

ITEM NO:

<u>Location:</u>	Land West Of Tuthill House Kelshall Tops Therfield Hertfordshire
<u>Applicant:</u>	Mr Iain Bell
<u>Proposal:</u>	Outline application for erection of 6 dwellings (all matters except access reserved)
<u>Ref. No:</u>	20/00117/OP
<u>Officer:</u>	Richard Tiffin

Date of expiry of statutory period: 05.05.2020

Reason for referral to committee: Site Area

1.0 **Site History**

- 1.1 This site has a complex planning history the relevant highlights of which have been summarised below.
- 1.2 92/00643/1 Application to use the land for open storage of agricultural vehicles and as operating depot for 4 HGV. This was approved subject to 106 agreement (see 4.3.9 – 4.3.16 below).
- 1.3 93/00543/1TD Application for a 15m telecommunications mast was accepted as permitted development subject to an amendment to 106 agreement (see 4.3.9 – 4.3.16 below).
- 1.4 93/01303/1 Application for a small storage building approved subject to an amendment to 106 agreement (see 4.3.9 – 4.3.16 below).
- 1.5 05/00355/1 Application for use of site for storage and distribution of building materials refused.
- 1.6 Applications for residential development were submitted in 2015 but subsequently withdrawn.
- 1.7 An application to vary/remove the 106 agreement was submitted in 2018 but subsequently withdrawn.
- 1.8 The site has been the subject to enforcement investigations over the years relating to unauthorised uses, including recently the unauthorised use of the site as a vehicle breakers yard.
- 1.9 An application for an 18-unit scheme was submitted at the same time as this proposal under ref 20/00118/OP.

2.0 **Policies**

2.1 **NPPF (2018):** Generally, and specifically 12. Achieving well designed places; 5. Delivering a sufficient supply of homes; 15. Conserving and enhancing the natural environment. 16 Conserving and enhancing the historic environment.

2.2 **North Hertfordshire District Local Plan No. 2 with Alterations 1996 (Saved):**

Policy 6 – Rural Areas beyond the Green Belt

Policy 7 – Selected Villages

Policy 55 – Car Parking

Policy 57 – Residential Guidelines and Standards

2.3 **North Hertfordshire District Local Plan 2011-2031 Emerging Local Plan and Proposals Map:**

Policy SP1 Sustainable Development in North Hertfordshire

Policy SP2 Settlement Hierarchy

Policy SP5 Countryside and Green Belt

Policy SP8 Housing

Policy SP9 Design and Sustainability

Policy SP10 Healthy Communities

Policy SP11 Natural Resources and Sustainability

Policy SP12 Green Infrastructure, Biodiversity and Landscape

Policy CGB1 Rural Areas beyond the Green Belt

Policy T1 Assessment of Transport Matters

Policy T2 Parking

Policy HS3 Housing Mix

Policy HS5 Accessible and Adaptable Housing

Policy D1 Sustainable Design

Policy D4 Air Quality

Policy HC1 Community Facilities

Policy NE1 Landscape

Policy NE5 New and improved public open space and biodiversity

Policy NE6 Designated biodiversity and geological sites

Policy NE7 Reducing Flood Risk

Policy NE8 Sustainable Drainage Systems

Policy NE9 Water Quality and Environment

Policy NE10 Water Framework Directive and Wastewater Infrastructure

Policy HE1 Designated Heritage Assets

Policy HE4 Archaeology

2.4 Two supplementary planning documents are applicable. These are **Design** and **Vehicle Parking Provision at New Developments**.

3.0 **Representations**

3.1 **Therfield Parish Council** – Objects to both 6 and 18 dwellings on the basis that the extant 106 agreement attached to the site limits its use to:

- ☒ Landscaped area
- ☒ Storage of agricultural vehicles machinery and equipment
- ☒ The parking of 4 heavy goods vehicles owned and operated by the owner of the land

3.2 **Local Residents** – A number of representations have been received by local residents and are mixed in terms of the views expressed – both for and against development on the site. I have summarised the range of points raised below:

- o Harm to the character of the settlement
- o 106 agreement limits use to agriculture and other activity to business operated by owner.
- o Noise and light pollution.
- o Not needed.
- o Disruption involved when installing services.
- o Adverse impact on residential amenity
- o Unsustainable location
- o Adverse impact on heritage assets
- o Poor access to services – no footpath to village
- o A development of 18 units is too dense and would give rise to unacceptable highway impacts including overspill parking on Kelshall Road

Support

- o Would remove a blot on the landscape and put an end to speculation as to what the site might be used for.
- o Would provide affordable homes.
- o May bring younger families into the village and help the school
- o Should include bungalows and be scaled down
- o Can see no good reason why development should not be approved
- o Smaller scheme would be acceptable

3.3 **Highway Authority** – No objection subject to conditions

3.4 **Local Lead Flood Authority** – Objects on the following basis:

“In the absence of an acceptable Flood Risk and Surface Water Assessment we object to the grant of planning permission and recommend refusal on this basis for the following reasons:

Reason The Flood Risk and Surface Water Assessment carried out by Ardent Consulting Engineers reference 196660-04 Rev A dated April 2020 submitted with this application does not comply with the requirements set out in paragraph 9 the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.”

3.5 **Environmental Protection** – (Air quality) Recommend the imposition of an EV charging condition.

3.6 **Environmental Protection (Contaminated Land)** – Initial concerned about activity on site not covered by the phase 1 study but following liaison with EA advised that the standard 3 stage contaminated land condition is appropriate.

3.7 **Historic England** - Has responded as follows (headline summary):

“Historic England has no objection to the principle of development for six houses on the site but has some concerns about this outline application on heritage grounds and the potential impact of the development on the setting of the scheduled monument.

