been produced by the Government since then, including several revisions of the NPPF and the draft NPS EN-3, which do not prohibit solar development on good quality agricultural land.
- 8.13 The Applicant's agricultural witness explained that grade 2 and 3a land is not rare in the local area. Importantly, this proposal would not result in loss of BMV land given that a proposed condition would secure sheep grazing during the operation of the development. The LPA does consider that negative weight should be attributed to the loss of productivity and flexibility in terms of agricultural production, but does not consider that the proposal is inconsistent with policy or guidance on the use of BMV land. However, this matter should only attract limited negative weight in the light of the Applicant's evidence regarding the scale of contribution to cereal production in a national context presently made by the site (above, para 7.20).

⁵¹ Historic England's consultation response is summarised in the LPA's report (CD35a) at para 3.9.

⁵² CD35a, para s 3.23.1, 3.23.2, & 4.5.107-4.5.110. CD173, paras 9.9 & 9.10.

⁵³ CD60, para 3.10.14.

Other matters

- 8.14 As the Applicant's flood risk witness explained (above, para 7.23), given that the main part of the application site currently comprises bare earth for part of the year, the change to grassland in itself would be likely to reduce run off rates. Moreover, the scheme includes six basins for the storage areas for the storage of surface water, which would ensure a betterment in terms of the run-off from the site and a marginal betterment within Little Wymondley, having regard to the fact that the site is only a small contributing part to the catchment that causes flooding in the village. These measures would be secured by conditions. The LPA is also satisfied with the suggested conditions to manage flood risk in relation to the cable laying work⁵⁴.
- 8.15 National policy and guidance does not set a sequential test whereby non-Green Belt land must be considered before Green Belt land for solar farms. The LPA's report on the application noted that constraints, such as access to the National Grid or capacity limitations, were likely to influence the site selection process⁵⁵. This is consistent with the subsequently published draft NPS EN-3, which describes the capacity of the local grid network to accept the likely output as *critical to the technical and commercial feasibility of a development proposal*⁵⁶. It also reflects the Applicant's site selection process which, due to network capacity, curtailment issues, and substation constraints, landed upon the connection to Wymondley Substation as the deliverable and achievable option within the area. The development would provide economic benefits through employment opportunities during construction, operation and decommissioning.

The planning balance

- 8.16 The proposal would cause harm to the Green Belt, an adverse landscape and visual impact, heritage harm and harm through the loss of flexibility/productivity of BMV agricultural land. In relation to benefits, very substantial and substantial positive weight should be attributed to the contribution made to renewable energy generation in general and in North Hertfordshire specifically, significant weight to the economic and energy security benefits of the proposal, moderate weight to biodiversity net gain, limited weight to the achievement of betterment to local drainage and flood risk, and minor weight to the introduction of new permissive footpaths for the duration of the operation of the development.
- 8.17 The public benefits are cumulatively of sufficient weight to outweigh the low level of less than substantial harm to designated heritage assets. The Green Belt harm, taken together with the other harms identified, is clearly outweighed by the public benefits taken as a whole, but with particular regard to the climate change context and the need to accelerate deployment of renewable generation at a national and local scale. The effect of this is that the very special circumstances test is satisfied.
- 8.18 The proposal gives rise to some conflict with Policy NE2 of the Local Plan and Neighbourhood Plan Policy GB1 in respect of landscape and Green Belt matters,

⁵⁴ CD216, paras 29-33.

⁵⁵ CD35a, para 4.5.182.

⁵⁶ CD60, para 3.10.35.

but it otherwise accords with the relevant policies of the Development Plan. It is the LPA's view that the application should be approved.

9. The case for the Joint Objectors Group

Green Belt

- 9.1 It is agreed that the proposed development would be inappropriate in the Green Belt. This application should not be approved unless very special circumstances exist. The proposed development would result in substantial harm to the Green Belt, which clearly outweighs the need for a solar array in this particular location.
- 9.2 The JOG is not opposed to renewable forms of energy, but the sheer size and scale of this proposal is not appropriate in this particular location. The visual impact of the development would be considerable, given the open nature of the site. It is clear that the bulk of the site would be covered by the solar panels and associated infrastructure.
- 9.3 The site lies within the Metropolitan Green Belt, and there would be some impact on purpose (a) to check the outward sprawl of Greater London into Hertfordshire. The key issue is the potential harm to Green Belt purposes (b) and (c). The Policies Map shows the open gap between Stevenage, Hitchin, and Letchworth, which the Local Plan seeks to protect. The proposed development would fill a large part of this gap, and there would be a significant adverse effect on purpose (b). The site consists of open fields, and there would be significant harm in terms of encroachment on the countryside. In the Green Belt Review 2016 the application site was divided between sub-parcels 10b and 14f. An assessment confirmed that both of these parcels make a significant contribution to Green Belt purposes. This reinforces the JOG's view that the development would make a fundamental difference to the integrity of the Green Belt in this part of North Hertfordshire.

Temporary or permanent development

- 9.4 The JOG considers that in view of its life of 40 years and scale of construction, the development should be viewed as permanent. This point was acknowledged in the decision by an Inspector on an application for a solar farm at Manuden in Uttlesford⁵⁷, and in an appeal decision for ground mounted solar panels at Swadlincote, Derbyshire⁵⁸.

Site location

- 9.5 It seems that too many criteria were adopted which led to limited outcomes in the search for a site. The 4km distance from a substation reduces options based on financial aspects to which the JOG was not a party. It is understood that some schemes can enter the network via an existing cable route and then operate with a longer distance to the substation. The search criteria did not seem to have shown any sensitivity to such matters as BMV agricultural land, Green Belt, openness, and heritage. If they had, a solution on a smaller scale, which would have been more appropriate, may have been selected.

⁵⁷ CD144, para 18.

⁵⁸ CD188, para 48.

- 9.6 The JOG has questioned the amount of land required to provide the 49.955MW output, which appears greater than in other locations. As technology develops solar installations are becoming more efficient. For example, it is understood that bi-facial panels cost 10% more but are 20% more efficient, a consideration which could reduce the land used by 20%. It is understood that two other proposals in North Hertfordshire involve a 25MW array on 35ha and a 40MW array on 53ha. These would both achieve more MW per hectare than the application.
- 9.7 It seems that a robust brownfield investigation was not undertaken, nor that serious consideration was given to roof-top solar panels. The JOG also questions whether soil studies were undertaken on other sites. Renewable energy generation is an important criterion that should rightly carry weight as efforts are made to achieve the net zero target by 2050. It should not however disregard other matters and it must follow a rigorous path of investigation.

Development plans

- 9.8 The proposal is a major application that has no reference point in a relevant plan. The Council chose to declare a climate emergency with a view to achieving net zero by 2040 (7.24(iii)), but it is questioned whether that should be a driver rather than the Government's overriding plan to target 2050. There is time for a plan review with consultation and options.

Landscape character

- 9.9 The proposed development would have a harmful impact on the landscape and its character. The site is very open in nature and could not be screened completely. In the North Hertfordshire and Stevenage Landscape Character Assessment, the site falls within the Arlesley-Great Wymondley Landscape Character Area which refers to expansive views from higher ground creating a sense of space and openness⁵⁹. This characteristic can be seen in photographs showing the application site⁶⁰. The site is an essential part of the setting of Great Wymondley, which is washed over by the Green Belt. The development is contrary to Local Plan Policy NE2 which seeks to avoid unacceptable harm to landscape character and appearance.

Heritage and archaeology

- 9.10 Great Wymondley has a long history, linked to the landscape over two thousand years. In particular the field systems have shown glimpses of occupation from Roman times through to the medieval period, and the importance of the Roman road near to Graveley points to a trade route. Hence it is not surprising that the Applicant's geophysical survey suggests a possible ladder settlement⁶¹. Great Wymondley was important as a crossroads with a farming estate in Anglo Saxon times. The Augustine priory was built close to a spring, and there was a whole priory economy built around that valuable fresh water supply. In the later medieval period the motte and bailey fortress was erected. Great Wymondley is exceptional in its richness of heritage, and is inextricably linked to the lands around it.

⁵⁹ CD71, pg 108.

⁶⁰ In CD184.

⁶¹ CD32, paras 6.7-6.13 and figures 29 & 30.

- 9.11 The archaeological mitigation strategy proposed by the Applicant is considered to involve damage limitation. A no dig principle is intended on parts of the site which might aid understanding of the area's heritage. Elsewhere, trial trenches have raised concerns as to what would happen if significant finds are made.
- 9.12 Great Wymondley and the surrounding area are important in terms of built heritage: there are many listed buildings within 2km of the application site and several within Great Wymondley Conservation Area⁶². Their landscape setting is an important consideration. The Priory is a scheduled monument, and the proposal would harm its setting. Even if the proposal would cause less than substantial harm, this would carry more significant weight than suggested by the Applicant.

Agriculture

- 9.13 The site comprises BMV agricultural land. It is important to retain good quality land for food security. Versatile land enables flexibility to change crops in the future to meet changing needs. Little seems to have been done to establish if a location could be found comprising 3b land.

Ecology and biodiversity

- 9.14 Typically, the margins around solar arrays are used for vehicular access⁶³. This can be expected to cause disturbance and displacement to birds which nest in hedges and forage on the ground alongside such edge habitats, including yellowhammer, which is listed as a rare and threatened species under section 41 of the Natural Environment and Rural Communities Act 2006⁶⁴.
- 9.15 There is also concern about ground-nesting species, particularly skylark. No skylark nests have been found within a solar array, and compensation measures require detailed knowledge of the fields proposed for use⁶⁵. It is not clear whether there has been any survey work on the proposed fields to ascertain the presence of existing skylark territories, or the suitability of the fields: no written evidence has been presented for management of the mitigation measures, and skylark measures are not certain to be successful.
- 9.16 The Ecological Assessment Report referred to records of seven species of bat⁶⁶. The report also noted the presence of potential bat roosts as well as commuting and foraging habitat within the site and nearby, with good connectivity to higher value habitat, and concluded that the site provides moderate value bat foraging and commuting habitat. However no bat surveys had been carried out and the JOG is not aware of specific bat mitigation measures or lighting strategies for bat protection proposed by the Applicant.
- 9.17 It is not correct that the arable fields would be replaced with species-rich wildflower grassland: the majority of the area (78.15ha) comprising the land within the security/stock-proof fencing, would be sown with a grass mixture

⁶² CD5, paras 6.2.3 & 6.2.4 and figure 2.

⁶³ Reference was made to an aerial photograph showing this arrangement at a solar array in Gisburn, Lancashire; CD176, appendix B.

⁶⁴ CD7, para 3.5.2.

⁶⁵ See CD223, Blithe spirit: Are skylarks being overlooked in impact assessment? by H Fox.

⁶⁶ CD7, paras 3.5.6-3.5.9.

with two varieties of just one broadleaved species – white clover⁶⁷. With much of the proposed grazed pasture under the panels, the effects of shade, significantly reduced temperatures and dryer conditions may impact on the successful establishment of this proposed sward.

Flood risk and drainage

9.18 There is a problem of flooding in Little Wymondley on Priory Lane and Stevenage Road. It is argued that the scheme will bring marginal benefits, but there are unknowns, including the impact of the major archaeological dig, the potential loss of land drains, and the general introduction of a built environment of roads and buildings. Such change would bring risk and uncertainty to the situation downstream. Whilst the LPA and the Applicant consider there would be no harm and minor benefit, the JOG adopts a more neutral position.

Transport

9.19 Laying the cable down Priory Lane and along Stevenage Road would cause problems. Disruption would be very damaging to local businesses and their financial viability. Working closely with property owners, diversions and the provision of steel plates to allow access would all be important elements of the solution.

Noise and vibration

9.20 There is concern that noise from the site, for example from inverters, would cause disturbance to people using nearby footpaths, the recreation ground and community orchard, potentially local residents, and wildlife. There would be significant noise during construction. In addition JOG is concerned that the panels would deflect noise from traffic on the A1(M).

Fire risk

9.21 There is concern about fire risk, particularly from the battery storage units. A condition is proposed to address this matter, and JOG would wish to be consulted on any details submitted in accordance with such a condition.

Community harm

9.22 Local residents benefit from peaceful enjoyment of the rural setting and use of the Hertfordshire Way. Views in the changing seasons and agricultural activity that are an intrinsic part of the experience of going into the countryside would be replaced by the monotony of a single unchanging vista of solar panels. This would have a negative effect upon people's mental health and wellbeing. The fencing and CCTV are also of concern.

9.23 Proposals would involve enclosing the pathways with hedging and trees to obscure the solar array. The feeling of enclosure would create a very frightening proposition for women who use the paths for running alone, and would adversely impact their safety and confidence. Additionally, there is concern about the prospect of theft from the solar farm and the consequent security implications.

⁶⁷ CD2 Design and Access Statement, para 3.1.40 and table 2.1.

Conclusions

- 9.24 The development would cause harm to productive agricultural land, harm to the Green Belt, harm to openness and visual amenity, harm to the setting of listed buildings, harm to Great Wymondley Conservation Area, harm to archaeology, harm to wildlife and the natural environment, harm to public rights of way, and harm to the community's safety and wellbeing, all to be weighed against the benefit of clean energy production and storage.
- 9.25 The community has had to accept the shrinking of the Green Belt in the Parish to potentially facilitate over 300 homes, doubling the size of Little Wymondley. In addition, the Parish is already home to a major substation and main north-south train and road links. That should not mean that it has to accommodate the solar arrays. The application should be turned down.

10. Written Representations

Responses to notification of call-in

- 10.1 The CPRE Hertfordshire is concerned that the proposal would result in industrialisation of the landscape. Ground-mounted solar energy installations should not be permitted in protected areas such as Green Belt. Previously developed land is more suitable for such development, and roof-mounted installations are also an alternative to use of the open countryside. The proposal would represent definitional harm to the Green Belt, and would remove openness and harm visual amenity. The period of operation of forty years is not considered to be a temporary period. Other concerns relate to the effect on BMV farmland, harm to wildlife, noise and security fencing. The fencing would remove traditional pathways for animal movement. There are several other proposals for ground-mounted solar installations in Hertfordshire, and consideration should be given to the cumulative effect of these schemes. Very special circumstances to support inappropriate development in the Green Belt have not been demonstrated.
- 10.2 The Friends of The Hertfordshire Way refer to the loss of visual amenity from the proposal, which would have a significant impact on enjoyment when walking on the route. In addition, Green Belt land and good quality farmland should be maintained.
- 10.3 North Hertfordshire Archaeological Society resubmitted an earlier objection to the application in which it referred to an inadequate level of information, with particular mention made of the absence of a geophysical survey and trial trench evaluation reports⁶⁸.
- 10.4 The principle of the development is supported by North Herts & Stevenage Green Party. The proposal would contribute to attaining net zero, would benefit the soil, and planting would mitigate the visual impact. Conditions should be imposed to ensure farming continues on the site, that the land remains available for agriculture when the solar farm is decommissioned, and to achieve a minimum 10% biodiversity net gain. There is concern about the extent of CCTV installations and that the development would place restrictions on the movement of wildlife.

⁶⁸ The report of a geophysical survey was subsequently submitted in support of the application (CD32) (para 7.8).

- 10.5 Councillor Riches-Duit is a member of Wymondley Parish Council. She supports renewable energy and, whilst agriculture can cause damage to the land and wildlife, a solar farm has environmental benefits.
- 10.6 Fifteen individual objections were submitted at this stage. Objections refer to harm to the character and appearance of the area, the loss of openness in the Green Belt, noise, flood risk, the possibility of alternative arrangements for generating solar energy, traffic disruption caused by laying the cable, prematurity given improvements in efficiency of the technology, conflict with policies in the Local Plan and the Neighbourhood Plan, and the harmful effect on wildlife, archaeological remains, heritage assets, and agricultural land. Several objectors make the point that they do not object to the principle of renewable energy proposals. Should planning permission be granted, there is a suggestion that conditions should be imposed relating to working hours and requiring approval of work plans.

Responses prior to call-in

- 10.7 Representations submitted prior to call-in are summarised in the LPA's report on the planning application⁶⁹. In addition to Wymondley Parish Council (which is part of the JOG), the CPRE Hertfordshire and the North Hertfordshire Archaeology Society, a number of other organisations submitted representations prior to call-in of the application. Graveley Parish Council expressed concern about traffic movement through the village. Following submission of the amended landscaping plan, the Herts & Middlesex Wildlife Trust raised no objection subject to a condition requiring a plan to achieve biodiversity net gain.
- 10.8 Initially the application generated 171 individual objections, a letter of objection with a list of 44 names, and a petition with 25 signatures. A further 20 objections were received following the submission of revised plans. The objections included similar concerns to the written representations put forward following call-in. Additionally, six representations were made in support of the application. These responses referred to the contribution of the development to achieving net zero and meeting future energy demand, and expressed the view that the site is relatively remote from housing and that it would be easily returned to farmland. Supporters also commented that there would be no effect on flooding, and no increased effect on wildlife.

11. Possible Conditions

- 11.1 Possible conditions were discussed at the inquiry. A schedule, prepared by the Applicant in the light of earlier discussions, covers the following matters: final details of the scheme, duration and decommissioning, construction implications, ecology, fire safety, lighting, landscaping, archaeology, noise, drainage, trees, agricultural use, rights of way, and highway safety (CD218), and suggested conditions in relation to ecological matters were submitted during the inquiry by Hertfordshire LEADS (CD220).

⁶⁹ CD35a, section 3.

12. Conclusions

References to earlier paragraphs in this report are in square brackets [].

Main considerations

12.1 Having regard to the call-in direction and the representations submitted, I have identified the following main considerations in this case:

- (i) The effect of the proposed development on the Green Belt.
- (ii) The implications of the proposal for meeting the challenge of climate change.
- (iii) The effect of the proposal on the character and appearance of the area.
- (iv) The effect of the proposed development on habitats and biodiversity.
- (v) The effect of the proposal on heritage assets.
- (vi) Whether the proposal would be consistent with policies and guidance concerning the use of agricultural land.
- (vii) Whether the proposed development would be consistent with the Development Plan and other relevant policies.
- (viii) The effect of other considerations on the overall planning balance.

The Green Belt

12.2 Both the Local Plan (Policy SP5) and the Neighbourhood Development Plan (Policy GB1) refer to national planning policy when considering proposals for development in the Green Belt. The proposal for the solar array with battery storage containers and associated development does not fall within any of the categories of development which are not inappropriate in the Green Belt, set out in paragraphs 149 and 150 of the NPFF. Paragraph 151 makes specific reference to renewable energy schemes, making it clear that elements of many such projects will comprise inappropriate development when located in the Green Belt. It is common ground between the main parties that the proposal would be inappropriate in the Green Belt [7.4, 8.1, 9.1], and I have no reason to take a different view.

12.3 The array would extend across the fields which comprise the greater part of the site (84.7ha of a total of 88ha), and the associated buildings would be positioned alongside and between blocks of panels [2.4, 4.1, 4.2]. Although the panels would be set in from field boundaries, and there would be space for access tracks, offsets in relation to a gas pipeline on the eastern part of the site, and some areas of landscaping, the proposal would result in the loss of the existing extensive open fields. Space between the rows and below the panels would effectively be contained within the blocks. The proposal would have an adverse impact insofar as the spatial aspect of openness is concerned.

12.4 The panels would be relatively low structures, with a maximum height of 3m. Most of the other structures would be a similar height or slightly lower, although the switchgear building would be about 3.9m tall. Hedgerows and tree cover around the northern and southern parcels of the site is not continuous, and following construction the solar development would be apparent from a number

of local viewpoints, particularly on The Hertfordshire Way which runs along the northern boundary, and from the western part of Graveley Lane which is at a similar level to the adjacent fields. It would also be visible, albeit fleetingly, from the A1(M) which runs close to the eastern site boundary [2.1]. As part of the proposal it is proposed to strengthen planting around the two parcels, and to establish two strips of cover to the west of the southern parcel [4.2]. Over time, the planting proposed would provide screening and limit views of the development. However planting would not prevent awareness of the presence of the development, particularly after leaf fall. There would be a visual impact on openness, and in this respect the proposal would conflict with Policy GB1 of the Neighbourhood Plan. I find that the introduction of the proposed development across these extensive fields would result in a significant loss of openness, both spatially and visually, in the Green Belt.

- 12.5 The purposes for including land in the Green Belt are set out in paragraph 138 of the NPPF. The LPA's reviews assessed the contribution which parcels and sub-parcels of land make to Green Belt purposes [8.2]. The land to the north of Graveley Lane is included in sub-parcel 14f and the land to the south in sub-parcel 10c. Purpose (a) is to check the unrestricted sprawl of large built-up areas. Green Belt in Hertfordshire was originally designated as part of the Metropolitan Green Belt around London [9.3]; however sub-parcels 14f and 10c are within a tract of open land which lies between Hitchin, Letchworth Garden City and Stevenage, and the reviews consider the sub-parcels in relation to these towns. Given their relationship to these towns and the distance from London, I agree with this approach.
- 12.6 Whilst the land within the application site does not abut the built-up areas of any of the towns, it forms an integral part of sub-parcels which do adjoin Letchworth and Stevenage. Moreover the southern part of the site is only a short distance from the north-west edge of Stevenage. As such, the open fields to the north and south of Graveley Lane make an important contribution to checking the outward expansion of the nearby towns, and the proposed development would cause significant harm to this purpose of the Green Belt.
- 12.7 Between Hitchin and Stevenage the Green Belt is only about 2.4-3km wide, and is somewhat deeper between Letchworth and Stevenage. Development of the application site would weaken the Green Belt, with a reduction in the amount of open land between these towns. The Green Belt reviews refer to sub-parcel 14f as playing a critical role in the separation of Letchworth and Stevenage, and sub-parcel 10c as playing a critical role between Hitchin and Stevenage. I consider that this assessment is equally applicable to the fields of the application site, given their aggregate size and position between nearby towns in this part of the Green Belt. Consequently the proposal would result in significant harm to purpose (b), to prevent neighbouring towns merging into one another.
- 12.8 The installation of the solar array across the fields of the application site, notwithstanding the retention of certain open areas, would introduce a large development onto open land. The proposal would represent substantial encroachment into the countryside, contrary to purpose (c) in paragraph 138 of the NPPF. Whilst the intended landscaping would limit visibility, it would not lessen the extent of the physical encroachment.

- 12.9 I agree with the Applicant and the LPA that there would be no conflict with purpose (d) to preserve the setting and special character of historic towns. Great Wymondley is close to the site and has several heritage assets, but it is a small settlement, and is not covered by the ordinary meaning of a town. The site is sufficiently removed from the historic parts of nearby towns to have any adverse effect on their character and setting. Purpose (e) encourages the recycling of derelict and other urban land: most development proposals within the Green Belt would run counter to this purpose.
- 12.10 I conclude that the proposal would amount to inappropriate development in the Green Belt, that it would result in a significant loss of openness, and conflict with several of the purpose of including land in the Green Belt. The operational life of the development would be 40 years [4.5]. Although it is intended that the land would be returned to its former condition after that period, 40 years is a considerable length of time, and the fixed period does not diminish my concern about the harm to the Green Belt. In accordance with paragraph 148 of the NPPF, the harm to the Green Belt carries substantial weight.

Climate change and energy security

- 12.11 Paragraph 152 of the NPPF makes clear that the planning system should support the transition to a low carbon future in a changing climate. The Climate Change Act 2008 (as amended) imposes a statutory requirement for the level of greenhouse gas emissions in the UK to be reduced to net zero by 2050⁷⁰. Subsequently, in its Net Zero Strategy and in response to the Sixth Carbon Budget, the Government has set out an indicative pathway to net zero which would involve a 78% reduction in emissions by 2035⁷¹. The Overarching National Policy Statement (NPS) for Energy (EN-1) refers to a commitment for the UK to receive 15% of its total energy (across the sectors of transport, electricity and heat) from renewable sources by 2020, and an ambition to largely decarbonise the power sector by 2030, pointing to the need for new renewable energy projects to come forward urgently in consequence⁷². Subsequently, the Net Zero Strategy of 2021 set out a commitment to achieve carbon free energy generation by 2035 [7.3], and the draft version of EN-1 reiterates the need to increase the supply of clean energy from renewables⁷³.
- 12.12 The Government has also published an amended version of EN-3, the NPS for Renewable Energy Infrastructure. Whilst this is the latest version of EN-3, it is a draft NPS, and accordingly carries only limited weight. Nevertheless, it makes clear that solar generation is a key part of the Government's strategy for low-cost decarbonisation of the energy sector, and that it also has an important role in delivering goals for greater energy independence⁷⁴.
- 12.13 Solar generation is also recognised as having a key role by the BESS of 2022, which aims to boost domestic sources of energy to achieve greater security. As part of the Strategy, a five-fold increase in solar deployment from 14GW to 70GW capacity is sought by 2035 [5.9]. The solar farm would make an

⁷⁰ The Act was amended by The Climate Change Act (2050 Target Amendment) Order 2019, CD43.

⁷¹ CD44, figure 12.

⁷² CD57, para 3.4.5.

⁷³ CD59, para 2.3.6.

⁷⁴ CD60, paras 3.10.1 & 3.10.2.

important contribution to this additional capacity, with battery storage enabling electricity supply to the grid to reflect periods of higher and lower demand.

- 12.14 The Council declared a climate emergency in 2019. A climate change strategy seeks to achieve carbon neutrality for the Council's operations by 2030, and a net zero carbon district by 2040, amongst other objectives [7.24(iii)]. Hertfordshire County Council declared a climate emergency in the same year⁷⁵. It is not clear that the proposed development would be of direct assistance in reducing the carbon footprints of the operations of the two local authorities, but it would undoubtedly make a significant contribution in progressing towards net zero emissions in both the District and the County.
- 12.15 Paragraph 158(a) of the NPPF explains that applicants should not be required to demonstrate the overall need for renewable energy. However, it is the undisputed evidence of the Applicant that planning permission has only been granted for two solar farms in North Hertfordshire: that both are small with generating capacities of 6MW and 5MW, and that no permission has been granted since 2015⁷⁶. At paragraph 158(a), the NPPF points out that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. In this case, it is agreed between the Applicant and the LPA, and not disputed by the JOG, that the development east of Great Wymondley would generate sufficient electricity to meet the requirements of about 31% of the homes in the District [6.1]: that would be a significant contribution towards moving away from reliance on fossil fuel sources of energy.
- 12.16 There is an urgent need to generate electricity from renewable sources in order to meet national and local targets concerning carbon neutrality, and to contribute to addressing the global challenge of climate change. Solar energy is acknowledged by the Government as having a key role in achieving decarbonisation of the energy sector, and also in achieving greater security of supply. These are factors which carry significant weight in support of the application. Chapter 14 of the NPPF provides support for proposals which would assist in addressing the challenge of climate change, and paragraph 158(b) advises that applications for renewable development should be approved if their impacts would be acceptable.

Character and appearance

- 12.17 The North Herts Landscape Study (CD71) is based on the Hertfordshire Landscape Character Assessment (CD70), including additional content on sensitivity and capacity together with certain additional guidelines. As such, the more recent district level study provides the appropriate point of reference for landscape character.
- 12.18 The site lies within the Arlesley- Great Wymondley Landscape Character Area, which extends around much of Letchworth and to the south towards Stevenage. In the south of the character area, where the site is located, the key characteristic is identified as a rolling landscape of large-scale fields and with relatively few trees. Reference is made to the pressure of urban areas, electricity pylons and transport infrastructure, including the A1(M) and the

⁷⁵ CD55, minutes 6.11 & 6.13.

⁷⁶ CD156, Mr Hoyle's proof of evidence, para 4.4.38.

railway, and to expansive views from higher ground. It is considered to be of low sensitivity in landscape terms and to have low-moderate visual sensitivity. I note, though, that the Assessment comments that the open views would be sensitive to the introduction of further urbanising features.

- 12.19 The parcels of land to the north and south of Graveley Lane reflect the character of the southern part of the landscape character area. There would be no alteration to the field pattern, and the proximity of the motorway reduces the susceptibility to change. Nevertheless, the proposal would introduce built development across a substantial area, projecting through the open landscape. Planting would strengthen the field boundaries and provide some areas of additional cover. It would not, however, minimise the extent of the change to the landscape. I agree with the LPA's review that there would be a moderate adverse effect on the landscape character area, both following construction (year 0) and when planting had become established (year 10)⁷⁷.
- 12.20 I have also considered the effect of the proposal on the landscape of the site and its immediate surroundings. This area of countryside does not benefit from any designation, nor has it been identified as a valued landscape in terms of paragraph 174(a) of the NPPF. That does not mean that it has no value, and it is clear from the written representations [10.6] and the evidence of the JOG at the inquiry [9.22] that members of the local community appreciate and make use of the countryside which includes the appeal site.
- 12.21 The strengthening and extension of existing hedgerows and the planting of additional trees would contribute positively to the character of the site and its environs. However this is a large site, extending across much of the open land between Great Wymondley and Graveley. The replacement of large arable fields, which are characteristic of the wider countryside would represent a major and adverse change to the landscape of the site, the influence of which would extend for some distance around it. As the planting around and within the site matured its beneficial effect would increase, but, given the scale of the development, that would not materially lessen the impact on the local landscape. Contrary to paragraph 174(b) of the NPPF, the proposal would not recognise the intrinsic character and beauty of the stretch of countryside to the east of Great Wymondley.
- 12.22 The higher land of The Chilterns National Landscape is about 5.3km to the west [2.2], and is apparent from locations around the site, for instance viewpoints 3 and 9 in the Landscape & Visual Impact assessment (LVIA). At this distance, and taking into account the relatively low height of the panels and other structures, I do not consider that the proposed development would adversely affect the setting of the National Landscape.
- 12.23 I turn now to consider the visual effects of the appeal proposal. The Applicant acknowledges that in the short-term the introduction of the solar farm would have major to moderate adverse effects from parts of the Hertfordshire Way and Graveley Lane [7.7]. Both of these routes adjoin the site, and they afford views of and over the large fields. At its eastern end, views from Graveley Lane are restricted as the road runs at a lower level than the adjoining land, and elsewhere and in places along the Hertfordshire Way, hedgerows and trees

⁷⁷ CD86a, para 5.2.8.

provide some screening. This is limited in extent, though, and the expanse of open land encompassing the application site is readily apparent. It is clear that the Hertfordshire Way is a well-used recreational route, which provides the opportunity to view the site for some time when the large fields are passed at walking pace. Receptors on this route are appropriately identified as having high sensitivity in the LPA's review⁷⁸.

- 12.24 Once the hedgerows and tree belts in the landscaping scheme became established, the impact of the development within the site would be reduced to an extent, but planting would not prevent awareness of the presence of the development, particularly after leaf fall. Moreover, the proposed planting would not compensate for the restriction of views across the open fields of the site from Graveley Lane and the Hertfordshire Way. This is a harm to which I accord considerable weight. Accordingly, insofar as the effect on character and appearance of the area is concerned, I do not regard the retention of the proposed landscaping beyond the intended life of the solar farm as a benefit of the scheme.
- 12.25 Both the north and south parcels can be seen from the A1(M), although views of the latter are more restricted because of level differences. Traffic on this road is generally travelling at speed and in consequence only fleeting glimpses of the site are possible. In any event, I anticipate that users of this major road are principally concerned with their journey and not appreciation of the countryside. Accordingly their sensitivity to the development is low.
- 12.26 To the south-west, on the public footpath which runs between Priory Lane and Great Wymondley, arrays on the site would be distinct features beyond the fields of the foreground, as shown in the year 0 photomontage from viewpoint 7, and would have a major adverse effect. To the north, from the public footpath which descends to join the Hertfordshire Way at the north-east corner of the site (viewpoint 9), vegetation only permits a much more restricted and partial view of the arrays. To the extent that these features would encroach into a rural view there would be a moderate level of harm. In both cases, the planting proposed would provide effective screening without unduly curtailing views, and the level of harm would reduce to minor.
- 12.27 From Graveley Road and the nearby castle remains in Great Wymondley, only heavily filtered views towards the site are available, and planting would restrict these even further. From viewpoints 10 and 11 on the western edge of Graveley, the development would have a negligible effect due to the intervening landform and the presence of the motorway. In this gently rolling landscape, the development would not be prominent in views further from the site.
- 12.28 The development is intended to be reversible, with the various structures removed after 40 years, and the land returned to full agricultural use. Whilst I do not question the current intention of the Applicant, there is inevitably some uncertainty about the circumstances which will have a bearing on the future of the land in 40 years time. In any event, the removal of the solar farm after this period and restoration of the site does not alter my concern: harm to the character and appearance of the area would ensue for a prolonged period.

