

ITEM NO:	<u>Location:</u>	Land off Holwell Road, Pirton
7	<u>Applicant:</u>	Mr Gladman Developments Limited
	<u>Proposal:</u>	Outline planning application for the erection of up to 85 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Holwell Road. All matters reserved except for means of access.
	<u>Ref. No:</u>	17/02563/ 1
	<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 08 January 2018

Reason for Delay

N/A

Reason for Referral to Committee

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

1.0 Relevant History

- 1.1 15/01543/1: Outline planning application for the erection of up to 99 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Holwell Road. All matters reserved except for means of access.

Application refused planning permission on 18th September 2017 for the following reasons:

1) By reason of its siting beyond the built limits of Pirton; the location with open farmland within the Pirton Lowlands Landscape Character Area (218); and the heavy use of planting to screen the largely open site, the development proposal would fail to positively enhance the wider landscape setting of the village, nor would it improve the character and quality of the Rural Area and, as such, would afford significant and demonstrable harm to the intrinsic beauty of the countryside. This harm is considered to clearly outweigh the benefits of providing new dwellings on the site. The proposal is therefore contrary to the provisions of saved Policies 6 of the North Hertfordshire District Local Plan No. 2 with alterations and, Paragraph 17, 109, 116, 156 of the National Planning Policy Framework. The development would also be contrary to Policy CGB1 of the North Hertfordshire Emerging Local Plan 2011 - 2031.

2) Given the lack of essential services in the vicinity of the site, the occupiers of the proposed dwellings would be heavily dependent on services provided outside of the immediate area, giving rise to a significant reliance on private transport. In addition to this, the land on which the site is located is Grade 3A agricultural land, which constitutes the best and most versatile land. As well as being harmful to the natural environment, this would amount to development of the land which is both environmentally and economically unsustainable. In the absence of any realistic measures or other reasons which may offset this unsustainable impact, the proposal would be contrary to the objectives of the National Planning Policy Framework, generally and specifically Paragraphs 14, 49 and 112, and to Policies SP1 SP6 and SP9 of the Emerging Local Plan 2011 - 2031, and to Planning Practice Guidance - Natural Environment para. 026.

3) The proposed development lies within an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of significant archaeological potential. Given this and the large scale nature of the proposal, this development should be regarded as likely to have an impact on significant heritage assets with archaeological interest, some of which may be of sufficient importance to meet NPPF para 139. This could represent a significant constraint on development. In the absence of a geophysical survey or archaeological field evaluation, there is insufficient information to determine the importance of any archaeological remains on the site. The proposal will be contrary to Section 12 of the NPPF.

4) The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing the provision of 40% affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Polices 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary to the requirements of the National Planning Policy Framework (NPPF)

The applicant has submitted an appeal against this decision. There has been no official start date for this appeal and therefore interested parties have not been informed of the appeal by the Council. Any updates on this matter will be reported at the Committee.

1.2 Other relevant planning history

Land Adjacent To Elm Tree Farm, Hambridge Way, Pirton

15/01618/1: Outline application (all matters reserved) for residential development of up to 82 dwellings with associated infrastructure, public open space and planting (amended description). Planning permission granted 27th May 2016

16/02256/1 : Reserved matters application for approval of access, appearance, landscaping, layout and scale to serve a residential development of 78 dwellings (31 affordable and 47 private), pursuant to outline planning application 15/01618/1 granted 27.5.16 (as amended). Planning permission granted 30th May 2017.

2.0 Policies

2.1 North Hertfordshire District Local Plan No. 2 with Alterations (Saved policies September 2007)

Policy 6: Rural area beyond the Green Belt
Policy 14: Nature Conservation
Policy 16: Areas of archaeological significance and other archaeological areas
Policy 26: Housing proposals
Policy 29: Rural housing needs
Policy 51: Development effects and planning gain
Policy 57: Residential Guidelines and Standards

2.2 National Planning Policy Framework

Paragraph 14: Presumption in Favour of Sustainable Development
Paragraph 17: Core planning principles
Section 4: Promoting sustainable transport
Section 6. Delivering a wide choice of high quality homes
Section 10 Meeting the challenge of climate change, flooding and coastal change
Section 11. Conserving and enhancing the natural environment
Section 12. Conserving and enhancing the historic environment

2.3 North Hertfordshire District Local Plan – Submission Local Plan 2011-2031

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 SP12: Green infrastructure, biodiversity and landscape
Policy CGB1: Rural areas beyond the Green Belt
Policy D1: Sustainable Design
Policy T1: Assessment of Transport Matters
Policy T2: Parking
Policy NE1: Landscape
Policy HS2: Affordable Housing
Policy HE1: Designated heritage assets
Policy HE4: Archaeology
Policy HS3: Housing mix

2.4 Supplementary Planning Documents

Planning obligations SPD

Vehicle Parking at New Development SPD (September 2011)

2.5 Pirton Neighbourhood Plan

The Pirton Neighbourhood Plan has been prepared in line with the emerging Local Plan. The policies in the submission draft of the neighbourhood plan focus on the design of development and how development will integrate into the village whilst respecting the character, biodiversity and heritage assets of the village.

Planning Practice Guidance makes it clear that an emerging neighbourhood plan may be a material consideration – alongside paragraph 216 of the NPPF. Consultation on the proposed submission neighbourhood plan took place earlier in the year and the Council is working with the Parish Council to appoint an independent examiner. It is anticipated that the examination of the neighbourhood plan will take place in the autumn.