As approval of the final appearance, scale, layout and landscaping of the proposed development is not being sought in the current outline application, there is scope at the reserved matters stage to ensure that the impact of the proposed development on the setting of the motte and bailey scheduled monument is minimised through appropriate design and landscaping measures.”

3.8 **Herts Ecology** – No objection subject to condition securing implementation of measures set out in submitted PEA report by Huckle Ecology

3.9 **Herts Archaeology Service** – No objection subject to evaluation conditions.

3.10 **Env Agency** – Has issued a holding concern after an initial recommendation of no objection (subject to conditions) following being advised of unauthorised car breaking on the site:

“Taking this new information into account, the conceptual site model within the Preliminary Risk Assessment report provided with the planning application 20/00117/OP appears to be incomplete and will therefore need to be updated to reflect all recent, as well as historic activity and uses, including the storage and/or dismantling of end-of-life vehicles.”

3.11 **CPRE** – Objects to the proposal as fundamentally at odds with policies designed to safeguard the character of the countryside and setting of historic assets.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The application site comprises an enclosed and gated area of land which is largely down to concrete hardstanding. The site occupies a prominent position on the high ground to the south of the Kelshall Road on the edge of the village of Therfield, west of Tuthill Farmhouse.

4.2 **Proposal**

4.2.1 The application is made in outline for 6 dwellings. The application is submitted with **access** only included for consideration in detail at this stage. Information pertaining to **landscaping, layout, appearance** and **scale** has however been provided for indicative purposes. This reserved detail would be the subject of a separate ‘reserved matters’ planning application should permission in outline be granted.

4.2.2 The proposed number of dwellings being 6 is below the threshold for planning obligations such as affordable housing or education contributions.

4.2.3 The access is shown in the middle of the site directly onto the Kelshall Road and the dwellings are arranged off of a shared hard surface with gardens extending outward to a landscaped perimeter.

4.3 Key Issues

4.3.1 The key issues in this case are, for ease of navigation, discussed under the following headings:

- Policy and principles (including consideration of the extant s.106 agreement)
- Design, landscaping and visual impacts
- Highways and access
- Social Sustainability
- Heritage issues
- Ecology
- Other matters including contamination and flood risk
- Planning balance

For each substantive area of discussion, a summary is provided highlighting the central themes and, where appropriate, their assessed importance in the planning balance.

Policy and principles

4.3.2 The application site has not been identified in the emerging local plan (ELP) as a housing site and lies within an area designated as rural area beyond the green belt subject to Saved **Policy 6** of the Saved Local Plan (SLP) 2007 and Policy **CGB1** of the emerging Local Plan (ELP). Paragraph 48 of the NPPF advises that the emerging plan can be afforded weight according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)*

With regards criterion **a)**, the plan is well advanced and is at Examination, albeit completion of this process is reliant on the holding of further hearings following the issuing of detailed letters by the Inspector in the summer of 2019 (these hearings have been postponed due to the COVID-19 emergency and the Council is waiting for a new schedule at the time of writing). This ongoing process of examination does not in my view substantively challenge the key policies in this case, notably **CGB1** and its related policies (**SP5, NE1**), aimed at recognising and protecting the intrinsic value of the countryside. Further, Saved **Policy 6** (Rural Area beyond the Green Belt) is broadly compliant with the NPPF, specifically but not exclusively paragraph 170 (b), in its aim to promote this principle and paragraph 127 as it relates to design and the need to respect landscape setting. Given this general conformity with the NPPF (criterion **c)** above) and the advanced stage of ELP preparation (modification), significant weight is attached to both saved Policy 6 and the equivalent ELP policies in this regard. This conclusion is reinforced by appeal decisions in the District in which Inspectors have consistently attributed significant weight to policies (emerging, saved and NPPF) seeking to recognise and protect the intrinsic value and beauty of the countryside.

- 4.3.3 SLP **Policy 26** states that housing proposals will be permitted, among other criteria, beyond allocated sites and residential areas if the proposal is acceptable in that location within the environment and character of the existing area. In my view, and reading the SLP as a whole, Policy 26 should be interpreted in the context of Policy 6. As set out above, this is reasonably clear that schemes of the scale proposed are not considered to be in keeping with the character of the existing countryside and villages in the Rural Area.
- 4.3.4 ELP **Policies SP13 and HE1** relate to heritage assets and broadly reflect national policies on this matter. The site adjoins or is otherwise close to several heritage assets including the Therfield Conservation Area, the Grade II listed Tuthill Manor and the Scheduled Ancient Monument covering the site of the motte and bailey castle.
- 4.3.5 With regards criterion **b**) in 4.3.2 above and **Policy SP2** (settlement hierarchy) of the ELP, Therfield's proposed designation remains subject to some outstanding objections including from the Parish Council. The proposed Main Modifications and the Inspector's further hearing sessions include revisions to and further consideration of this policy. However, neither the proposed status of Therfield as a Category 'A' village nor the extent of the settlement limits are issues the Council have been asked to review at this time.
- 4.3.6 The Authority accepts that it cannot currently demonstrate a 5-year supply of housing land and that its SLP policies are out of date for the purposes of para 11 d) of the NPPF. In this context, the applicant makes a case that, in assessing the proposal against local saved, emerging and national guidance, the Authority should apply the provisions of paragraph 11(d)(ii). This requires the decision maker to apply a 'tilted' balance and grant planning permission "***unless any adverse impact would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole***" (the presumption in favour of sustainable development). However, paragraph 11(d)(i) and the accompanying footnote 6 of the NPPF, make it clear that designated heritage assets are '***areas or assets of particular importance***' and that the relevant policies of the framework should be applied to development proposals where appropriate. Paragraphs 193 to 196 provide further advice on how this assessment should occur. Notably there is no minimum threshold of 'harm' at which the 'non-tilted' public interest test in Paragraph 196 is engaged -196 simply saying that "***where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal***". This neutrally weighted 'public interest balance' is additionally reinforced by the proposed modifications to emerging **Policy HE1** of the new Local Plan (ELP).
- 4.3.7 Setting aside whether the assessment of this proposal, against policy and other material considerations, is calibrated using a tilted balance or on the basis of a neutral (or non-tilted) test of harm vs benefit, it would be useful at this juncture to broadly scope the nature of both **benefits** and **harm**. **Social** benefits would be derived from the delivery of new homes and the associated **economic** benefits of this delivery. A grant of permission would contribute to boosting housing supply in line with the Framework and assist in addressing the Council's substantial housing supply deficit. There may also be some minor **environmental** benefit in 'improving' the application site, principally by removing the extensive concrete hardstanding.
- 4.3.8 Potential harm includes adverse **environmental** (visual) landscape and character impacts arising from the introduction of residential development in this edge of the village location. Further **environmental** and **social** harm may be occasioned to the setting of nearby heritage assets. There is also potential harm (sustainability) associated with the site's relatively isolated location and the ability of future inhabitants to access services and facilities, including the local school. This could amount to both **environmental** and **social** harm in the planning balance. The site adjoins a 'selected village' under the existing plan and a proposed 'Category A' village under the emerging plan. This acknowledged, those settlements afforded this designation do not all benefit from a uniformity of services (Therfield clearly has differing levels of provision compared to higher order (Cat A) villages such as Ashwell for example). Any scheme of housing in this location, with its associated level of traffic generation, may also give rise to adverse highway conditions, including for pedestrians, and this would amount to both **environmental** and **social** harm in the planning balance.