⁷⁸ CD86a, para 5.3.2.

12.29 The proposed development would have a moderate - major adverse effect on the landscape, with the greatest harm to the landscape of the site and its immediate surroundings, harm to which I attach significant weight. There would also be harm to visual amenity; the adverse impact on views from the Hertfordshire Way and Graveley Lane merits considerable weight, even taking into account the establishment of planting. Some additional harm would also be caused to visual amenity, principally in the short-term, from certain viewpoints to the south-west and north of the site. I conclude that the proposed development would have a damaging effect on the character and appearance of the area, and that in this respect it would conflict with Policies SP12 and NE2 of the Local Plan, and paragraph 174(b) of the NPPF.

Habitats and biodiversity

12.30 The representations cover a number of species. It became apparent from the discussion at the inquiry that the principal areas of disagreement concern the effect of the proposal on ground nesting birds, particularly skylarks, and on bats.

12.31 The scheme includes a 12m buffer around the perimeter of the fields with the express intention of providing opportunities for wildlife and improving ecological connectivity [4.2]. However the loss of the open fields would affect skylarks which are ground nesting birds⁷⁹. Whilst this species may use solar farms for foraging, it was acknowledged by the Applicant's ecology witness that there was little evidence of nesting occurring within solar farms, and that the development would potentially displace this activity [7.12]. The breeding bird survey had estimated 15 territories or pairs of skylarks within the application site [7.12].

12.32 In response, the Applicant has proposed mitigation in the form of skylark plots, to provide additional foraging opportunities in nearby fields, and to be secured by a condition [7.12]. It is clear from the material referred to at the inquiry that this form of mitigation may be successful for skylarks. Part of the area proposed for the provision of the plots was included in the breeding bird survey; however the remaining area was not and the overall extent of use by skylarks in the prospective receptor area is unknown. In the absence of additional survey work and an assessment of the capacity of the additional land, it is not clear that appropriate mitigation could be provided for skylarks within the vicinity of the application site. The Applicant suggested that bird species which require open fields could be affected if the cropping regime were to change [7.12]. There is no indication that the fields which constitute the site would be taken out of arable use if the proposed development were not to proceed, and the baseline position, recorded in the Ecological Assessment Report and against which the proposal should be assessed, includes the presence of the ground-nesting skylark.

12.33 The JOG expressed concern that no survey of bat activity had been undertaken, notwithstanding reference to potential bat roosts in the Ecological Assessment Report [9.16]. The report points to the use of hedgerows, trees, woodland and ditches in providing foraging and commuting habitat for bats, and, although the JOG's ecology witness referred to some species foraging across open arable land, she acknowledged that bats do use linear and wooded

⁷⁹ CD228, page 1.

habitats. As part of the proposed development, linear features in the form of hedgerows and tree cover would be strengthened, which should support bat activity in the area. A condition is suggested which would require approval of any external lighting, to be designed taking into account advice in relation to bats. Given that the development would provide relatively broad buffer strips alongside strengthened field boundaries, I consider that the approach to bats is proportionate, and that the absence of a bat survey is not a shortcoming of the application.

- 12.34 The blocks of solar panels would be surrounded by security fencing. Concern has been expressed by the CPRE that this fencing would constitute a barrier to the movement of animals [10.1]. That consequence has been anticipated in the Ecological Assessment Report, which explains that gaps or mammal gates would be installed in the perimeter fencing to allow small mammals to move into and out of the site [7.13]. This measure could be included in a landscape and ecological management plan, which it is suggested should be the subject of a condition if planning permission were granted.
- 12.35 Wymondley Transforming Station is contained by the LWS, and would consequently be crossed by the cable route [2.2]. The LWS is a former gravel pit, the raised banks of which support coarse calcareous grassland with scrub invading slowly from the edges⁸⁰. Access to the station requires the formation of a trench across the LWS: the trench would be approximately 0.9m wide and up to 1.5m deep. It would be backfilled, and no above ground infrastructure would be installed. The County Ecology Service has suggested a condition requiring a soil management plan; it is intended that this would ensure that layers of soil would be replaced in their previous position. Subject to the imposition of such a condition, no objections have been received from consultees to the effect of the development on the LWS, and I do not consider that the disturbance caused would amount to material harm.
- 12.36 There is no dispute between the Applicant and the JOG that the field margins are of greater ecological value than the arable fields overall. Species rich grassland buffers are proposed along field boundaries, hedgerows would be strengthened, and grassland would be established between and below the arrays. In addition, an area of species rich grassland is proposed at the south-west corner of the northern parcel and another on the eastern side of the northern parcel. The JOG points out that, although the Ecological Assessment Report refers to species rich grassland replacing the arable fields, this area would be sown with a mixture with two varieties of one broad-leaved species [9.17]. I note that the landscape proposals identify these areas as low maintenance pasture and not species rich grassland⁸¹.
- 12.37 Nevertheless, the proposal would result in a net gain in biodiversity across the site. Applying the latest version of the biodiversity calculator (CD237) gives an increase of 205.96% in habitat units and 102.29% in hedgerow units [7.13]. Whilst the County Council has commented that this level of gain is ambitious, it also acknowledges that in principle it could be achieved [8.9]. More importantly, the level of increase would be substantially above the forthcoming level of 10% which would be required under the Environment Act 2021.

⁸⁰ CD7, Ecological Assessment Report, table 3.2.

⁸¹ CD24, Landscape proposals plan.

12.38 I conclude that the proposal would enhance biodiversity, delivering a net gain, in accordance with Policy NE4 of the Local Plan. A landscape and ecological management plan would be instrumental in securing biodiversity net gain, and a condition could be imposed to this end. With this safeguard, the proposal would comply with Policy NHE2 of the Neighbourhood Plan. I am satisfied that the proposal would also be consistent with paragraph 180(d) of the NPPF, which makes clear that opportunities to improve biodiversity should be integrated into the design of developments. I give significant weight to the biodiversity net gain which the proposal is expected to deliver. Whilst the proposal would minimise the impact on Wymondley Transforming Station LWS in accordance with paragraph 174(d) of the NPPF, I am concerned that there is insufficient certainty about the mitigation proposed for displaced skylarks. That is a negative feature of the proposal to which I accord moderate weight.

Heritage assets

12.39 The heritage impact assessment considered the proposal in relation to the setting of four groups of designated heritage assets: Great Wymondley Conservation Area and the designated assets within it, the scheduled monument of Wymondley Priory with its associated structures, St Mary's Church (grade II*) at Little Wymondley, and Graveley Hall Farm (grade II) and its associated structures. I have adopted the same approach.

Great Wymondley designated heritage assets

12.40 The conservation area encompasses the small village of Great Wymondley, which is encircled by the surrounding open countryside. It extends along the roads which meet at the two junctions towards its northern end, and contains a number of listed buildings. In the quadrant between Arch Road and Graveley Road is the grade I listed church of St Mary the Virgin, which is a focal point of the settlement. The significance of the conservation area derives in part from the architectural and historic interest of the heritage assets within it and their interrelationships. As a rural settlement, the open landscape in which Great Wymondley is situated is also of importance. Historic maps included with the Applicant's Heritage Impact Assessment reveal changes in field boundaries within the site between the eighteenth century and the present-day⁸². However the fields remain in agricultural use, and, together with other nearby farmland, assist in the appreciation of Great Wymondley as a small rural settlement set in an open landscape. In this way, the setting of the conservation area makes an important contribution to the significance of this heritage asset.

12.41 The eastern point of the conservation area, at Milksey Cottages, is only about 150m from the northern parcel of the application site. Although the distance is short, hedgerows and tree cover along Graveley Road and elsewhere within the village restrict views of the fields within the application site. As additional planting became established, particularly on the western side of the northern parcel and within the strips to the west of the southern parcel, that position would be reinforced. However the role of the open landscape in contributing to the setting of the conservation area is not dependent upon views into or out of Great Wymondley, and I note that in Historic England's Good Practice Advice in

⁸² CD5, figures 6-8.

Planning Note 3, the surrounding landscape is listed as a separate attribute to views⁸³.

- 12.42 The development would represent a major change to the setting of the conservation area, encroaching substantially into the open farmland to its east. Given the scale of the proposal, Great Wymondley would no longer be a village immersed in a rural landscape. That change would be apparent from Graveley Lane and Priory Lane and nearby footpaths. Whilst the planting of trees and the strengthening of hedgerows would, over time, lessen visibility of the solar arrays, the presence of the development would nevertheless be apparent in filtered views and gaps, such as that indicated in the year 10 photomontage from viewpoint 7 and at the site accesses. Moreover the curtailment of open views across the site due to planting (above, para 12.24) would in itself adversely affect the setting of the conservation area.
- 12.43 St Mary's Church, which dates from the 12th century, has a central position within the conservation area. It is well enclosed by tree cover, with only glimpses of the tower visible across the landscape. The immediate setting of the church is provided by the churchyard and nearby buildings, and its relationship with other heritage assets would be unchanged. I do not consider that the proposed development would have any material effect upon its setting. I have reached the same view in respect of the other listed buildings within Great Wymondley. Their settings are less extensive than that of the conservation area, and, in the case of these individual buildings, their separation from the application site and the presence of intervening cover are sufficient to avoid harm from the development outside the village.
- 12.44 I turn now to the scheduled monument of Great Wymondley Castle. The earthwork remains of this motte and bailey castle are situated on the eastern side of the conservation area on an elevated piece of ground. The Applicant's heritage consultant comments that it was likely designed to look over the surrounding landscape, and as a local stronghold I expect that it was intended to dominate the immediate locality. In view of that historic role, I consider that the setting of the castle extends onto the open land on the east side of the village. Despite the restricted intervisibility with the application site, the encroachment of the solar arrays onto the open land on this side of Great Wymondley would diminish the traditional relationship of the castle with the surrounding landscape, and thereby detract from the contribution which setting makes to its significance.
- 12.45 For the reasons given above, I conclude that the proposed development would detract from the setting of Great Wymondley Conservation Area and Great Wymondley Castle and would thereby conflict with Policy SP13(a) of the Local Plan and in consequence Policy NHE9 of the NDP. Having regard to paragraph 202 of the NPPF, this would represent less than substantial harm to the significance of these heritage assets. Insofar as the conservation area is concerned, given the significant change to its rural setting I place the harm towards the upper end of the spectrum. The castle is enclosed to the west by the village and is a relatively modest structure, and the harm caused would be towards the lower end of the scale of less than substantial harm.

⁸³ CD91 page 11, Assessment Step 2 checklist.

Wymondley Priory

- 12.46 Wymondley Priory is situated on Priory Lane, about 250m to the west of the southern parcel of fields within the application site. The priory was originally an Augustinian monastic establishment dating from the 13th century. Following dissolution, the priory church was converted to a manor house⁸⁴. The house is a grade I listed building and the nearby tithe barn is a grade II* listed building. These buildings are located within a moated precinct, beyond which are low earthworks marking components which were associated with the priory. Another barn and garden walls at the Priory are grade II listed buildings. To the east is the detached site of the conduit head, which was the source of the water supply for the priory, the remains of which are a grade II listed building. The site of the priory (including the conduit head) is a scheduled monument, but the manor, the above ground remains of the priory and most of the farm buildings (except the grade II* barn) are excluded from the scheduling⁸⁵.
- 12.47 The Applicant's heritage witness acknowledges that the spatial relationship between the priory and the outlying earthworks and the diversity of components present offer valuable insights into the religious and economic lifestyles of monastic communities. Land in the southern part of the application site lies within the historic landholding of the priory⁸⁶, and the extent of the farmland to the east of the priory serves as a reminder of the functional link that existed between the priory complex and the application site. This land forms part of the setting of Wymondley Priory and makes an important contribution to the significance of this group of heritage assets, in particular to the scheduled monument itself, and to the listed priory and the listed tithe barn⁸⁷ as key components of the priory complex.
- 12.48 Intervisibility between the priory and the application site is limited, and the proposed planting would restrict this further. That said, the extent of the development on the southern parcel of the site would diminish the relationship between the priory complex and its farmland setting and the ability to appreciate the contribution of that setting to the significance of the priory complex. My concern does not extend to the detached conduit head which is almost entirely contained by trees, and whose relationship with the main complex across open farmland would remain distinct.
- 12.49 Notwithstanding my finding in respect of the conduit head, I conclude that the proposal would cause serious harm to the setting of the scheduled monument, together with that of the listed priory and the listed tithe barn, and less than substantial harm to the contribution which setting makes to their significance. In consequence there would be conflict with Policy SP13(a) of the Local Plan and Policy NHE9 of the NDP.

⁸⁴ CD98, The Priory official list entry.

⁸⁵ CD100, Wymondley Priory official list entry.

⁸⁶ CD5, para 6.2.17.

⁸⁷ The Heritage Impact Assessment (CD5) refers to the tithe barn as an early post-Dissolution barn (CD5, para 6.2.13). However, the official list entry (CD99) explains that the building was erected for the prior and community of Wymondley Priory.

St Mary's Church, Little Wymondley

12.50 The church is a modest structure dating from the 12th century when it was associated with Wymondley Priory⁸⁸. It is a grade II* listed building, and, having regard to its connection with the Priory and the detailed list description, I agree with the Applicant's heritage witness that its significance lies primarily in its historic and architectural interest. The church stands in an elevated position in Little Wymondley, about 600m from the south-west corner of the southern parcel of the application site. There are only limited glimpses of the church from the eastern part of the site, and of the site from the church. Moreover, the church is positioned to the south of more modern buildings in Little Wymondley beyond which is a railway line. It does not have a strong relationship with the application site, and I conclude that the proposed development would not materially affect its setting.

Graveley Hall Farm

12.51 Graveley Hall Farm is a grade II listed building within Graveley Conservation Area. Associated barns, farm buildings and a boundary wall are also grade II listed buildings. The Heritage Impact Assessment explains that, historically, much of the southern part of the application site was included within the holding of the farm, which was part of the Priory estate⁸⁹. However the relationship with that land was substantially diminished by the construction of the A1(M) motorway which runs to the west of Graveley, and there is no intervisibility with the application site. Due to the presence of the motorway, the historical association of Graveley Hall Farm with the application site cannot be readily appreciated, and I conclude that the proposed development would not materially affect the setting of the listed buildings there.

Archaeological remains

12.52 It is common ground between the main parties that there is a high potential for archaeological remains to be present within the site [7.8, 8.11, 9.10]. As expected by paragraph 194 of the NPPF, the Applicant has undertaken an appropriate assessment and evaluation of the site. The Heritage Impact Assessment refers specifically to the prospect of prehistoric, Roman and medieval remains [7.8]. A geophysical survey has identified three concentrations of anomalies of archaeological origin. In order to safeguard remains in these areas, it is proposed that panels would be installed employing a no-dig solution, being mounted on concrete sleepers with cable runs being above ground [7.8]. The JOG referred to the possibility of remains being adversely affected by compression, but there is no specific evidence to substantiate this concern.

12.53 Elsewhere a series of trial trenches would be dug, covering 3% of the site, and it is intended that a revised written scheme of investigation would specify the arrangements for this exercise, in addition to specifying the no-dig areas [7.8]. A condition is suggested which would require the submission of a revised written scheme of investigation and to prevent development of the solar farm until actions to protect archaeological interests have taken place. I am satisfied that

⁸⁸ CD5, Heritage Impact Assessment, appendix B site 22.

⁸⁹ CD5, para 6.2.7.

with the safeguard of such a condition, the proposed development would not adversely affect archaeological interests in the parcels of land to the north and south of Graveley Lane. There would be no conflict with Policy HE4 of the Local Plan or Policy NHE9 of the NDP.

Other heritage assets

12.54 There are a number of other heritage assets, both designated and non-designated within the surrounding area⁹⁰. None have a relationship to the application site such that their settings would be adversely affected by the proposed development.

Agricultural land

12.55 The fields where the solar arrays would be installed are recognised as being BMV agricultural land [2.4]. The Applicant argued that BMV land is not a rare resource, pointing to information from Natural England which estimates that it amounts to about 42% of farmland in England⁹¹.

12.56 Notwithstanding the proportion of farmland included in grades 1-3a, national planning policy requires that particular attention should be given to this higher quality land. Paragraph 174(b) of the NPPF explains that both planning policies and decisions should contribute to and enhance the natural and local environment by (amongst other measures) recognising the economic and other benefits of BMV land. PPG on Renewable and low carbon energy includes specific reference to large scale solar farms: paragraph 5-013 encourages 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 greenfield land is proposed for use, consideration should be given to whether the use of agricultural land is necessary, whether poorer quality land has been used in preference to land of higher quality, and whether the proposal allows for continuing agricultural use where applicable.

12.57 The application does not seek to replace the agricultural use of the site, but for agricultural use to continue alongside the solar farm. The land around and below the panels would be sown with grass and used for the grazing of sheep [7.18]. Although the presence of the panels would prevent rainfall from reaching the ground below, the Applicant's agricultural witness explained that water would travel laterally through the ground. There is nothing before me to indicate that grass cover would be unable to be established on the developed site, nor that the height and position of the solar panels would prevent the land being grazed by sheep. The Applicant had no objection to a condition requiring approval of a grazing management plan, which would set out arrangements for the continuing agricultural use of the land.

12.58 Grazing by sheep would occur around the solar arrays, and would be prevented by stock fencing from extending to the perimeter buffer strips and the areas in the northern parcel proposed to be planted as species-rich grassland. Some field margins are subject to a countryside stewardship scheme: the Ecological Assessment Report records these margins as 5-6m

⁹⁰ The location of heritage assets is shown on the plans at figures 2-4 of the Heritage Impact Assessment, CD5.

⁹¹ CD170, Appendix 2 to Mr Kernon's proof, Natural England Technical Information Note TIN049, page 2.

wide⁹², approximately half the width of the proposed perimeter buffer strips. The evidence before me indicates that the extent of the site which is not currently in agricultural use is somewhat smaller than that which would be taken out of agricultural use by the development. Consequently, whilst there would be a slight reduction in the area of BMV which would be farmed I do not consider that that would be sufficient to constitute material harm.

12.59 The LPA referred to lower productivity and flexibility from use of the fields for sheep grazing as opposed to arable farming [8.13]. However there is no policy support for this position. Accordingly a reduced level of food production and the associated issue of food security are not matters which count against the application to a significant degree. On the other hand the Applicant's evidence that the removal of land from intensive agricultural use for a period of time would improve soil health and structure was not disputed by any specific evidence.

12.60 My attention has been drawn to a decision dismissing an appeal for solar panels in Swadlincote, Derbyshire on a site of which almost half of 34ha was classified as BMV land (CD188). In that case the Inspector concluded that the appellant had failed to demonstrate that there was no land of a lesser agricultural quality available within the study area. The site assessment exercise was also criticised in a decision refusing planning permission for a solar farm at Manuden (CD144). I consider arguments relating to site selection in this case below (paras 12.75-12.78), but, although the JOG queried whether enough had been done to establish if a location could be found comprising 3b land [9.13], there is no substantive evidence to contradict that of the Applicant that there is a high likelihood that much of the land in the locality falls into the BMV category [2.4].

12.61 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.

The Development Plan

The Local Plan

12.62 The proposal is inappropriate development in the Green Belt, and compliance with Policy SP5 is contingent upon such development being justified by very special circumstances. That is a matter which I consider in my overall conclusions.

12.63 As a renewable energy scheme, Policy SP11(a) provides support in principle for the development, as does Policy SP1 concerning the provision of infrastructure to support the population. The policy includes a caveat that such development should be in appropriate locations. Appropriate locations are not

⁹² CD7, para 3.4.3.

defined in the supporting text, but I have found that the development of the solar farm on the land at Graveley Lane would not only be inappropriate due to the Green Belt designation but would also cause harm to the character and appearance of the area and to the setting of Great Wymondley Conservation Area, Wymondley Castle and the scheduled monument, listed priory and listed tithe barn at Wymondley Priory. Whilst other considerations have to be considered against such harm in my conclusions, that harm itself indicates that in the first instance the application site is not an appropriate location for the development proposed.

- 12.64 The proposal would not have a material effect upon the setting of The Chilterns National Landscape. It would nevertheless cause harm to the character and appearance of the surrounding area, and in consequence there would be conflict with Policies SP12, NE2 and D1.
- 12.65 There is an extensive range of designated and non-designated heritage assets in the area. The development of the solar farm would not have a direct effect upon any designated assets and non-designated archaeological assets could be safeguarded by mitigation measures including no-dig areas and trial trenching. However harm would be caused to the setting of Great Wymondley Conservation Area, Wymondley Castle and designated heritage assets at Wymondley Priory. In accordance with Policy SP13 great weight should be given to the management of their setting, but compliance with Policy HE1 necessitates a balance between the less than substantial harm to the assets' significance and the public benefits of the development, a matter I consider below (paras 12.88 & 12.89). Measures are proposed to safeguard archaeological remains in accordance with Policy HE4, and there would no adverse effect on the setting of non-designated heritage assets, securing compliance with Policy HE3.
- 12.66 In accordance with Policy NE4, there would be a measurable net gain in biodiversity, and the effect on the LWS at Wymondley Transforming Station would not cause material harm. The proposal would also comply with Policy NE12 since it would be consistent with national policy in respect of its effect on BMV land. The scheme would satisfactorily address transport implications, and it would not result in a reduction in highway safety contrary to Policy SP6.
- 12.67 Part of the route of the cable run is in flood zone 3 on Stevenage Road [2.4]. It is common ground between the Applicant and the JOG that there is a history of flooding in Little Wymondley [7.23, 9.18]. Floodwater has entered properties and extended along parts of Priory Lane and Stevenage Road. As the cable would be buried beneath the road, the completed works would not increase flood risk. To avoid a potential obstruction to the movement of water from excavated material, it is intended that this would not be stored on either Priory Lane or adjacent to Stevenage Road [7.22]. The cable would be essential infrastructure, required in this location to connect the arrays to the grid. It would not give rise to any additional flood risk and the development overall would reduce flood risk elsewhere, and consequently it would comply with the exception test in paragraph 164 of the NPPF.
- 12.68 The fields where the solar arrays would be installed are at low risk of flooding, and their installation here would be consistent with part (a) of Policy NE7, and the sequential test set out in paragraph 162 of the NPPF. Most structures on the

site would be raised off the ground and would not impede overland movement of water, as required by part (g). The grassed surface would have a lower rate of run-off than the bare earth which is present for part of the year, and the scheme includes six attenuation basins which would restrict run-off from the site. Modelling indicates that the development would lead to a reduction in surface water run-off from the site. As the site is within the catchment of Ash Brook which is the principal source of flooding in Little Wymondley, a modest reduction in off-site flood risk is expected to result. No increase in flood risk should result from the development, in line with paragraph 167 of the NPPF. Conditions could be imposed to prevent the storage of excavated material on Priory Lane or adjacent to Stevenage Road, to secure the surface water drainage scheme, and a flood management plan as part of a more extensive construction environmental management plan. The proposal would comply with Policy NE7 and the approach to flood risk in Chapter 14 of the NPPF.

The Neighbourhood Plan

12.69 The solar farm would erode the openness of the Green Belt, due not only to its physical presence but also to its visual impact. Policy GB1 also refers to compliance with national policy. The proposal would be inappropriate development in the Green Belt, and compliance with the NPPF, and therefore Policy GB1, is contingent upon such development being justified by very special circumstances. As mentioned above (para 12.62), that is a matter which I consider in my overall conclusions.

12.70 The application was accompanied by a landscape and visual impact assessment as required under Policy NHE1. Although I have found that there would be a harmful effect on the character and appearance of the area, that is not a matter which brings the proposal into conflict with the specific provisions of the policy.

12.71 Insofar as heritage assets are concerned, Policy NHE9 defers to the Development Plan and national policy. Compliance with Policy HE1 of the Local Plan necessitates a balance with the public benefits of the development, as prescribed in paragraph 202 of the NPPF, a matter I consider below (paras 12.88 & 12.89). Similarly, Policy NHE3 defers to local policy in respect of local wildlife sites, and I have found compliance with Policy NE4 of the Local Plan.

12.72 As there would be a net gain in biodiversity, a slight betterment with regard to flood risk, and the opportunity for native species to be used in landscaping, the scheme would comply with Policies NHE2, FR1, and NHE8.

The Minerals Local Plan Review

12.73 Although part of the site falls within an area which has been identified for the safeguarding of sand and gravel reserves [5.8], this resource would not be sterilised since the proposal seeks permission for a temporary period of 40 years. Consequently there would be no conflict with Minerals Policy 5.

The Development Plan as a whole

12.74 The proposal would not conflict with the relevant policy in the Minerals Local Plan Review, and it would comply with several policies in both the Local Plan and the Neighbourhood Plan. However, even though there is support in Policy SP11 of the Local Plan for the principle of renewable energy development, the

site is not an appropriate location, and there is also conflict with policies concerning the character and appearance of the area. Important policies concerning the Green Belt and heritage assets require consideration to be given to other matters. I deal with those balancing exercises in my overall conclusions where I also conclude on the Development Plan as a whole.

Other considerations

i) Site selection

12.75 The inquiry heard that an initial step in site selection is to avoid those areas with a high level of curtailment, where the export of electricity is susceptible to being prevented during periods of high generation. Six EHV sub-stations were identified as having the potential for connection on the basis of their association with areas of low to moderate curtailment [7.1]. Small size and capacity are limiting factors at most of these sub-stations, and difficulties due to an urban setting, disruption to residents, and the cost of the cable route are referred to in respect of four EHV substations [7.1].

12.76 Six 132kV substations were also identified, but only Wymondley GSP offers the type of connection sought [7.2]. The alternative 132kV connections elsewhere would be considerably more expensive, and it is the undisputed evidence of the Applicant that generally this arrangement is only viable for connections in excess of 50MW⁹³. A site for the arrays was sought based on connection at Wymondley, within a maximum radial distance of 4km [7.2]. Virtually all of the land within this distance from Wymondley substation and outside the built-up areas of Hitchin and Stevenage lies within the Green Belt. The application site is within this search area and is technically unconstrained.

12.77 It is self-evident that costs will increase with distance from the point of connection, but whilst the Applicant refers to a maximum distance of 4km for projects of this size having regard to viability [7.2], there is no clear evidence to demonstrate that that is the case. Similarly, South Hitchin EHV substation is not included in the supplementary table which provides information on substation capacity [7.1], and there is no detailed information to substantiate concerns about constraints there. In the absence of more substantive evidence on these matters, it is not clear that the site selection exercise was so tightly constrained that there is no alternative location outside the Green Belt for the proposed development. My finding that the status of the application site as BVM land does not count against the proposal (above, paras 12.60 & 12.61) is insufficient to outweigh these considerations.

12.78 On the information before me, I conclude that the site selection exercise does not provide clear support for the development of the solar farm on the application site.

ii) Deliverability

12.79 The appeal site is available and deliverable. If planning permission is granted, it is expected that the solar farm would be connected to the grid by 2025-26. In contrast, the current lead-time for connection following a new request is 46 months [7.2]. An alternative scheme could, therefore, take up to two years

⁹³ CD232, para 2.5.

longer to come on stream once a proposal had been prepared. Given the urgency of addressing the climate crisis, that is a matter which lends significant support to the proposal.

iii) Noise

12.80 The JOG expressed concern about noise from equipment on the site, and also the possibility that the panels would deflect traffic noise from the A1(M). The noise and vibration assessment reported on sound monitoring and predicted noise levels from the battery store, inverters, and transformers. It found that the noise from maximum site operations during both day and night time would be below the representative background sound level, and would have a low impact⁹⁴.

12.81 In a consultation response addressing noise, the Council's Environmental Health Officer only identified a potential for noise nuisance to arise during the construction period, and recommended conditions to restrict working hours and require adherence to a construction phasing and environmental management programme (subsequently referred to as a construction environmental management plan) which would include measures to minimise noise. With these safeguards in place I do not consider that the proposal would harm the living conditions of local residents.

iv) Transport implications

12.82 Once operational, the solar farm would generate little traffic. The Applicant indicated that there would be 1-2 visits per week using a light vehicle, a matter which was not disputed by other parties. Traffic movement would be greater during the 36 weeks construction period, involving heavy goods vehicles in addition to lighter vehicles [7.16]. Even so the additional number of movements would be modest, and deliveries and HGVs would be routed from the motorway to the east [7.16], thereby avoiding the villages of Great Wymondley and Little Wymondley. The routing of construction traffic could be included within a construction traffic management plan, secured by condition. At a point on Graveley Lane where the carriageway is narrower a passing bay would be formed to avoid disruption to the free movement of traffic. Conditions could be imposed to secure both the formation of the passing bay, and its removal once construction had been completed.

12.83 The JOG referred to the potential for disruption on Priory Lane and Stevenage Road during works to lay the cable. It is expected that some temporary road closures and diversions would be necessary. The works within the carriageway and associated traffic management measures would be subject to a separate consenting regime and would require approval by the local highway authority [7.17]. They are not a reason to resist the grant of planning permission.

v) Fire risk

12.84 Hertfordshire Fire Service has advised that certain measures, including a perimeter road and an emergency water supply, should be included in the development (CD200). In response, a fire risk management plan is proposed, the implementation of which could be secured by means of a condition.

⁹⁴ CD8, paras 7(iii) & 9(v).

vi) Permissive footpaths

12.85 The scheme proposes the creation of several lengths of permissive footpath, to remain in place for the duration of the development. There would be a footpath along the west and south sides of the northern parcel, with a short northwards spur at its eastern end. This footpath would link to the Hertfordshire Way at each end, providing the opportunity for a circular walk on the north side of Graveley Lane. A separate path on the south side of the road would provide a link from the junction at the eastern end of the village to the path around the northern parcel. The provision of these temporary paths would provide a benefit to local residents and other walkers in the countryside to which I ascribe moderate weight.

vii) Economic considerations

12.86 Employment opportunities would provide an economic benefit [8.15], but during the operational phase of the development there are only expected to be 1-2 visits per week by staff (above, para 12.82). Construction would involve more people but would only last for about 36 weeks, and decommissioning would similarly be relatively short compared to the 40 years operational life of the solar farm. Consequently I ascribe limited weight to this benefit.

Conditions

12.87 I have considered the suggested conditions (CD218) in the light of the advice in PPG and the discussion on conditions at the inquiry. In accordance with section 100ZA(5) of the Town & Country Planning Act 1990, the Applicant has agreed to those conditions which would be pre-commencement conditions (CD250). Those conditions which I consider would be necessary if planning permission were granted are listed in the annex to this report, together with the reasons for their imposition.

Overall conclusions

12.88 The proposal would lead to less than substantial harm to the significance of Great Wymondley Conservation Area, the scheduled monument of Wymondley Castle, and heritage assets at Wymondley Priory. Where that is the case, paragraph 202 of the NPPF requires that the harm should be weighed against the public benefits of the proposal. The urgent need to generate electricity from renewable sources, including solar installations, in order to meet national and local targets, and supported by paragraph 152 of the NPPF, is an important factor which carries significant weight in support of the application. The proposal would contribute to meeting that need, and is deliverable within a relatively short time-frame. That adds further significant weight to the case in favour of the proposed solar farm. I also give significant weight to the biodiversity gain which would be achieved as a result of the design of the scheme. Further public benefits, which merit moderate weight, arise from the limited reduction in flood risk and the provision of permissive footpaths on and leading to the site. The development would be reversible, and whilst the eventual return of the site to open countryside would be a benefit compared to a permanent permission, 40 years is a considerable period of time, and I give limited weight to this matter. I also give limited weight to the economic benefits arising from employment in connection with the proposal.