3.0 Representations

- 3.1 **Highway Authority (Hertfordshire County Council)** – Any comments will be reported at the meeting
- 3.2 **Hertfordshire Ecology** – Any comments received will be reported at the meeting
- 3.3 **Herts & Middlesex Wildlife Trust**
Any comments will be reported at the meeting
- 3.4 **Environment Agency** - Any comments received will be reported at the Planning Committee meeting.
- 3.5 **Lead Local Flood Authority** – Confirm that they have no objection in principle on flood risk grounds and advise the Local Planning Authority that the proposed development site can be adequately drained and mitigate any potential existing surface water flood risk if carried out in accordance with the overall drainage strategy. Recommends a Surface Water Drainage scheme.
- 3.6 **Anglian Water** – Any comments will be reported at the meeting.
- 3.7 **Hertfordshire Property (Development Services)** - seek the following planning obligation project contributions:
- Primary Education towards the expansion of Pirton Primary School (£184,875)
 - Secondary Education towards the expansion of The Priory Secondary School, Hitchin from a 6 form of entry to 7 forms of entry (£27,145)
 - Library Service towards Hitchin library for the development of a meeting room available for the local community e.g. meeting training, event or activity (£12,161)
 - Youth Service towards equipment for expansion of outreach service provision in North Herts villages, including Pirton (£2,460)
- 3.8 **NHDC Housing Supply Officer** –

Within the 40% affordable housing requirement (34 affordable dwellings based on the provision of 85 dwellings overall) a 65% rented (22 units) / 35% intermediate affordable housing (12 units) tenure split is required, in accordance with the proposed submission Local Plan and the council's Planning Obligations SPD, supported by the 2016 Stevenage and North Hertfordshire Strategic Housing Market Assessment (SHMA) Update.

All the affordable homes should be allocated to applicants with a local connection to Pirton, in the first instance.

Any issues of viability should be proven using a recognised financial toolkit and will be independently tested at full expense to the applicant.

- 3.9 **Environmental Health (contaminated land and air quality)** –

Noise – With reference to the submitted Noise Screening Report advises that compliance with the relevant internal and external noise guidelines will be confirmed at the detailed design stage. No detailed noise assessment is required at the outline stage. Applicant is advised that any noise assessment should consider both existing traffic noise (including the new housing development adjacent to the site) and the increase in traffic noise associated with the proposed development should comply with WHO guidelines.

Contamination – Requests a land contamination condition, a Residential Travel Plan condition and a EV Recharging Infrastructure condition. Travel Plan to include a commitment to support Ultra Low Emission Vehicles (ULEV).

3.10 **NHDC Waste Management** – Recommends conditions regarding details of waste and recycling storage facilities for the new dwellings and full details of the circulation route for refuse collection vehicles.

3.11 **NHDC Community Development Officer:** – Any comments will be reported at the meeting

3.12 **Hertfordshire County Council Historic Environment Officer:**

Advises that the submitted Desk Based Assessment (DBA) is inadequate for planning purposes – the HER search is out of date and does not mention the presence of comparatively significant Late Bronze Age/Early Iron Age archaeology in the adjacent field to the west.

DBA concludes that there is low potential for prehistoric, Anglo-Saxon and medieval remains within the proposed development area. However recent investigations in advance of a housing development in the field to the west of the proposed development site (to the rear of Elm Tree Farm) have identified comparatively significant later prehistoric remains, including human cremations, a post-built circular structure, a large number of pits containing pottery and some animal bone, and a boundary ditch (HER nos. 31348 & 31349; Headland Archaeology 2015; 2017). Specialist analysis of the pottery indicates that this site was occupied in the Late Bronze Age and/or Early Iron Age.

Considers that there is a likelihood of prehistoric archaeology in the proposed development area given its close proximity, similar topography and land use at the adjoining site where remains have been found.

Given the potential for the presence of archaeological features and the large scale nature of the proposal, HCC consider that this development should be regarded as likely to have an impact on significant heritage assets with archaeological interest, some of which may be of sufficient importance to meet NPPF, para. 139. This could represent a significant constraint on development. At present, not enough information is available to determine whether remains of such importance are likely to be present.

At present not enough information is available to determine whether remains of archaeological importance are likely to be present. Recommends the following investigations should be undertaken prior to determination to describe the type, scale and quality of heritage assets likely to be affected by the proposal:

Recommend that the following investigations should be undertaken predetermination (NPPF, para. 128) to describe the type, scale, and quality of heritage assets likely to be affected by the proposal:

1. The updating of the geophysical survey report to include a plot of raw/minimally processed data that has not been destaggered or subject to zero mean traverse. It may be grid balanced using a process such as zero mean grid.
2. an archaeological trial trenching evaluation.

3.13 **NHDC Parks and Countryside manager** – Any comments will be reported at the meeting.

3.14 **Landscape and Urban Design Officer** – Does not support the proposed development for several reasons including:

- Cumulative impact when taken with new dwellings constructed and/or approved since 2011 could put stress on the community and infrastructure of the village which may find it difficult to accommodate the increase in population, traffic and services.
- Pressure on transport, open space and the countryside
- Contrary to Policy 6 and emerging Policy SP5 and CGB1
- Loss of hedgerow which forms part of an approved scheme
- Adverse impact on the character of Hambridge Way

3.15 **Hertfordshire County Council (Fire & Rescue Service)**

Advises that Fire Hydrants should be provided in accordance with HCC's Planning Obligations Toolkit

3.16 **Pirton Parish Council:**

Object to the proposed development in the strongest terms. Considers that as the application is similar to 17/01543/1 the suggested reasons for refusal of this application are the same. Comments can be summarised as follows:

- The development is not sustainable and contrary to the NPPF and adopted and emerging local plan policies
- The Local Plan EiP is underway and it is clear the Council can demonstrate a 5-year land supply
- Pirton Neighbourhood Development Plan is at an advanced stage
- The Submission Local Plan is also at an advanced stage
- Site not identified for housing and is outside of the village boundary
- Application should be refused on prematurity, lack of sustainability, impact on significant heritage assets and harm to the village arising from cumulative impact from the adjoining approved residential development
- NHDC should consult Historic England
- Development should not be approved just to avoid a costly appeal
- Agree with CPRE view that a small reduction in housing numbers does not alter the previous grounds for refusal
- Landscape Visual Appraisal is flawed - first reason for refusal not addressed
- No change made to address lack of sustainability
- A full archaeological assessment is required
- Acknowledge that applicant has attempted to address S106 reason for refusal
- Application should be refused permission in absence of identified construction traffic route
- Development does not promote walking, cycling or public transport
- Bus services to/from Pirton overstated
- Recommend refusal on same grounds as 17/01543/1.