Section 106 agreement (amended 1996).

4.3.9 There is an extant 1993 section 106 (then s.52) agreement in place (and supplemental agreement in 1996) to which the Council is a party. This agreement pertains to the application site and acts to control the use of the site in parts as follows:

- a) **Retain part of the site (as identified in the agreement) as a landscaped area in the interests of amenity.**
- b) **Restrict use of part of the land (as identified in the agreement) to the storage of agricultural vehicles used by the owner in connection with their business.**
- c) **Restrict use of the land (as identified in the agreement) for the storage of four HGV's owned and operated by the landowner.**

In broad terms, the land identified with a) is a landscaped strip along the southern and western boundaries; under b) the bulk of the main site and c) a relatively small area of land in the central part of the site toward the western extremity (but east of the landscape area identified in a)).

4.3.10 The 1996 supplemental agreement varied the original 1993 version to allow for the siting of a storage unit (which also required planning permission) and mobile phone mast (which was otherwise permitted development) on the site while retaining the original restrictions as set out above.

4.3.11 The issues raised by this somewhat unusual agreement are, in my view and for the purposes of this report, captured by a discussion around the following general questions:

- a) Is the agreement a material planning consideration when considering this application?
- b) Does the agreement prevent the LPA from considering and determining this planning application?
- c) What weight should the agreement be ascribed in the planning balance?

4.3.12 In answering **a)**, I would venture that the agreement is most certainly a material planning consideration but only insofar as it seeks to secure planning (public interest) objectives- objectives which are consistent with local and national planning policy aims and pronouncements. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 is clear where the attention of a planning authority should lie in determining any planning application in this regard:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

4.3.13 In answer to **b)** and flowing from **a)**, I would suggest that the presence of the agreement does not, as a matter of general principle, prevent the LPA from considering any planning application as required by s.38(6). Further, I have no evidence before me which suggests that the agreement was entered into for any other reason than to serve a planning purpose. Accordingly, and bringing matters up to date, **material considerations** which might indicate a departure from **the plan** will be policies in the emerging plan, the NPPF and the 106 agreement only insofar as it chimes with the thrust of these 'new' material considerations. The question as to whether the agreement prevents the implementation of the same is a different one in my view. If an application were duly considered and refused, then it would seem to me that such a determination is unlikely to conflict with the Authority's commitment to the terms of the agreement, insofar as they serve a planning purpose. However, if an application were

to be considered favourably and approved this may well be problematic in the presence of an unaltered agreement.

4.3.14 Having opined as I have, it would seem to me possible that if in considering an application for development on the site, the Authority were to assess it as being compliant with both local and national policies as they present today (and this would necessarily involve considering the planning objectives enshrined in the 1993 agreement and its 1996 codicil), it may be prudent to review the agreement and amend it in light of this favourable consideration, prior to implementation. Indeed, a similar exercise was undertaken in 1996 when the 1993 agreement was varied to accommodate an application for a storage building and a telecommunications mast. A hypothetical example may also help to illustrate this general approach.

4.3.15 If the Authority were to receive an application for a modest stable building and an associated request that the entire site be approved for the grazing of domestic animals (such that would involve removing the concrete hardstanding and importing new topsoil), would it be reasonable for the Council to decline to consider and determine the submission on the basis that such a use was outside the narrow limitations prescribed by the 1993 agreement as modified? I would venture that this would be an unlikely and unreasonable stance to adopt on the part of the Authority as the proposed use would undoubtedly be less harmful to the matters of public interest embodied in the agreement when limiting its use to the parking of 4 HGVs and the storage of agricultural machinery. Rather, as in 1996, the Council would be acting both reasonably and proportionately in my view by assessing that the proposed development before it was compliant with local and national policy and by approving the scheme subject to a condition requiring the prior modification of the agreement such as to accommodate the new use. The important point to note here is that the cart ought not to be placed before the horse. Any positive consideration of development on this site, when properly assessed against relevant and up to date policy and guidance, ought not, in my view, to proceed to implementation before the extant agreement is appropriately modified. Clearly, if the Authority were to assess a proposal to be policy compliant as described (the stable and grazing for example) then it follows that it would likely cooperate with the necessary amendment of the s.106 in order to regularise and facilitate implementation. Importantly, the original terms of the agreement would remain the default should the approved scheme not be implemented for any reason.