- 12.89 Whereas the harm occasioned to the significance of the castle would be towards the lower end of the spectrum of less than substantial harm, the harm in respect of Great Wymondley Conservation Area and the scheduled monument of Wymondley Priory, together with the listed priory and the listed tithe barn would be markedly greater. I am concerned that the development would cause serious harm to their settings, and in consequence the presence of the solar farm would damage the significance of these important assets for a prolonged period of time. Paragraph 199 of the NPPF makes it clear 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. I am in no doubt that the harm to designated heritage assets which I have identified outweighs the public benefits which the proposed development would produce. In consequence the proposal would fail to comply with Policy HE1 of the Local Plan and Policy NHE9 of the Neighbourhood Plan.
- 12.90 I turn now to the Green Belt balance. The proposal would amount to inappropriate development, it would result in a significant loss of openness over a considerable period of time, and it would conflict with several of the purposes of including land in the Green Belt. Harm to the Green Belt carries substantial weight. There would be serious harm to the setting of several important heritage assets. Additionally the development of a solar farm to the east of Great Wymondley would harm the character and appearance of the area. I attach significant weight to the adverse impact on the landscape of the site and its immediate surroundings, and moderate weight to the effect on the landscape character area of which the site forms part. Insofar as visual amenity is concerned, the adverse impact on views from The Hertfordshire Way and Graveley Lane merits considerable weight, and there would be some additional harm from viewpoints to the north and south-west. I am concerned that there is insufficient certainty about the mitigation proposed for displaced skylarks, and I attach moderate weight to this aspect of the scheme.
- 12.91 There are no additional factors to the public benefits identified above (para 12.88) to weigh in favour of the proposal. I acknowledge that there would be some improvement to soil structure in the fields where the panels would be installed but this would be counterbalanced by the loss of productivity of the farmland. This part of Hertfordshire is constrained by the extent of the Green Belt and the presence of The Chilterns National Landscape. However the evidence submitted in respect of site selection is not sufficient to demonstrate that these constraints are such as to provide support for development of the proposal in this countryside location within the Green Belt and within the setting of a number of designated heritage assets.
- 12.92 I conclude that the harm to the Green Belt by reason of inappropriateness and the other harms identified would not be clearly outweighed by other considerations. Consequently very special circumstances to justify the development do not exist in this case: it would, therefore, conflict with Policy SP5 of the Local Plan, Policy GB1 of the Neighbourhood Plan, and paragraph 147 of the NPPF.
- 12.93 Bringing together my earlier findings on the Development Plan and my conclusions on the heritage and Green Belt balances, I conclude that the proposed development would conflict with the Development Plan considered as

a whole, and that the impacts of the development would not be acceptable, contrary to paragraph 158(b) of the NPPF.

13. Recommendation

- 13.1 For the reasons given above, and having regard to all matters raised, I recommend that planning permission be refused. Should the Secretary of State reach a different conclusion on the merits of the application, I recommend that the conditions in the Annex to this report should be imposed on a grant of planning permission.

Richard Clegg

INSPECTOR

ANNEX

SCHEDULE - SUGGESTED CONDITIONS

- 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.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
 - i) Drawing No. 3004-01-001 Rev B – location plan
 - ii) Drawing No. 3004-01-002 Rev B – statutory plan (location plan)
 - iii) Drawing No. 3004-01-003 Rev F – general arrangement (site plan)
 - iv) Drawing No. 3004-01-012 Rev F – landscape proposals
 - v) Drawing No. 3004-01-004 – illustrative PV frame and panels
 - vi) Drawing No. 3004-01-005 – indicative inverter-transformer station
 - vii) Drawing No. 3004-01-006 – storage building
 - viii) Drawing No. 3004-01-007 – control building
 - ix) Drawing No. 3004-01-008 – switchgear building
 - x) Drawing No. 3004-01-009 – battery storage container
 - xi) Drawing No. 3004-01-010 Rev A - indicative deer/stock fencing, access track and CCTV
 - xii) Drawing No. 3004-01-011 – typical cable trench
 - xiii) Drawing No. 3004-01-D04 – proposed passing place and junction visibility splays
 - xiv) Drawing No. 3004-01-D05- forward visibility splays
 - xv) Drawing No. 3004-01-ATR03 - swept path assessment – northern access
 - xvi) Drawing No. 3004-01-ATR01 Rev D - swept path assessment construction phase.

Reason - To provide certainty.

- 3) Notwithstanding condition No 2, no development (excluding demolition, tree protection works, groundworks/investigations) shall take place until details (including layout, materials, colour and finish) of the following have been submitted to and approved in writing by the Local Planning Authority:
 - i) solar panels and frames.
 - ii) CCTV columns.

iii) Satellite communication dish and column.

iv) Location of ancillary buildings, and details of equipment and enclosures

The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: To protect the character of the area.

- 4) Within 1 month of the date of first export of electricity to the National Grid (the date of first export) confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date of first export. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work and an ecological assessment report detailing site requirements in respect of retaining ecological features.

The scheme of decommissioning work and the ecological assessment report shall be submitted to and approved in writing by the Local Planning Authority no later than 39 years from the date of first export and subsequently implemented as approved.

Reason - For the protection of the Green Belt and in accordance with the time limited nature of the application.

- 5) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works (the early decommissioning scheme) and an ecological assessment report detailing site requirements in respect of retaining ecological features (the early ecological assessment report) shall be submitted no later than 3 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved early decommissioning scheme and the approved early ecological assessment report shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.

Reason - The use and associated buildings and structures are not in accordance with national and local policy for the protection of the Green Belt. The use and associated buildings and structures should therefore be removed as soon as possible if the solar farm is no longer required.

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

- ii) The control and management of noise and dust during the construction phase.
- iii) On-site waste management.
- iv) A risk assessment of potentially damaging construction activities.
- v) Identification of biodiversity protection zones.
- vi) Physical measures and sensitive working practices to avoid or reduce impacts during construction (which may be provided as a set of method statements).
- vii) The location and timing of sensitive works to avoid harm to biodiversity features.
- viii) The times during the construction period when specialist ecologists need to be present on site to oversee works.
- ix) Responsible persons and lines of communication.
- x) The role and responsibilities on site of an ecological clerk of works or similar competent person.
- xi) The use of protective fences, exclusion barriers and warning signs.
- xii) Soil management across the site.
- xiii) A flood management plan, which shall include a requirement for the contractor to sign up to the Environment Agency flood warning service, and which shall set out the actions to be taken in the event that a flood alert and/or flood warning is received from the Environment Agency (including a requirement that no new trenches are excavated until the Environment Agency has issued an All Clear).
- xiv) Construction and storage compounds, and post-construction reinstatement of these areas.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

Reason – To safeguard the living conditions of nearby residents, to ensure that construction works do not have a harmful environmental effect, and to ensure that there is no obstruction to flood water flows and no increase in flood risk elsewhere during construction of the development.

- 7) During the installation of underground cables, no spoil or material shall be stored adjacent to Stevenage Road, Little Wymondley within the extent of flood zone 3, nor along any part of Priory Lane.

Reason: To ensure that the storage of spoil and other material does not impede flood water flows nor increase flood risk during construction of the development, and to comply with Policy NE7 of the North Hertfordshire Local Plan 2011-2031.

- 8) No development shall take place until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include details of the following:
- i) Construction vehicle numbers, type and routeing.
 - ii) Access arrangements onto the site.
 - iii) Traffic management measures.

- iv) Areas designated for car parking, loading/unloading and vehicle turning.
- v) Wheel washing facilities.
- vi) Arrangements for the cleaning of site entrances, internal site tracks and the adjacent public highway.

The development shall be implemented in accordance with the approved CTMP throughout the construction period.

Reason - In the interest of highway safety, to safeguard the living conditions of local residents, and to ensure that construction traffic does not have a harmful environmental effect.

- 9) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include the following:
- i) Description and evaluation of features to be managed.
 - ii) Ecological trends and constraints on the site that might influence management.
 - iii) The aims and objectives of management.
 - iv) Appropriate management options for achieving aims and objectives.
 - v) Prescriptions for management action.
 - vi) A work schedule, including an annual work plan capable of being rolled forward over five-year periods to a minimum period of 30 years from the date of first export of electricity to the grid.
 - vii) Details of the organisation responsible for implementation of the plan.
 - viii) Ongoing monitoring and remedial measures.
 - ix) Details of species selected to achieve target habitat conditions as identified in the biodiversity metric 4.0, and stated and marked on plans.
 - x) Measures to safeguard wildlife, in accordance with paragraphs 4.7.1-4.7.46 of the Ecological Assessment Report ref AxisL-043—1480.
 - xi) Details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured.
 - xii) The means by which contingencies and/or remedial action will be identified, agreed and implemented in order that the development delivers the biodiversity objectives of the approved scheme.

The development shall be carried out in accordance with the approved LEMP.

Reason - To ensure the delivery of measurable biodiversity net gain.

- 10) No development shall take place until a fire risk management plan (FRMP) has been submitted to, and approved in writing by, the Local Planning Authority. The FRMP shall include details of battery management, response to fire at the development, and emergency vehicle access.

Reason - To manage fire risk and ensure public safety.

- 11) No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the Local Planning Authority.

The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document). The lighting shall be installed in accordance with the approved scheme.

Reason: To prevent light pollution, to protect the character of the area, and to avoid harm to bats.

- 12) Notwithstanding any details submitted, no development shall take place until details of hard and soft landscaping (the landscaping scheme) have been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include details of the following:
- i) A timetable for implementation of the scheme.
 - ii) External hard surfacing materials.
 - iii) Means of enclosure.
 - iv) Proposed and existing services above and below ground.
 - v) Soft landscape works including planting plans, written specifications for cultivation and other operations associated with plant and grass establishment, and schedules of plants including species, plant sizes and proposed numbers or densities.
 - vi) Finished levels and contours.

The landscaping shall be implemented in accordance with the approved scheme and timetable. Any tree or shrub which forms part of the approved landscaping scheme, and which, within a period of 5 years from planting, fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

Reason – To safeguard the character and appearance of the area.

- 13) Notwithstanding the submitted Archaeological Mitigation Strategy – Written Scheme of Investigation (WSI) by AOC Archaeology Group, ref 25806/80064, no development shall take place until the pre-development actions specified in a revised WSI, which has been submitted to and approved in writing by the local planning authority, have been completed. The scheme shall include:
- i) The programme and methodology of site investigation and recording.
 - ii) Identification of the no-dig areas.
 - iii) The programme for post investigation assessment.
 - iv) Arrangements for analysis of the site investigation and recording.
 - v) Arrangements for publication and dissemination of the analysis and records of the site investigation.
 - vi) Arrangements for archive deposition of the analysis and records of the site investigation.
 - vii) Nomination of a competent person or organisation to undertake the works set out within the revised WSI.

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

Reason –To safeguard and to ensure the investigation and recording of archaeological assets within the site.

- 14) No excavation activities shall be undertaken within the no-dig areas identified in the revised WSI.

Reason - To safeguard archaeological assets within the site.

- 15) During the construction phase of the development hereby approved no construction activities shall take place outside the following hours: Monday to Friday 08:00-18:00, and Saturdays 08:00-13:00. No construction activities shall take place at any time on Sundays or bank holidays, and piling shall only be undertaken between 09.00 and 17.00 Monday to Friday.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

- 16) No noise generating plant shall be installed before details of such plant and any mitigation measures, which demonstrate compliance with the source noise levels detailed in Section 6.2.3 of the Noise Impact Assessment reference R21.0906/DRK dated 7 October 2021, have been submitted to, and approved in writing by, the Local Planning Authority. The plant shall be installed in accordance with the approved scheme.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

- 17) No development, including ground works and ground preparation works, shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submitted surface water drainage scheme shall include:

- i) Methods to ensure that surface water run-off generated from the development site does not exceed run-off rates from the undeveloped site for the corresponding rainfall event up to and including 1 in 100 years + climate change critical storm.
- ii) Methods to ensure that the scheme provides betterment in respect of the pre-development overland flow paths for the 1 in 30-year event.
- iii) A condition survey of the 285m culvert that crosses the northern part of the site.
- iv) Retention of the existing overland flow pathways across the site free of obstruction.

- v) Detailed drawings of the attenuation basins including location, size, volume, depth, inlet and outlet features, connecting pipe runs and all calculations and modelling to ensure that the scheme caters for all rainfall events up to and including the 1 in 100 year plus climate change event.
- vi) Detailed drawings of all proposed discharge locations, including headwall details, and evidence of land ownership with evidence of any required third-party permissions.
- vii) Run-off quality treatment.
- viii) Provision of half drain down times for surface water drainage features within 24 hours.
- ix) Silt traps for protection of any residual tanked elements.
- x) Arrangements for maintenance and management of the scheme.
- xi) A timetable for implementation of the scheme.

The development shall be carried out in accordance with the approved scheme and timetable.

Reason – To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

- 18) No development shall take place until a scheme of interim and temporary drainage measures during the construction period have been submitted to, and approved in writing by, the local planning authority. The scheme shall provide full details of the responsibility for maintaining the temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Construction shall be carried out in accordance with the approved scheme.

Reason - To ensure adequate drainage provision and to prevent flooding and pollution offsite.

- 19) No electricity shall be exported to the National Grid, until, upon completion of the surface water drainage/flood management works for the development hereby permitted, the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i) Provision of a verification report, including evidence demonstrating that the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme. The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structures (during construction and final make up) and the control mechanism.
- ii) Provision of a complete set of built drawings for site drainage.
- iii) A management and maintenance plan for the sustainable drainage features and drainage network.

The management and maintenance plan for the sustainable drainage features and drainage network shall be implemented as approved.

Reason - To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

20) No excavation of trenches for cabling within Wymondley Transforming Station Local Wildlife Site (LWS) shall take place until a soil management plan has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall include the following:

- i) An ecological survey of the route across the LWS.
- ii) Details relating to the lifting, storage and replacement of turves, including the season when this will take place.
- iii) Proposed aftercare and management.

The works shall be undertaken in accordance with the approved management plan.

Reason - To minimise the impact upon the ecological and biodiversity interest of the Wymondley Transforming Station LWS in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031.

21) No development shall take place until an arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing by, the local planning authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

Reason - To protect trees and hedgerows, and to safeguard the character and appearance of the area.

22) No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing, by the local planning authority. The skylark mitigation strategy shall include details of the following:

- i) Identification of the proposed area for the implementation of mitigation.
- ii) Details of how the area will be managed.
- iii) Arrangements to secure the delivery of proposed measures, including a timetable of delivery; and a management and monitoring plan for a period of not less than 5 years from the date of first export of electricity to the grid. Ecological monitoring reports should be submitted to the Local Planning Authority in year 2 and year 5 of the plan.
- iv) Identification of persons responsible for implementing the measures included in the strategy.

The development shall be carried out in accordance with the approved strategy and timetable, and the mitigation measures shall be retained for the lifetime of the development.

Reason – To provide alternative foraging and nesting opportunities for skylarks displaced from the application site.

- 23) No electricity shall be exported to the National Grid until a grazing management plan (GMP) has been submitted to and approved in writing by 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. Within three years of the date of first export, the grazing of livestock shall commence on the site in accordance with the GMP. The approved GMP shall be implemented thereafter. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing and shall not be carried out except in accordance with the approved revised GMP.

Reason - To ensure that agricultural use continues on the site.

- 24) No electricity shall be exported to the National Grid until a scheme relating to the proposed permissive footpaths shown on submitted drawing No. 3004-01-003 Rev F has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of surfacing, a timetable for implementation, signage, waymarks and interpretative panels relating to the proposal. The footpaths shall be implemented and made available for public use in accordance with the approved scheme and timetable.

Reason - To enhance pedestrian movement within and around the site.

- 25) No development shall take place until detailed engineering drawings of the accesses, as shown on plans ref 3004-01-D04 and 3004-01-D05, have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include details of hardsurfacing for at least the first 20 metres from the back edge of the carriageway and associated drainage, and visibility splays of 2.4m x 105m to the west and 2.4m x 148m to the east, within which there shall be no vertical obstruction between 0.6m and 2m. No other development shall take place until the site accesses arrangements have been constructed in accordance with the approved drawings.

Reason – In the interest of highway safety.

- 26) No development shall take place until detailed engineering drawings of the passing bay on Graveley Lane, as shown on plans ref 3004-01-D04 and 3004-01-D05 have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include measures to demonstrate how the passing bay will be prevented from being used for parking purposes. No

other development shall take place until the passing bay has been provided in accordance with the approved drawings.

Reason – In the interest of highway safety and the free movement of traffic.

- 27) Within 3 months of completion of construction, both accesses shall be modified in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority. The revised designs shall reduce the width of both site accesses and provide associated tighter kerb radii to accommodate ongoing maintenance and agricultural vehicles.

Reason: To ensure the provision of an appropriate standard of access for the operational development and to protect the character and appearance of the area.

- 28) Within 3 months of completion of construction, the passing bay on Graveley Lane shall be removed, and the verge/embankment and vegetation reinstated, in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area and in the interest of biodiversity.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms C Daly	Counsel for North Hertfordshire District Council
She called	
Mr M Robinson BA(Hons)	Planning consultant
DipTP MRTPI	

FOR THE APPELLANT:

Mr D Hardy	Partner, CMS Cameron McKenna Nabarro Olswang LLP
He called	
Ms L Roy BA(Hons) MSc	Senior Project Manager, AOC Holdings Ltd
MCIfA FSA(Scot)	
Mr J Mason BSc(Hons)	Technical Director, Axis
DipLA CMLI	
Mr L Kendall BA(Hons)	Technical Director, Axis
MCIHT MTPS	
Dr K Tilford BSc MSc	Managing Director, Weetwood Services Ltd
PhD MBA C.WEM	
FCIWEM CEnv	
Mr A P Kernon	Principal, Kernon Countryside Consultants
BSc(Hons) MRAC MRICS	
FBIAC	
Mr A I Hoyle BSc(Hons)	Associate Director, Axis
MCD MRTPI	
Mr H Fearn MSc MCIEEM	Director, Avian Ecology Ltd
Mr J Collier MEng CFA	Investment Manager, AGR Renewables

FOR THE JOINT OBJECTORS GROUP:

Mr P S Harding BSC FRICS	Resident of Great Wymondley and Member of Wymondley Parish Council
He gave evidence	
himself and called	
Mr D Jackson BA(Hons)	Resident of Great Wymondley and of the Great Wymondley Village Association
MBA	
Mrs J Simpson MBE	Resident of Great Wymondley
Mr J Griffiths MA DipTP	Planning consultant
FRTPI	
Mrs E Hamilton MA MSc	Trustee of the Campaign to Protect Rural England Hertfordshire

INQUIRY DOCUMENTS

Superseded documents are not included in this list

- CD200 Letter dated 8 September 2023 from Hertfordshire CC providing a freedom of information response in respect of Fire Service comments on the application.
- CD201 Mr Hardy's opening statement on behalf of the Applicant.
- CD202 Ms Daly's opening statement on behalf of the LPA.
- CD203 Mr Harding's statement on behalf of the JOG.
- CD204 Mr Jackson's revised proof of evidence.
- CD205 Video – Solar Harm. Submitted by Mr Jackson.
- CD206 Notification letter about the calling-in of the application.
- CD207 List of recipients of CD206.
- CD208 Revised location plan, ref 3004-01-001 rev B.
- CD209 List of heritage assets within the study area.
- CD210 Slide pack - community harm objection. Submitted by Mrs Simpson.
- CD211 Map of The Chilterns AONB.
- CD212 Map of the north-eastern part of The Chilterns AONB.
- CD213 Webpage showing examples of above ground bases for solar panels.
- CD215 Composite plan of proposed drainage layout, ref 5208-110-P1.
- CD216 Technical Note 01 – Assessment of Grid Connection Route Cable Laying Process. Submitted by Mr Kendall and Dr Tilford.
- CD217 Revised plan showing construction swept paths, ref 3004-01-ATR01 rev D.
- CD218 Revised list of possible conditions (18 September). Submitted by the Applicant.
- CD219 Illustrative skylarks plot plan. Submitted by the Applicant.
- CD220 Letter dated 15 September 2023 from Hertfordshire CC to the LPA concerning the revised biodiversity metric applied to the proposal.
- CD221 Note on a planning application for a solar farm at St Ippolyts. Prepared by the LPA.
- CD222 Birds of Conservation Concern 5. Referred to in footnote 2 of Mrs Hamilton's proof of evidence.
- CD223 Blithe spirit: Are skylarks being overlooked in impact assessment? by H Fox. From in practice, September 2022. Referred to in footnote 4 of Mrs Hamilton's proof of evidence.
- CD224 Land Management for Wildlife – Yellowhammer, RSPB. Referred to in footnote 5 of Mrs Hamilton's proof of evidence.
- CD225 The effects of solar farms on local biodiversity: A comparative study, by H Monntag, G Parker & T Clarkson. Referred to in footnote 8 of Mrs Hamilton's proof of evidence.
- CD226 Densities and population estimates of breeding skylarks *alauda arvensis* in Britain in 1997, by S Browne, J Vickery & D Chamberlain. From Bird Study 47:1. Referred to in footnote 9 of Mrs Hamilton's proof of evidence.
- CD227 Habitat selection by skylarks *alauda arvensis* wintering in Britain in 1997/98, by S Gillings & R J Fuller. From Bird Study 48:3.

- CD228 Land Management for Wildlife – Skylark, RSPB. Referred to in footnote 11 of Mrs Hamilton’s proof of evidence.
- CD229 Potential ecological impacts of ground-mounted photovoltaic solar panels – An introduction and literature review, by R Taylor, J Conway, O Gabb & J Gillespie. Referred to in footnote 13 of Mrs Hamilton’s proof of evidence.
- CD230 Renewable energies and biodiversity: Impact of ground-mounted solar photovoltaic sites on bat activity, by E Tinsley, J S P Froidevaux, S Zsebok, K L Szabadi & G Jones. From Journal of Applied Ecology 2023;00. Referred to in footnote 14 of Mrs Hamilton’s proof of evidence.
- CD231 Life in a hedge, by R Woolton. From British Wildlife June 2015. Referred to in footnote 15 of Mrs Hamilton’s proof of evidence.
- CD232 Mr Collier’s statement on grid connection and site identification.
- CD233 Supplementary table to Document CD232.
- CD234 Solar park microclimate and vegetation management effects on grassland carbon cycling, by A Armstrong, N J Ostle & J Whitaker. From Environmental Research Letters, volume 11, number 7. Referred to in footnote 16 of Mrs Hamilton’s proof of evidence.
- CD235 Note on agricultural land classification statistics. Submitted by Mr Kernon.
- CD236 Plans showing proposed revised site visits itinerary. Agreed by the main parties.
- CD237 The Biodiversity Metric 4.0, calculation for the proposed development.
- CD238 Mr Harding’s response to CD216.
- CD239 Appeal decision concerning ground-mounted solar arrays and associated development at Crays Hill, Essex. Submitted by the Applicant.
- CD240 Technical glossary. Submitted by the Applicant.
- CD241 Extract from the Hertfordshire Minerals Local Plan Review 2002-2016.
- CD242 Extract from the Hertfordshire Minerals and Waste Local Plan 2040 – Draft Plan.
- CD243 Extract from the Hertfordshire Minerals and Waste Local Plan 2040 – Policies Map.
- CD244 Mr Harding’s closing submissions on behalf of the JOG.
- CD245 Ms Daly’s closing submissions on behalf of the LPA.
- CD246 Mr Hardy’s closing submissions on behalf of the Applicant.
- CD247 Email dated 28 September 2023 on behalf of the Applicant to The Planning Inspectorate concerning a cessation of generation condition.
- CD248 Email dated 28 September 2023 from the JOG to The Planning Inspectorate concerning possible conditions.
- CD249 Regulation 2(4) notice concerning pre-commencement conditions.
- CD250 The Applicant’s response to CD 249.



Department for Levelling Up, Housing & Communities

www.gov.uk/dluhc

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

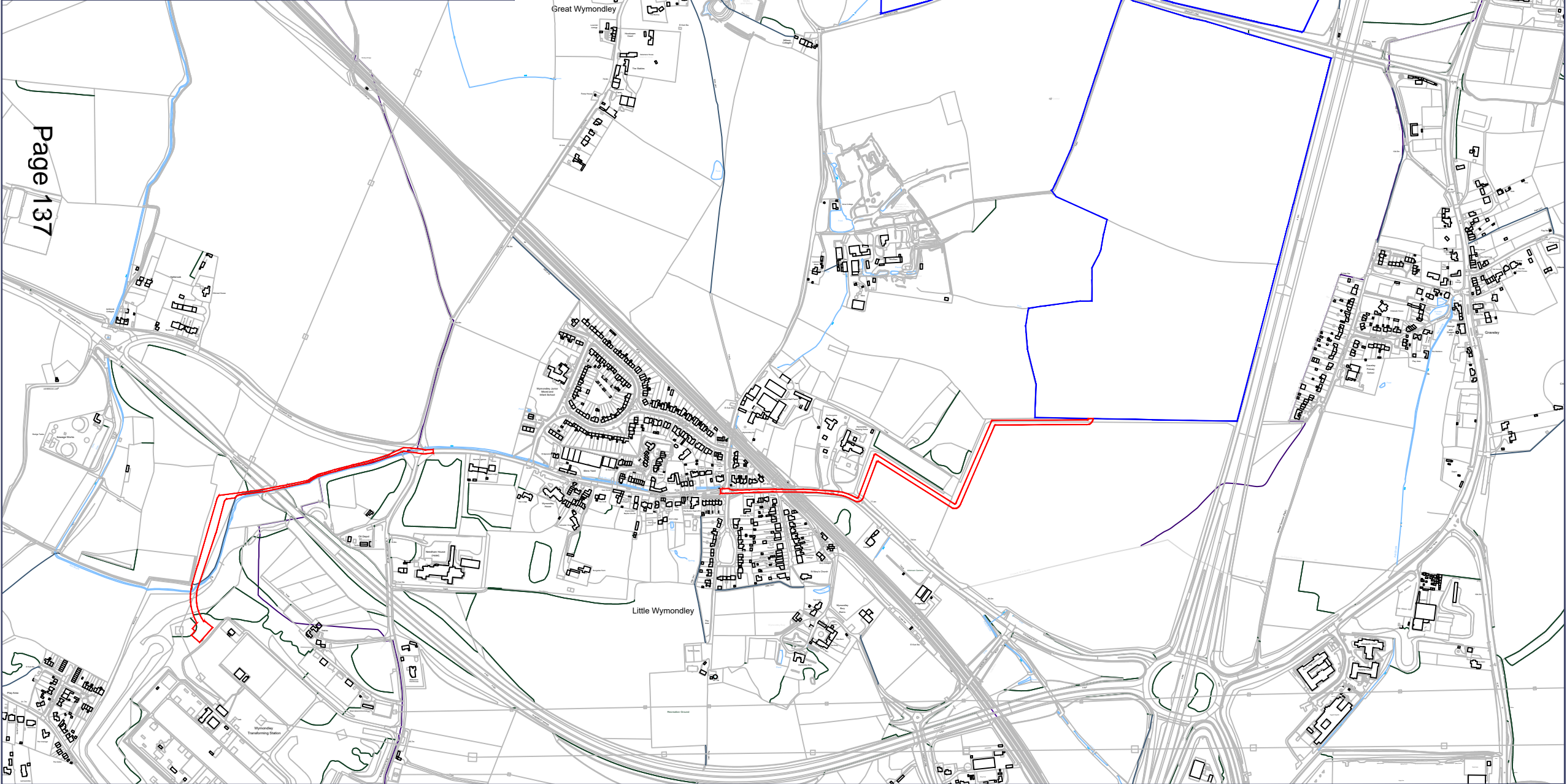
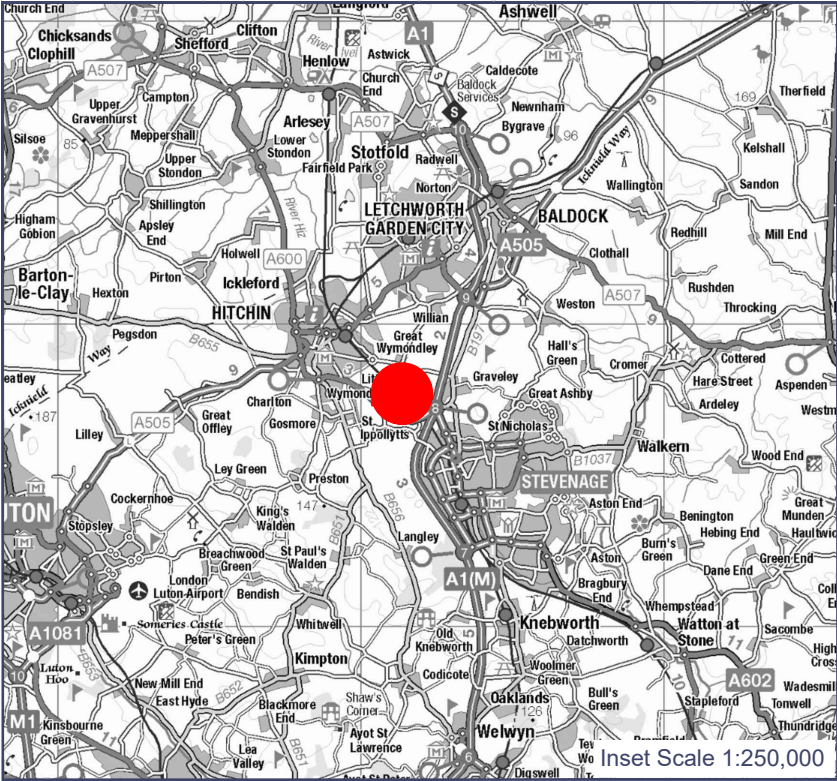
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



- Application Boundary
17,138m²
- Other Land Under Control of the
Applicant
- Site Location

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revision: A desc: Red Line Amended

date: 13-02-25

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Client

AGR Solar 4 Limited

Project

Priory Farm Solar Array Revised Grid
Connection

Drawing Title

Site Location Plan

Scale

1:10,000 @A3

Date

July 2024

Dwg no

3656-01-001

Status

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Drawn Checked

SK AR

Rev

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<u>Location:</u>	Land At Radwell Bury Farm Newnham Road Newnham Hertfordshire
<u>Applicant:</u>	Mr Ryan Macindoe
<u>Proposal:</u>	Installation of Battery Storage System with associated infrastructure, earthworks, landscaping and access.
<u>Ref. No:</u>	24/02713/FP
<u>Officer:</u>	Ben Glover

Date of expiry of statutory period: 13/03/2025

Extension of statutory period: 25/06/2025

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

Reason for Referral to Committee: The site area for this application 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 24/00777/SO - Screening Opinion: Installation of Battery Energy Storage System with associated infrastructure and access – Not EIA development. Decided on 30/04/2024.

2.0 **Policies**

2.1 **National Planning Policy Framework (2024)**

Section 2: Achieving sustainable development
Section 6: Building a strong and 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

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

Policy SP1: Sustainable development in North Hertfordshire
Policy SP3: Employment
Policy SP5: Countryside and Green Belt

Policy SP9: Design and sustainability
 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 D1: Sustainable design
 Policy D3: Protecting living conditions
 Policy NE1: Strategic green infrastructure
 Policy NE2: Landscape
 Policy NE4: Biodiversity and geological sites
 Policy NE7: Reducing flood risk
 Policy NE8: Sustainable drainage systems
 Policy NE9: Water quality and environment
 Policy NE12: Renewable and low carbon energy development
 Policy HE1: Designated heritage assets
 Policy HE4: Archaeology

2.3 **Supplementary Planning Documents**

Sustainability SPD (September 2024)
 Design SPD (July 2011)
 Vehicle Parking at New Developments SPD (November 2011)

2.4 **Hertfordshire County Council**

Local Transport Plan (LTP4 – adopted May 2018)

2.6 **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: 24/12/2024

Expiry Date: 16/01/2025

3.2 **Press Notice:**

Start Date: 09/01/2025

Expiry Date: 01/02/2025

3.3 **Neighbouring Notifications:**

No public or neighbouring comments have been received.