3.17 **Pirton Neighbourhood Plan Steering Group:**

Object to the proposed development. Comments can be summarised as follows:

- Land outside current and prospective village boundary
- Overdevelopment
- NHDC has a five-year housing supply
- Loss of high quality agricultural land
- Does not maintain and enhance wildlife provision
- Poor quality unreliable application reports
- Detailed assessment of archaeology on site must be carried out before determination
- Poor connectivity and safety

- Adverse impact on the character and setting of Pirton
- Adverse impact on Hambridge Way
- Negative cumulative impacts
- Premature given outstanding matters on adjacent site

3.18 Shillington Parish Council :

Advise that the Parish Council's comments are the same as for previous similar applications.

Shillington suffers from many of the same issues which Pirton does - narrow residential roads not suitable for large construction vehicles, on road parking which narrows the available road width and also issues of vehicles travelling above the speed limit. Shillington Parish Council is concerned as to how increased traffic from the above development will affect residents living in Shillington. New housing is planned for Shillington in the next year or so and the traffic generated by that work and potential traffic generated from this and other applications in Pirton will greatly impact on residents of Shillington.

3.19 Holwell Parish Council:

Object in the strongest terms to this application. An overdevelopment at the highest level. Comments are summarised as follows:

- fierce local opposition
- area around Pirton and Holwell is rural with narrow lanes and limited bus service
- site outside Pirton village boundary
- proposed affordable homes will not be affordable
- local infrastructure cannot cope with more development
- adverse impact on Chilterns AONB
- increased traffic/ congestion / road traffic accidents
- local residents views are important
- application must be refused

3.20 Site Notice / Press Notice and Neighbour consultation – In response to publicity the Local Planning Authority has received a considerable amount of response from local residents, overwhelmingly opposed to the application. For a full understanding of all comments received Members can inspect the relevant pages on the Council's website. Set out below is a summary of responses for ease of reference:

Summary of responses against the development

- application does not differ significantly from the previously refused application
- previous reasons for refusal not addressed
- changes from application ref: 17/01543/1 are slight and do not alter objections
- site beyond the defined village boundary;
- not part of the district or Pirton neighbourhood plan
- local infrastructure cannot cope with this development
- local road network is narrow and totally unsuitable for such an increase in traffic
- will lead to more traffic congestion and road traffic accidents / road safety issues
- no emergency exit
- transport assessment contrary to NPPF
- the school cannot accommodate more pupils at present / local schools are oversubscribed
- further pressure on local facilities such as GP surgeries in Hitchin
- Out of scale/ an overdevelopment of a rural area / too many houses for the village
- changes the rural setting of Holwell and Pirton

- concern at competency of highway department
- will increase the size of the village by 32% which is not sustainable or proportionate
- the village will grow too quickly destroying the identity, culture and feel of the village
- will not integrate with the village / isolated from the village / residents would not walk into village
- school access already difficult
- would exacerbate travelling into Hitchin
- loss of view / adverse impact on the Chiltern Hills and an Area of Outstanding Natural Beauty
- Inadequate local road network to accommodate construction traffic / will add to congestion in the village
- too many properties
- application does not address concerns of the wider village as documented in the Pirton local plan
- disproportionate to the needs of the community
- breaches emerging policy on density
- no development should be approved until the neighbourhood plan is in place
- development will not integrate with the existing community
- adverse impacts significantly and demonstrably outweigh the benefits
- no workable traffic management plan / access inadequate
- archaeology may be of national importance and has not been researched sufficiently
- utilities cannot cope with additional housing
- detrimental to health of local residents
- existing small construction sites in Pirton / Holwell already causing amenity / highway issues
- NHDC has a five year land supply – therefore no justification to build beyond the village boundary
- dwellings will not be affordable
- previous development at Holwell Turn for 20 dwellings was refused
- substantial increase in car use and pollution
- accompanying reports out of date / inaccurate
- loss of agricultural land
- detrimental to conservation areas
- a different access to take traffic away from Pirton & Holwell is required
- noise and light disturbance
- the approved development more than meets Pirton's housing need
- developers only interest is in profit
- significant overall environmental damage
- cycling to Hitchin not realistic
- a construction management plan should be submitted
- would create an island of housing separated from the village
- Statement of Community Involvement bears no relationship with responses received
- Pirton pumping station will need to be replaced
- Developer is disregarding the archaeological evidence

3.21 Other comments

North Hertfordshire Archaeological Society :

Refer to previous comments (see below)

- The Submitted desk based archaeological assessment report is inadequate and does not refer to local finds and local mapping
- The potential for new archaeological discoveries is extremely high
- Recent finds suggest prehistoric and roman religious sites
- A Pre-determination archaeological field determination is required including geophysical surveys and trial trenching

Additional comments:

- the geophysical survey undertaken is inadequate

3.22 CPRE Hertfordshire

Objects to the development

- Does not consider that the submission of an appeal is a legitimate way to proceed with the consideration of planning balance
- Planning statement does not respond to the reasons for refusal of application ref: 17/01543/1
- The reduction in houses does not alter the grounds for refusal which equally apply to this application
- CPRE's previous objections still apply

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site comprises 6.45 hectares of Grade 3A agricultural land, roughly rectangular in shape and lying to the west of Pirton village separated from the village boundary by an existing agricultural field which has planning permission for residential development (see refs: 15/01618/1 and 16/02256/1). The site is immediately to the north of the Icknield Way Trail (Hambridge Way) which runs along the southern boundary of the site. Adjacent to the northern boundary is a residential property ('Northmead') and just beyond the north east corner is Holwell Road.