4.3.16 I turn now to **c)** above and the question of the weight the extant s.106 may be assigned in the planning balance. As currently drafted, the s.106 agreement unquestionably chimes generally with current local and national policy directives insofar as they seek to protect the visual amenities and character of the countryside, the living conditions of neighbours and safeguard highway safety and convenience, in the public interest. It does not however speak to wider matters of sustainability as these were not prominent in the planning narrative at the time (1993). Given the general alignment of the agreement with policies promoting rural restraint in the public interest, I would assess the weight assigned to the s.106 agreement itself to be indistinguishable from that which might be attached to local policies in both the ELP and SLP and national guidance promoting the same. This alignment concluded, and subject to the sequential approach set out above, I can see no need to prioritise this agreement over planning policy in discussing the merits of the development under consideration in this report save making its amendment, prior to implementation, an essential condition should this or any other future recommendation be positive.

Summary

4.3.17 The application site lies outside the selected settlement of Therfield as defined by the SLP and the Category 'A' settlement boundary as defined by the ELP. Policies applicable in this area are generally predicated on principles of restraint and would normally act against the positive consideration of a housing scheme in this location. Policies and guidance relating to the impact of development on heritage assets may also act against supporting such a scheme, including informing the calibration of the planning balance. This policy framework acknowledged, the Council cannot currently demonstrate a 5-year supply of housing land and the provision of an appropriately mixed housing scheme, including some affordable units, must be seen as a benefit in the planning balance. The presence of an extant s.106 agreement on the site, limiting its use, is a material consideration but only insofar as it accords with relevant planning policies and guidance. This said, any use of the site found to be policy compliant should not be implemented until such time as the extant agreement has been appropriately amended to accommodate this new use.

Design, landscape and visual impacts

4.3.18 The application site currently appears as a yard most of which is down to concrete hardstanding. The agricultural / commercial nature of the site is mitigated to some degree by peripheral landscaping. This said, the site does not, in my view, make a positive contribution to the character of the area, even when vacant. The application scheme proposes, in outline, a modest development comprising 6 large detached dwellings with attached double garages accessed off of a shared surface drive. All units are specified with relatively modest gardens. The proposal offers details pertaining to access only, reserving the layout, landscaping, appearance and scale of the dwellings for consideration at a later date, should permission be granted. This acknowledged, the applicant has furnished indicative information on these matters such that allow meaningful consideration at this stage. The applicant summarises the general approach to design and context as follows:

“The application proposes to retain the existing access into the site on the north eastern boundary, from which an organic, winding access road provides access to the private driveways of the 6 dwellings proposed. The dwellings are organised into three pairs with a shared private courtyard area with parking serving each pair.

The sensitive nature of the sites positioning on the edge of the Therfield conservation Area and the setting of the Grade II listed Tuthill Manor have been key factors in the making of these design decisions, this achieved by creating reasonable separation distances from the affected boundaries.

The retention and enhancement of the surrounding plants, trees and vegetation along all boundaries is an important aspect of the proposal. The generous garden sizes and their overall depths from the boundaries ensured their retention whilst also providing usable open space to all future occupants. The primary advantage the retention of the existing vegetation provides is the immediate maturity it will give back to the scheme meaning it will be quickly integrated into the built fabric of Therfield, with minimal impact upon it. Furthermore, a buffer has been opened up between the sites access road and the northern boundary which provides an excellent opportunity for landscaping and further usable public open space which will be to the benefit of future occupiers.

The limited number of dwellings proposed also enables the proposal of landscaped areas to act as a buffer between the dwellings and access road. This

will significantly soften the presentation of the development and create a picturesque and welcoming place to live for residents.

The newly proposed shared surface would include a type 3 'Y' turning head that allows refuse and fire appliances to access and turn around in the site. The arrangement of the dwellings on the south side of the access road would create an outward facing development with plot gardens located to the rear ensuring the retention of the existing natural screening in the form of hedges and trees surrounding the site. The existing natural screening along the northern boundary will obscure the development significantly however the orientation of the dwellings will result in glimpses being offered to those traversing Kelshall Road."

(page 26, DAP Architecture Design Statement)

Given the above considered assessment in relation to 6 units it is difficult to understand why the same applicant considers that a scheme with three times the number of dwellings would also be appropriate (see associated application 20/00118/OP).

4.3.19 The NPPF is very clear about the fundamentals of good design at paragraph 127:

127. Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

4.3.20 Matters relating to function and community cohesion, particularly connectivity, are discussed later in this report (see highways and access and sustainability). However, from a visual or aesthetic perspective, the starting point for determining the suitability of any scheme is a demonstrated understanding of its context. In this case the context of the site is unquestionably rural. The Kelshall Road runs along the high ground south of the scarp slope running down to the Cambridge plane to the north. The 'tops' are characterised by small lanes and an intimate pattern of often large, hedge enclosed, fields. The villages encountered along this ridge such as Sandon, Therfield, Kelshall

and Barkway have retained a character which derives from their historic importance as settlements along an important strategic thoroughfare as well as their significance as farming communities. Approaching both neighbouring Kelshall and Therfield from the west, along narrow country lanes, the character of these settlements is ostensibly agrarian and the setting informal and pleasantly rural. Against this backdrop the application site is something of an anathema – a character acquired in some part perhaps because of its unauthorised use over the years. This acknowledged, it is not unlike many such functional yards found alongside working farms - that there is no longer a working farm nearby in this case, to which this yard relates contextually and functionally, inevitably renders it more incongruous in my view. However, given its limited lawful use (as controlled by the extant 106 agreement) and visibility, not unduly so in my opinion.