3.4 **Consultees**

CPRE Hertfordshire – No response received.

HCC Archaeology – No objection subject to conditions.

HCC Highways – No objection subject to conditions and informatives.

HCC Lead Local Flood Authority – No objection subject to conditions.

Herts Fire & Rescue – No response received.

NHC Ecology – No objection subject to conditions.

NHC Environmental Health – No objection.

NHC Policy Officer – No objection.

NHC Strategic Planning Officer – No response received.

NHC Transport Policy Officer – No response received.

NHC Waste & Recycling – No response received.

Place Services Landscape – No objection subject to conditions.

Radwell Parish Council – No response received.

4.0 Planning Considerations

4.1 Site and Surroundings

4.1.1 The 3.56-hectare application site comprises part of a large agricultural field to the north of Newnham Road. Baldock Services is situated to the south-west, otherwise the application site is surrounded by agricultural fields.

4.1.2 The application site is partially screened by existing mature vegetation to the southern and eastern boundaries of the site. The northern and western boundaries are open to the remainder of the existing agricultural field. Overhead power lines run diagonally across the site with a pylon on the eastern boundary of the site and another pylon across Newnham Road to the south of the site.

4.1.3 To the north of the site, there are two Grade II Listed Buildings (Radwell Grange and Barn at Radwell Grange) situated approximately 570m from the application site. The village of Newnham is situated to the north-east of the site and is covered by the Newnham Conservation Area. The village contains several Grade II Listed Buildings and a Grade II* Listed Building. There is also a Scheduled Monument known as 'Ring Ditch and Enclosure' to the southwest of the village adjacent to Newnham Road.

4.1.4 The application site is within the Rural Area Beyond the Green Belt and the land upon which the development is proposed is classified as Grade 2 (very good) agricultural land.

4.1.5 The site is within Flood Zone 1, which is land at the lowest risk of flooding and is at a low risk from surface water flooding.

4.2 Proposal

4.2.1 Planning permission is sought for the installation of a battery storage system with associated infrastructure, earthworks, landscaping, and access. Permission is being sought on a temporary basis of 40 years after which the site would be restored to its present use and condition.

- 4.2.2 The proposed development would comprise of two linked compounds. The northern compound would include a private substation transformer, Distribution Network Operations Room, control room, a pair of transformers, and a 132kV substation area. The southern compound would include 48 prefabricated containerised modular battery energy storage systems (BESS), 12 inverters and transformer modules, a storage room, and a laydown area.

4.3 **Key Issues**

- 4.3.1 The key issues for consideration are as follows:

- The principal of development within the Rural Area Beyond the Green Belt.
- The impact of the development upon the landscape character including agricultural land.
- Ecology and Biodiversity. Neighbouring Amenity
- Highways, Access, and Parking
- Flooding and Drainage
- Impact to Heritage and Archaeology
- Fire Risk

Principle of Development:

- 4.3.2 The application site is part of a larger agricultural field situated on land designated within the North Hertfordshire Local Plan (Local Plan) as 'Rural Area beyond the Green Belt'.
- 4.3.3 Policy SP5 of the Local Plan stipulates that the Council will operate a general policy of restraint in the Rural Areas beyond the Green Belt through the application of detailed policies.
- 4.3.4 Policy CGB1 of the Local Plan sets out that planning permission will be granted provided that the development complies with one of the following criteria:
- a) Is infilling development which does not extend the built core of a Category B village;
 - b) Meets a proven local need for community facilities, services or affordable housing in an appropriate location;
 - c) Is strictly necessary for the needs of agriculture or forestry;
 - d) Relates to an existing rural building;
 - e) Is a modest proposal for rural economic development or diversification; or
 - f) Would provide land or facilities for outdoor sport, outdoor recreation and cemeteries that respect the generally open nature of the rural area.
- 4.3.5 The application site comprises a 4ha (approx.) agricultural field. The proposed development would consist of two linked compounds within the site. The compound closest to the highway would contain the battery containers and the second compound, away from the highway, would be the substation.
- 4.3.6 The Planning Practice Guidance (PPG) states that *"electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively – for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity."*

- 4.3.7 Policy CGB1 of the Local Plan supports modest proposals for rural economic development or diversification. The proposed development, given its scale, would not be considered a modest proposal for rural economic development or diversification. There are no other applicable criteria, so the proposal conflicts with policy CGB1.
- 4.3.8 The Local Plan does not identify sites within the district for renewable energy development or development associated with low carbon energy generation. As set out within the applicants Planning, Design and Access Statement, development of this type would not be viable within urban areas, primarily due to the land take required for projects such as these. Therefore, locating energy development of this type within the rural area would be the next best option.
- 4.3.9 Furthermore, the site is noted as being a viable distance from a point of connection to the Letchworth Bulk Supply Point (BSP). The Letchworth BSP is situated to the south of Baldock Road, Letchworth, approximately 4.3km from the application site. The Letchworth BSP has been identified by the applicant as the most suitable local point of connection.

Benefits of Battery Storage Development:

- 4.3.10 Paragraph 161 of the NPPF sets out that the planning system should support the transition to net zero by 2050 and help shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience. Paragraph 161 goes on to state that “the planning system should... support renewable and low carbon energy and associated infrastructure.”
- 4.3.11 Paragraph 168 of the NPPF sets out that when determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposals contribution to a net zero future. Local planning authorities should also recognise that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
- 4.3.12 Policy NE12 of the Local Plan sets out that proposals for renewable and low carbon energy development which would contribute towards reducing greenhouse gas emissions will be permitted subject to an assessment of the proposals impacts. Policy NE12 states that the council will give significant weight to the local and wider benefits of renewable and low carbon energy developments and their potential to reduce greenhouse gas and other harmful emissions.
- 4.3.13 North Herts Council declared a climate emergency in May 2019 and have since published a Climate Change Strategy 2022-2027. The key objectives of the Climate Change Strategy include to achieve a net zero carbon district by 2040 and to become a district that is resilient to unavoidable impacts of climate change.
- 4.3.14 As noted in paragraph 4.3.6 of this report, the PPG states that “*electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively – for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity.*”

- 4.3.15 The submitted planning statement sets out the benefits of battery storage. The benefits set out include support for renewable energy technologies, such as wind and solar, by reducing supply issues associated with their intermittency. BESS systems are able to balance power supply to grid operators by capturing and storing energy that would otherwise be lost.
- 4.3.16 In consideration of the above, the proposed development would contribute towards reducing greenhouse gas emissions by increasing the ability to store energy, including energy created by intermitted sources such as solar and wind. Based on both local and national policy, the benefits of the BESS scheme should be given significant weight in favour of the development.

Alternative Sites Assessment:

- 4.3.17 The applicant has provided an Alternative Sites Assessment (ASA) document alongside the application. The assessment sets out the justification for why the application site selected is the most suitable and why other alternative sites have not been deemed suitable.
- 4.3.18 The Letchworth BSP has been identified by the applicant as being the most viable location to facilitate the connection of the BESS. The Alternative Site Assessment document uses the Letchworth BSP as the centre point for a suitable site search area.
- 4.3.19 The Alternative Site Assessment has then used the Brownfield Register to identify brownfield sites within the radius of the grid connection point. The identified brownfield sites have either already been granted permission for alternative development, are allocated within the local plan, or are unable to accommodate BESS development due to spatial constraints as set out within the ASA document.
- 4.3.20 Existing residential, Green Belt, and allocated sites within the local plan filter out a significant amount of land within the radius of the BSP.
- 4.3.21 Following the omission of most of the land within the radius of the Letchworth BSP, the ASA identifies three other potential sites for the proposed development. Two of the three sites would have residential properties in proximity to the proposed BESS. The third site is unavailable following engagement with the landowner.
- 4.3.22 Based on the ASA, I am inclined to agree that the most appropriate site for the BESS would be the application site put forward. The site is within the grid connection radius of the Letchworth BSP, is not land designated Green Belt, is not allocated within the local plan for housing, is not near existing residential development, and not within a sensitive area such as a Conservation Area or Nature Reserve.

Impact to Landscape Character:

- 4.3.23 Paragraph 187 of the NPPF sets out that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

- 4.3.24 Policy NE2 of the Local Plan sets out that Planning Permission will be granted for development proposals that respect the sensitivities of the relevant landscape character area, do not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area, are designed and located to ensure the health and future retention of important landscape features, and have considered the long-term management and maintenance of any existing and proposed landscaping.
- 4.3.25 The proposed BESS would be located in 'Area 224 – North Baldock Chalk Uplands', as identified within The North Hertfordshire and Stevenage Landscape Character Assessment (2011) document. The landscape character includes rolling chalk landform, large scale arable fields, field boundaries, nucleated settlements, telecommunications, and the A1 as a major transport route.
- 4.3.26 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), which concludes that the level of longer-term residual landscape effects of the BESS development would be 'limited'. The LVIA also sets out that landscaping enhancements within the site boundary would support the integration of the development into the surrounding landscape.
- 4.3.27 An independent review of the submitted LVIA has been undertaken by Place Services. Whilst there was some disagreement to the extent of impact upon the landscape character resulting from the development, the conclusion was that the development would not constitute significant effects on the landscape character area and appropriate landscape detail and management conditions have been suggested.
- 4.3.28 The landscaping proposals would include the introduction of bands of woodland, hedgerow along the western boundary, and areas of species rich wet and meadow grassland.
- 4.3.29 The proposed BESS development would result in limited impact to the character and appearance of the surrounding area and have a limited impact to the landscape character area. Mitigation through landscaping has been proposed and a management condition would be included as part of any permission. The proposal would be in place for a temporary period of 40 years before reverting to the current use.
- 4.3.30 Given the limited harm identified to the landscape area, the mitigation measures proposed, and the temporary nature of the development, it is considered that the proposed development would not result in unacceptable harm to the surrounding landscape and would comply with Policy NE2 of the Local Plan and Section 15 of the NPPF.

Loss of Agricultural Land:

- 4.3.31 The agricultural land classification of the site is noted as Grade 2 (Very Good) land. Grade 2 land is defined within the NPPF as being the best and most versatile agricultural land (BMV).
- 4.3.32 There would have been a requirement to consult Natural England if the development were to exceed 20ha of BMV and therefore considered 'significant development' of agricultural land. In this case, the Planning Statement states that the compounds would occupy an area of less than 1ha. The red line area occupies approximately 3.53ha, remaining below the 'significant development' threshold.

- 4.3.33 It is also noted that the development would be temporary, with a time limit of 40 years before being returned to its current use. Whilst 40 years is a long period, the site would nevertheless return to agricultural use upon de-commissioning of the proposal. In conclusion, the loss of a limited amount of Grade 2 agricultural land, would not be permanent and therefore it is considered that the proposed development is acceptable in these circumstances.

Ecology and Biodiversity:

- 4.3.34 Policy NE4 of the Local Plan sets out that planning permission will only be granted for development proposals that appropriately protect, enhance, and manage biodiversity. The policy also sets out that all development should deliver measurable net gains in biodiversity and geodiversity, contribute to ecological networks and the water environment.
- 4.3.35 An Ecological Impact Assessment (EclA) and Biodiversity Net Gain (BNG) Metric have been submitted alongside the application. The submitted EclA does not predict any harm to habitats or species that cannot be mitigated. The BNG demonstrates a 44% gain in habitat units and a 37% gain in hedgerow units, thereby meeting and exceeding the mandatory 10% BNG requirement.
- 4.3.36 Following consultation with the Council's Ecologist, no ecological objection has been raised to the proposal subject to the inclusion of a Landscape and Ecological Management Plan (LEMP) condition and a Construction Environment Management Plan Biodiversity condition.
- 4.3.37 The proposed development would result in a large biodiversity net gain in both habitat and hedgerow units. This increase is given significant positive weight within the planning balance.

Impact to Neighbouring Amenity:

- 4.3.38 Policy D3 of the Local Plan sets out that planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.
- 4.3.39 The application site is set significantly away from any nearby residential properties with the nearest settlement being Newnham to the northeast. Given the absence of any nearby residential properties, the proposed development would not result in any unacceptable impact to the amenities of nearby residential occupiers and would comply with both local and national planning policies.

Highways, Access, and Parking:

- 4.3.40 Policy T1 of the Local Plan sets out that planning permission will be granted provided that development will not lead to highway safety problems or cause unacceptable impacts upon the highway network.
- 4.3.41 The development proposes the creation of a new vehicular access to the site off Newnham Road. A secondary site access would also be provided within the site to facilitate access to an emergency vehicle where it is not possible to gain access via the main access track.

- 4.3.42 The Transport Statement, submitted alongside the application, anticipates very occasional vehicle movements once the site is operational. The predicated vehicle movements would amount to one visit per month with the purpose of maintaining the site.
- 4.3.43 Following consultation with the Highways Authority, no objection has been raised to the impact of the development to the safe operation of the highways network. The Highways comments state that *"the proposed increases in traffic flows on the local highway network during both construction and operational periods are not of a scale that would materially impact the relative operation and safety of the local highway network."*
- 4.3.44 The Highways Authority have requested the inclusion of a 'Construction Traffic Management Plan' condition and the submission of detailed technical plans condition that would provide further details of the proposed site access, the phasing of construction, hours of operations, and other details.
- 4.3.45 Given the absence of any objection from the Highways Authority, the proposed development would result in an acceptable impact on the highways network and would comply with both local and national planning policies.

Flooding and Drainage:

- 4.3.46 Policy NE7 of the Local Plan sets out that planning permission will be granted provided development is located outside of medium and high-risk flood areas (flood zone 2 and 3), is located, designed, and laid out to ensure the risk of flooding is reduced whilst not increasing flood risk elsewhere.
- 4.3.47 Policy NE8 of the Local Plan sets out that planning permission will be granted provided that the most appropriate sustainable drainage solution is used.
- 4.3.48 The Lead Local Flood Authority (LLFA) had raised an objection to the proposal however, additional information has been submitted and the LLFA have removed their objection to the development, subject to the inclusion of appropriate conditions.
- 4.3.49 The LLFA concluded that the details submitted within the submitted Flood Risk Assessment (FRA) are in accordance with Policy NE8 of the Local Plan. The proposed development is considered to comply with both local and national planning policies.

Impact to Heritage and Archaeology:

- 4.3.50 Paragraph 212 of the NPPF states 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, and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 4.3.51 Policy HE1 (Designated Heritage Assets) and HE4 (Archaeology) of the Local Plan are both relevant in this case.
- 4.3.52 The application site lies approximately 0.5km to the east of a Roman Road and is a few hundred metres to the west of two Areas of Archaeological Significance as identified within the Local Plan.

- 4.3.53 Following consultation with the County Council's Historic Environment Advisor, the position of the proposed development is such that it should be regarded as likely to have an impact on heritage assets with an archaeological interest. No objection was raised to the proposed development and the potential impact to archaeology subject to the inclusion of a condition requiring the submission of an Archaeological Written Scheme of Investigation prior to commencement of the development.
- 4.3.54 Paragraph 208 of the NPPF requires local planning authorities to assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset.
- 4.3.55 To the north of the site, are two Grade II Listed Buildings (Radwell Grange and Barn at Radwell Grange) situated approximately 570m from the application site. The village of Newnham is situated to the north-east of the site and is covered by the Newnham Conservation Area. The village contains several Grade II Listed Buildings and a Grade II* Listed Building. There is also a Scheduled Monument known as 'Ring Ditch and Enclosure' to the southwest of the village adjacent to Newnham Road.
- 4.3.56 The development would consist of two compounds. One containing predominately battery containers, and the other the substation. There would be several ancillary 4m tall buildings within both compounds.
- 4.3.57 Given the siting of the development significantly away from the nearest heritage asset, the existing mature vegetation along the western boundary of the site and a tree line to the north of the site, the proposed development would result in only minimal impact to nearby assets. In conclusion of the matter, the proposed development would comply with both local and national planning policies in respect the historic environment.

Fire Risk:

- 4.3.58 Herts Fire and Rescue (HFRS) have not provided a response to the consultation request. It should be noted that Fire and Rescue are not currently a statutory consultee for BESS applications. The applicant has however been in contact with HFRS who have provided information and advice for minimising the risk of fire on site.
- 4.3.59 The application has been submitted alongside a fire safety management plan document, which provides as overview of the minimum safety features that would be incorporated into the site.
- 4.3.60 The fire safety document sets out that the BESS development will minimise fire risk by procuring components and carry out construction that complies with relevant legislation and best practice guidance, include automatic monitoring and control systems, connect to a manned remote monitoring and control system, include redundancy in the system to provide multiple layers of protection, design the facility to contain and restrict the spread of fire using fire-resistant materials and adequate separation, by working with Herts Fire and Rescue to develop a tactical response that would minimise the risk in the event of fire, and produce a dedicated emergency response plan showing full understanding of hazards, risks, and consequences.

4.4 Planning Balance and Conclusion

- 4.4.1 The proposed battery energy storage facility (BESS) would conflict with Policy CGB1 of the North Hertfordshire Local Plan given that the proposal is not considered to be a modest rural economic development. Whilst the development would conflict with CGB1 of the Local Plan, the BESS is considered to be in the next best location, particularly when taking into consideration the submitted alternative sites assessment document.
- 4.4.2 The above assessment has identified limited harm to landscape character because of the siting of the development. Much of the harm would be mitigated through appropriate landscaping improvements to the site. It is considered that limited weight should be attributed to the limited harmful impacts upon the landscape, given that the harm to the landscape would not be permanent.
- 4.4.3 It is acknowledged that there would be a loss of use for agriculture of Grade 2 agricultural land for a period of 40 years, whilst this a relatively long period the loss of best and most versatile agricultural land would not be permanent because the land would be returned to its current use upon decommissioning of the proposed development. This can be secured by condition. Therefore, limited harm is attached to the loss of agricultural land.
- 4.4.4 No other harm arising from the proposed development has been identified.
- 4.4.5 The development would deliver significant biodiversity gain in both habitat and hedgerow units. Given the biodiversity net gain to be delivered on site, significant positive weight is given in favour of the proposed development.
- 4.4.6 The BESS development would make a significant contribution to energy security by storing surplus energy from the grid and allowing it to be used by grid operators when it is most needed. It is acknowledged that BESS sites can help maximise the output from intermittent low carbon generation, such as from solar and wind. Given the resilience, flexibility, and environmental benefits offered by the BESS development, significant weight is attributed in favour of the proposal.
- 4.4.7 The benefits of the development are considered to outweigh the harm. It is recommended that the proposed development be granted planning permission subject to the inclusion of appropriate conditions and informatives.

5.0 Alternative Options

- 5.1 None applicable

6.0 Pre-Commencement Conditions

- 6.1 It will be confirmed at the meeting whether the applicant agrees with 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 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 conditions:

1. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:
(a) a Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be North Hertfordshire District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply

(<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>).

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

2. 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.

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

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

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

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

5. All development shall be constructed in accordance with the submitted and approved Flood Risk Assessment (Flood Risk Assessment and Surface Water Drainage Strategy, by Ridge, 15 November 2024, reference: 5024440-RDG-XX-XX-RP-C-0501 and revision no. P03).

Reason: To ensure the flood risk is adequately addressed and not increased in accordance with NPPF and Policies of Council: Policy NE8: Sustainable drainage systems (Reducing Flood Risk).

6. 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:

1. A timetable for its implementation.
2. Details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
3. 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 Council: Policy NE8: Sustainable drainage systems (Reducing Flood Risk).

7. Maintenance plan for the ditch to which the surface water is proposed to discharge required to be submitted along with evidence that the ditch is connected to the wider watercourse network for the discharge of surface water from the site. If the ditch is in poor condition, a schedule and timetable of maintenance to restore it will be submitted.

Reason: To ensure the flood risk is adequately addressed and not increased in accordance with NPPF and Policies of Council: Policy NE8: Sustainable drainage systems (Reducing Flood Risk)

8. 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) www.hertfordshire.gov.uk

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 2024.

9. 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 accesses/driveway gradients and associated highway works concerning the visibility splays, etc. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction and completed before occupation of any part of the development.

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

10. 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).

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

- a) Description and evaluation of features to be managed.
- b) Aims and objectives of management in accordance with the Biodiversity Gain Plan for the site.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 30 year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure the proposal has regard for the long term management and maintenance of habitats and ecology within the site, in line with Policy NE2 and NE4 of the Local Plan.

12. No development shall take place (including ground works or vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity), as informed by recommendations made in the September 2024 Ecological Impact Assessment, has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "buffer zones" to be informed by a pre-construction badger survey completed by an experienced ecologist within 6 weeks prior to the commencement of construction.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

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

Reason: To minimise the impact of the construction process on the biodiversity and ecology of the site, in line with Policy NE2 and NE4 of the Local Plan.

13. Prior to commencement of landscape works hereby approved, details comprising plans and particulars shall be submitted to the Local Planning Authority showing precise details of the hard and soft landscaping which shall form part of the development hereby permitted. Any scheme of landscaping details as may be agreed in writing by the Local Planning Authority shall show the existing trees, shrubs, and hedgerows on the site where to be retained and shall include details of:

- A specification of soft landscape works, include a schedule of species, size, density and spacing of all trees, shrubs and hedgerows to be planted.
- areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment.
- paved or otherwise hard surfaced areas including the extent, together with the type and specification of all surfaces.
- existing and finished levels shown as contours with cross-sections, if appropriate.
- specification of all means of enclosure and all boundary treatments, all boundary treatments around the perimeter of the site.
- external lighting on the boundary of, and within the site.

Such details as may be agreed, shall be implemented in their entirety during the first planting season (October to March inclusive) following approval, or in any other such phased arrangement as may be agreed in writing by the Local Planning Authority.

Reason: To ensure adequate control over design and to ensure a satisfactory appearance in the interests of visual amenity in compliance with Policy SP12 of the North Hertfordshire Local Plan.

14. No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a landscape management plan for a minimum of 5 years. This should include:

a) Drawing/s showing the extent of the LMP i.e. only showing the areas to which the LMP applies, areas of private ownership should be excluded

b) Written Specification detailing:

- All operation and procedures for soft landscape areas; inspection, watering, pruning, cutting, mowing, clearance and removal of arisings and litter, removal of temporary items (fencing, guards and stakes) and replacement of failed planting.
- All operations and procedures for hard landscape areas; inspection, sweeping, clearing of accumulated vegetative material and litter, maintaining edges, and painted or finished surfaces.
- All operations and procedures for surface water drainage system; inspection of linear drains, basins and swales, removal of unwanted vegetative material and litter including inlets and outlets.

- c) Maintenance task table which explains the maintenance duties across the site in both chronological and systematic order.
- d) Mechanism for monitoring and review of the management plan and operations.

Reason: To support plant establishment and ensure appropriate management is carried out and to maintain functionality and visual aesthetic in accordance with Policy SP12 of the North Hertfordshire Local Plan.

15. In the event that the development hereby permitted ceases to export electricity for a continuous period of 12 months at any time following the first operations (other than for operational reasons outside the operator's control), or within a period of 40 years following the first operation, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, shall be submitted to the local planning authority for its written approval. The scheme shall include, but not be limited to the following:
- o a programme for the completion of the decommissioning and restoration works,
 - o make provision for the removal of the solar panels and associated above ground works approved under this permission.
 - o the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period,
 - o an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and
 - o details of site restoration measures.

The battery energy storage system, transformers, ancillary equipment, and associated structures shall be dismantled and removed from the site and the land restored to its extant use (agricultural) in accordance with the approved scheme and timescales set out therein.

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

16. Prior to any above ground works, an Emergency Response Plan shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Hertfordshire Fire and Rescue Service. The Emergency Response Plan shall set out measures to facilitate safety during the construction, operation and decommissioning phases of the battery storage facility, including protocols to manage a fire during the operation and decommissioning of the site.

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

Pro-Active Statement:

Planning permission has been granted for this proposal. The Council acted proactively through early engagement with the applicant at the pre-application stage 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.
3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
4. Avoidance of surface water discharge onto the highway: The applicant is advised that the Highway Authority has powers under section 163 of the Highways Act 1980, to take appropriate steps where deemed necessary (serving notice to the occupier of premises adjoining a highway) to prevent water from the roof or other part of the premises falling upon persons using the highway, or to prevent so far as is reasonably practicable, surface water from the premises flowing on to, or over the footway of the highway.
5. 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.

6. Advice about how to prepare a Biodiversity Gain Plan and a template can be found at <https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan>
7. The Biodiversity Gain Plan should be submitted as an 'application for approval of details reserved by condition following grant of planning permission' via the Planning Portal.
8. During the change of use phase, no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00hrs and Sundays and Bank Holidays: no work at any time.
9. Reason: To protect the residential amenity of existing residents in accordance with Policy D3 of the Local Plan.

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APPLICATION SITE

APPLICATION SITE BOUNDARY
8.8 ACRES APPROX.

0m 50m 100m 150m 200m

N

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NOTES
(1) N/A

EQUIPMENT LIST
(1) N/A

DRAWING NUMBER
PR823_001

PROJECT TITLE
RADWELL BURY FARM

PROJECT ADDRESS
RADWELL BURY FARM_SG7 5ES

DATE
12/12/24

PROJECT TYPE
ENERGY DEVELOPMENT

DRAWING TYPE
LOCATION PLAN

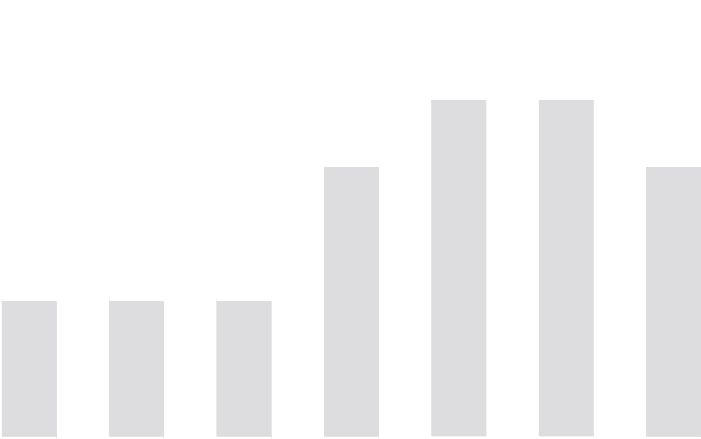
DESIGNER
L.GALE

CHECKED BY & APPROVED BY
C.VICK

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DRAWING PURPOSE
PLANNING

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<u>Location:</u>	25 Milestone Road Hitchin Hertfordshire SG5 2SZ
<u>Applicant:</u>	Mr Alvn Osei-Tutu
<u>Proposal:</u>	Change of use of dwelling to registered residential children's home (C2) to accommodate 3 children with 24hr care staff (amended plans received 6 April 2025)
<u>Ref. No:</u>	25/00012/FP
<u>Officer:</u>	Melissa Tyler

Reason for Delay

COMMITTEE CYCLE

Reason for Referral to Committee

Called in by Cllr Billing - Given the level of public concern and the potential impact on the immediate neighbourhood, I believe there is a clear case of significant public interest.

1.0 Policies

National Planning Policy Framework

The following paragraphs of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 10 and 11 - Achieving sustainable development

Paragraphs 39, 48, 56 and 57 - Decision-making

Paragraph 96 - Promoting healthy and safe communities

Paragraphs 109, 115-118 - Promoting sustainable transport

Supplementary Planning Document.

North Herts Parking SPD

Sustainability SPD

North Hertfordshire District Local Plan 2011-2031 Local Plan and Proposals Map

HS3 Housing Mix

HS4 Supported, Sheltered and older persons housing

D3 Protecting Living Conditions

T2 Parking

2.0 **Site History**

- 2.1 **24/01308/LDCP** Change of use of existing dwelling to children's home (under Class C3b) and conversion of garage into habitable accommodation. **REFUSED**

Reason for refusal: *The proposed use would not fall within C3(b) and is considered to represent a material change of use of the premises, which is development as defined by the Town and Country Planning Act 1990 (as amended). There is no part of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which would apply in this case. The application for a certificate of lawful use is thereby refused by reason of the proposal being development for which planning permission is required.*

- 2.2 **24/01760/LDCP** Use of garage as a habitable room and use of existing house for the provision of care to no more than 3 young people living together as a single household (Class C3b) **GRANTED**

3.0 **Representations**

3.1 **Statutory Consultees**

- 3.2 **Herts Highways** - Hertfordshire County Council as Highway Authority has considered that the proposal is of low scale development therefore the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway consequently has no objections on highway grounds.
- 3.3 **Environmental Health (Noise)** - Further to the submission of the additional information, including the Selection Process and Lumen Home's Referral Guidance, I raise no objections to the proposals subject to a condition requiring any placements at this facility will be done in accordance with this submitted information.
- 3.4 **Crime Prevention Design Advisor – Hertfordshire Constabulary** – raised concerns over layout. However, no further representations have been received following consultation on amended plans.

3.5 **Neighbour Representations**

1 petition has been received and objections from 14 neighbouring residents.

Below is a summary of submitted objections

Concerns About Safety and Suitability:

The change to C2 use introduces a potential for vulnerable or high-risk children, possibly with complex behavioural, mental health, or criminal histories.

There is a nearby bus stop used by elderly residents and young children with no fencing or safeguarding between the stop and the property.

Residents feel anxious, particularly those who are elderly or live alone, due to perceived risks and lack of clarity over supervision protocols.

Incompatibility with the Neighbourhood

The surrounding area consists mainly of long-established families, retirees, and young children. The location is not suitable for a secure unit or children requiring intensive care and oversight.

The property is not close to amenities, services, or transport links that would support the wellbeing and rehabilitation of such children.

Noise and Environmental Impact

Removal of all garden vegetation has significantly impacted privacy and noise buffering, making the area appear institutional and clinical.

Concerns about noise from staff shift patterns and potentially distressed children affecting the peace and enjoyment of neighbours.

Lack of Safeguards and Oversight

No OFSTED registration has been confirmed; if the unit operates without regulation, it raises serious safeguarding questions.

Local residents request transparency about risk assessments and whether the unit meets local housing need.

Reference is made to the Crime Prevention Design Advisor's letter stating they cannot support the application due to potential policing issues.

For-Profit Motive & Escalation of Use

Residents believe the motivation is primarily profit-driven rather than child-focused.

The increase from housing two to three children demonstrates disregard for initial objections and the local community's well-being.

Statistical & National Context

Research indicates higher rates of criminalisation and police callouts for for-profit homes.

National trends show children placed far from home are at increased risk of exploitation and losing support networks.

4.0 Planning Considerations**4.1 Site and Surroundings**

- 4.1.1 No. 25 is a two-storey semi-detached dwelling situated on the east side of Milestone Road and within a predominately residential area of Hitchin. The application property features an existing single storey side and front extension. The site also benefits from 2 off-street car parking spaces.

- 4.1.2 The property currently features three bedrooms and one bathroom at first floor, with general living space on the ground floor and a self-contained 2-bedroom annex with one bathroom and living areas on the ground floor.

4.2 Proposal

- 4.2.1 Planning permission is sought for the change of use of existing residential dwelling (C3) to registered Children's Home (C2)

- 4.2.2 The proposed children's care home would operate as such:

- Up to 3 residents of mixed sex living at the property at any time.
- 24-hour care would be provided – there would be a maximum of 2 full-time carers based at the property at any one time working on a 12-hr shift pattern
- Shift patterns – Handovers would likely be around 8am and 8pm daily
- Parking for 2 cars are required – space for 4 cars on the driveway

As a result of the proposed change of use, no external alterations are proposed

During the consideration of the application the Applicant submitted further clarification on the Selection Process, Noise Management and Referral Guidance (These can be found on the website).