The eastern boundary of the site is defined by an established mature hedgerow along its entire length whilst the western (approximately two thirds) boundary is also defined by a hedgerow.

The site is located within the Rural Area beyond the Green Belt and is beyond the defined village boundary. The site lies adjacent to two areas of archaeological interest.

4.2 Proposal

4.2.1 The proposal is an outline application for the erection of up to 85 dwellings with all matters reserved except means of access. The site itself has no boundary to a highway however the means of access is to be shown to be proposed through the adjoining site to the west (presently undeveloped) which itself is to be served off Holwell Road. The application is accompanied by a 'Development Framework Plan (drawing no. 6647-L-103 A) which illustrates the potential site layout with landscape buffer planting to the north and east of the main built development and a an area of open space to the south which includes a surface water attenuation area. The submitted Development Framework Plan identifies the built up residential area to be 3.56 hectares (85 dwellings at 24 dwellings per hectare).

4.2.2 The application is supported by the following documents:

- Design and Access statement
- Landscape and Visual Impact Assessment
- Transport Assessment and Framework Travel Plan
- Ecological Appraisal
- Arboricultural Assessment
- Phase 1 Preliminary Risk Assessment
- Flood Risk Assessment and Foul Drainage Analysis Report
- Air Quality Screening report
- Noise Assessment
- Archaeological Desk Based Assessment
- Utilities Appraisal
- Statement of Community Involvement
- Affordable Housing Statement
- Socio-Economic Report
- Built Heritage Statement
- Draft Head of Terms for Section 106 Agreement

The applicants planning statement makes the following statement at (iii) :

'This resubmission application responds to the reasons for refusal and offers North Hertfordshire District Council the opportunity to reconsider the application in light of a forthcoming appeal. If the resubmission application was approved, this may negate the need for the appeal to continue thereby saving time and resources for both the Council and the applicant'

The applicants state that the application site represents a suitable and sustainable location for housing, well located to the existing urban area. The proposal will deliver

- *local benefits through investment in the local community*
- *district wide benefits, in terms of making a strategically important contribution to housing supply and economic objectives and,*
- *national objectives in boosting the supply of new homes and delivering sustainable development*

The applicants have also pointed out the following social, economic and environmental benefits that the proposed development provides :

- Provision of up to 85 new homes
- 40% policy compliant affordable housing
- Council tax payments of approximately £1,300,000 over 10 years
- 204 new residents with 126 economically active
- Generation of total gross expenditure of £2,424,000 annually
- Support 83 FTE construction jobs over 3 years and 90 FTE indirect jobs in associated industries
- Delivery of £3.3m of direct GVA over the build period and
- Pedestrian improvements and increased connectivity between Hambridge Way and Holwell Road

4.3 Key Issues

4.3.1 The application is for outline planning permission and the key considerations relate to:

- The principle of the development;
- Sustainability;
- Character and appearance of the countryside;
- loss of agricultural land;
- highway considerations;
- archaeology;
- Section 106
- The Planning Balance

4.3.2 Principle of the development in the Rural Area beyond the Green Belt

There are three policy documents which are relevant to the consideration of this application: North Hertfordshire District Local Plan No. 2 with Alterations (adopted 1996), the emerging Local Plan 2011 - 2031 Submitted for Examination to the Secretary of State 9th June 2017, and the National Planning Policy Framework. In addition consideration should be given to the Pirton Neighbourhood Plan. The weight that should be attributed to these policies and documents are considered below.

4.3.3 Paragraph 49 of the NPPF states that:

'housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five -year supply of deliverable housing sites.'

4.3.4 Paragraph 14 of the NPPF defines the presumption in favour of sustainable development for decision makers as follows:

- approving development proposals that accord with the development plan without delay; and
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

-specific policies in this Framework indicate development should be restricted.'

Under paragraphs 14 it is necessary to assess the weight that can be applied to relevant development plan policies to this application.

4.3.5 North Hertfordshire District Local Plan No. 2 with Alterations

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 215 of the NPPF states that:

'due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework.'

The applicant is claiming that the North Hertfordshire District Local Plan No. 2 with Alterations cannot demonstrate a five year housing supply, and so policies in that plan relating to the supply of housing are out-of-date. Policy 6 - Rural Areas beyond the Green Belt, in so far as it deals with the supply of housing, is it is considered out of date. However, it largely seeks to operate restraint in the Rural Area for the purpose of protecting the intrinsic character and beauty of the countryside and for this purpose it is in accordance with paragraph 17 of the NPPF.

This is an important point and is supported by a very recent Supreme Court decision in 2017 (in the case of Suffolk Coastal District Council v Hopkins Homes Ltd) which held that a local plan policy to protect the countryside from development (such as NHDC Policy 6) is not 'a policy for the supply of housing' and therefore is not 'out of date' and therefore should continue to be accorded weight in planning decisions insofar as it relates to countryside protection.

- 4.3.6 The applicant considers that the local plan does not meet the requirements of paragraph 47 of the NPPF to provide objectively assessed need and therefore Policy 6 carries reduced weight. This does not take into account the decision of the Supreme Court above which considers that policies to protect the countryside from development are consistent with the NPPF. Moreover the emerging local plan makes provision to meet the District's own full objectively assessed needs for housing and additionally makes positive contributions towards the unmet housing needs of its neighbouring authorities such as Luton and Stevenage. The emerging local plan achieves all of this without the need to allocate the application site for housing.