- 4.3.21 Against this context, the scheme proposes 6 units comprising detached dwellings with attached double garages (it is noted that there are no smaller units as required by ELP **Policy HS3** - Housing Mix). Development of this nature would unquestionably occasion a marked change in the wider context of the site and the established agrarian ambience of the surrounding countryside. The specification of two storey housing would introduce light, noise and vehicular activity such as would be suburban in character, despite attempts to design buildings which, it may be argued, are redolent of the local vernacular. This said, the specification of attached double garages and the detached ‘executive home’ nature the proposed units would, in my view, undermine any such claim. **Policy 57** of the SLP (residential guidelines and standards) and **Policy D1** of the ELP (sustainable design) both require these matters to be considered.
- 4.3.22 Guideline 2 of Policy 57 relates to design and layout of new residential development. The guideline advises that **“the design and layout of new houses should be acceptable to most people in visual, functional and social terms, whether as residents or as visitors”**. The guidelines go on to state **“to achieve the highest standards of design, housing proposal should relate to and enhance their site and surroundings”**
- 4.3.23 Policy D1 of the Emerging Local Plan advises that development proposal should **“respond positively to the site’s local context”**. Policy D1 is reflected in Paragraph 127 (c) of the NPPF which advises that development should be **“sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change”**.
- 4.3.24 While the 6 unit scheme proposed would unquestionably have less impact than the 18 unit scheme also being promoted alongside this application (20/00118/OP) I nevertheless remain of the view that it represents a suburbanising of the site in what the applicant agrees is sensitive location on the edge of Therfield Conservation area. Accordingly, and for the reasons set out above, the scheme under consideration represents poor design in my view. Such a visual intrusion in this setting would clearly be at odds with the advice issued in the NPPF and reflected in local planning policy, namely that new development should be sympathetically conceived and take the opportunity to affect an improvement in the character of an area and the way it functions (para 130 NPPF). The design of the presented scheme of 6 units would occasion moderate environmental harm in this regard in my view – harm which would weigh against the scheme in the planning balance.

Summary

- 4.3.25 **The presented scheme for 6 units is suburban in character and inappropriate in this edge of village location. While some thought has been given to the design of the proposed units themselves and their layout (in advance of a reserved matters**

application), development of this kind would necessarily militate against the successful assimilation of the scheme into its rural surroundings. Accordingly, the proposal would not take the opportunity to improve the character of the area or be sympathetic to the setting as required by the NPPF and enshrined in Policies 57 and 6 (rural area beyond the green belt) of the SLP and Policies CGB1 and D1 of the ELP. This amounts to significant harm in the planning balance in my view.

Highways and access

4.3.26 There is no technical objection from the Highway Authority in respect of a centralised access serving 6 dwellings on this site. This acknowledged, the provision of a safe access is just one element of the overall consideration of safe, mixed mode connectivity. As advised in the NPPF at paragraph 127 (see above), planning decisions should ensure that development:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The issue here is straightforward in my view - the application site is not connected to the village of Therfield by a safe and convenient route for pedestrians and the scheme makes no provision to provide such. Indeed, the applicant themselves acknowledge that most journeys from the site to the village and elsewhere will be by car, including to the local school. This cannot be characterised as 'safe' or 'inclusive' in the context of this application (see also sustainability below). During the winter months in particular, pedestrian access along the Kelshall Road would be hazardous as it is unlit and narrow and there is no safe space for pushchairs, wheelchairs or mobility scooters. The lack of adequate connectivity and the reliance on the private car is harm in the planning balance and for a scheme of 6 family units this harm is moderate in my view.

4.3.27 Turning now to the issue of car parking, the scheme is indicating 2 spaces per unit as the minimum required by the Council's SPD. The properties indicated are going to be specified with at least 4 bedrooms and a provision of just two spaces each is unrealistic in my view given the relatively isolated location and the fact that garages are seldom used for car parking. There are only 2 visitor parking specified - this again is a concern. The applicant accepts that the site will necessarily be reliant on private transport, even to access facilities in the village, yet the scheme is specified with the minimum number of car parking spaces and offers only limited provision for visitors. A consequence of this minimum provision could be cars parked unsafely nearby and, in all probability, in Kelshall Road itself, a situation which, for those familiar with the area, would be manifestly detrimental visually and hazardous from a highway safety point of view. Further, if residents and visitors were to attempt to avoid using the Kelshall Road for overspill parking and parked instead on the shared surface within the scheme, this would further exacerbate problems with general servicing, such as safe access for delivery vehicles. These manifestations could give rise to locally severe highway safety issues.

Summary

4.3.28 A scheme for 6 dwellings on this site, all of which would be heavily reliant on the use of the private car to access facilities in Therfield and beyond safely and conveniently, could not be described as accessible. Pedestrian trips to and from the local school in particular would be along a narrow, unlit country lane with no footpath. This would represent a danger to both pedestrians and other road users. This reliance on private transport to access essential services beyond the site safely and conveniently and the provision of car parking at the minimum standard, with limited surplus capacity for visitors, would inevitably give rise to dangerous and unsightly on street parking conditions in what is a very narrow country lane. In combination these concerns could be serious and give rise to locally severe highway issues contrary to the advice in the NPPF and policies in the SLP (Policy 55) and ELP (Policies T1 and T2) promoting adequate parking and highway safety. This would amount to moderate harm in the planning balance.

Social Sustainability

4.3.29 The NPPF is clear that sustainability is the central and guiding aim of the planning system – the ‘golden thread’. In overview, sustainability issues may be considered as falling into three overlapping categories, namely the **economic**, the **social** and the **environmental**. All of the issues discussed in this report under discrete headings locate into one of these categories and all are a measure of a proposal’s ‘sustainability’ - on their own and in combination. This acknowledged, this section of the report will consider the matter of **social** sustainability or the degree to which the proposal can be said to adequately support the residents it will house by reason of its social connection with the community to which it will relate.