4.3 Key Issues

- 4.3.1 In considering a change of use from dwelling house (Use Class C3) to residential institution (Use Class C2) to accommodate up to 3 children in a small children's home, the relevant planning considerations are:

- Principle of development – definition of use class and material change of use;
- Impact upon local amenity and character of the area – including noise and safe environment; and
- Parking provision.

Principle of Development

- 4.3.2 The application site is in a residential area within the settlement boundary of Hitchin as defined in Policy SP2 of the adopted Local Plan.
- 4.3.3 The proposal seeks to change the existing use of the residential dwelling to a children's care home, for three children, at No. 25 Milestone Road. A Lawful development certificate was issued to confirm the use of the property for the care of children under C3(b) – this was under the condition that the carers live there and the dwellinghouse was their main residence, as in a foster care situation. This application differs because the carers would be working in shift patterns and therefore not part of the household as defined by C3 uses.
- 4.3.4 There is a bus stop outside the property (Route 81) which goes around West Mill and into Hitchin town centre. As such, it is considered that the site is in a location that could be accessed by members of staff via sustainable transport and could be used by the occupiers of the care home if required.

- 4.3.5 In regard to amenities, the property is within a residential area which is approximately 800 metres from the local shops on Redhill Road and close proximately to primary and second schools. The property would also have access to public open spaces with play areas.
- 4.3.6 During the course of the application, concerns were raised in relation to the need for such a use and the lack of provision/space at the dwelling for the use. Regarding need, there are no policies at local or at national level that restricts the number of care homes that can or should be provided within a certain area. In terms of the lack of provision/space for the proposed use, it is considered that the number of individuals at the property would not increase above what could be achieved with the existing use as a residential dwelling and separate legislation would ensure that the needs of the occupants are/can met (for example, OFSTED and Child Services).

Use Class C2 – Residential Institutions

- 4.3.7 A change of use from Use Class C3 to Use Class C2 requires planning permission and is considered on a case-by-case basis depending on the nature of the use, intensity and impact.
- 4.3.8 Given the proposal is that the ‘staff’ are not permanent residents of 25 Milestone Road the use would fall within Use Class C2. The Use Classes Order (as amended) defines C2 as residential institutions. The full description is use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).
Use as a hospital or nursing home.
Use as a boarding school, residential college or residential training centre.
“care” for Use Class C2 is defined as *‘personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment’*. This is within Article 2 of the Use Class Order 1987.

Case Law – C3/C2

- 4.3.9 Established case law forms the basis of determining this application. Relevant to this application is whether a dwellinghouse used to provide residential care for children falls within Class C2 or C3(b). Relevant case law has determined that children cannot be regarded as constituting a household by themselves. The question arises as to whether carers who do not live on the premises but who, between them, provide 24-hour care can be regarded as living together as part of the household. The courts have held that the concept of living together as a household means that a proper functioning household must exist and thus, for the use to fall within Class C3(b), the children and carers must reside in the premises. Otherwise, the use falls within Class C2. Therefore, it is considered that the proposed use in this case falls within Use Class C2.

Impact upon local amenity and character of the area

- 4.3.10 While considering the application occupiers of neighbouring properties raised several concerns over the proposed development and its impact on their residential amenity. No physical development is taking place, the assessment on the impact upon neighbouring amenity relates to the proposed use.
- 4.3.11 Objections have been received from occupiers of neighbouring properties raising concerns relating to general noise and disturbance impacts particularly from 'comings and goings' to and from the property. In the proposal, the number of bedrooms at the property would remain unaltered and it is therefore considered that the number of permanent occupants at the property is unlikely to increase. On this basis I conclude that there will not be a significantly detrimental impact on the neighbouring properties amenities from general activity from and from the property.
- 4.3.12 Furthermore, the applicant has confirmed that no more than 3 children would be permanent residents of the property at any given time. The application included the staff rota which details when staff will be arriving and leaving the property. The shift patterns have been stated by the applicant as follows:
- "A maximum of 2 full-time carers based on the property at any one time working generally on a 12-hour shift basis. Handovers would likely be around 8am and 8pm daily and take a few to 15mins with a maximum of half an hour".*
- 4.3.13 It is considered that this shift pattern would not result in any significantly detrimental noise and disturbance impacts on neighbouring properties amenities as these would coincide with typical movements for the working day and school and would not be significantly difference from the normal patterns of movement from and to a typical family home.
- 4.3.14 Following further information from EH Noise Officer the following information on Noise Management Measures were received -

Noise Management Measures:

- *A structured daily routine will be in place to promote stability and reduce instances of distress or disruption.*
- *Trained staff will be on-site 24/7 to provide appropriate care, de-escalation techniques, and behaviour management strategies to maintain a calm and controlled environment.*
- *Outdoor activities and recreational time will be supervised and scheduled to ensure minimal noise impact, particularly during early mornings and late evenings.*
- *Any concerns from neighbours will be addressed promptly through an open communication channel with management.*
- *A quiet space is available where children can self-regulate in a calming environment instead of engaging in loud or disruptive behaviour.*
- *Staff will be trained in de-escalation techniques to manage emotional outbursts calmly and effectively.*

- *A positive behaviour support plan will be in place, rewarding calm and cooperative behaviour.*

4.3.15 On balance, it is considered that the general noise and disturbance impacts would not be significantly different from that at a family dwelling and therefore refusal of planning permission is not justified for this reason.

4.3.16 Concerns have also been raised during the consideration of this application in relation to anti-social/criminal behaviour. Herts Police in their original consultation response raised several concerns, and particularly the layout of the garage conversion. There was an error on part of the applicant where the wrong existing plans were submitted. The conversion of the garage had already been implemented and the outside door which caused concerns is no longer there. Therefore, those objections have been overcome with the submission of amended plans. Whilst crime and the fear of crime are material planning considerations, the applicant has submitted a selection criteria statement which states that the occupants of the property will follow the below criteria:

Selection Criteria:

- *The home will accommodate children with mild physical disabilities and low to moderate mental health needs, such as ADHD or anxiety.*
- *It will not cater to children requiring forensic or intensive care, those with severe behavioural challenges, or those with a history of high-risk behaviours that could lead to excessive noise or disturbance.*
- *Each child's placement will be subject to a thorough assessment process, ensuring that their needs align with the home's capacity to provide a stable and supportive environment.*
- *Children with extreme behavioural difficulties, persistent aggression, or complex mental health conditions requiring intensive therapy or secure accommodation will not be placed.*
- *Priority will be given to children who are ready for a stable home setting and who can thrive in a community-based care environment.*
- *Each child will undergo a thorough pre-placement assessment to determine their suitability for the home.*
- *Professionals (e.g., social workers, psychologists, and care managers) will assess behavioural history, emotional needs, and compatibility with other residents.*
- *Children who require high levels of crisis intervention, intensive supervision, or specialist forensic care will not be considered*

4.3.17 Therefore it is considered that the proposal is unlikely to result in any additional anti-social/criminal behaviour than what could be generated by the existing residential dwelling. Furthermore, the children's care home is proposed to have 24 hr care with the children not being left unsupervised for any period, unlike a family home where children of this age group may be left at home unaccompanied some of the time. In coming to a recommendation of approval, it is noted that the Council's Environmental Health department have raised no objections to the application subject to conditions.

4.3.18 It is considered that the proposal would not result in significant impacts upon surrounding residential amenity that would warrant refusal of planning permission and on this basis the proposal accords with the general policy aims of Local Plan Policy D3.

Parking provision

4.3.19 Herts Highways have made the following comments:

Vehicle Access: *The property benefits from an existing access off Milestone Road which is an unclassified road and provides local services into the road hierarchy. Para 9.18 and 9.18 of the submitted Design and Access Statement (DAS) has confirmed that no alterations to existing access and parking are proposed.*

Traffic Generation: *Given the proposal, this has been considered not to significantly alter the traffic generation of vehicles to the development.*

Highway Safety: *Vehicle to vehicle inter-visibility and pedestrian visibility is unaffected by the proposal. The present level of visibility from the existing access is acceptable and appropriate for the level of use it will receive and complies with sight stopping distances found in Manual for Streets [Visibility splays at junctions 7.7 and visibility along the street edge 7.8.3]*

Accessibility: *The site lies within easy reach of the village bus route and centre and within commuting distance by an infrequent bus service to other towns and the local railway station at Hitchin.*

4.3.20 As a result of the proposed development, the number of bedrooms (3 - 4) would not increase at the property. The proposed use would see three bedrooms for the children and one room for staff. The Parking SPD states that Use Class C2 – Residential institutions Institutions/homes with care staff on premises at all times (excluding nursing homes, hospitals, residential schools, colleges or training centres) 1 space per 5 residents' bed spaces plus 1 space per 2 staff (non-resident).

4.3.21 There are no specific parking standards for children's care homes in the Local Plan or Parking SPD. Based on the above. It is considered that given the existing dwelling is required to have a minimum of 2 off-street car parking spaces and the small number of people residing at the property are unlikely to have the use of a vehicle given the age of the residents (under 18), the proposal is not considered to result in an unacceptable impact on highway safety or the wider highway network. A condition would be imposed on any planning permission granted to ensure that three off-street car parking spaces are provided in perpetuity. On balance, the proposal is therefore considered to be acceptable in relation to Policies D1 and T2 adopted Local Plan as well as the Parking SPD.

4.4 Conclusion

4.4.1 The principle of development is acceptable. No external alterations are proposed. On balance, it is considered that the proposed change of use would not be significantly detrimental to the amenities of neighbouring residents. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal would comply with the relevant policies in the adopted Local Plan and the NPPF. It is therefore recommended that the application be granted subject to conditions as recommended below.

4.5 **Alternative Options**

None applicable

4.6 **Pre-Commencement Conditions**

I can confirm that the applicant agrees with the pre-commencement conditions that are proposed

4.7 **Climate Change**

None – no physical changes are proposed as part of the application

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.

3. The use hereby permitted shall be for a children's home only and shall not be used for any other purpose falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) without the prior written consent of the Local Planning Authority.

Reason: To control the future use of the site and to assess any potential future impacts of alternative C2 uses.

4. The premises shall be used for a residential childrens' care home for a maximum of three (3) children under the age of 18 at any one time and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 2020 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To restrict the use and Number of occupiers to safeguard the local amenities of neighbouring properties

5. There shall be no more than two (2) members of staff present on the premises at any one time, excluding emergency circumstances.

Reason: In the interest of residential amenity and to limit potential noise and parking impacts.

6. Prior to the occupation of the children's care home hereby permitted, a minimum of three off-street car parking spaces shall be provided for staff members and shall thereafter be kept available solely for the parking of motor vehicles.

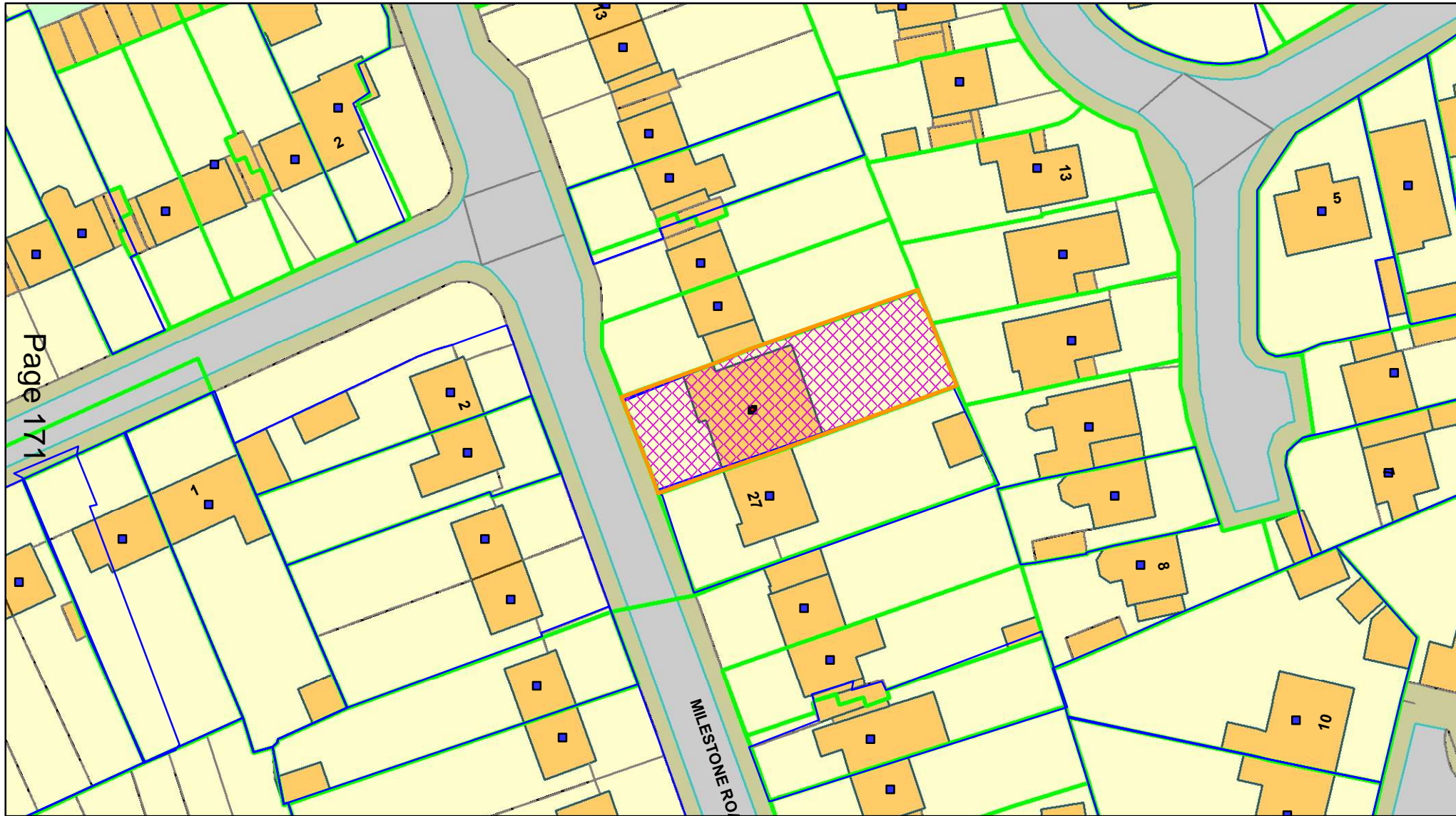
Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development.

7. The development hereby permitted shall be carried out in full accordance with the details, requirements, and mitigation measures set out in the supporting documents submitted with the application, including, Selection Process and Lumen Home's Referral Guidance unless otherwise agreed in writing by the Local Planning Authority. Any deviation from these documents must first be approved in writing by the Local Planning Authority.

Reason: To ensure the development is carried out as assessed and approved and to secure compliance with submitted details.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively with the applicant which led to amendments 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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<u>Location:</u>	Morrisons Superstore Broadway Letchworth Garden City Hertfordshire SG6 3TS
<u>Applicant:</u>	
<u>Proposal:</u>	Installation of EV charging zones, including the erection of sub-station enclosure, LV panel, meter cabinet and associated works.
<u>Ref. No:</u>	25/00466/FP
<u>Officer:</u>	Henry Thomas

Date of expiry of statutory period: 29/04/2025

Extension of statutory period: TBC

Reason for Delay: Awaiting an available committee meeting.

Reason for Referral to Committee: The application has been called in by Cllr Claire Winchester for the following reasons:

“The nearby residents have made it clear that they wish this to be called in on the grounds that they will face a significant impact on their living conditions (privacy, noise, headlights etc.). Ground levels either side of the boundary are in some cases quite different, leading to particular concerns You mentioned in your previous email about limited hours of operation, but it isn’t clear how that would be enforced at an EV charge facility in an open carpark

The residents also feel strongly that the application as it stands represents a detrimental impact on the character and appearance of the area. Other facilities operated by the same provider have large areas of garish backboards, signage and other structures around the charging posts themselves.

And finally, residents feel that there may be an equalities issue regarding siting an EV charge facility at the far end of the car park from the store, in that users with a disability will be discriminated against. A preferred option would be to site the chargers nearer to existing disabled parking bays, giving a shorter distance to travel to the store.”

1.0 **Site History**

- 1.1 24/01035/FP - Installation of EV charging zones, including the erection of sub-station enclosure, LV panel, meter cabinet and associated works (amended plans received 17.06.2024).
Refused.
- 1.2 24/00736/FP - Installation of EV charging zones, including the erection of sub-station enclosure, LV panel, meter cabinet and associated works.
Withdrawn.
- 1.3 19/00227/FP - Glazed screens and sliding doors to existing open lobby and replacing existing carpark trolley corrals with enclosed trolley shelters.
Conditional Permission.
- 1.4 18/03180/FP - Installation of glazed screens in lieu of existing open metal panels to existing garden centre.
Conditional Permission.
- 1.5 18/02047/FP - Change of use of 9 parking spaces to hand car wash and valeting operation including the installation of a cabin and erection of a canopy.
Refused.
- 1.6 17/00601/1 - Retention of all equipment and signage related to the implementation of a car park management system (as amplified by drawing C-15448-002B received 27/04/2017).
Unconditional Permission.
- 1.7 06/00719/1 - Replacement of existing trolley bays with trolley shelters in supermarket car park
Conditional Permission.

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 SP6: Sustainable transport

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 ETC3: New retail, leisure and other main town centre uses

Policy T1: Assessment of transport matters

Policy T2: Parking

Policy D1: Sustainable design

Policy D3: Protecting living conditions

Policy D4: Air quality
Policy HE1: Designated heritage assets

2.2 **Supplementary Planning Documents**

Design SPD
Sustainability SPD

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

Section 2: Achieving sustainable development
Section 7: Ensuring the vitality of town centres
Section 9: Promoting sustainable transport
Section 12: Achieving well-designed places
Section 14: Meeting the challenge of climate change, flooding and coastal change
Section 16: Conserving and enhancing the historic environment

3.0 **Representations**

3.1 **Site Notice and Neighbour Notification** – 6 representations have been received in objection. Their comments are summarised as:

- Light pollution / harm to neighbour amenity.
- Harm to street scene
- Lack of risk assessment – recent fire at Heathrow's substation
- Noise impact.
- Lack of disabled spaces
- Speculation it may be used to facilitate a future petrol station
- Would disadvantage petrol stations within the area.
- Morrisons already has EV charging points
- Any built structure would harm neighbouring amenity.
- Concerns with the noise report.
- Devaluation of neighbouring homes.
- Breach of deeds
- Concerns whether EV chargers would be in operation 24 hours.
- Located too close to neighbouring houses.
- Located too far from the store.
- Electromagnetic Field Radiation emission, contrary to National Grid 75m recommendation.
- Traffic and parking impact.
- Harm to the conservation area.

In addition to this, neighbours have also referred to a few documents -

- House of Lords Library - European Convention of Human Rights Article Eight & UK Interpretation
- Office for Zero Emissions Vehicles – Minimum Requirements for physical ChargePoint Design

3.2 **Environmental Health (Noise and Other Nuisances)** – no objection subject to recommended condition for restricted hours of operation.

3.3 **Letchworth Garden City Heritage Foundation** – None received.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 Morrisons Superstore is a large supermarket and car park located between Station Way and Broadway within Letchworth town centre. The site has vehicle access onto both roads and is within the Letchworth Conservation Area.

4.1.2 The proposed development would be sited to the northwest corner of the supermarket site and is adjacent to Station Way. The site is currently in use as an existing commercial car park for the Morrisons superstore. The car park is separated by a footpath from residential dwellings to the west. The closest of which sits approximately 5.8m away.

4.2 **Proposal**

4.2.1 Planning permission is sought for the installation of 4 EV charging points serving 8 EV charging bays, an enclosed substation, meter cabinet, LV Panel.

4.2.2 The proposal is a resubmission of 24/01035/FP which was refused for the following reason:

“The proposed acoustic fence which would be required to mitigate the noise impact of the EV chargers for the neighbouring dwellings, would result in an overbearing and overshadowing impact on the public footpath and would fail to enhance the character and appearance of the surrounding area contrary to Policy D1 of the NHLP 2011-2031 and Section 12 of the NPPF 2024.”

4.2.3 The applicant has undertaken a new noise assessment which supports the omission of the acoustic fence.

4.2.4 Although it was raised following the previous refusal whether the proposed development would benefit from being relocated further into the site where it may sit adjacent to the Morrison’s building itself and further from the neighbouring dwellings. The applicant has declined and seeks determination in this location.

4.2.5 The dimensions are approximately:

- Meter Cabinet: 1.273m tall, 1.065m wide and 0.54m deep.
- LV Panel unit: 2.45m tall, 3m wide and 2.6m deep. Finished in a light grey colour.
- Substation: 2.57m tall, 2.8m wide and 2.8m deep with an antenna reaching 2.71m tall. Finished in a light grey colour.
- EV charging posts: 2.236m tall, 0.732m wide and 0.854m deep.

4.3 Key Issues

4.3.1 The key issues for consideration are as follows:

- The principle of the proposed development.
- The acceptability of the design of the proposed development and its resultant impact on the character and appearance of the area.
- The impact on the living conditions of neighbouring properties.
- The impact on car parking provision in the area.
- The impact on the environment.
- The impact on the character and appearance of the Conservation Area.

Principle of the Proposed Development / sustainability:

- 4.3.2 The NPPF sets out in paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 confirms that there are three overarching objectives to sustainable development: economic, social, and environmental, which are interdependent and need to be pursued in mutually supportive ways. Paragraph 117 of the NPPF states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible, and convenient locations.
- 4.3.3 Policy SP11 supports proposals for renewable and low carbon energy development in appropriate locations, stating that *“to assist in securing radical reductions in greenhouse gas emissions, the Council is required to help increase the use and supply of renewable and low carbon energy. Proposals for renewable and low carbon energy will be favourably considered subject to consideration of the impacts.”*
- 4.3.4 Policy SP6 supports development that promotes the use of sustainable transport modes stating that we will *“seek the earliest reasonable opportunity to implement sustainable travel infrastructure on Strategic Housing Sites and other development sites in order to influence the behaviour of occupiers or users”*
- 4.3.5 The application site is a car park for a supermarket (Morrisons) within the town centre of Letchworth Garden City. There are other EV charging stations within the southern area of the car park which set a precedent for this form of development. The proposed development would support the growth of the existing business on site. As such, it is considered that the principle of development within this location within Letchworth town centre would be acceptable.
- 4.3.6 The proposal therefore complies with policies SP6, SP11 and D6 of the Local Plan and sections 2 and 9 of the NPPF.

Design and Appearance:

- 4.3.7 Section 12 of the National Planning Policy Framework (NPPF) aims to achieve well designed places through good design. Paragraph 130 of the NPPF sets out that planning decisions should ensure that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, and are sympathetic to local character and history. These principles are reflected within Policy D1 of the North Hertfordshire Local Plan 2011-2031.

- 4.3.8 The proposed charging units and substations would be conventional for such development. The substation, PV Panel Unit, meter cabinets and charging points would be of a size that would be visible within the immediate area. However, in the context of the wider car park and services site, the proposed EV charging area would not be out of character as such facilities exist in the car park and are now commonplace in general. The height and size of the charging points and substations are small in comparison to the buildings around the site.
- 4.3.9 The units would have some screening in the form of a low wall and trees to the northern boundary which would reduce their visibility from Station Road. In the circumstances, I consider that the proposed infrastructure would not appear out of place or be visually harmful
- 4.3.10 The proposal complies with Policies D1 and NE2 of the Local Plan, and Section 12 of the NPPF.

Impact on Neighbouring Amenity:

- 4.3.11 A core planning principle set out in the NPPF is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This principle is reflected in the provisions of Policy D3 of the Local Plan.
- 4.3.12 The application site is neighboured by No. 49 Station Way to the west of the site who has raised an objection to the proposed development. The dwelling is set at a lower ground level, sits approximately 5.3m from the car park and is separated by a footpath. In my view, the charging posts are modest in scale and would be set back sufficiently from the development to be considered overbearing or contribute to any loss of light. The proposed substation and LV Panel would be set further away from this neighbour and therefore would not have a significant visual impact.
- 4.3.13 The application is accompanied by a Noise Impact Assessment which includes details of an ambient noise survey undertaken to measure the existing noise climate around the site; and a prediction of noise impacts at the most affected noise sensitive receptors based upon the possible operation of the plant between 7am and 10pm every day. The Council's Environmental Health (Noise) have not raised any objections to the proposed noise output of the substation and chargers based on the noise assessment. The noise assessment indicates that there would not be any significantly harmful noise impact upon the neighbouring dwellings and no lighting has been proposed. Whilst Officers consider that a different location for the proposals would be preferable, to minimise impact upon neighbours, nevertheless, the proposed development would not have a significantly harmful impact upon the living conditions of occupiers of neighbouring dwellings to justify refusal of planning permission subject to the condition recommended by Environmental Health to limit hours of operation from 7am – 10pm on any given day.
- 4.3.14 In conclusion on this matter, the proposed development would, on balance, not result in any unacceptable overbearing impact, loss of light or privacy to other nearby neighbouring occupiers or lead to an unacceptable noise environment that would cause significant harm to the living conditions of occupiers of nearby residential properties.

Impact on Parking and Highways:

- 4.3.15 The proposed development would result in the net loss of nine car parking spaces and one trolley bay in total when including the proposed EV spaces within the calculation. Officers consider that given the large size of the car park and the benefits that would arise from providing additional EV charging, this loss would be acceptable.
- 4.3.16 The site and proposal are outside of the public highway network and would not affect highway safety or the capacity of the local highway network. The Highway Authority has not objected to the proposed development. The proposal will not obstruct vehicle circulation in the car park. Therefore, it is concluded on this matter that there would not be an adverse impact upon car parking or highway safety and therefore the proposal complies with Policies T1 and T2 of the Local Plan, and Section 9 of the NPPF.

Environmental Matters

- 4.3.17 The proposal seeks to retain the trees along the boundary. 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.

Biodiversity Net Gain

- 4.3.18 The existing site is a car park with limited existing habitat space, as such the proposed development is 'de minimis' and would not exceed the threshold of 25 sqm of on-site habitat, or /and less than 5 meters of linear habitats. This application is therefore exempt from BNG legislation defined under article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

Impact upon the character and appearance of the conservation area

- 4.2.19 The site lies within Letchworth Conservation Area. 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 of that area. The NPPF identified Conservation Areas as designated heritage assets. Local Plan Policy SP13 addresses the historic environment and 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. In addition, Local Plan Policy HE1 considers designated heritage assets, such as conservation areas and listed buildings, and confirms that planning permission will be granted for development proposals affecting designated heritage assets subject to criteria including that where a development would lead to less than substantial harm to the significance of the designated heritage asset, this harm is outweighed by the public benefits of the development, including securing the asset's optimum use.

- 4.2.20 The proposed development would be within a supermarket car park. The supermarket building is well-designed and whilst the supermarket and associated car park does not significantly detract from the heritage significance of the conservation area, it does not make a material positive contribution, nor would the proposed development. As indicated earlier in this report the proposed development would not appear incongruous within its context, and as such it is considered that the character and appearance of the conservation area would be unharmed by the proposal.
- 4.2.21 Therefore, it is considered that the character and appearance of the conservation area would be preserved, and that the proposal would not conflict with Local Plan Policies SP13 and HE1.

Other Matters

- 4.3.22 With regard to the additional documents submitted. Planning decisions can significantly impact human rights, particularly the right to respect for private and family life. However, these rights must be balanced against other material considerations, and this will be a planning judgement. Whilst concerns raised relating to them have been considered in the planning balance it is considered the human rights of nearby residents would not be significantly affected by the proposed development to the extent that planning permission should be withheld. The 75m National Grid recommendation applies to large scale substations and is therefore not applicable in this case.

4.4 **Conclusion**

- 4.4.1 The proposed development would comply with the Local Plan and the National Planning Policy Framework. Therefore, planning permission should be granted subject to conditions.

4.5 **Alternative Options**

- 4.5.1 N/A

4.6 **Pre-Commencement Conditions**

- 4.6.1 N/A

5.0 **Recommendation**

- 5.1 That planning permission be **Granted** subject to the following:

BNG Statement

This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

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.

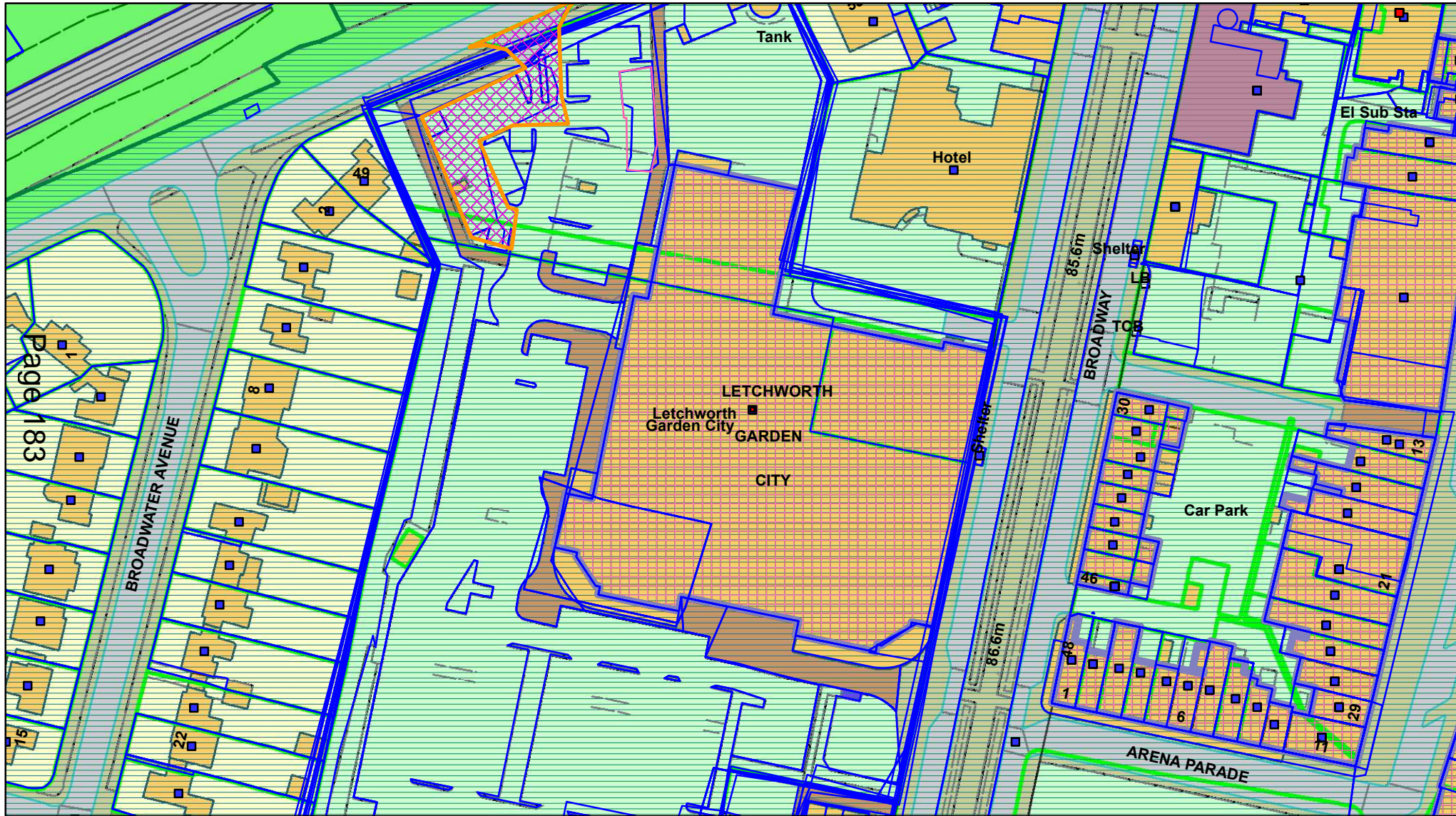
3. The use hereby permitted (EV Chargers) shall not be open to customers outside the following times:
07.00hrs to 22.00hrs on any given day.