In taking the view that material weight can still be attached to Policy 6 it is clear that the proposed development does not meet any of the exceptions for development in the Rural Area Beyond the Green Belt. The development will clearly not maintain the existing countryside and the character of the village of Pirton by reason of its location, adverse visual impact on the landscape, scale and density of development contrary to the aims of Policy 6.

4.3.7 Emerging Local Plan 2011 - 2031

The NPPF offers guidance on the weight that can be attributed to emerging Local Plan policies which is set out in paragraph 216 of the Framework as follows:

'From the day of publication [of the NPPF, March 2012], decision takers may also give weight to relevant policies in emerging plans according to:

** the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

** the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater weight that may be given); and*

** the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in this Framework, the greater the weight that may be given).'*

- 4.3.8 Where local planning authorities cannot demonstrate a five year land supply of deliverable housing sites, the NPPF places a further restriction on weight that can be attributed to development plan policies which seek to restrict the supply of housing (NPPF paragraph 49). The Council has recently published a Housing and Green Belt Background Paper together with the proposed submission Local Plan (2011-2031). This paper argues that from the date that Full Council decided to submit the Local Plan to the Secretary of State for examination at the meeting held on 11 April 2017, the Council can demonstrate a deliverable five year land supply of housing sites, at 5.5 years land supply. The emerging Local Plan was Submitted to the Secretary of State 9th June 2017 and this claim will of course be tested at the Examination in Public (EiP) which commenced on 13th November 2017. Therefore, until the plan is adopted, I consider a precautionary approach should be taken to the weight that should be given to the emerging Local Plan insofar as it argues that the Council can demonstrate a five year supply of deliverable housing sites. On this basis I assess this application on the basis that the Council cannot at this stage claim to have a five year supply of deliverable housing sites, applying the presumption in favour of sustainable development set out in paragraph 14 of the NPPF. This precautionary approach has recently been supported at appeal.
- 4.3.9 The emerging Local Plan does not allocate the site for development. Indeed, the site has not been identified for consideration as a possible housing site at any stage of the emerging Local Plan process. Policy CGB1 -Rural Areas beyond the Green Belt is a policy of general restraint in the countryside and is in accordance with paragraph 17 of the NPPF, as it seeks to retain the intrinsic character and beauty of the countryside. The proposed development at Pirton does not meet any of the criteria to permit development as set out in CGB1. Significantly the applicant does not make any reference to CGB1 as being relevant and considers that the emerging policies should not carry decisive weight at this stage. On the other hand the applicant acknowledges the emerging plan in so far as it directs additional residential growth to Category A villages such as Pirton and seeks to justify the development as natural extension of the village.
- 4.3.10 The development is not for a proven local need for community facilities, services or rural housing (in compliance with Policy 29 of NHDLP or Policy CGB2 in emerging LP. The application refers to 40% affordable housing, but this relates to Policy HS2: Affordable Housing, of the emerging plan and not to Policy CGB2: Exemption Sites in Rural Areas.
- 4.3.11 National Planning Policy Framework
Although the Council considers the emerging Local Plan 2011 - 2011 to hold sufficient weight for the Council to be able to demonstrate a 5 year housing land supply, this is situation that can be predicted with any certainty, as the Plan has yet to be adopted. The National Planning Policy framework directs us in this instance under paragraphs 14 and 49, mentioned and quoted above. I, therefore, take a precautionary approach and shall consider the proposal under these paragraphs and consider whether the development is sustainable and whether the adverse impacts of the development would significantly outweigh the benefits.
- 4.3.12 Pirton Neighbourhood Plan
The Pirton Neighbourhood Plan is at an advanced stage of preparation. Consultation has been undertaken on the proposed submission neighbourhood plan and the Council is in the process of appointing an independent examiner in conjunction with the Parish Council. The Neighbourhood Plan has been prepared broadly in line with the emerging Local Plan and the defined village boundary in the plan reflects the village boundary in the emerging Local Plan. In general, there has been a significant amount of support from the community in respect of the neighbourhood plan and for the proposed village boundary.

The proposal would be contrary to policies in the proposed submission version of the Neighbourhood Plan, in particular Policy PNP1: Meeting Local Need. This policy seeks to restrict development to sites within the village boundary and there are no more than 30 dwellings on any one site. There are a number of objections to this policy and it is anticipated that this policy will be considered in detail by an independent examiner.

Although at an advanced stage of preparation the Neighbourhood Plan has to still to be examined and a referendum held before it can be 'made' by the District Council. As such the weight that can be attached to it in terms of planning decisions at this stage has to be limited.

4.3.13 Summary on the principle of the development

The development site is in the rural area beyond the Green Belt. Saved Local Plan Policy 6 can still be afforded weight in determining this application in that it seeks to protect the countryside from development which would be in conformity with the NPPF which requires decision makers to recognise the intrinsic character and beauty of the countryside. The proposed development is in open countryside and fails to meet any of the criteria set out in Policy 6.

4.3.14 Furthermore, the proposed development would be contrary to policies in the Emerging Local Plan in that the development site lies outside of the proposed defined village boundary of Pirton in the rural area beyond the Green Belt where the Council intends to operate a policy of restraint. The development would be contrary to Policies SP5 and CGB1 of the North Hertfordshire District Council Submission Local Plan 2011 – 2031.

4.3.15 The applicants submissions concerning the Council's five year housing land supply are acknowledged. However even if the Council could not demonstrate a five year land supply I consider that the proposal would fail to provide a sustainable form of development for which there is a clear national and local imperative as set out in the NPPF, the NPPG and the emerging local plan. Therefore the presumption in favour of granting planning permission in paragraph 14 of the NPPF would not apply as in my view this harm and other harm identified below in my view clearly and demonstrably outweighs the benefits of delivering new homes on this site.