4.3.30 Therfield has a very limited range of services and facilities. It has a first school, a public house, churches, a recreation ground and a village hall. There is no convenient bus service, post office or convenience store - the nearest food shopping being Royston. It is, for all relative purposes, an isolated settlement and is unlike some of the higher order Category ‘A’ settlements in the District, such as Ashwell, which has a doctor’s surgery, shop, a school, dental practice and a bakery. In a post-NPPF appeal decision in the village the inspector noted the reality of life in Therfield in this regard:

“In terms of access to services and facilities, the Appellants argue that the appeal site has been promoted as part of the emerging Local Plan and therefore it has been adequately assessed for its suitability for development. At my site visit I saw that Therfield has a school, a public house, a village hall and churches. It has enjoyed ‘selected’ village status for many years in the adopted NHDLP 2007. However, Therfield does not enjoy access to a wide range of services and has no bus service. The occupiers of new housing in the village would rely heavily on private transport to access employment opportunities, a doctor’s surgery, a dentist, shops and leisure facilities as well as educational establishments beyond primary level. This would conflict with the requirements of the NPPF in its aim of managing growth to make the fullest use of public transport.”

(APP/X1925/W/16/3158998)

4.3.31 The site referred to above by the Inspector is inside the village boundary, as described in the ELP, and therefore enjoys Cat ‘A’ status, unlike the application site. The residents of the application scheme will be heavily reliant on the use of private transport to access most, if not all, of their everyday needs including work, health and leisure opportunities. Moreover, as noted earlier in this report, the site is not connected

to the village of Therfield by a convenient footpath and it is some considerable distance to those limited facilities which are present in the settlement, most notably the school. Residents of the scheme would need to walk along unlit narrow lanes to the school, a distance of some 800m, without the use of a footpath. The route to the school via Peddlars Lane or The Causeway being the same in this regard and both with road junctions to negotiate without the aid of a footpath. The same is true of access to the pub or the churches. Occupiers would not only be heavily reliant on private transport for visits for essential services beyond the settlement but likely within it also – a reality which the applicant appears to concede in their DAS:

“We believe the site represents an opportunity to provide a high quality residential scheme which will provide family homes for growing and established modern families due to its attractive rural location and proximity to important amenities such as schools and shops, which can be reached via a short car journey.”

(DAS, page 20)

Summary

- 4.3.32 The application site is an agricultural yard the purpose of which, historically, was to service farming related activity locally. It is not connected to the village by a footpath along which pedestrians can conveniently and safely access the limited range of facilities which exist in the settlement. The school is about 800m from the site by road and without a footpath or safety lighting, these factors represent a serious impediment to its use for residential purposes as inclusive integration would rely heavily on the use of private transport. While Therfield is a Cat ‘A’ settlement in the ELP, it is self-evident that it lacks many of the amenities and services found in similarly categorised villages in the District and this being the case even planned development in the village will experience harm by reason of accessibility in the planning balance. In combination, the poor connectivity of the site by means other than the car, the lack of public transport and the very restricted range of facilities and services available in the village, amount to social harm in the planning balance such that must, in my view, be attributed significant weight.

Heritage issues

- 4.3.33 The application site lies adjacent to a scheduled monument, the Therfield Conservation area and the listed property known as Tuthill Manor. Historic England (HE), in its formal response, characterises the importance of the scheduled monument:

“The proposed development site lies c.70m to the northwest of the scheduled monument of the ‘Motte and Bailey castle and associated earthworks 100m south of Tuthill Farm’ (List Entry Number 1009245). Motte and bailey castles are a type of medieval fortification introduced to Britain by the Normans and functioned as military strongholds, aristocratic residences and as centres of local or royal administration. They were generally constructed in strategic positions allowing them to dominate their immediate locality and are the most visually impressive monuments of the early post- Conquest period that survive in the modern landscape. As a class of monuments, they are particularly important for the study of Norman Britain and the development of the feudal system. The Therfield motte and bailey castle earthworks are described in the list entry as being comparatively well-preserved and unusual in that they have, through archaeological excavation, produced evidence of earlier medieval occupation on

the site. The site is located in a dominant position close to the apex of a ridge of high ground and, when originally constructed, the motte would have had commanding view across the surrounding landscape.”

In assessing the significance of the asset, HE goes on to evaluate the impact of the proposal in this regard:

“The proposed new residential development would increase the extent of the built environment in the vicinity of the scheduled monument, eroding its historic rural setting. This change to the monument’s setting would have an adverse impact on its significance and result in some harm to the scheduled monument. The level of harm would depend on the final appearance, scale, layout and landscaping of the proposed development. However, with appropriate design and mitigation measures in place, the level of harm to the scheduled monument would be less than substantial in terms of the National Planning Policy Framework and could be minimised to be of a low level.”

“We note that the current application is for outline planning permission with appearance and scale reserved. We do not object to the principle of development for the erection of 6 dwellings at the application site. However, the proposed development would result in some harm to the significance of the scheduled monument through changes to its setting. Whilst this would constitute less than substantial harm to the scheduled monument, the exact level of harm would depend on the final appearance and scale of the proposed development. In line with planning policy, your authority should be satisfied it has sufficient information to assess the proposals and should weigh this harm against the public benefit it would deliver.”