Reason: To protect the amenity of existing residents and in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

Proactive Statement

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

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**PLANNING CONTROL COMMITTEE
PLANNING APPEALS LODGED**

DATE: 19 June 2025

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mr And Mrs J Horsted	02 April 2025	Two storey side extension. Alterations to fenestration	The Garden House Putteridge Park LU2 8LD	24/02693/FPH	Householder Appeal Service
Mr Parm Basra	03 April 2025	Erection of one self-build detached 3-bed bungalow with associated parking and landscaping	10 St Katherines Close Ickleford SG5 3XS	24/02752/FP	Written Representations
D&A Architectural & Structural	09 April 2025	Change of use of existing site from agricultural to use Class B8 (Storage and Distribution). Extensions and alterations to existing barns; erection of detached temporary structure of three years and supporting substation and concrete base. Installation of hardstanding for outside storage and parking and installation of electric front entrance gates. Drainage pond and associated outfall pipe, alterations to surface access track (Development has commenced).	Church Wood Three Houses Lane Codicote	24/02343/FP	Written Representations
Mr Bruce Parker	22 April 2025	Erection of one detached 2-bed farm workers dwelling.	Land At New Pound Farm East Side Of Old Hale Way Hitchin SG4 0SA	24/02009/FP	Hearing

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PLANNING CONTROL COMMITTEE

DATE: 19 June 2025

PLANNING APPEALS DECISION

APPELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APPEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Mr J Northern	Erection of four link-detached 3-bedroom dwellings with garaging, access and landscaping.	Downs Barns Ashwell Road Bygrave Baldock Hertfordshire SG7 5EE	24/00151/FP	Appeal Allowed on 08 April 2025	Delegated	The Inspector concluded that the proposed development would satisfy all the relevant criteria of paragraph 155 of the Framework. For this reason, the proposal would not be inappropriate development in the Green Belt. The Inspector stated that, in part owing to its urbanising influence in a rural location, the proposal would cause harm, albeit limited in extent, to the character and appearance of the area. It would thus conflict with North Hertfordshire Local Plan 2011-2031(NHLP) Policies SP9 (Design and Sustainability) and D1 (Sustainable design), which support development that is well designed and responds positively to its local context. Overall, the Inspector found that the limited harm arising from the proposal being at odds with the character and appearance of the area would not significantly and demonstrably outweigh the benefits of the

						proposal. Thus, in this case, the presumption in favour of sustainable development is applicable and material considerations justify allowing the appeal.
Mr & Mrs A Del Basso	<p>Removal of condition 9 of planning permission 23/00505/S73 granted 20.04.2023 for the erection of one detached four bedroom dwelling with associated access, car parking and hard and soft landscaping following the demolition of existing structures and hardstanding.</p> <p><i>The condition in dispute is No 9 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no enlargement as set out in Class A, and no development under Class E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be</i></p>	Glencoe Villa Snailswell Lane Ickleford SG5 3TS	24/01868/S73	Appeal Dismissed on 30 April 2025	Delegated	The Inspector that the development under Class A Part 1 and Class E Part 1 of the GPDO would likely cause substantial harm to the openness of the Green Belt and conflict with Policy SP5 (Countryside and Green Belt) of the NHLP and fail to accord with paragraph 154(g) of the Framework. This would amount to the clear justification to restrict Class A and Class E of Part 1, Schedule 2 of the GPDO.

	<i>carried out without first obtaining a specific planning permission from the Local Planning Authority.</i>					
Mr Colin Gore	Outline Planning Application for one detached dwelling and garage following demolition of existing water tower (all matters reserved)	Pirton Water Tower Priors Hill Pirton	24/00403/OP	Appeal Dismissed on 08 May 2025	Delegated	The Inspector concluded that that the appeal scheme would fail to accord with the aims of the Chiltern's Area of Outstanding Natural Beauty Management Plan 2019-2024 and the Pirton Neighbourhood Plan 2011-2031 insofar as they seek to conserve and enhance the Chilterns National Landscape. Regarding the demolition of Pirton Water Tower, the appeal scheme would result in the loss of the significance of Pirton Water Tower as a non-designated heritage asset (NDHA) though its demolition. Consequently, the appeal scheme would conflict with Policy HE3 (Non-designated heritage assets) of the NHLP insofar as it seeks to ensure that any development which results in the loss of a NDHA would contribute to preserving the local character and distinctiveness of the area.
Mr Nav Nagra	Installation of external insulation and cladding. (Development already carried out).	32 - 33 Nightingale Road Hitchin	24/02370/FP	Appeal Allowed on 12 May 2025	Delegated	The Inspector concluded that the cladding does not harm the character and appearance of the area and host property.

		Hertfordshire SG5 1QU				Accordingly, there is no conflict with Policy D1 (Sustainable design) of the NHLP. This, amongst other matters, requires development to respond positively to the site's local context.
Ms Amanda Mills	Erection of one detached one bedroom dwelling with all matters reserved	Land To The Rear Of 18 Victoria Road Hitchin Hertfordshire SG5 2LS	24/00839/OP	Appeal Dismissed on 15 May 2025	Delegated	The Inspector stated that the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies SP9 (Design and Sustainability) and D1 (Sustainable design) of the NHLP. Together, these policies seek new development to be well-designed, responding positively to local context. It would also conflict with the aims of the Framework insofar as it seeks development to be sympathetic to local character. The Inspector also stated that the proposed development would result in unacceptable harm to the living conditions of neighbouring occupiers at No 17. It would fail to accord with Policy D3 (Protecting living conditions) of the NHLP. This requires proposals not to cause unacceptable harm to living conditions of nearby occupiers.
Chalkdene Developments	Proposed residential development for 42	Land East Rhee Spring	21/01882/FP	Appeal Allowed on	Committee	The Inspector stated that the delivery of 42 houses would help

LLP	dwellings, access, parking, landscaping and associated works, including provision of an electrical sub-station (as amended by plans and documents received 23.08.2022, 29.09.2022, 20.12.2023 and 27/02/24).	And Orwell View, Royston Road, Baldock		20 May 2025		to address the recognised housing delivery shortfall. Indeed, small and medium sized sites can make an important contribution towards meeting the housing requirement of an area. This site would deliver homes suitable for families. The Inspector afforded the delivery of market housing significant weight. Although the provision of affordable housing would be limited to two affordable housing units at present, there remains scope for a greater number of affordable housing units to be delivered, subject to further appraisal once the review mechanism is triggered.
Mr Neil Tennant	Erection of one detached 3-bed dwelling including installation of vehicular crossover. (Amended plan received 09/05/24).	Land At 51 Beech Way Blackmore End AL4 8LY	24/00797/FP	Appeal Dismissed on 23 May 2025	Delegated	The Inspector concluded that the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies SP9 (Design and Sustainability) and D1 (Sustainable design), of the NHLP These seek with respect to this issue, for development to be well designed by responding to local context. The Inspector also stated that the proposed development would result in unacceptable harm to the living conditions of neighbouring occupiers at No 01. It

						would fail to accord with Policy D3 (Protecting living conditions) of the NHLP. This requires proposals not to cause unacceptable harm to living conditions of nearby occupiers. In addition the proposed development would not provide a suitable living environment for future occupiers with regard to outlook and light. Therefore, the proposal would conflict with NHLP Policy D3 which requires proposals do not cause unacceptable harm to living conditions.
Mr And Mrs J Horsted	Two storey side extension. Alterations to fenestration	The Garden House Putte ridge Park LU2 8LD	24/02693/FPH	Appeal Dismissed on 23 May 2025	Delegated	The Inspector concluded that the very special circumstances necessary to justify the development do not exist. The proposed development would therefore conflict with NHLP Policy SP5 (Countryside and Green Belt) and with national policy set out in the NPPF, 2024



Appeal Decision

Site visit made on 21 January 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th April 2025

Appeal Ref: APP/X1925/W/24/3347012

Downs Barns, Ashwell Road, Bygrave, Baldock SG7 5EE

- 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 J Northern against the decision of North Herts Council.
 - The application Ref is 24/00151/FP.
 - The development proposed is the erection of four link-detached three-bedroom dwellings with garaging following the demolition of the existing commercial storage buildings.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of four link-detached three-bedroom dwellings with garaging following the demolition of the existing commercial storage buildings at Downs Barns, Ashwell Road, Bygrave, Baldock SG7 5EE in accordance with the terms of the application, Ref 24/00151/FP, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024, and I have had regard to this in my decision. The main parties were invited to provide comments on the revised Framework and the comments received have been taken into account in my determination of the appeal.
3. The proposal before me follows a recent planning permission¹ for the construction of three link detached dwellings on the appeal site. The evidence confirms that this permission has been implemented. In my site visit, I observed that construction works were at a very advanced stage and three dwellings have been constructed (although not yet occupied) following the demolition of a former commercial storage building. Therefore, whilst a four dwelling scheme is before me, I am effectively considering a proposal for one additional dwelling to the northern end of the already constructed block and one additional single garage to the southern end, including a reconfiguration of external areas upon a slightly enlarged site when compared to that of the three-unit permission. For the avoidance of doubt, I shall determine the appeal on this basis.
4. Plan PO9 (Complete Front and Rear Elevations) is not listed on the Council's Decision Notice as a refused plan. However, as it is consistent with other proposed plans, I am content to consider it as a plan for formal determination and am

¹ LPA Ref: 22/01410/FP

satisfied that no party with a potential interest on the outcome of the appeal is prejudiced by this approach.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the relevant development plan policies, the provisions of the Framework and the effect on the openness of the Green Belt; and
- the effect of the proposal on the character and appearance of the area.

Reasons

Whether inappropriate development

6. The appeal site is located within the Green Belt. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
7. Policy SP5 of the North Hertfordshire Local Plan 2011-2031 (LP) states that development proposals in the Green Belt will only be permitted where they would not result in inappropriate development or where very special circumstances have been demonstrated. This policy is broadly consistent with the Framework.
8. Paragraph 155 of the Framework includes that the development of homes in the Green Belt should not be regarded as inappropriate where all the following apply: a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; b) there is a demonstrable unmet need for the type of development proposed; c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and d) where applicable the development proposed meets the 'Golden Rules' requirements. I will consider each point in turn.
9. The Framework defines grey belt as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes a), b), or d) in paragraph 143.
10. The evidence indicates that before the dwellings were constructed there was a commercial building on site, and there is no dispute that the site constitutes previously developed land. In any event, the characteristics and location of the site dictate that the land in question does not strongly contribute to any of the Green Belt purposes a), b) or d), as set out at paragraph 143 of the Framework. Therefore, as grey belt land would be utilised and the purposes (taken together) of the remaining Green Belt would not be fundamentally undermined, the proposal would satisfy criterion a).
11. The Council cannot currently demonstrate a five-year supply of deliverable housing sites, which identifies a demonstrable unmet need for housing. As such, criterion b) would be met in this case.
12. The appeal site lies in a rural location where the range of shops or other facilities is modest. However, the site is not far from Baldock and the strategic site BA1 North

of Baldock, as set out in the LP, is also nearby. The evidence indicates that once developed, BA1 will have a large range of community facilities and services, including schools. There is also a bus stop outside of the site entrance which offers services to/from various locations that include Baldock. The Framework recognises that transport solutions will vary between urban and rural areas. On this basis, the development would be in a sustainable location having particular regard to paragraphs 110 and 115 of the Framework and the proposal would therefore accord with criterion c).

13. For completeness, the proposed development is not major development, and therefore the requirement of criterion d) of the Framework, to satisfy the 'Golden Rules', is not applicable to the appeal proposal.
14. The proposed development would satisfy all the relevant criteria of paragraph 155 of the Framework. For this reason, the proposal would not be inappropriate development in the Green Belt. On this basis, there is no need for me to consider other possible exceptions under paragraph 154 of the Framework. Further, the exception at paragraph 155 does not expressly state a need to assess the development's effect on Green Belt openness. Thus, consistent with footnote 55 of the Framework, the proposal should not be regarded as harmful to the openness of the Green Belt. For the avoidance of doubt, as not inappropriate, the proposed development would achieve compliance with LP Policy SP5.

Character and appearance

15. The pattern of development in Ashwell Road is informal and generally characterised by modestly-scaled houses on a semi-detached or short-terraced arrangement. The organic pattern to the built form means the forward and rear building lines tend to be irregular and the dwellings have varying setbacks from the road.
16. There are undeveloped parcels of land opposite the site which are bound by hedges and trees. The properties along the road have soft-landscaped frontages. The mature soft boundary treatments give this area a verdant character and form an important element in the street scene in terms of the overall visual quality of the area. Development along Ashwell Road is surrounded by agricultural fields, so the road is set within a rural landscape. The appeal site bookends the residential development along this side of Ashwell Road, so it is prominent in views when approaching from the south.
17. The additional two-storey dwelling would be positioned to the north of the approved trio of dwellings, so it would result in a more formal layout with a wide and linear form of development. This, in combination with an extended expanse of hardstanding across the frontage of the link-detached row, would exert an urbanising effect and detract, to some degree, from the surrounding pattern of development which is more informal. I also note here that there is no longer a commercial presence at the site to guide my character and appearance considerations.
18. As the proposal would spread development across most of the width of the site, the landscape buffer previously approved would be lessened and the gaps between the buildings and the side boundaries would be relatively modest. This would limit the opportunities to provide generous structural planting to assist with integrating the proposal with the rural surroundings. Even so, the additional

dwelling would be finished to match the appearance of other dwellings within the same link-detached row and be setback from Ashwell Road such that the visibility of it would be constrained. Further, the additional comings and goings fairly anticipated to be generated by one further dwelling would be minor. Accordingly, the scheme's adverse effects would be limited.

19. Nevertheless, in part owing to its urbanising influence in a rural location, the proposal would cause harm, albeit limited in extent, to the character and appearance of the area. It would thus conflict with LP Policies SP9 and D1, which support development that is well designed and responds positively to its local context.

Planning Balance

20. Based on the evidence before me, it is my understanding that the Council is currently able to demonstrate a 3.9 year supply of deliverable housing sites. In such circumstances, where policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development, paragraph 11 d) ii) of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to specified key policies.
21. In terms of benefits, the proposed development would contribute to the Council's housing stock and would meet the Framework's objective of boosting the supply of housing. In the context of a significant supply shortfall, the delivery of one additional dwelling upon previously developed land attracts considerable weight as a scheme benefit.
22. While there might be some ecological enhancements, given that the proposal would reduce the landscaping buffer that has been permitted in association with the extant three-unit scheme, these would likely be modest and therefore attract limited weight in favour of the proposal.
23. On the other hand, I have found that the proposal would be harmful to the character and appearance of the area. Indeed, the Framework promotes well-designed places and sets out that the intrinsic character and beauty of the countryside should be recognised in decision-making. These aims are reflected by the detailed provisions of LP Policies SP9 and D1. Whilst these policy conflicts are attractive of full weight, I attribute limited weight to the associated harm that I have identified for the reasons that are set out above.
24. Overall, I find that the limited harm arising from the proposal being at odds with the character and appearance of the area would not significantly and demonstrably outweigh the benefits of the proposal. Thus, in this case, the presumption in favour of sustainable development is applicable and material considerations justify allowing the appeal.

Conditions

25. I have considered the Council's suggested conditions in light of the advice contained within the Framework and the Planning Practice Guidance. I have undertaken some minor editing, in the interests of precision and clarity and in

recognition that three of the four proposed dwellings have already been constructed and have added others.

26. Since three dwellings have already been constructed, it is not necessary to impose the condition relating to the standard time limit for implementation. A condition is necessary to require the development to accord with the approved plans, as this provides certainty.
27. In the interests of protecting the character and appearance of the area it is necessary to secure details of external facing materials and landscaping, as well as landscape maintenance provisions. For the same reason a condition removing permitted development rights for extensions and alterations to the buildings would also be necessary.
28. 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, a condition regarding land contamination is necessary.
29. To prevent harm to protected species and in the interests of nature conservation, I have imposed a condition requiring the development to be carried out in accordance with the Ecological Impact Assessment. To encourage the use of low emission vehicles I have attached a condition requiring the provision of an electric vehicle charging points on site. In order to address climate change I have imposed a condition regarding energy measures. In the interests of highway safety, a condition requiring parking facilities to be provided and thereafter retained is reasonable. In the interests of sound surface water management an associated scheme is reasonable to condition.
30. Statutory biodiversity net gain (BNG) has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to BNG. Since the application is dated 22 January 2024, it would not be reasonable to impose the biodiversity condition suggested by the Council.

Conclusion

31. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

P Terceiro

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PO1, PO2, PO3, PO5, PO6, PO7, PO8 and PO9.
- 2) The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures specified in the submitted 'Ecological Impact Assessment' by Green Environmental Consultants dated September 2021.
- 3) (a) Prior to the commencement of development of Dwelling 4 (as depicted upon approved plan PO1) hereby permitted, a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors shall be submitted to and approved in writing by the local planning authority. It shall identify the current and past land uses of this site (and adjacent sites) with a view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

(b) If the local planning authority is of the opinion that the report which discharges condition (a) above indicates a reasonable likelihood of harmful contamination, then Dwelling 4 shall not 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) Other than the development that is necessary for the discharge of this condition, Dwelling 4 shall not 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) Dwelling 4 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 Dwelling 4.
- 4) Dwelling 4 shall not be constructed above ground level until samples of all external facing materials have been submitted to and approved in writing by the

local planning authority. The development shall be carried out in accordance with the approved sample details.

- 5) Dwelling 4 shall not be constructed above ground level until measures to reduce carbon emissions arising from the development particularly in terms of heating and energy systems to be installed have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Dwelling 4 shall not be constructed above ground level until full details of all hard and soft landscaping and boundary treatment (including walls / fences both within the courtyard and around the site perimeter) have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first occupation of the development.
- 7) 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 completion of the development, whichever is 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.
- 8) Prior to occupation, each new dwelling hereby permitted shall incorporate an Electric Vehicle (EV) ready charging point.
- 9) Before the occupation of any of the dwellings hereby permitted, the car parking facilities shown on the approved plans shall be marked out and made available and shall thereafter be kept available solely for the parking of motor vehicles.
- 10) Before the development hereby permitted is first occupied, a scheme demonstrating how surface water is to be suitably disposed of shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the submitted details unless otherwise agreed in writing by the local planning authority.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no development as set out in Classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the local planning authority.

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Appeal Decision

Site visit made on 18 February 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 APRIL 2025

Appeal Ref: APP/X1925/W/24/3353630

Glencoe Villa, Snailswell Lane, Ickleford, Hertfordshire SG5 3TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs A Del Basso against the decision of North Hertfordshire District Council.
 - The application Ref is 24/01868/S73.
 - The application sought planning permission for the erection of one detached four-bedroom dwelling with associated access, car parking and hard and soft landscaping following the demolition of existing structures and hardstanding. Without complying with a condition attached to planning permission Ref 23/00505/S73 dated 19 April 2023.
 - The condition in dispute is No 9 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no enlargement as set out in Class A, and no development under Class E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.*
 - The reason given for the condition is: *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 the openness of the Green Belt.*
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published in December 2024. The parties have been provided with the opportunity to comment on the implications of the revisions to their cases. I have taken account of the revised Framework, and any comments made, in my determination of the appeal as necessary.

Background and Main Issue

3. Planning permission was granted for the erection of one detached four-bedroom dwelling with associated access, car parking, hard and soft landscaping.¹ The approved scheme was found to be not inappropriate development in the Green Belt. The appellant subsequently had a variation of condition application granted in April 2023². The appeal before me seeks to vary condition nine of the previously granted variation of condition permission.

¹ Planning Application Ref: 22/00172/FP

² Planning Application Ref: 23/00505/S73

4. The Council indicates that condition nine is necessary to ensure that the proposal remains acceptable in Green Belt terms, particularly with regard to maintaining the openness of the Green Belt.
5. The Decision Notice and Officer Report indicate that removing the condition would likely have a harmful impact on the openness of the Green Belt. Given this background, the effect of the proposal on the Green Belt is a relevant matter for consideration.
6. Taking into account the background, the main issues are, the effect of the development, without the condition in place, on:
 - the Green Belt, including (i) whether or not the proposal would be inappropriate development in the Green Belt and if relevant (ii) the effect upon the openness of the Green Belt, and
 - if the development is inappropriate, whether any 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 development.

Reasons

Green Belt

7. The appeal site is identified as being located in the Green Belt. Accordingly, Policy SP5 of the North Hertfordshire Local Plan 2011-2031 (the LP) seeks to restrict inappropriate development in accordance with the Framework. The Framework establishes that inappropriate development is by definition harmful to the Green Belt. Therefore, inappropriate development should not be approved except in very special circumstances.
8. Paragraph 154(g) of the Framework indicates that the construction of new buildings in the Green Belt should be regarded as inappropriate, except for a number of exceptions. One of these exceptions includes limited infilling or the partial or complete redevelopment of previously developed land (PDL) provided that it would not have a substantial harm on the openness of the Green Belt when compared to the existing development.
9. The appellant refers to the wording of paragraph 154(g) prior to the most recent revision of the Framework. It stated that a new building in the Green Belt would be considered as not inappropriate when the limited infilling or the partial or complete redevelopment of PDL would not have a *greater impact* (my emphasis) on the openness of the Green Belt than the existing development. The current Framework, amongst other things, substitutes 'greater impact' with 'substantial harm'. The appellant considers that had the appeal scheme been determined under the latest revision of the Framework, a larger development would likely have been granted permission and therefore, any additions to the appeal scheme before me under permitted development rights would not constitute substantial harm.
10. However, there is no definition of either 'greater impact' or 'substantial harm' for planning purposes. Consequently, it is a matter of planning judgement as to whether additions permissible under permitted development rights would be inappropriate and result in substantial harm on the openness of the Green Belt.

Openness

11. The approved scheme under 23/00505/S73 was found by the Council to result in a dwelling which would be considered as not inappropriate in the Green Belt. This was because the scale and height of the eaves would result in a development smaller than a previously refused variation of condition application³ and an eaves height similar to those approved on the dwelling approved by the original planning permission⁴. Condition nine was imposed to prevent the possibility of inappropriate development like that which was assessed and refused by the Council in the 2022 variation of condition application and dismissed on appeal⁵.
12. Class A Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) limits the size and height of extension or alterations that are permitted. However, sizable extensions could be permitted via Class A in certain circumstances to achieve extensive enlargements because of this permitted development right.
13. The appeal scheme would be visible from the road and from the Public Right of Way that is located to the eastern boundary of the site. Consequently, extensive additions permitted by Class A Part 1 would likely result in a substantial harmful impact upon the openness of the Green Belt in conflict with paragraph 154(g) of the Framework. Accordingly, such alterations would undermine the acceptability of the approved scheme due to further enlargement to its scale and massing.
14. The appeal site is adjacent to a limited number of dwellinghouses as well as a small estate of park homes. The houses are part of a linear development and therefore are bordered by fields. To the rear of the site are open agricultural fields and therefore whilst there are other dwellings proximate to the appeal site, the overall character is rural. The Council have previously granted an application for a dwelling on the site and whilst this does result in an acceptance of a level of domestication of the appeal site, it does not equate to the acceptance of sizable extensions. Given the appeal site abuts open fields and the overall rural character of the Green Belt and surrounding area, condition nine provides a safeguard against any scale of future extensions that would result in harm to the openness of the Green Belt. It is therefore necessary to retain the condition to make the approved scheme acceptable.
15. Class E Part 1 of the GPDO permits any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure. It also permits a container used for domestic heating purposes for the storage of oil or liquid petroleum gas. The right does establish that the development must not exceed 50% of the total area of the curtilage. Given the linear form of development on Snailswell Lane and consequently its relatively exposed siting, the addition of much of the developments permitted by Class E would likely lead to an unacceptable reduction in the visual and spatial openness of the Green Belt.
16. Planning Practice Guidance states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity and need to be precisely defined⁶. In this case I find condition nine is

³ Planning Application Ref: 22/02627/S73

⁴ Planning Application Ref: 22/00172/FP

⁵ Planning Appeal Decision: APP/X195/W/23/3321454

⁶ Planning Practice Guidance Paragraph 017 Reference ID: 21a-017-20190723

precisely defined by reference to the specific provisions of the GPDO and is confined to the areas associated with Classes A and E.

17. The appellant refers to examples in the GPDO where there is a restriction on permitted development rights for sites within national parks or conservation areas. The appellant states that it is therefore reasonable to conclude that if it was the intention to limit permitted development rights in the Green Belt the GPDO would have done so. Notwithstanding the fact that permitted development rights have not been withdrawn in total or in part in the Green Belt in the GPDO, I have found in this case that there is clear justification for removing permitted development rights under Class A Part 1 and Class E Part 1 of the GPDO. This is because the potential for the enlargement of the approved scheme would likely result in it being materially larger than the approved scheme and similar to the previously refused and dismissed appeal scheme⁷. Accordingly, this would fail to accord with paragraph 154 (g) of the Framework. Furthermore, given the location of the appeal site and its close relationship with the open character of the Green Belt which I have identified above, development under Class A Part 1 would result in significant harm to the spatial and visual openness of the Green Belt.
18. For the reasons given above, I find that the development under Class A Part 1 and Class E Part 1 of the GPDO would likely cause substantial harm to the openness of the Green Belt and conflict with Policy SP5 of the LP and fail to accord with paragraph 154(g) of the Framework. This would amount to the clear justification to restrict Class A and Class E of Part 1, Schedule 2 of the GPDO.

Other Considerations and Very Special Circumstances

19. Development under Class A Part 1 and Class E Part 1 of the GPDO would lead to a loss of openness of the Green Belt. Substantial weight is given to the harm to the Green Belt and development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm resulting from the proposal, are clearly outweighed by other considerations.
20. I do not have the full details of the cited appeal decisions at St Vincents Lane, West Malling⁸, Newmarket Road, Stow-Cum-Quy⁹ and Sandy Lane, Guildford¹⁰ and therefore cannot be certain that they are wholly comparable to the appeal before me. The Inspector in the Sandy Lane appeal decision highlighted that the appeal site was on article 2(3) land given it was located in an Area of Outstanding Natural Beauty (now designated as a National Landscape in the Levelling Up and Regeneration Act 2023). Therefore, it was already subject to a further level of restriction unlike the appeal site before me.
21. Regarding the appeal decision at Newmarket Road the Inspector describes the dwelling having been extensively renovated and extended as well as being enclosed on all sides with fencing and gates. Additionally, the planning history of this other site, including a planning refusal and appeal dismissal for a larger scheme, has not been shown to be similar in this case. Consequently, it is not directly comparable to the appeal site before me.

⁷ Planning Application Ref: 22/02627/S73 Planning Appeal Decision Ref: APP/X1925/W/23/3321454

⁸ Planning Appeal Decision Ref: APP/H2265/W/20/3264915

⁹ Planning Appeal Decision Ref: APP/W0530/W/21/3272766

¹⁰ Planning Appeal Decision Ref: APP/Y3615/W/22/3290698

22. There is limited information before me to establish whether the appeal site in the St Vincents Lane appeal decision is comparable to the appeal before me. The appeal decision is concise and again I cannot be certain that the planning history is directly comparable to the appeal before me. Nevertheless, each case is determined on its own merits including its own planning context.
23. Accordingly, I have found condition 9 is reasonable and necessary and the other considerations before me do not clearly outweigh the harm that I have identified. Accordingly, the very special circumstances necessary to justify development under Class A Part 1 and Class E Part 1 of the GPDO do not exist.

Conclusion

24. 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.

B Astley-Serougi

INSPECTOR

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Appeal Decision

Site visit made on 18 February 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 May 2025.

Appeal Ref: APP/X1925/W/24/3348028

Water Tower, Priors Hill, Pirton SG5 3QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Colin Gore against the decision of North Herts Council.
 - The application Ref is 24/00403/OP.
 - The development proposed is described as one detached dwelling and garage following demolition of existing water tower (all matters reserved).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme relates to an outline proposal with all matters reserved for future consideration. I have considered the appeal accordingly. A plan has been submitted as part of the appeal which indicates how the proposed development could be accommodated on the site. I have taken this plan into account for indicative purposes only.
3. As the site is within the Chilterns National Landscape, I have paid regard to my duty under Section 245 of the Levelling-up and Regeneration Act 2023 to seek to further the purpose of conserving and enhancing the natural beauty of the area.
4. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. Whilst some paragraph numbers have changed, the relevant paragraphs and parts of paragraphs identified as directly affecting this case have not been amended. Therefore, in this case it has not been necessary to consult the parties on the revised Framework.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area, with reference to the Chilterns National Landscape including the effect of the proposed demolition of the non-designated heritage (NDHA) asset known as Pirton Water Tower;
 - whether the appeal site is in a sustainable location for the proposed development having regard to local policy; and
 - the effect of the proposed development on the biodiversity of the appeal site.

Reasons

Character and Appearance

6. The appeal site is located in the rural area beyond the Green Belt for planning purposes and is also sited within the Chilterns National Landscape. It is located outside of the village area for Pirton and includes a large steel water tower dating from c1930 which is contained by a chain link fence. Consequently, it is visually isolated from other built form. The site is in an elevated position and given the height of the tower it is easily viewed from the adjacent lane and the surrounding area despite the hedgerows on the site. The proposed development would introduce a four-bedroom, double fronted house.
7. Policy CGB1 of the North Hertfordshire Local Plan 2011-2031 (the NHLP) seeks to prevent inappropriate schemes in the rural area beyond the Green Belt. It establishes support for development subject to certain criterion.
8. In 2023, designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became 'National Landscapes'. The appeal site lies within the Chilterns National Landscape.
9. Paragraph 189 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues. S245 of the Levelling Up and Regeneration Act 2023 requires that relevant authorities must now 'seek to further' the statutory purposes of Protected Landscapes. This replaces the previous duty on relevant authorities to 'have regard to' their statutory purposes. I have a statutory duty to consider whether the appeal scheme would further the statutory purposes of the Chilterns National Landscape.
10. The appellant has not adequately demonstrated that the proposed development would meet a proven local need for community facilities, services or affordable housing in an appropriate area. Furthermore, given that the proposed development would not constitute an infill development, would not relate to an existing building, would not provide land or facilities for outdoor sport, outdoor recreation and cemeteries and would not be strictly necessary for the needs of agriculture or forestry, it does not meet any of the other exceptions within Policy CGB1.
11. A dwelling on the appeal site would introduce a built form at odds with the open character of the Chilterns National Landscape especially given that it is not located within an existing built settlement. Whilst the appellant highlights that the exterior fence would be lower than that which exists, they have not adequately demonstrated that the dwelling would not harm the character of the Chilterns National Landscape. Furthermore, the existing water tower allows for views through the appeal site of the Chiltern National Landscape at a lower level, given that the legs of the structure, in this respect, are permeable in construction.
12. Given the above, the existing tower does not result in a dense built form, whereas the addition of a dwelling would result in a solid built form and consequently a conspicuous addition in the rural area beyond the Green Belt. The appeal scheme would therefor harm the character and appearance of the surrounding area, including the Chilterns National Landscape.