4.3.16 The applicant continues to accept that the proposal would conflict with the Development Plan in relation to policies concerning developments in the open countryside and settlement boundaries (Saved Policies 6 and 7 of the North Hertfordshire District Local Plan). However the applicant considers that the principle of the development is acceptable and that there are no circumstances under which permission should be restricted as a result of a specific policy within the Framework.

4.3.17 Sustainability

There are three roles to sustainable development set out in the NPPF, an economic, social and environmental role. All roles must be satisfied to achieve the objective of a genuine sustainable development. I briefly address each role in turn.

4.3.18 **Economic role** – it is recognised that the construction of the development would provide some employment for the duration of the work contributing to a strong responsive and competitive economy. There would be a loss of high quality agricultural land and therefore some loss to the agricultural economy. It is also recognised that there would be increased expenditure in local shops and pubs and other services. Additionally there would be economic benefit from the new homes bonus which assists local authorities to maintain and provide services.

4.3.19 **Social role** – the development would provide housing to assist in meeting the needs of existing and future generations including badly needed affordable housing. It would also support community facilities such as the school and churches as well as potentially contributing towards recreational facilities and their improvement. Additional public open space will be provided within the site and some improvement in connectivity between Hambridge Way and Holwell Road.

4.3.20 **Environmental role** –the development would not be environmentally sustainable for several reasons. The facilities of Pirton consist of a primary school, two public houses, village hall, two churches, a recreation ground and a village shop which contains a post office. The shop has limited opening hours particularly on weekends. There is no doctors surgery, or other healthcare facilities and no secondary school. Employment opportunities are extremely limited. There are no proposals in the emerging local plan to allocate any employment, retail or community facilities within the village. There are 8 buses a day to Hitchin / Henlow Camp Monday to Fridays, 6 buses on a Saturday and no service on Sundays or Bank Holidays.

Holwell village has very little in the way of facilities and has no shop, pub, school or post office.

In the absence of a reasonable range of community facilities within the village or in nearby Holwell and the lack of any significant employment opportunity in the immediate locality, it is likely that the occupiers of the new development would heavily rely on private transport. As such I consider that the development would be contrary to Section 4 (Promoting Sustainable Transport) of the NPPF and in particular paragraph 34 which requires new development that generate significant movement to be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

The landscape impact of the development will be severe in my opinion with the urbanising of the rural environment, encroachment into open countryside and loss of rural views across the site and on approaches to the village particularly from the east.

Insufficient evidence has been submitted to demonstrate that the development will not affect the historic environment particularly with regard to assets of archaeological interest.

The development will result in the loss without replacement of grade 3A agricultural land.

4.3.21 Summary on sustainability

In summary I consider that given the significant environmental impacts the **overall** balance of sustainability would be against this development. The development would be contrary to Policies D1 (Sustainable Design) and SP9 (Design and Sustainability) of the North Hertfordshire District Council Submission Local Plan 2011 – 2031.

4.3.22 The applicant considers that there is no justification for the Council to resist the development because it has granted planning permission for housing on the adjacent site in similar circumstances and conditions. However the applicant points out that unlike the proposed scheme the approved development on land to the west has been included as a proposed allocation site for residential development in the emerging plan (paragraph 1.3.6 of Planning Statement).

- 4.3.23 The applicant refers to the officers committee report for application ref: 15/01618/1 where the officer accepts the economic and social benefits of that housing development. However the applicant fails to also include reference to the officers less favourable environmental assessment of that proposal where he writes:

'for services such as medical facilities and anything more than small scale retail residents would be likely to travel to other larger towns by private car. Taking account of this I consider that this development proposal would not be wholly environmentally sustainable. On this basis I consider there to be some limited harm as a result of this proposal in relation to the three roles of sustainable development in that the development would not be wholly environmentally sustainable'.

The applicant's Planning Statement is silent on the cumulative adverse environmental impact arising from the approved scheme on the adjacent site and the proposed additional 85 houses.

- 4.3.24 The applicants Sustainability Statement (prepared by 'Rural Solutions Ltd') lists (p.8, 41 & 42) the economic and social benefits of the proposals but fails to list any environmental benefits. This is contrary to the principles of sustainable development as set out in paragraph 8 of the NPPF which states:

'...to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system'.

- 4.3.25 The sustainability statement refers several times to the bus service from Pirton to Hitchin (the nearest main rail station, employment and service centre) however the service is limited with no services to Hitchin available after 14.33 or returning to Pirton from Hitchin after 18.27. Walking and cycling to and from the village along the main roads is not an attractive, safe or viable option for most families as there are no lit footpaths or cycleways along these routes.

- 4.3.26 There is a limited range of services within the village to sustain an additional 200 plus residents that would be generated by this proposal. With an absence of frequent public transport, doctors surgery, health centre, dentists, bank, secondary school or significant shopping facilities Pirton lacks the infrastructure to accommodate the level of housing growth that is proposed when taken cumulatively with approved development in the village.

The reduction in the number of dwellings from the previously refused development is acknowledged however there remain significant sustainability issues that have not been overcome in my opinion.

- 4.3.27 **Character and Appearance of the Countryside**

The site lies within the Pirton Lowlands Landscape Character Area (218) and is described as a "large scale open, flat farming landscape given over predominantly to arable production." The site is mostly open in character, although there are hedgerows around some of the perimeter. It is particularly open to public view from Holwell Road and the Hambridge Way. There are longer views of the site, including the approach road into the village from Holwell and from across the fields to footpath 006 south of Holwell.

- 4.3.28 The approaches to the village from the west would provide angled views across the site towards the proposed housing. Substantial planting is indicated along all of the site boundaries to ensure screening of the houses from the longer views as well as close by. I consider this would significantly change the distinctive open plateau character of the site and its contribution within the landscape. This would still occur even with the reduction in the number of dwellings to a maximum of 85 units.