- 4.3.34 In asserting that the proposal would occasion ***‘less than substantial harm’*** to the heritage asset in question, HE is clearly of the view that the tilted balance is not engaged and that any scheme should be assessed on the neutral (non-tilted) basis of harm vs public benefit. I broadly agree with this conclusion save for the important qualification set out in paragraph 11 d) i) which requires that in order to disengage the tilted balance and apply a neutral test where a heritage asset is concerned (as HE suggest), policies in the NPPF which protect such assets, must provide a clear reason for refusal. Accordingly, it may be that the harm of a development to the significance of particular asset is acknowledged as ‘less than substantial’ but that this harm is mitigated to a point whereby it no longer provides a clear reason for refusal. In such circumstances an applicant may well then be entitled to assert the that tilted balance is relevant and that the presumption in favour of sustainable development once again applies to the overall consideration of the development in terms of the balance between harm and benefit. I will now go on to examine this consideration.
- 4.3.35 The discussion above centres specifically on the impact of a 6 -unit proposal on the significance of the nearby scheduled monument. HE concludes harm to this heritage asset but qualifies this assessment by opining that this harm may be reduceable to a ‘low level’ through careful design. In addition to the scheduled monument, the development of the site would also impact on the significance of the adjacent conservation area and the setting of the listed building known as Tuthill Manor, both situated immediately to the east of the site. I would concur with the general tenor of the analysis offered by HE insofar as I would characterise the development of the site, as proposed, as occasioning ‘less than substantial’ harm to the significance of these heritage assets, as defined by paragraph 196 of the NPPF. However, in respect of harm to the significance of the Therfield conservation area, I would assess the impact of 6-unit housing scheme to be somewhere near the middle of the ‘less than substantial’ continuum. The proposal would, by its very nature, introduce a form of sub-

urban development into the area which would inevitably occasion a marked change to the rural setting (and therefore significance) of the adjacent conservation area as it is currently framed on this important entrance to the village (see analysis on impacts in the rural area at 4.3.18 above). Not only would this change manifest itself by the introduction of housing more typical of an sub-urban area but by the inevitable associated chattels and general domestication associated with such residential development, including overspill car parking onto the narrow Kelshall Road. Notwithstanding HE's tentative suggestion that the developments impact on the scheduled monument might, via design, be rendered 'low level', the quantum of harm to the significance of other assets, principally the Therfield conservation area, would, in combination, be such as to provide clear reasons for refusing permission in my view. Accordingly, I am firmly of the opinion that the tilted balance prescribed by paragraph 11 d) ii) of the NPPF and asserted by the applicant, cannot apply in this case and that the neutral test set out in paragraph 196 of the NPPF is the appropriate calibration for any overall assessment of harm and benefit in the planning balance. In summary then, the public benefits of delivering this scheme must outweigh all of the identified harm (this includes other harm identified in this report) in order to warrant a positive recommendation.

4.3.36 The Council's Conservation officer has been consulted and his view is summarised as follows:

“Historic England concludes that harm to the scheduled monument could be reduced to a ‘low level’ through careful design. Whilst there is more scope to create a more carefully designed scheme when there are fewer buildings proposed across the site, it would still be a considerable design challenge to achieve an acceptable design base on 6 units.

I have to say to say that the three pairs of what would potentially be two-storey dwellings would still create a relatively suburban layout (see below) at this edge-of-village location and I am not convinced that the degree of harm could be reduced sufficiently to overcome this concern

It would, in my opinion, therefore, be a considerable design challenge to see how, in Historic England's words, there is scope at the reserved matters stage to minimise impact i.e. reducing to a low level, “through appropriate design measures”. In my opinion, the number would have to be reduced yet further and for the development to perhaps adopt a vernacular agrarian character based on a courtyard layout to more fully respect this edge-of-village location and the wider setting of adjacent and nearby heritage assets.

It is considered that the proposal would harm; i) the setting of the scheduled monument referred to as ‘Motte and Bailey castle and associated earthworks 100m south of Tuthill Farm’ (List Entry Number 1009245), ii) the setting of Tuthill Manor (grade II listed) and iii) the setting of the Therfield Conservation Area, thereby, adversely affecting their significance. It is considered that the public benefits of delivering this scheme must outweigh all of the identified harm and I leave the case officer to assess this in the round.

Based on the above, I raise an OBJECTION on the basis that the proposal would adversely impact upon the setting (hence significance) of the listed building and

conservation area, thereby, failing to satisfy the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the aims of Section 16 (particularly paragraphs 192, 193, 194 and 196) of the NPPF and Policy HE1 of the North Hertfordshire District Proposed Submission Local Plan 2011-2031 Plan”

Summary

- 4.3.37 The proposal would, by its very nature, introduce a form of development into the area which would inevitably occasion a marked change to the rural setting (and therefore significance) of the adjacent conservation area as it is currently framed on this important entrance to the village (see analysis on impacts in the rural area at 4.3.18 above). Further, the suburbanising nature of the development would occasion harm to the setting of the scheduled monument and the grade 2 listed building known as Tuthill Manor. Not only would this change manifest itself by the introduction of housing more typical of a suburban location but by the inevitable associated chattels and general domestication associated with such residential development, including overspill car parking onto the narrow Kelshall Road.

Ecology

- 4.3.38 The site is currently largely covered by concrete hardstanding and surrounded by some poorly managed vegetation including a hedge along the Kelshall Road. In this regard neither myself nor the Council’s ecologist would demur from the conclusions reached by the applicant’s commissioned ecologist:

“The habitats present within the Site comprised made ground consisting of a concrete yard; vegetation was generally sparse and limited to scattered tall herbaceous vegetation along joints in the concrete and around the edges of the yard. At the west end of the yard, a strip of unmade ground comprised an earth bund with a mosaic of tall herbaceous vegetation on the eastern side of the mound, and a narrow strip of broad-leaved woodland on the west-facing slopes. These habitats are of negligible intrinsic ecological value, being common and widespread and typical of a previously developed sites that are subject to high levels of ongoing disturbance.”