13. The appellant considers Pirton Water Tower to have no historical significance citing that Historic England has refused to designate it as a heritage asset because there are similar water towers across the country.
14. However, the Council considers Pirton Water Tower to be a NDHA. Planning Practice Guidance is clear that NDHA's can be identified in a number of different ways including during the determination of applications. Whilst opinion is divided on the visual appearance of the tower, it is regarded by Pirton Parish Council and other interested parties as a significant piece of Pirton village history. The structure has been a prominent landmark for approximately 100 years and was used in the second world war by the Home Guard to watch for enemy aircraft. Therefore, its significance is derived from its historical value. I have therefore treated the water tower as an NDHA in my determination of this appeal.
15. I have identified above that the introduction of a dwelling would be at odds with the open character of the Chilterns National Landscape. The Framework is clear that the effect of an application on the significance of a NDHA should be taken into account and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset. The scale of the harm caused by its demolition and replacement with an unsympathetic built form to the character and appearance of the surrounding area would not be justified.
16. In conclusion on this issue, I find that the appellant has not adequately demonstrated that the appeal scheme would comply with Policy NE3 of the North Hertfordshire Local Plan 2011-2031 (NHLP) which provides support for development in the Chiltern's National Landscape subject to certain criterion. In particular, NE3(b) which requires, amongst other things, development to conserve and where possible enhance the distinctive character of the Chilterns National Landscape.
17. Furthermore, the appellant has not adequately demonstrated that the appeal scheme would meet one of the exceptions outlined in Policy CGB1 of the NHLP. Therefore, the appeal scheme would result in harm to the character and appearance of the surrounding area. It would conflict with Policies CGB1 and NE3 of the NHLP which seek to ensure development is appropriate in the rural area beyond the Green Belt and that the character of the Chilterns National Landscape is conserved and where possible enhanced.
18. It follows therefore, that the appeal scheme would also fail to accord with the aims of the Chiltern's Area of Outstanding Natural Beauty Management Plan 2019-2024 and the Pirton Neighbourhood Plan 2011-2031 (the NP) insofar as they seek to conserve and enhance the Chilterns National Landscape
19. Regarding the demolition of Pirton Water Tower, the appeal scheme would result in the loss of the significance of Pirton Water Tower as an NDHA though its demolition. Consequently, the appeal scheme would conflict with Policy HE3 of the NHLP insofar as it seeks to ensure that any development which results in the loss of a NDHA would contribute to preserving the local character and distinctiveness of the area.

Suitable Location

20. The Highways Authority has indicated concerns regarding the likelihood of future occupants relying upon private vehicles. There is a lack of lit footpaths adjoining

the site and therefore given that the appeal site is located outside of the village area of Pirton it is likely that future occupants would be reliant upon private vehicles.

21. Therefore, the appeal scheme would conflict with Policy CGB1 of the NHLP insofar as it seeks to ensure developments in the Rural Area Beyond the Green Belt are not inappropriate. It would also conflict with the aims of Policy LTP4 of Hertfordshire's Local Transport Plan insofar as it seeks to ensure developments are in locations where sustainable travel options exist or can be improved.

Biodiversity

22. The original application was submitted prior to the introduction of the Environment Act and its 10% biodiversity net gain requirement. However, Policy NE4 of the NHLP states that all development should deliver measurable net gains with regard to biodiversity.
23. In the absence of an adequate report or submission of adequate information regarding the biodiversity of the site, the applicant has not adequately demonstrated that the appeal scheme would deliver a net gain regarding biodiversity.
24. Given the above, the appeal scheme would conflict with Policy NE4 insofar as it seeks to ensure developments deliver a measurable biodiversity net gain.

Other Matters

25. I am aware that the site is proximate to a Scheduled Ancient Monument known as 'Anglo-Saxon settlement and probable prehistoric ring ditches west of Pirton Village' (SAM)¹. It is an enclosed Anglo-Saxon settlement with evidence of occupation from the 5th Century to the 9th Century. It also contains two probable prehistoric ring ditches. Given the early time period of the Anglo-Saxon settlement, it is rare not only on the Chiltern escarpment but also on a national scale. Furthermore, the enclosed form of the SAM is unusual for the period. I have had regard to the national importance of the SAM. Nevertheless, the Council has highlighted the demolition of the existing water tower as a benefit to the scheduled monument and has not classed the effect of the proposed development on the SAM as a putative reason for refusal. I have no substantive evidence before me to reach a different view in this regard and I am satisfied that no harm to its significance would arise from the appeal scheme.
26. An interested party has raised that there is no need for the water tower which they state is currently used as a telecommunications mast for the village nor for another mast to be erected as part of the appeal, given that another telecommunications mast is likely to be erected at another site in the village. The Council has not raised the need of the tower as a telecommunications mast as a concern or reason for refusal. I find no reason to disagree.
27. The appellant has referred to the site as a brownfield site. The Framework Glossary defines brownfield land as land which has been lawfully developed and is or was occupied by a permanent structure. The appeal site does constitute brownfield land, however given that the appeal site is not within the Green Belt, a

¹ List Entry Number: 1434415

consequent lack of harm to the Green Belt because of its designation a brownfield land is not a significant material planning consideration in this case.

28. The appellant states that an additional access has been included as part of the appeal scheme due to comments on a previous application. However, given that the appeal before me relates to an outline application with all matters reserved (including access), this matter is not within the scope of the appeal.

Conclusion

29. 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.

B Astley-Serougi

INSPECTOR

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Appeal Decision

Site visit made on 6 May 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 MAY 2025

Appeal Ref: APP/X1925/W/25/3360595

32 – 33 Nightingale Road, Hitchin, Hertfordshire SG5 1QU

- 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 Nav Nagra c/o R A Morgan (Elec) Ltd against the decision of North Herts Council.
 - The application Ref is 24/02370/FP.
 - The development proposed is the installation of external insulation and cladding.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of external insulation and cladding at 32 – 33 Nightingale Road, Hitchin, Hertfordshire SG5 1QU in accordance with the terms of the application, Ref 24/02370/FP and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Proposed Elevations - 44471_02 Rev 01.

Preliminary Matters

2. The appeal is retrospective. At the time of my site visit the works had already substantially started.
3. The description of development in the banner heading and formal decision has been amended, removing reference to the development having already been carried out, as this is superfluous, and does not describe an act of development.

Main Issue

4. The main issue is the effect of the cladding on the character and appearance of the host property and area.

Reasons

5. The appeal site relates to a three storey building in a prominent position in front of a mini-roundabout, on Nightingale Road which forms part of the A505, a main throughfare in Hitchin.
6. The appeal property is in mixed use, with commercial on the ground floor and residential on the two floors above. Further properties in mixed use are sited west of the appeal site and on the opposite side of the road, with residential uses beyond.

7. Prior to the installation of the external cladding, the exterior of the appeal property was originally red brick. Whilst traditional brickwork is a common feature within the wider streetscene, properties in the immediate vicinity vary in form and scale and exhibit a wide variety of external finishes. This includes full and part render, mock Tudor, hung tile, full and part painted brickwork and original brickwork. Ground floor shop frontages also vary in colour, including black, red, white, cream and grey. The variety and colour of finishes contributes to and forms part of the character and appearance of the area.
8. Insulation, finished in a grey weatherboard cladding, has been installed to the exterior of the appeal property, concealing large parts of the original red brickwork. Whilst no other properties exhibit weatherboarding, this does not automatically mean the material is inappropriate. Parts of the original brickwork would remain visible on the side elevation fronting Florence Street. Given the surrounding context that I have already set out, the weatherboard, including its colour, does not unacceptably jar with the existing features on the host property, including the mansard roof and ground floor shop frontage. With the variety of external finishes and colours on buildings in the locality, the weatherboarding does not appear unsympathetic or incongruous within the street scene and does not harm the character and appearance of the area or the host property.
9. For the reasons above, I conclude that the cladding does not harm the character and appearance of the area and host property. Accordingly, there is no conflict with Policy D1 of the North Hertfordshire Local Plan 2011-2031. This, amongst other matters, requires development to respond positively to the site's local context.

Other Matter

10. I have no substantive evidence that the weatherboard has had an adverse impact on the health and wellbeing of local residents. As such, I afford this limited weight.

Conditions

11. As the development has already commenced the standard time limit condition is not necessary. For certainty, a plans condition is necessary.

Conclusion

12. In conclusion, for the reasons given above and having had regard to all other matters raised, the appeal is allowed.

T Bennett

INSPECTOR



Appeal Decision

Inquiry held on 29 April 2025

Site visit made on 29 April 2025

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2025

Appeal Ref: APP/X1925/W/24/3347949

Land East of Rhee Spring and Orwell View, Royston Road, Baldock.

- 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 Chalkdene Developments LLP against the decision of North Hertfordshire District Council.
 - The application Ref is 21/01882/FP.
 - The development proposed is residential development (42 dwellings), access, parking, landscaping and associated works, including provision of an electrical sub-station.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development (42 dwellings), access, parking, landscaping and associated works, including provision of an electrical sub-station at Land East of Rhee Spring and Orwell View, Baldock in accordance with the terms of the application, Ref 21/01882/FP, subject to the 24 conditions in the attached schedule.

Preliminary Matters

2. I undertook a familiarisation site visit in October 2024. An accompanied site visit was undertaken on 29 April 2025.
3. The revised National Planning Policy Framework (NPPF) was published on 12 December 2024. The main parties' comments on the revised NPPF have been considered as part of my decision-making.
4. The appellant submitted a costs application before the inquiry. This was withdrawn verbally during the inquiry and was withdrawn in writing subsequently.
5. A signed legal agreement under Section 106 of the Town and Country Planning Act 1990 dated 20 May 2025 was submitted after the inquiry closed. I have had regard to the legal agreement in reaching my decision.

Main Issue

6. The main issue in this appeal is whether the proposed development would make an appropriate contribution towards affordable housing need.

Reasons

7. On the edge of Baldock, the site consists of open, relatively flat land immediately south of the B656 Royston Road and adjacent to Clothall Common. The site lies east of Rhee Spring and Orwell View and north of Constantine Place and Aleyn Way. At present, the site is fenced off and contains scrubland and small trees.

Further trees are located along the boundary with Royston Road and adjacent to Orwell View. Surrounding two-storey residential properties form part of the 1980s Clothall Common development. The site was formerly intended to provide a one form entry primary school, but is no longer required for education purposes.

8. The proposed development would consist of 42 houses with associated parking and landscaping. Vehicular access would be from Aleyn Way and Constantine Place.

Policy Background

9. The site was allocated for residential development in the North Hertfordshire Local Plan 2011- 2031 (LP). LP Policy BA4 allocates the site for 50 homes and sets out criteria on transport, flooding and drainage, landscaping and archaeology.
10. LP Policy HS2 requires the provision of affordable housing for residential development of 11 units and over. For schemes providing 25 or more dwellings, 40% affordable housing is required, subject to viability. The policy also confirms that affordable housing should be delivered on site unless robustly justified, and states that affordable housing is secured through an appropriate condition or legal agreement providing for the retention of dwellings through the Council, a registered provider or similar body, and where appropriate, review mechanisms. Paragraph 8.10 supporting LP Policy HS2 outlines that where below target levels of affordable housing are agreed but viability may improve over the proposed scheme's lifetime, review mechanisms will be built into any relevant agreements.
11. LP Policy SP7 deals with infrastructure requirements and developer contributions. It does not refer to affordable housing, but states that robust evidence is needed where developers consider that viability issues impact the delivery of key infrastructure and/or mitigation measures. This evidence will be used to determine whether appropriate contributions and/or mitigation can be secured.
12. LP Policy SP8 sets out the spatial distribution of new homes. It seeks a range of housing tenures, types and sizes, aiming to deliver 33% of all homes as affordable housing with targets to deliver 40% affordable housing, where viable.
13. The Baldock, Bygrave and Clothall Neighbourhood Plan (NP) was made on 29 June 2021. The NP refers to allocation BA4, requiring independent design review at Policy G3, building strong communities at Policy E4, and green infrastructure at Policy E2. Policy E1 requires transport and air quality to be considered, while Policy E3 seeks to reduce construction impacts. Policy E6 expects appropriate landscaping and design. No mention is made of affordable housing with regard to Baldock sites. I shall deal with NP Policies E6 and G3 later in this decision.
14. In January 2023, the Council produced a Developer Contributions Supplementary Planning Document (SPD). It confirms that development proposals should adhere to LP and NP policies and that these requirements are factored into land value. The SPD also states that viability review mechanisms will be considered where obligations are agreed at lower than policy compliant levels on viability grounds.
15. On 30 July 2024, the Government issued a Written Ministerial Statement 'Building the homes we need.' This underlines the importance the Government places on housing delivery and acknowledges that the nation is in the middle of the most

acute housing crisis in living memory. It highlights the vital role that decisions play in delivering housing and the need to build genuinely affordable homes.

16. NPPF Paragraph 59 confirms that where up-to-date policies have set out contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment with the application. The weight to be given to a viability assessment is for the decision maker, having regard to all the circumstances, including whether the plan and its viability evidence is up-to-date, and any change in site circumstances since the plan came into force. All viability assessments, including any at the plan-making stage, should reflect the recommended approach in the Planning Practice Guidance (PPG), including standardised inputs, and should be publicly available.
17. NPPF paragraph 64 confirms that where affordable housing need is identified, policies should specify the type of affordable housing required and expect it to be met on-site unless off-site provision or an appropriate financial contribution can be robustly justified. NPPF paragraph 66 expects that where major development involves housing, policies and decisions should expect that the mix of affordable housing meets identified local needs.
18. The PPG¹ partially reiterates NPPF paragraph 59. It also confirms that being policy compliant in decision making means that the development fully complies with up-to-date plan policies. Additionally, the PPG² confirms that where a viability assessment is submitted this should be based upon and refer back to the plan's viability assessment and the applicant should provide evidence of what has changed since. The weight to be given to a viability assessment is for the decision maker, having regard to all the circumstances. In addition to the requirements at NPPF paragraph 59, the PPG refers to the transparency of assumptions behind evidence submitted.
19. The PPG³ outlines that plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement on how and when viability will be reassessed over the development's lifetime to ensure policy compliance and optimal public benefits. Where contributions are reduced below requirements set out in policies to provide flexibility in a development's early stages, there should be a clear agreement of how policy compliance can be achieved over time. As risk to developers is already accounted for in assumptions for developer return, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to a developer, but to strengthen local authorities' ability to seek policy compliance over the project's lifetime.

Background to the appeal

20. The planning application was submitted in June 2021. The appellant submitted a Viability Study (February 2022) produced by Turner Morum (TM). This concluded that the proposed development could not deliver 40% affordable housing. The Council commissioned independent assessment by Dixon Searle Partnership (DSP). In May 2022, DSP found that the proposed development would be viable

¹ Paragraph 10-007-20190509: Should viability be assessed in decision taking?

² Paragraph 10-008-20190509: How should a viability assessment be treated in decision making?

³ Paragraph 10-009-20190509: How should viability be reviewed during the lifetime of a project?

with 40% affordable housing. TM rebutted this in June 2022. DSP responded in June 2022, maintaining their position. Following work by quantity surveyors on build costs, a response was made by TM in September 2022, with an updated viability report. TM then produced a viability addendum in March 2023.

21. Working with their costs consultants, DSP concluded in May 2023 that the proposed development would be unlikely to support affordable housing based on current costs and values. However, DSP also recommended use of a viability review mechanism at a later stage when actual values and costs are known. This would allow for capture of improvements in values up to a policy compliant level.
22. By May 2023, despite differences in inputs, TM and DSP were in general agreement that the proposed development could not viably support affordable housing. Discussions between officers and the appellant resulted in agreement to provide two affordable housing units, to be secured by legal agreement. This is confirmed at committee report paragraph 4.3.41. It was also highlighted at paragraph 4.3.42 of the same report that a clawback clause in the legal agreement was mandatory and that the appellant had agreed to use of such a clause.
23. The proposed development was discussed at Planning Committee on 21 March 2024. Despite being recommended for approval by officers, members of the committee voted to refuse planning permission as the proposed development would make insufficient contribution towards meeting affordable housing needs.
24. The appeal was submitted on 11 July 2024. Alongside their statement of case, the Council provided a DWD viability report dated October 2024. In contrast to DSP's May 2023 work, DWD found that the proposed development could provide a policy compliant level of 40% affordable housing. I requested a statement of common ground on viability which was provided on 19 December 2024. This showed significant disagreement which required formal questioning by an advocate.
25. On 28 March 2025, the main parties completed and signed a supplemental statement of common ground. This confirmed that, notwithstanding remaining disagreement on gross development value and construction costs, TM and DWD agree that at present the scheme is unable to viably provide in excess of the two affordable housing units proposed. The appeal has in effect gone back to square one, with square one being the officer's committee report. The Council confirmed in its opening statement to the inquiry that it did not intend to defend the appeal and submitted that permission should be granted.

Provisions and Contributions

26. The Council's Housing Strategy 2024 - 2029 identifies that affordability is a significant hurdle in North Hertfordshire, with house prices over nine times average annual earnings and high demand for affordable housing. North Hertfordshire generally has around 2,500 households on its affordable housing register at any one time. It is estimated that over 3,000 additional local households will need affordable housing by 2031. The Council's Authority Monitoring Report 2022 – 2023 identified that only 31% of new homes were delivered as affordable homes in that monitoring year. There has been a consistent shortfall in affordable housing delivery over a 12 year period. Additionally, the North Herts District and Stevenage Borough Councils: Strategic Housing Market Assessment Part II Update (November 2023) identifies a net need from 1,227 households in North Hertfordshire that need but do not occupy affordable housing.

27. North Hertfordshire is an area of acute affordable housing need. However, the policy stance within LP Policy HS2 is that provision of affordable housing for sites of 25 or more homes should comprise 40% of the homes within the proposed development, subject to viability. The agreed supplemental statement of common ground confirms that, at present, the scheme is unable to viably provide in excess of the two affordable housing units being proposed by the appellant. As such, the reduced provision of two affordable housing units represents the maximum reasonable offer at present. The proposed development has therefore met the requirements of LP Policy HS2 in respect of current viability.
28. However, viability can and does change over time. The agreed supplemental statement of common ground also states that in circumstances where the required percentage of affordable housing cannot presently be met, it is necessary for a review mechanism to be used to calculate the surplus that may arise should the viability position improve. The signed and dated legal agreement includes a viability review mechanism, which would be triggered one calendar month from commencement. This viability review mechanism is set out in the legal agreement, alongside many of its inputs, which have been agreed by the parties.
29. The legal agreement indicates that two affordable housing units would be provided on site and the appellant will provide the following contributions or provisions:
- Biodiversity net gain contributions of £72,000 to be spent at Weston Hills and Ivel Springs Nature Reserves;
 - Monitoring fees;
 - Play space contributions of £10,000 to be spent on the playground at Avenue Park, Baldock;
 - Waste contributions of £2,982 for provision of bins; and
 - Water scheme for fire hydrants.
30. Although a significant level of other contributions are required, it has been agreed by the parties that the contributions below cannot viably be provided at present:
- NHS contributions:
- GP services contributions of £54,264 to extend or relocate Baldock Surgery;
 - GP community services contribution of £7,645 for extending Park Drive Health Centre.
- Hertfordshire County Council (the County Council) contributions:
- Childcare service contribution of £34,632 to expand Merry Go Round under 5s or make other similar provision;
 - Library service contribution of £4,389 towards Baldock Library or other provision;
 - Monitoring fees of £340 per trigger point;
 - Special education needs and disabilities contribution of £59,043 towards the East Severe Learning Difficulty School;

- Sustainable active and accessibility transport contribution of £202,635 towards the North Central Growth and Transport Plan, in particular Scheme PR73 Baldock rail station cycle parking and Scheme PR75 bus service;
 - Waste service recycling centre contribution of £7,644 to increase capacity of Letchworth Recycling Centre;
 - Waste service transfer station contribution of £7,212 towards the new North Transfer Station at Baldock;
 - Youth service contribution of £7,589 to increase the capacity of youth facilities in Letchworth or suitable alternative provision.
31. If the viability review mechanism indicates that the scheme's viability has improved, the legal agreement requires 50% of surplus monies to be provided for the provision of additional affordable housing units on site up to the 40% requirement, NHS contributions, and County Council contributions. The cap for the apportionment is the total cost of providing the additional affordable housing units, and the total value of the NHS contributions and the County Council contributions. Together, these are the Viability Assessment Maximum Contribution.
32. All three tests for planning obligations at NPPF paragraph 58 and Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) must be met. These tests are that the obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. I am satisfied that the aforementioned requirements within the legal agreement, including the viability review mechanism, would be supported by LP policy as amplified by relevant supplementary guidance, and that they would meet the three tests for obligations. I have therefore taken all the obligations within the legal agreement into account in determining this appeal, with the caveat that not all of the obligations can presently be provided, but that this may be subject to change once the viability review mechanism is engaged.
33. In the circumstances outlined, I conclude that the proposed development would make an appropriate contribution towards affordable housing need. Consequently, it would not conflict with LP Policies HS2, SP7 and SP8 as outlined above.

Other Matters

34. LP Policy BA4 allocates the site for 50 homes, but the proposed development would provide 42 homes. LP Policy HS1 requires that development broadly accords with the indicative number of homes. Pragmatically, the LP confirms at paragraph 8.3 that a design-led approach will be taken and this may result in housing numbers changing in response to pre-application and application processes.
35. The appeal scheme follows a withdrawn planning application 18/00097/OP for 47 homes. The responses from statutory consultees to the earlier planning application have informed the current scheme. In addition, the green corridors proposed have reduced the developable area and led to a lower number of homes. The Council has highlighted that reduced weight should be afforded to the delivery of a lower amount of housing than the original allocation for 50 homes in line with an appeal

decision⁴. However, as the Council itself considers the allocation to be an estimate, rather than a definitive target, that appeal is not directly relevant. As such, I find no conflict with LP Policy BA4.

36. LP Policy HS5 requires at least 50% of homes to be built to M4(2) accessible and adaptable standard. For schemes with 10 or more affordable homes, 10% of these homes should be built to M4(3) wheelchair user standard. However, the Lead Local Flood Authority (LLFA) has recommended finished floor levels a minimum of 300mm above any flood level and 150mm above the surrounding ground level. This would result in stepped entrances and ramps would not be possible in all instances.
37. As a result of the LLFA's requirements, the parties agree that the two affordable homes currently proposed should be built to M4(2) and this is secured by condition. If any additional affordable housing units were to come forward, they would also be built to M4(2) and the same condition would apply. Overall, 63% of the homes would be built to M4(2) and no M4(3) housing would be provided. The M4(2) requirement within LP Policy HS5 has been exceeded. There is a clear and reasonable explanation as to why the M4(3) requirement cannot be met and indeed the number of affordable housing units would not currently require M4(3) provision. I therefore find that there would not be conflict with LP Policy HS5.
38. Supporting LP Policy T2 on parking, LP Appendix 4 sets out details of car parking standards. Visitor parking of between 0.25 and 0.75 spaces per dwelling is expected. The expectation varies dependent on provision of garages and the Council is seeking to clarify this position in a future SPD. Furthermore, the expected provision depends on site-specific circumstances. While many proposed units may be able to accommodate additional visiting cars and provision of further spaces would reduce the size of landscaped buffers, there is a shortfall of 17 visitor spaces. I afford limited weight to the conflict with LP Policy T2 and Appendix 4.
39. NP Policy E6 seeks a high quality and distinctive entrance to the town along Royston Road with the development sites BA3, BA4 and BA10. However, no access is being proposed to Royston Road, due to concerns raised by the Highway Authority. I find that the conflict with NP Policy E6 has only limited weight.
40. NP Policy G3 requires applications for sites, including BA4, to be subject to an independent design review process with community input. Although community consultation occurred, no independent design review took place. This is unfortunate as design review can play an important role in the shaping of buildings and spaces. Notwithstanding this, the Council has not objected to the proposed design and layout of this full planning application and I have no reason to disagree with the Council's findings in this regard. The conflict with NP Policy G3 has limited weight.
41. Concerns have been raised by interested parties regarding pedestrian and highway safety due to increased traffic. Yeomanry Drive provides the main route around the estate to access side streets, including Aleyn Way. Aleyn Way serves Merchants Walk and Constantine Place. The proposed development would have vehicular access via Aleyn Way itself and Constantine Place, while a further pedestrian and cycle access would be via Rhee Spring, off Yeomanry Drive. The proposed development would introduce scope for large vehicles to use the proposed development to travel between Aleyn Way and Constantine Place and vice versa in

⁴ APP/K0425/W/22/3296128, decision issued 2 December 2022.

- a forward gear. This is not currently possible, requiring large vehicles to reverse down Aleyn Way and Constantine Place.
42. The houses on Aleyn Way generally have off street parking in front of the houses. Some houses on Constantine Place, Rhee Spring and Orwell View have on plot parking and other homes have parking on parking courts. Notwithstanding the off-street parking, I saw on-street parking along both Constantine Place and Aleyn Way during both my familiarisation visit and my site visit.
43. Alternative vehicular routes have been suggested to join Royston Road, Yeomanry Drive, or Rhee Spring. The appellant has indicated that use of Yeomanry Drive or Rhee Spring would not be possible due to insufficient space or would have negative consequences for existing housing and for rat-running. The Highway Authority objected to the earlier planning application on the same site on the basis of vehicular access being from Royston Road. Having considered the likely trip generation for the proposed development and having visited the streets surrounding the site, I concur with the Council's and the County Council's views that the access to the proposed development from Constantine Place and Aleyn Way would be acceptable.
44. The appellant has provided both a Flood Risk Assessment and Drainage Strategy. However, both flood risk and drainage will be dealt with by condition to ensure no detrimental effects. It has been suggested that the site should be retained as a green space, given the ecological value of chalk grassland. Not only have suitable ecological surveys been carried out and financial obligations made for biodiversity net gain, but the site is allocated for residential development.
45. Reference has been made to the translocation of lizards. A Reptile Survey Report (Greengage, June 2021), Preliminary Ecological Appraisal (Greengage, June 2021) and Reptile Mitigation Strategy (Greengage, May 2021) identified common lizards on site. If not relocated, the lizards would be killed or injured during construction. The mitigation strategy identified a receptor site approximately 2km away adjacent to the A505, set out the works to be undertaken to the receptor site, and how translocation would occur. The appellant undertook an Updated Ecological Walkover (Greengage, 13 December 2023), which confirms that the translocation took place between Autumn 2021 and Spring 2022. To prevent recolonisation, reptile fencing was installed prior to translocation. This fencing remained intact at the time of the walkover in 2023 and was largely in place at my site visit. As such, I consider that the mitigation strategy has already been carried out and any further lizards found on site would be translocated prior to construction.

Planning Balance

46. The Council's Five Year Housing Land Supply Update (May 2024) states that the Council has 3.9 years of housing land supply. This indicates that the policies which are most important for determining the proposal are out-of-date according to NPPF paragraph 11(d). Consequently, planning permission should be granted unless one of two exceptions applies. The first exception outlined at NPPF paragraph 11(d)(i) is not engaged.
47. As set out above, there is conflict with LP Policy T2 and Appendix 4 and NP Policies E6 and G3, in relation to visitor parking, the site's gateway role, and independent design review. However, when taken together, I afford these policy

conflicts no more than limited weight given the specific circumstances. No other adverse impacts have been demonstrated.

48. The delivery of 42 houses would help to address the recognised housing delivery shortfall. Indeed, small and medium sized sites can make an important contribution towards meeting the housing requirement of an area. This site would deliver homes suitable for families. I afford the delivery of market housing significant weight. Although the provision of affordable housing would be limited to two affordable housing units at present, there remains scope for a greater number of affordable housing units to be delivered, subject to further appraisal once the review mechanism is triggered. I afford the delivery of two affordable housing units moderate weight in this instance.
49. The appellant has highlighted that the biodiversity net gain contributions pre-date the mandatory requirement for provision of biodiversity net gain. I find this to represent a moderate benefit. Together with the provision of market and affordable housing, these benefits have significant weight.
50. While the appellant refers to the provision of pedestrian and cycle routes to facilitate the connectivity of the site, improved routes for refuse vehicles, and improvements in surface water drainage, there is nothing before me which indicates that these features would be anything other than necessary to address the effects of development. As such, these are neutral in the balance.
51. The adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. The second exception in NPPF paragraph 11(d)(ii) is not engaged. The presumption in favour of sustainable development would therefore apply and the proposed development would accord with the policies within the NPPF when taken as a whole and with LP Policies HS2, SP7 and SP8 as outlined above. Planning permission should be granted without delay.

Conditions

52. It is necessary to specify conditions confirming the time limit for development (1) and approved plans (2) for certainty. Ten pre-commencement conditions (3 - 12) are necessary as they cover matters to be addressed before construction works begin. The appellant has agreed to pre-commencement conditions. Conditions have been amended, where necessary, for clarity and in order to ensure implementation and enforceability.
53. To protect biodiversity, conditions (3 and 4) are necessary to deliver a Construction Environmental Management Plan: Biodiversity and an ecological enhancement scheme. The condition for a Construction Traffic and Environmental Management Plan (5) would safeguard living conditions, guard against pollution or nuisance, and ensure highway safety. A further condition on site waste management (11) is required to ensure that waste is reduced, managed and disposed of appropriately. A condition on archaeology (9) is necessary for evaluation and interpretation.
54. Drainage conditions (6 and 8) are necessary to minimise potential for flooding and pollution both during construction and after the development is occupied. To manage flood risk, conditions (18 and 19) are also necessary to ensure that the implementation of the approved surface water drainage system is verified and that the system is subsequently managed and maintained properly. A further condition (7) on any changes to watercourses is necessary to safeguard against flooding.

55. In the interests of maintaining the area's character and appearance, a condition (20) on landscaping screening of the sub-station is necessary. Furthermore, to protect retained trees and the character and appearance of the area, two arboricultural conditions (12 and 23) are required. Condition (22) also seeks to secure landscaping to maintain the area's character and appearance. So that materials are in keeping with the area's character and appearance, a condition (13) requires submission and agreement of materials. A condition (10) on existing and finished floor levels is also necessary to ensure that the proposed development relates well to surrounding development and protects against flooding.
56. To ensure provision for cycling and refuse storage, a condition (14) is necessary to allow for approval of details and installation of appropriate storage. A condition (15) is required to ensure sustainability measures to address climate change. In order to secure affordable housing to the M4(2) Standard, a condition (16) is necessary.
57. To ensure safe and suitable vehicular access, a condition (17) requires the submission of further details. A condition was put forward to ensure that parking areas are suitably laid out and to confirm that surface water from parking areas would not drain to the highway. I have included the surface water part of this condition in condition 6 and consider the parking part of the condition not to be necessary as the parking areas would need to be provided in keeping with the plans condition. The remediation condition (21) is necessary to ensure that risks of contamination to the environment and human health are minimised.
58. A condition (24) would restrict permitted development rights. Given the proposed development's layout and uniformity of design, such a condition would be necessary in this instance to allow the Council to consider both the area's character and appearance and living conditions when proposals come forward.