4.3.29 The erection of dwellings on the site and the introduction of the associated infrastructure would permanently alter the appearance of the site and would represent a substantial change to the character of the area. The scheme has a heavily landscaped led approach in which over approximately one quarter of the site would be dedicated to green infrastructure. Whilst this landscaping would break up views of the proposed dwellings, it would in itself bring about changes to the character of the area. I consider that the extent of the eastward encroachment of the development into the countryside would appear incongruous in the wider views of the settlement which the landscaping would not successfully overcome, to the significant detriment of the character of the landscape.

4.3.30 The upgrading of at least the section of the Hambridge Way westwards towards the village from the site is inevitable as this would be the main pedestrian route into the centre of the village (in addition to the approved development on the adjoining site under ref: 15/01618/1). This in itself would alter the character of the Hambridge Way and give the perception of the village expanding eastwards into the countryside as a large field is lost. A similar effect would occur for those approaching the village along the Hambridge Way where the perception of approaching the settlement would be experienced much earlier than at present. I consider these impacts would cause a detriment to the visual amenity provided by the Hambridge Way.

4.3.31 Summary on character and appearance

It is considered that the proposed development would be harmful to the intrinsic beauty and character of the countryside, contrary to Policy NE1 of the emerging local plan and paragraphs 17, 109, 116, 156 of the NPPF.

The applicant states that the landscape character reason for refusal of the previous application (17/01543/1) has been addressed through the reduction in the developable area to reduce the landscape impact of the scheme.

I do not consider that a 10 percent reduction in the developable site area by 0.44 hectares (1.08 acres) and the reduction in the number of proposed houses by 14 units makes any material difference to the significantly adverse landscape impact that this development will have.

The previous reason for refusal relating to landscape character has not been overcome.

4.3.32 Agricultural Land

The application site is Grade 3a agricultural land. Paragraph 112 of the NPPF states:

"Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land, Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

The best and most versatile land is defined as Grades 1, 2 and 3a and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non food crops for future generations. There is no evidence to demonstrate that the use of high quality agricultural land for housing and public open space is necessary.

4.3.33 Summary on loss of Agricultural land

The development would result in the loss of high grade agricultural land and would therefore be harmful to the natural environment and contrary to the NPPF, paragraph 112 and to Planning Practice Guidance - Natural Environment para 026.

The applicants consider that the application site is sub-grade 3a agricultural land with heavy topsoil and sub-soil drainage that causes wetness limitations to agriculture. However the submitted Design and Access statement states that the site is currently used as arable land therefore it would appear to have some beneficial agricultural use.

4.3.34 **Highway Considerations**

The means of access to this development would be via Holwell Road and through the approved development of 78 dwellings on the immediately adjoining site. The District Council has approved a new Y – junction at Holwell Turn to serve the 78 unit scheme. This development will therefore access the site through this same new junction.

4.3.35 The Highway Authority have yet to provide detailed comments and analysis of this revised application in terms of the highway impact of this proposed development having regard to the submitted Transport Assessment. Previously, however, when commenting on the 99 unit scheme the Highway Authority was satisfied with the parameters used to anticipate traffic flows from the development and considers that the Multi-model trip generation figures produced in the TA to be acceptable and which can be accommodated on the existing highway network. The Authority considered the relevant junction capacity modelling provided and have concluded that the previous development would not have a severe impact on the highway network. The comments of the Authority on this revised application will be reported to the Committee meeting.

4.3.36 Although the Council is yet to receive the full comments of the Highway Authority in relation to this revised scheme my view at this stage is that the proposed development would not cause harm that can be sustained by way of objective evidence in terms of highway impacts.

4.3.37 **Summary on Highway issues**

Subject to the detailed comments of the Highway Authority, taking into account their previous comments I can see no sustainable planning objections on highway grounds. However, a S106 Agreement is required to secure a Construction Traffic Management Plan and Travel Plan. The submitted Heads of Terms refers to contributions to highway measures however the means of access to Holwell Road will rely on third party land and this will need to be resolved through the S106.

4.3.38 **Archaeology**

The proposed development site lies adjacent to two areas of archaeological significance which has been documented as containing prehistoric / Roman / Anglo-saxon remains. The village also has three Scheduled Monuments. The County Archaeologist has advised that recent field investigations on the immediately adjoining site to the west of the application site has identified significant later prehistoric remains and therefore there is reason to suggest that the application is also likely to contain features of archaeological interest.

Given the archaeological potential of the site, the County Archaeologist recommends that investigations should be undertaken prior to determination. An informed decision can then be made with reference to the impact of the proposal on the historic environment. Where archaeology is identified, but does not meet NPPF para 139, an appropriate level of archaeological mitigation can then be secured by negative condition (NPPF, para 141).

4.3.39 The submitted desk based archaeological assessment is still the same document as submitted with the previous application (i.e. Archaeological Desk Based Assessment, February 2017, WYG) which concludes that the site has a generally low archaeological potential and that the 'modest archaeological interest of the site can be secured by an appropriately worded condition' The comments received from the County Council's Historic Environment Advisor would appear to place a much greater importance on the archaeological potential of the site especially in view of the inadequacies of the recent geophysical survey.

4.3.40 Summary on archaeology matters

At present not enough information is provided to demonstrate the archaeological significance of the site and therefore the proposed development would be contrary to Section 12 of the NPPF.

The applicants have stated in their revised Planning Statement that 'it is anticipated that this matter can be dealt with by way of suitably worded condition'. The Historic Environment Advisor requires an updated geophysical survey and trail trenching 'pre-determination' of this application. The applicant has not therefore addressed the issue of archaeology with this revised application.