(Huckle Ecology, PEA, Page 3)

Accordingly, I would raise no concerns that the development of the site would occasion harm to matters of ecological significance. This concluded however, I would support the opportunity offered by re-development to enhance the sites biodiversity (**environmental**) value as suggested in 5.1.5; 5.4.4; 5.4.6; 5.4.7 and 5.4.10 of the aforementioned PEA should permission be granted.

Other matters (including contamination and flood risk)

- 4.3.39 The Local Lead Flood Authority has recommended that permission be refused on the basis that the applicant has not demonstrated adequate surface water drainage by the submission of an appropriate assessment.
- 4.3.40 The Environment Agency has indicated a concern regarding the recent unauthorised use of the site for the breaking of vehicles. In light of this land use the applicant must carry out further investigations in order to allow an assessment to be made as to how this activity might inform its view on contamination in relation to this application.

Planning Balance

- 4.3.41 In terms of benefit, the scheme would undoubtedly deliver 6 units of housing at a time when the Council can only evidence a 1.3-year supply of housing land. Despite a proposed housing mix which is not compliant with the ELP, this represents both a **social** and **economic** benefit to which I attach moderate weight.
- 4.3.42 In terms of harm, the proposal is considered to be poorly designed such that it would appear incongruously suburban in this edge of village location, particularly adjacent to the Therfield conservation area and the other identified heritage assets. This incongruity would be exacerbated by limited parking provision for visitors with the inevitable consequence that excess vehicles would spill out onto single carriageway local roads without the width to safely accommodate them. This **environmental** harm is such that it attracts moderate weight in the planning balance.
- 4.3.43 Pedestrian traffic generated by the scheme would be forced to access the limited services which exist in the village without the aid of a footpath or adequate lighting - notably the school. At some 800m distance in respect of the school, this would represent **social** harm to which I attach significant weight. Moreover, the limited range of services available in the village, coupled with poor connectivity by public transport beyond, would render the scheme almost entirely dependent of the private car. This amounts to **environmental** and **social** harm to which I must also attach moderate weight.

4.4 Conclusion

- 4.4.1 The relevant test in the determination of this application is not weighted (or 'tilted') in favour of approval, rather it is simply whether the public benefits of delivering 6 additional homes outweighs the harm identified. In my view the benefits of approval do not outweigh the harm for all the reasons set out in this report. Accordingly, my recommendation is that planning permission be refused. In addition, the application fails to adequately demonstrate how surface water will be discharged or satisfactorily address concerns about the latest unauthorised car breaking use and the potential for contamination. These shortcomings must also be cited as reasons for refusal in my view.

4.5 Alternative Options

- 4.5.1 None applicable

4.6 Pre-Commencement Conditions

- 4.6.1 N/A

5.0 Recommendation

- 5.1 That planning permission be **REFUSED** for the following reasons:

1. By reason of its suburban form and layout, the proposed development would appear at odds with the informal agrarian character of the surrounding countryside in this edge of village location. As such the proposal would fail to take the opportunity to safeguard or enhance the character of the area and the way it functions contrary to the advice set out in the NPPF, specifically paragraphs 127 and 130 and the requirements of saved Policies 6 and 57 of the local plan (SLP) and Policies CGB1 and D1 of the emerging local plan (ELP).

2. The application proposal would be in an area remote from services and facilities such that the occupiers would be almost exclusively reliant of private transport for most of their everyday needs. This inadequacy would be compounded by the site's poor connectivity with the limited facilities available in the village itself, most notably the school. Being some 800m from the school with no footpaths or lighting, along narrow country lanes, non-car access from the site would be poor and possibly hazardous. This poor local connectivity would further militate against the development's successful assimilation into the settlement. If approved, this would amount to the promotion of unsustainable development at variance with the National Planning Policy Framework and its aim to promote sustainable patterns of well connected, inclusive development and policies in the Council's emerging local plan (ELP), principally Policy SP1, supporting the same.
3. The developments reliance on private transport to access essential services in the village and beyond, and the provision of car parking at the minimum standard, with limited surplus capacity for visitors, would likely combine and give rise to hazardous and unsightly on street parking conditions in what is a very narrow country lane. Given the nature of the highway network local to the site, this concern is considered serious and likely to manifest in locally severe highway issues contrary to the advice in the NPPF and policies in the local plan (SLP Policy 55) and the emerging plan (ELP Policies T1 and T2) promoting adequate parking and highway safety.
4. The proposal would, by its very nature, introduce a form of development which would inevitably occasion a marked change to the rural setting (and therefore significance) of the adjacent conservation area as it is currently framed on this important entrance to the village. Further, the suburbanising nature of development would occasion harm to the setting of the scheduled monument referred to as 'Motte and Bailey castle and associated earthworks and the grade 2 listed building known as Tuthill Manor. Not only would this change manifest itself by the introduction of development more typical of a suburban environment, but by the inevitable chattels and general domestication associated with such development, including overspill car parking onto the narrow Kelshall Road. Accordingly, it is considered that the proposal would adversely impact upon the setting (and therefore significance) of the listed building and conservation area as well as the scheduled monument. This being the conclusion, the proposal would fail to satisfy the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the aims of Section 16 (particularly paragraphs 192, 193, 194 and 196) of the NPPF and Policy HE1 of the North Hertfordshire District Proposed Submission Local Plan 2011-2031 Plan.
5. The Preliminary Risk Assessment report provided with the planning application 20/00117/OP appears to be incomplete and will therefore need to be updated to reflect all recent, as well as historic activity and uses, including the storage and/or dismantling of end-of-life vehicles. In the absence of this additional information, the application has not adequately demonstrated what risk the proposed development poses to controlled waters.
6. The Flood Risk and Surface Water Assessment carried out by Ardent Consulting Engineers reference 196660-04 Rev A dated April 2020 submitted with this application does not comply with the requirements set out in paragraph 9 the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out

in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.