Conclusion

59. For the reasons given above and subject to the 24 conditions below, the appeal is allowed.

Joanna Gilbert

INSPECTOR

Appearances

For the Appellant:

Heather Sargent	Counsel, Landmark Chambers, instructed by Smith Jenkins Ltd
Nicholas Bignall MRICS	Partner, Turner Morum LLP
Halima Rashid	Associate, Browne Jacobson LLP
Jennifer Smith MRTPI	Director, Smith Jenkins Ltd
Fabrizio Stefanoni	Senior Development Manager, Chalkdene Developments LLP

For the Council:

Nick Grant	Counsel, Landmark Chambers, instructed by Arhamna Jafri, Locum Planning Lawyer, North Hertfordshire District Council
Anne McDonald	Development Management Team Leader, North Hertfordshire District Council
Peter Roberts FRICS CEnv	Director, DWD
Stephen Rose BA (Hons) MRTPI	Associate Director, DWD

Documents provided at and after the inquiry:

ID1	Appellant's summary note of S106 obligations and provisions
ID2	Appellant's opening statement
ID3	Council's opening statement
ID4	Council's closing statement
ID5	Appellant's closing statement
ID6	Appellant's list of appearances
ID7	Appellant's email dated 30 April 2025 confirming withdrawal of costs application
ID8	Note on Baldock, Bygrave and Clothall Neighbourhood Plan
ID9	Council's email dated 1 May 2025 with regard to conditions
ID10	Appellant's email dated 6 May 2025 with regard to conditions
ID11	Signed and executed legal agreement dated 20 May 2025

Schedule of 24 conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers:

0221-L001 Revision E Landscape Layout; 0221-L002 Revision D Planting – Trees North; 0221-L003 Revision E Planting – Trees South; 0221-L004 Revision E Planting - Shrubs North; 0221-L005 Revision E Planting - Shrubs South; 0221-L006 Revision E Planting Schedule North & South; 0221-L007 Revision A Tree Protection Plan; RR-RTA-XX-XX-DR-A-00001 PL02 Location Plan; RR-RTA-XX-XX-DR-A-00010 Rev PL02 Existing Site Plan and Constraints; RR-RTA-XX-XX-DR-A-00100 PL14 Proposed Site Plan; RR-RTA-XX-XX-DR-A-00110 PL11 Proposed Landscape Strategy; RR-RTA-XX-XX-DR-A-00120 PL07 Proposed Site Elevations Sheet 1 of 2; RR-RTA-XX-XX-DR-A-00121 PL07 Proposed Site Elevations Sheet 2 of 2; RR-RTA-XX-XX-DR-A-00122 PL01 Proposed Site Elevations Sheet 2 of 2; RR-RTA-XX-XX-DR-A-00200 PL10 Proposed Parking and Access Strategy; RR-RTA-XX-XX-DR-A-00201 PL09 Proposed Fire Strategy; RR-RTA-XX-XX-DR-A-00202 PL09 Proposed Refuse Collection Strategy; RR-RTA-XX-XX-DR-A-00203 PL10 Proposed Materiality Strategy; RR-RTA-XX-XX-DR-A-00204 PL02 Proposed Substation Floor Sections and Elevation Plans; RR-RTA-XX-XX-DR-A-HA-D-00201 PL02 House Type HA-D Floor Plans; RR-RTA-XX-XX-DR-A-HA-D-00401 PL02 House Type HA-D Elevations; RR-RTA-XX-XX-DR-A-HC-D-00201 PL04 House Type HC-D GA Plans; RR-RTA-XX-XX-DR-A-HC-D-00401 PL05 House Type HC-D GA Elevations; RR-RTA-XX-XX-DR-A-HC-E1-00211 PL03 House Type HC-E1 GA Plans; RR-RTA-XX-XX-DR-A-HC-E1-00411 PL03 House Type HC-E1 GA Elevations; RR-RTA-XX-XX-DR-A-HE-D-00201 PL05 House Type HE-D GA Plans; RR-RTA-XX-XX-DR-A-HE-D-00401_PL05 House Type HE-D GA Elevations; RR-RTA-XX-XX-DR-A-HE-E1-00211 PL04 House Type HE-E1 GA Plans; RR-RTA-XX-XX-DR-A-HE-E1-00411 PL04 House Type HE-E1 GA Elevations; RR-RTA-XX-XX-DR-A-HG-D-00201 PL05 House Type HG-D GA Plans; RR-RTA-XX-XX-DR-A-HG-D-00401 PL04 House Type HG-D GA Elevations; RR-RTA-XX-XX-DR-A-HG-E1-00211 PL04 House Type HG-E1 GA Plans; RR-RTA-XX-XX-DR-A-HG-E1-00411 PL03 House Type HG-E1 GA Elevations; RR-RTA-XX-XX-DR-A-HK-D-00201 PL05 House Type HK-D GA Plans; RR-RTA-XX-XX-DR-A-HK-D 00401 PL06 House Type HK-D GA Elevations; RR-RTA-XX-XX-DR-A-HY-D-00201 PL01 House Type HY-D Floor Plans; RR-RTA-XX-XX-DR-A-HY-D-00401 PL01 House Type HY-D GA Elevations; RT20072_RoystonRoad_Schedule of Accommodation Revision M dated 24 October 2024; S1877-ISS-1A-XX-DR-C-3000 P15 Proposed Drainage Layout Overview; S1877-ISS-1A-XX-DR-C-3010 P12 Proposed Drainage Layout Sheet 1 of 3; S1877-ISS-1A-XX-DR-C-3011 P12 Proposed Drainage Layout Sheet 2 of 3; S1877-ISS-1A-XX-DR-C-3012 P12 Proposed Drainage Layout Sheet 3 of 3; S1877-ISS-1A-XX-DR-C-3150 P04 Proposed Levels Overview; S1877-ISS-1A-XX-DR-C-3151 P04 Proposed Levels - Sheet 1 of 3; S1877-ISS-1A-XX-DR-C-3152 P04 Proposed Levels - Sheet 2 of 3; S1877-ISS-1A-XX-DR-C-3153 P04 Proposed Levels - Sheet 3 of 3; S1877-ISS-1A-XX-DR-C-3154 P01 Proposed Chainages Overview; S1877-ISS-1A-XX-DR-C-3350 P01 Proposed Long Sections Sheet 1 of 2; S1877-ISS-1A-XX-DR-C-3351 P01 Proposed Long Sections Sheet 2 of 2; S1877-ISS-1A-XX-DR-C-3450 P05 Proposed External Works Layout Overview; S1877-ISS-1A-XX-DR-C-3451 P03

Proposed External Works Layout Sheet 1 of 3; S1877-ISS-1A-XX-DR-C-3452 P05
Proposed External Works Layout Sheet 2 of 3; S1877-ISS-1A-XX-DR-C-3453 P05
Proposed External Works Layout Sheet 3 of 3; S1877-ISS-1A-XX-DR-C-3460 P04
Proposed Kerbing Layout Overview; S1877-ISS-1A-XX-DR-C-3461 P02 Proposed
Kerbing Layout Sheet 1 of 3; S1877-ISS-1A-XX-DR-C-3462 P04 Proposed Kerbing
Layout Sheet 2 of 3; S1877-ISS-1A-XX-DR-C-3463 P03 Proposed Kerbing Layout
Sheet 3 of 3; S1877-ISS-1A-XX-DR-C-3550 P02 Proposed Flood Exceedance Plan
Overall; TS20-331-1; -2 Topographical survey; TS20-331-3; -4 Underground
surveys; UKP10883 - DWG100 Revision 0 Construction Details - GRP Enclosure.

- 3) Prior to the commencement of development, including ground works or vegetation clearance, a Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity), as informed by recommendations made in the Updated Ecological Walkover (Greengage, 13 December 2023) or relevant up-to-date ecological survey report shall have been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

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

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 4) Prior to the commencement of development, the details of an ecology enhancement scheme shall have been submitted to and approved in writing by the Local Planning Authority and the approved measures shall have been implemented on site prior to the first occupation. The measures shall include:

- a) the provision of bird bricks / boxes;
- b) the provision of bat tubes / boxes;
- c) the provision of insect and bee bricks / habitats;
- d) the creation of a 'hedgehog highway' across the site.

- 5) Prior to the commencement of development, a Construction Traffic and Environmental Management Plan (CTEMP) shall have been 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 CTEMP. This CTEMP must set out:

- a) the phasing of construction and proposed construction programme including hours or work on site, times of deliveries and removal of waste;

- b) the methods for accessing the site, including wider construction vehicle routing, details of their signing, monitoring and enforcement measures;
- c) the number of daily construction vehicles including details of their sizes, at each phase of the development;
- d) site set up and general arrangements for storing plant machinery and building materials;
- e) measures to minimise dust, noise, machinery and traffic noise impacts during construction;
- f) the hours of construction vehicle movements;
- g) details of any highway works necessary to enable construction to take place;
- h) details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway;
- i) details of any hoardings or screening;
- j) details of how the safety of existing public highway users and existing public right of way users will be maintained;
- k) management of traffic to reduce congestion;
- l) provision for addressing any abnormal wear and tear to the highway;
- m) 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 the relevant version of BS5228 and with the approved details.

- 6) Prior to the commencement of development, construction drawings of the surface water drainage network, associated sustainable drainage components and flow control mechanisms shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and the Lead Local Flood Authority. This shall include details confirming that all new residential dwellings will have a finished floor level raised a minimum of 300mm above any flood level and 150mm above the surrounding proposed ground level and details of arrangements for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

The scheme shall be constructed as per the approved drawings, Flood Risk Assessment RR-ISS-XX-XX-RP-C-3010 P09 dated 24 November 2023 and Drainage Strategy RR-ISS-XX-XX-RP-C-3000 P08 dated 18 December 2023 and remain in perpetuity for the lifetime of the development.

- 7) Prior to the commencement of development, a detailed design shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority for any proposed watercourse alteration that demonstrates the design is in strict accordance with the Land Drainage Act 1991 (culverting shall only be acceptable for access purposes).

Details submitted for any proposed watercourse alteration must demonstrate there is adequate space for each watercourse to be naturalised and enhanced, that flood risk is suitably managed for all storms up to and including the 1% AEP (Annual Exceedance Probability) (1 in 100 year) plus climate change, that exceedance events of the channels do not impact the proposed development and that they are easily maintainable and accessible. A maintenance strip shall be provided between the property boundaries and the watercourse. The details shall include long sections and cross sections of the proposed watercourse including details of any

- proposed crossing. The development shall be constructed in accordance with the approved plans.
- 8) Prior to the commencement of development, details and a method statement for interim and temporary drainage measures during the demolition and construction phases shall have been submitted to and approved in writing by the Local Planning Authority. This information shall provide full details of who will be responsible for maintaining such temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. The site works and construction phase shall thereafter be carried out in accordance with the approved details and method statement.
- 9) A) Prior to the commencement of development, an Archaeological Written Scheme of Investigation shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of archaeological significance and research questions; and:
- 1) the programme and methodology of site investigation and recording;
 - 2) the programme for post investigation assessment;
 - 3) provision to be made for analysis of the site investigation and recording;
 - 4) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - 5) provision to be made for archive deposition of the analysis and records of the site investigation;
 - 6) nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.
- B) The demolition/development shall take place in accordance with the programme of archaeological works set out in the Archaeological Written Scheme of Investigation approved under part A) of this condition.
- C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Archaeological Written Scheme of Investigation approved under part A) of this condition and provision has been made for analysis and publication, where appropriate.
- 10) Prior to the commencement of development, details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby approved shall have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of the buildings and surrounding properties. The development shall be carried out in accordance with the approved details.
- 11) Prior to the commencement of development, a Site Waste Management Plan (SWMP) shall have been submitted to and approved in writing by the Local Planning Authority. The SWMP will set out the aims to reduce the amount of waste produced on site during the construction phase, the types of waste to be produced, how it is to be stored on site, how it will be removed from site, and where it will be sent to. The development must be operated in accordance with the approved SWMP.

- 12) Prior to the commencement of development, 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. 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 retained trees. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to retained trees.
- 13) Prior to works above slab level, details of the materials to be used on all external elevations and the roofs of the development, any hard surfacing materials, and all boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented on site.
- 14) Prior to the first occupation of the development, details of the bin stores and cycle parking for all dwellings shall have been submitted to and approved in writing by the Local Planning Authority, and the approved details shall have been installed on site for each house before its first occupation.
- 15) Prior to the first occupation of the development, a scheme of sustainability measures for all dwellings shall have been submitted to and approved in writing by the Local Planning Authority and shall have been implemented on site prior to the first occupation of each dwelling.
- 16) Prior to the first occupation of the development, confirmation that all affordable housing units provided on site shall comply with the requirements of M4(2) Standard shall have been submitted to and approved in writing by the Local Planning Authority. All affordable housing units shall then be constructed to M4(2) Standard.
- 17) Prior to the first occupation of the development, detailed plans must be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, which show the detailed engineering designs and construction of the vehicle and pedestrian/cycle accesses onto Constantine Place, Aleyn Way, Rhee Spring, and the cycle path network to the north of the site, as shown on CA4397/TR001 Transport Note September 2021 and RR-RTA-XX-XX-DR-A-00100 PL14 Proposed Site Plan. This includes the provision of suitable intervisibility splays between the public highway and internal access roads. These works shall be constructed to the specification of the Highway Authority and completed before first occupation of the development.
- 18) Upon completion of the surface water drainage system, including any SuDS features, and prior to the first occupation of the development; a survey and verification report from an independent surveyor shall have been submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to Conditions 6 and 19. Where necessary, details of corrective works to be carried out along with a timetable for their completion shall be submitted to and approved in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed with the findings submitted to

and approved in writing by the Local Planning Authority in accordance with the approved timetable.

- 19) Prior to the first occupation of the development, details of the maintenance and management of the sustainable drainage scheme shall have been submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme shall have been implemented prior to the first occupation of the development 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:
- a) a timetable for its implementation;
 - b) details of SuDS features and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located;
 - c) a management and maintenance plan for the lifetime of the development, including all watercourses on site, 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.
- 20) Prior to the first occupation of the development, a scheme of landscaping to visually screen the sub-station shall have been submitted to and approved in writing by the Local Planning Authority and shall have been planted on site in the first available planting season.
- 21) Any suspected contaminated material encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible and all work shall cease until a scheme to render this contamination harmless shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall have been fully implemented prior to the first occupation of this site.
- 22) The landscaping details shown on drawing numbers 0221-L001 Revision E; 0221-L002 Revision D; 0221-L003 Revision E; 0221-L004 Revision E; 0221-L005 Revision E and 0221-L006 Revision E shall have been implemented on site before the end of the second planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner. 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.
- 23) None of the trees to be retained on site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed.
- 24) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining planning permission from the Local Planning Authority.

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Appeal Decision

Site visit made on 22 April 2025

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/X1925/W/24/3355885

51 Beech Way, Blackmore End, Hertfordshire AL4 8LY

- 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 Neil Tennant against the decision of North Herts Council.
 - The application Ref is 24/00797/FP.
 - The development proposed is erection of 1no. dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and site address above from the application form. Although different to that given on the decision notice, no confirmation has been provided that a change was agreed.
3. The appeal submission has been accompanied by two additional documents which were not considered by the Council in reaching their decision. These documents include a Daylight and Sunlight analysis and site section drawing. This represents the submission of new information that neither the Council nor interested parties may have had the opportunity to comment on.
4. The Planning Inspectorate Appeals' Procedure Guide makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council and interested parties. I have not therefore considered this new information in this appeal as it would prejudice the Council and any interested parties. If an appellant thinks that amending their application will overcome the Council's reasons for refusal, they should normally make a new planning application.

Main Issues

5. Whilst not stated in the reasons for refusal, it is clear from the Officer's Report that the Council considered that, due to the proximity to the boundary of 1 The Drive (No 1), future occupiers of the dwelling would feel enclosed with limited light reaching the rear rooms. The appellant has sought to address these concerns within their statement of case.
6. Based on the above, the main issues of the appeal are the effect of the proposed development on:
 - the character and appearance of the area, including protected trees;

- the effect of the proposal on the living conditions of the occupiers of No 1, with particular regard to outlook and light; and,
- whether the proposal would provide satisfactory living conditions for the future occupiers.

Reasons

Character and appearance

7. The appeal site is within a residential area with a verdant character formed by landscaped gardens and mature trees. Local housing is a variety of styles and types, but predominantly consists of single and two-storey detached and semi-detached properties. Many of these dwellings are arranged in cul-de-sacs located off routes taken from Kimpton Road and are set back from the road by front gardens and driveways.
8. The appeal site is a corner plot at the junction with Kimpton Road. It consists of the side garden of the host property and includes a hedge and fence along part of its frontage. It also contains several tall trees covered by a Tree Preservation Order (TPO) close to the junction. The opposite side of Kimpton Road comprises a boundary of mature trees and hedging with fields beyond. The TPO trees on site and those nearby result in a pleasant, verdant appearance to the immediate area on the edge of the village.
9. Future occupiers would be aware of the position of the trees and that the canopies are quite high. However, the implications of living next to them could not be fully appreciated until occupation. During my mid-morning site visit, which is only a snapshot in time, I observed that much of the proposed garden area was in the shade of these protected trees. Moreover, their position would result in a limited open area of usable garden space.
10. This shade and lack of open space would raise undue pressure in the future for works to the tree canopies for additional light or potential removal of trees. Although works to protected trees would be subject to consent from the Council, given the potential effect on the living conditions of future residents such works would be difficult to resist. In turn, this may lead to significant works to the trees, with subsequent harm to the contribution that these trees make to the character and appearance of the area.
11. Many dwellings in the surrounding cul-de-sacs share a back-to-back relationship. In contrast, the host dwelling is angled towards the road such that its rear boundaries are sited close to the rear gardens of properties on Beech Way and The Drive. The proposed dwelling would have a similar short distance to the rear boundary, following this pattern of development. The driveway would be somewhat short in comparison to some nearby properties. Still, there remains space for parking and soft landscaping, ensuring the development could assimilate with the pattern of built form found in the vicinity, thereby avoiding an overly urban form of development.
12. However, given the height and proximity between the proposed dwelling and TPOs the separation distance would be limited. As such, when viewed from the surrounding area, the dwelling would appear unduly cramped within the plot, given the surrounding constraints.

13. For these reasons, the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies SP9 and D1 of the North Hertfordshire Local Plan (LP). These seek with respect to this issue, for development to be well designed by responding to local context.

Living Conditions – Existing Occupiers

14. Given the separation distance between the development and No 1 the main impact of the proposal would be to the rear garden rather than the dwelling itself. This would match the findings of the Council.
15. No 1 benefits from a well sized garden given the large plot on which it is located. The rear garden is expansive with landscaped areas close to the boundaries. The existing layout of No 1 is such that rear doors and a conservatory open out onto the rear garden area closest to the position of the proposed dwelling. It is likely, therefore, to be a primary external space used by occupants of that property.
16. The proposed chalet-style dwelling would have a pitched roof incorporating two rear dormers to serve an en-suite and bathroom. Given the distance from the boundary and size of the roof dormers, their presence would be prominent when viewed from the neighbouring garden at No 1. Whilst existing trees and boundary treatments may provide some screening this would not be year-round or thoroughly screen the roof dormers.
17. The proposed dwelling would be adjacent to a significant proportion of the neighbouring garden and therefore the occupiers of No 1 would feel little respite from the impact of the development. Given the ability to condition that the windows be obscurely glazed, it would be a perception of overlooking rather than direct overlooking, but this would still be materially harmful to the living conditions of the occupiers of No 1 when using their rear garden.
18. At present, occupiers of No 1 enjoy somewhat open views out over the appeal site even when taking existing boundary treatments and trees into consideration. The chalet style design of the dwelling would mean that the main bulk and height of the proposed dwelling would be set away from the shared boundary with No 1. However, as the separation distance to the boundary of No 1 is limited, a dwelling in this location would appear as a dominant feature, which would have an overbearing effect on the outlook from a large proportion of the rear garden of No 1. Additionally, the proposed development would likely give rise to a degree of overshadowing with consequent loss of daylight and sunlight to this area of the garden, which is already impinged by the TPOs on the appeal site.
19. For the reasons set out above, the proposed development would result in unacceptable harm to the living conditions of neighbouring occupiers at No 01. It would fail to accord with Policy D3 of the LP. This requires proposals not to cause unacceptable harm to living conditions of nearby occupiers.

Living Conditions - Future Occupiers

20. The proposed dwelling would have one window serving the lounge and one window serving the kitchen area of the kitchen/dining area. From the proposed elevations and my observations onsite, the outlook from the kitchen/dining area would be acceptable given that this room would be served by a large second

window and a set of glazed doors allowing for a sufficient level of natural light and outlook from within this room. However, the existing rear boundary treatment would severely restrict outlook from the only window serving the lounge area. Moreover, occupiers of No 1 may seek to erect additional boundary treatment, further limiting outlook from within this room.

21. Given the proximity of the lounge window to the rear boundary and the existing boundary treatments, it is unlikely that sufficient daylight and sunlight would enter this main living space. Technical evidence, such as a daylight and sunlight assessment, has not been submitted to demonstrate otherwise. Therefore, the proposed development would not provide a suitable living environment for future occupiers with regard to outlook and light.
22. I note the appellant's view that a set of glass sliding doors to the lounge could be provided from the office. However, this is not shown in the drawings, and I have assessed the scheme before me as it was submitted and for which permission is sought.
23. Consequently, the proposed development would not provide a suitable living environment for future occupiers with regard to outlook and light. Therefore, the proposal would conflict with LP Policy D3 which requires proposals do not cause unacceptable harm to living conditions. I note that the second reason for refusal also refers to Policy D1 of the LP. This does not explicitly refer to living conditions and therefore I find no conflict with Policy D1 in this respect.

Other Matters

24. A lack of objection from consultees weighs neither for nor against the scheme. The development would still offer potential benefits in providing one new dwelling to the Council's housing stock in the form of a self-build dwelling. It would also have economic benefits through employment opportunities during the construction phase of the development, as well as spending in the local area by future occupants. I have attached some weight to these factors. However, I have not been provided with any evidence to demonstrate there is an unmet need for self-build dwellings, and given the small scale of the development, the weight attributable to these matters is limited and is not sufficient to outweigh the harms that I have identified and the conflict with the policies I have referred to.
25. Regarding other issues raised, constraints imposed by a restrictive covenant are for the appellant to address separately and are not matters for this appeal.

Conclusion

26. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR



Appeal Decision

Site visit made on 8 May 2025

by **K E Down MA(Oxon) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/X1925/D/25/3362934

The Garden House, Putteridge Park, Luton, Hertfordshire, LU2 8LD

- 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 & Mrs Jim Horsted against the decision of North Hertfordshire District Council.
 - The application Ref is 24/02693/FPH.
 - The development proposed is a two storey side extension.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: firstly, whether the proposed development would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (NPPF), 2024, and any relevant development plan policies; secondly, the effect on the openness of the Green Belt; and thirdly, if the proposed development would amount to inappropriate development, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, such as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

3. The appeal dwelling is a large, detached house on an extensive open plot set in the rural parkland setting of Putteridge Bury Grade II listed Historic Park and Garden. Grade II listed Putteridge Bury house and stables are a short distance to the east. The site lies in open countryside and within the Green Belt. The house is one of a small number of dwellings set close to a private road but overall the area is mostly undeveloped and open and characterised by pasture and woodland. The dwelling has been extended in the past through a two storey front extension, a dormer window and single storey front, rear and side extensions. There is also a detached triple garage nearby.
4. The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. For extensions and

alterations to buildings, these should not result in disproportionate additions over and above the size of the original building. "Original building" is defined in the NPPF as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as originally built. Policy SP5 of the adopted North Hertfordshire Local Plan 2011-2031 (LP) accords with the NPPF in resisting inappropriate development in the Green Belt unless very special circumstances have been demonstrated.

5. The parties agree that the "original dwelling" had a floor area of some 197m². There is also broad agreement that the dwelling has been significantly extended. The Appellants dispute the Council's assessment that the dwelling is now some 122% larger and suggest the figure is around 96%. The difference appears to arise because a double garage was permitted but not built because a triple garage was then permitted and built instead. In any case, I consider the extensions to have resulted in significant enlargement of the original dwelling.
6. The proposed extension would comprise a two storey side addition to provide an ensuite bathroom to a room on each of the ground and first floors. The extension would have a floorspace of about 10m². This would increase the floorspace of the dwelling by approximately a further 3-5% depending on whether the appellant's or the Council's figures are used. In itself the extension would be modest but the NPPF requires additions to be considered cumulatively with earlier extensions. The proposed extension would lead to a building that was more than 100% larger than the original dwelling and in my view this doubling in size would amount to a substantial increase which would be disproportionate to the original dwelling.
7. It is therefore concluded on the first main issue that the proposed development would be inappropriate development in the Green Belt. The NPPF advises that substantial weight should be given to any harm to the Green Belt, including that by reason of inappropriateness.

Openness of the Green Belt

8. The NPPF states that the essential characteristics of Green Belts are their openness and permanence. Openness has a spatial and visual aspect. The proposed extension would be clearly visible to the side of the appeal property, projecting into the currently open driveway, when viewed from the private access road. The effect on openness would be limited by its small scale and position, visually set between the host dwelling and the adjacent buildings at Luke's Place, formerly The Old Estate Office. Nevertheless, there would be a modest but clearly perceptible effect on both spatial and visual openness.
9. It is concluded on the second main issue that the proposed development would, result in modest harm to the openness of the Green Belt. The NPPF makes clear that substantial weight should be given to any harm to the Green Belt and the loss of openness therefore weighs heavily against the proposed development.

Other considerations

10. The appellants draw my attention to a number of other considerations which they consider might amount to the very special circumstances necessary to justify the proposal. Primarily, there is a need to provide convenient downstairs shower/w.c. facilities for a frail, elderly, disabled occupant of the dwelling. It is pointed out that the only downstairs bathroom is remote from the elderly person's bedroom and that a closer facility is necessary.

11. The appellants suggest that there are many examples where medical conditions and personal circumstances have been found to amount to very special circumstances. I have sympathy with the appellants' wish to make provision for their relative. However, no examples are given and the circumstances of this case, in which an elderly, disabled occupier requires additional facilities, does not seem to me to be unusual since many families face similar situations. Overall and in itself, the need for facilities to provide for the elderly and disabled occupant therefore carries moderate weight in favour of the proposed development.
12. The appellants state that other solutions within the existing dwelling have been considered but that none is suitable. I have no evidence of what these alternatives are or why they were deemed unsuitable. The Council suggested the conversion of the existing cinema room but the appellants point out that this room has the only fireplace and is used each evening by the occupants. Nevertheless, the dwelling is large and there are other rooms that might be capable of re-purposing. I therefore give this matter limited weight in favour of the proposed development.
13. It is further suggested that the proposed bathroom facilities may be required in the longer term for an existing occupant of the dwelling with serious, long-term mobility issues. However, circumstances may change before this becomes necessary and I therefore afford limited weight to these potential future needs.
14. Finally, it is suggested that the proposed facilities might avoid the need for the elderly person to go into a care home. However, this may never be necessary and there are many reasons why care home facilities might be needed, notwithstanding a more proximate bathroom. This consideration therefore carries little weight.
15. Accordingly, it is concluded on the third main issue that, in the final balance, the other considerations would not clearly outweigh the harm to the Green Belt through inappropriateness and loss of openness. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would therefore conflict with LP Policy SP5 and with national policy set out in the NPPF, 2024.

Other matters & conclusion

16. As set out above the site lies within a Grade II listed historic park and garden and there is a Grade II listed building some distance away. In addition, there is a Grade II listed wall to the rear of the dwelling. I agree with the Council that none of these would be affected by the proposed extension and so there would be no effect on designated heritage assets.
17. The appellants note that there were no third party objections or representations regarding the proposed extension and that their District Councillor supported the appeal. Moreover, they state that there are many areas of common ground between the parties. However, these matters would not alter or outweigh the harm to the Green Belt that has been identified.
18. Finally, the appellants express disappointment that the Council failed to act proactively or allow proactive dialogue since they believe this might have enabled a resolution of the areas of difference. However, the Council makes clear that their failure to act proactively was because they considered the proposal to be unacceptable in principle and therefore not capable of resolution in this way.

19. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR

Appeal Decision

Site visit made on 22 April 2025

by **A Hickey MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th May 2025

Appeal Ref: APP/X1925/W/24/3356650

Land to the rear of 18 Victoria Road, Hitchin, Hertfordshire, SG5 2LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Ms Amanda Mills against the decision of North Herts Council.
 - The application Ref is 24/00839/OP.
 - The development proposed is erection of one detached one bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description as included in the application form for the purposes of the heading above. I have however taken the site address from the decision notice and appeal form as it more accurately identifies the appeal site location.
3. The proposal was made in outline with all matters reserved and I have considered the appeal on this basis. I have therefore treated the submitted drawing as being for indicative purposes only.

Main Issues

4. The main issues in this appeal are the effects of the development proposed on:
 - the character and appearance of the area; and
 - the living conditions of occupiers of 17 Victoria Road (No 17) with particular regard to outlook and light.

Reasons

Character and appearance

5. The appeal site falls within an area of residential character comprising two storey semi-detached properties to the north with their gardens enclosing the east of the appeal site. Behind a well established hedge on the opposite side of Lucas Lane is a caravan park. To the south are three similarly designed two-storey gabled fronted properties in a staggered arrangement with a part section of footway to the front. Beyond these three properties lies a bungalow sited at the junction with Lavender Way. Development on the southern side of the appeal site, particularly

the three dwellings results in a strong uniform layout of houses, which affords a pleasant suburban character to this section of Lucas Lane.

6. The appeal site previously formed part of the rear garden of 18 Victoria Road. This is in contrast to other properties along this side of Victoria Road, which have retained their original gardens, including No 17 adjacent to the appeal site. The appeal constitutes an overgrown, somewhat narrow and broadly rectangular piece of land accessible from Lucas Lane. The lane narrows opposite the appeal site as there is no dedicated footway, and the hedging opposite is well established, which also screens the caravans opposite.
7. Whilst the final scale and layout of development will be determined at the reserved matters stage, I must consider if the proposed development can be accommodated on-site. Moreover, the constraints on the site, such as the limited width of the plot, leave minimal potential to deliver this layout of development in a form substantially different to that set out in the illustrative plans. Indeed, the supporting evidence suggests that substantial consideration has been given to this being the preferred layout to overcome a previously refused scheme¹ on the site.
8. The indicative site layout shows a tall dormer-fronted bungalow set back a short distance from the lane with a side garden. This position would interrupt the uniform staggered layout of the three dwellings on this section of the lane, highlighting the prominence of a dwelling in this location. The rear of the property would also be situated a short distance from the rear garden of No 17. The layout would result in small strips of curtilage space to the front and rear that would be highly noticeable from users of the lane and from within nearby houses and gardens.
9. Whilst there are bungalows in the wider area, the proposed development would be visually disruptive to the established and recognisable pattern of the surrounding built environment on this section of the lane. It would further increase the perception of narrowing of the lane, resulting in an awkward design attempting to fit a dwelling into a tight and constrained plot of limited width. The proposal's location would starkly contrast with the established pattern of the built environment and, together with the presence of a side garden space, would appear cramped, contrived and visually discordant.
10. Whilst the submitted plan is indicative only, it fails to demonstrate a dwelling could be satisfactorily developed on the plot, even if it were oriented differently, that would be in keeping with the character or pattern of the local built environment.
11. For these reasons, the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies SP9 and D1 of the North Hertfordshire Local Plan (NHLP). Together, these policies seek new development to be well-designed, responding positively to local context. It would also conflict with the aims of the National Planning Policy Framework (the Framework) insofar as it seeks development to be sympathetic to local character.

Living Conditions

12. I found above the illustrative layout would be largely fixed and the inclusion of living space in the roof would mean the dwelling would be relatively tall. As such,

¹ Ref: 23/00620/OP

an assessment of the relationship between the proposed dwelling and the rear garden of No 17 can be undertaken.

13. The section of rear garden at No 17 closest to the appeal site at the time of my visit was used to grow vegetables and appeared to be at a slightly lower level. The proposal would see the introduction of a dwelling a short distance away from this growing area that is likely to be used for long periods. As the separation distance to the boundary of No 17 is limited, a dwelling in this location would appear as a dominant feature, which would have an overbearing effect on the outlook from parts of the rear garden of No 17. Moreover, the proposed development would likely give rise to a degree of overshadowing with consequent loss of daylight and sunlight to this area of the garden.
14. The Council have found there would be an appropriate separation distance between a proposed dwelling on the appeal site and the rear elevations of properties on Victoria Road. Given the distance between the appeal site and these properties, I find no reason to disagree.
15. For the reasons set out above, the proposed development would result in unacceptable harm to the living conditions of neighbouring occupiers at No 17. It would fail to accord with Policy D3 of the NHLP. This requires proposals not to cause unacceptable harm to living conditions of nearby occupiers.

Other Matters

16. There is no dispute with regard to the principle of a dwelling on the site and matters in relation to appearance and access could be agreed at reserved matters. Additionally, it is noted that the proposed scheme has sought to overcome the reasons for refusal of a previous proposal on the site. However, these matters do not lead me to reach a different conclusion on the abovementioned harms.
17. The proposal would meet the Framework's aims to significantly boost the supply of homes on windfall sites by delivering an additional dwelling to the Council's housing stock in a sustainable location. There would also be social and economic benefits associated with employment during construction as well as future occupants buoying up the local economy. There would also be the potential for environmental benefits through soft landscaping. However, in the form proposed, this development would result in the significant harms identified above, and the benefits of the scheme do not justify development that would be contrary to the development plan.

Conclusion

18. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
19. Therefore, for the reasons given above, the appeal is dismissed.

A Hickey

INSPECTOR

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