4.3.41 Section 106

The applicant has included a short Heads of Terms document with this application listing the following Heads of Terms :

- Affordable Housing
- Education
- Open Space
- Community Facilities
- Rights of Way upgrades
- Highways

Officers have acted pro actively on this issue and prepared a more detailed draft Heads of Terms document and provided this to the applicants. However at this stage a satisfactorily completed S106 obligation agreement has not been completed and therefore this forms a separate recommended reason for refusal as set out below.

4.3.42 The Planning Balance

As set above I have identified broad areas of how I consider this planning application is unacceptable in terms of the principle of development in addition to other planning considerations. Apart from some limited progress on the S106 discussions by the applicants there remain fundamental planning objections.

Whilst paragraph 187 of the NPPF requires local planning authorities to act pro-actively and seek to find solutions, in my view the substantial and compelling planning objections to this development are not capable of resolution in my judgement.

4.3.43 In the absence of a five year land supply where relevant policies which restrict the supply of housing can be considered out-of-date (paragraph 14 of the NPPF) the weighted planning balance is tipped in favour of granting planning permission for sustainable development. Planning permission should only be refused in such circumstances where:

'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of [of delivering new homes], when assessed against the policies in this Framework taken as a whole.'

- 4.3.44 The Council now claims to be able to demonstrate an up to date five year land supply of deliverable housing sites. However the Council's Submission Local Plan is still under scrutiny at the Local Plan Examination in Public which will not conclude until March 2018. I have therefore applied a precautionary approach and have assessed this application against paragraph 14 of the NPPF whereby any adverse impacts must significantly and demonstrably outweigh the benefits of delivering new homes.
- 4.3.45 This planning application proposes up to 85 new homes which would make an important contribution towards improving the five year land supply but also helping to meet the objectively assessed housing need for at least 14,000 (+ 1,950 for Luton's un-met need) new homes across the District through the plan period (2011-2031). Meeting housing need is in itself a clear benefit of the proposed development.
- 4.3.46 The applicant also offers 40% affordable housing and there are clear social and economic benefits arising from the delivery of the new homes as I have acknowledged above and the case for which has been clearly made by the applicant particularly in the supporting Sustainability Statement.
- 4.3.47 Applying the presumption in favour of sustainable development it is necessary to critically assess this planning application against the policies of the NPPF taken as a whole before judging whether any identified harm as a result of this analysis would 'significantly and demonstrably' outweigh the benefits of delivering new homes on this site.
- 4.3.48 I have identified however that there would be significant and demonstrable environmental harm caused by this development relating to the following:
- The development would cause harm to the intrinsic beauty of the countryside and as such would conflict with paragraph 17 of the NPPF.
 - The development would be harmful to the character and appearance of the landscape
 - There would be cumulatively harmful impact of the development when taken with recently approved new development in the village.
 - If the recent planning permission at Elm Tree Farm is not implemented this current proposal would be completely divorced from the village and isolated completely as not adjoining the current village boundary and on this basis would be further injurious to the character of the countryside
 - The development would be unsustainable due to its location, the lack of community infrastructure to serve the development and likely high dependence of the occupiers of the new development on the private car
 - The development would result in the loss of grade 3A agricultural land
 - A revised pre-determination archaeological survey and trial trenching have not been carried out.
- 4.3.49 The application is also unacceptable because a Section 106 Agreement, necessary to mitigate the impact of the development on local infrastructure, has not been satisfactorily completed.
- 4.3.50 In my view the environmental harm arising from the proposed development significantly and demonstrably outweighs the benefits of delivering new homes on this site.
- 4.3.51 The applicant has not overcome the four reasons for refusal set out with the previous application (17/01543/1)

4.4 **Conclusion**

- 4.4.1 The benefits of allowing the development do not outweigh the harm and, as such, planning permission should be refused.

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 permission be **REFUSED** for the following reasons:

1. By reason of its siting beyond the built limits of Pirton; the location with open farmland within the Pirton Lowlands Landscape Character Area (218); and the heavy use of planting to screen the largely open site, the development proposal would fail to positively enhance the wider landscape setting of the village, nor would it improve the character and quality of the Rural Area and, as such, would afford significant and demonstrable harm to the intrinsic beauty of the countryside. This harm is considered to clearly outweigh the benefits of providing new dwellings on the site. The proposal is therefore contrary to the provisions of saved Policies 6 of the North Hertfordshire District Local Plan No. 2 with alterations and, Paragraph 17, 109, 116, 156 of the National Planning Policy Framework. The development would also be contrary to Policy CGB1 of the North Hertfordshire Emerging Local Plan 2011 - 2031.
2. Given the lack of essential services in the vicinity of the site, the occupiers of the proposed dwellings would be heavily dependent on services provided outside of the immediate area, giving rise to a significant reliance on private transport. In addition to this, the land on which the site is located is Grade 3A agricultural land, which constitutes the best and most versatile land. As well as being harmful to the natural environment, this would amount to development of the land which is both environmentally and economically unsustainable. In the absence of any realistic measures or other reasons which may offset this unsustainable impact, the proposal would be contrary to the objectives of the National Planning Policy Framework, generally and specifically Paragraphs 14, 49 and 112, and to Policies SP1 SP6 and SP9 of the Emerging Local Plan 2011 - 2031, and to Planning Practice Guidance - Natural Environment para. 026.
3. The proposed development lies within an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of significant archaeological potential. Given this and the large scale nature of the proposal, this development should be regarded as likely to have an impact on significant heritage assets with archaeological interest, some of which may be of sufficient importance to meet NPPF para 139. This could represent a significant constraint on development. In the absence of a suitable geophysical survey or archaeological field evaluation, there is insufficient information to determine the importance of any archaeological remains on the site. The proposal will be contrary to Section 12 of the NPPF.

4. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing the provision of 40% affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF)

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.