

ITEM NO:

<u>Location:</u>	Land North of Ashwell Street and South of Lucas Lane Between Huntsridge And East Lodge, 22 Lucas Lane, Ashwell, Hertfordshire
<u>Applicant:</u>	Mr Oscar Briggs
<u>Proposal:</u>	Erection of 24 dwellings including creation of vehicular access off Ashwell Street, footpath link to Lucas Lane, associated public open space and landscaping (as amended by plans received 17.08.20).
<u>Ref. No:</u>	20/00126/FP
<u>Officer:</u>	Naomi Reynard

Date of expiry of statutory period

Extended statutory expiry date – 23rd November 2020.

Reason for delay

An extension of time has been agreed to allow time for some of the issues with the application to be addressed and for the application to be reported to Planning Committee.

Reason for Referral to Committee

The site area is larger than 0.5 hectares and therefore the application needs to be presented to Planning Committee for determination, in accordance with the Council's constitution.

1.0 Relevant History

- 1.1 A pre-application request (19/01214/PRE) was made to the Council regarding proposed residential development comprising 23 dwellings on this site.

2.0 Policies**2.1 North Hertfordshire District Local Plan No. 2 with Alterations 1996 (Saved Policies):**

Policy 6 - Rural areas 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 55 – Car Parking (SPD Car parking);
Policy 57 – Residential Guidelines and Standards.

2.2 National Planning Policy Framework (NPPF):

In general and with regard to:

Section 2 – Achieving sustainable development;
Section 4 – Decision-making;
Section 5 – Delivering a sufficient supply of homes;
Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 11 – Making effective use of land;
Section 12 – Achieving well-designed places;
Section 14 – Meeting the challenge of climate change, flooding and coastal change
Section 15: Conserving and enhancing the natural environment
Section 16 – Conserving and enhancing the historic environment.

2.3 North Hertfordshire District Council Local Plan (2011-2031) Proposed Submission

Section 2 – Strategic Policies

SP1 - Sustainable development in North Hertfordshire;
SP2 - Settlement Hierarchy;
SP5 – Countryside and Green Belt
SP6 – Sustainable Transport
SP7: Infrastructure Requirements and Developer Contributions
SP8 - Housing;
SP9 - Design and Sustainability;
SP10 - Healthy Communities;
SP11 - Natural resources and sustainability;
SP12 - Green infrastructure, biodiversity and landscape;
SP13 - Historic Environment;

Section 3 – Development Management Policies

CGB1 – Rural areas beyond the Green Belt
CGB2 – Exception sites in rural areas
T1 - Assessment of transport matters
T2 - Parking;
HS2 - Affordable housing;
HS3 - Housing mix;
HS5 - Accessible and Adaptable Housing
D1 - Sustainable design;
D3 - Protecting living conditions;
D4 - Air quality;
NE1 - Landscape;
NE5 - New and improvement public open space and biodiversity;
NE6 – Designated biodiversity and geological sites;
NE7 - Reducing flood risk;
NE8 - Sustainable drainage systems;

NE9 - Water Quality and Environment
NE10 - Water Framework Directive and Wastewater Infrastructure
NE11 - Contaminated land
HE1 - Designated heritage assets
HE4 - Archaeology.

Supplementary Planning Documents

Design

Vehicle Parking at New Development

Supplementary Planning Guidance

Ashwell Village Design Statement (October 2000)

3.0 Representations

- 3.1 **Historic England** – Objected to the application on heritage grounds. They consider that the site is important to the significance of the Conservation Area and it should be retained as open space. Their full comments are attached as an appendix.
- 3.2 **NHDC Conservation Officer** - Raised an in-principle objection concluding that the degree of harm to the Ashwell Conservation Area would be less than substantial towards the upper end of the continuum.
- 3.3 **NHDC Landscape and Urban Design Officer** – Provided detailed comments on the original and amended scheme. Reached the following conclusion in response to the amended scheme:
- “The amendments do not fully address my concerns about the layout, and I am still particularly concerned about the access off Ashwell Street. There is still insufficient information provided on the changes to Ashwell Street to accommodate the new junction into the site to assess the full landscape and visual impact of creating a vehicular access off Ashwell Street. The information that has been submitted indicates that the development will have a detrimental effect on the character of Ashwell Street. Without an acceptable access into the site there can be no development.”*
- 3.4 **HCC Historic Environment Advisor, Natural, Historic and Built Environment Team (Archaeology)** – Believes that the proposed development is such that it should be regarded as likely to have an impact on heritage assets and recommended conditions.
- 3.5 **HCC Hertfordshire Ecology** - Natural, Historic and Built Environment Team - No objections following receipt of further information. Recommended conditions and informatives.
- 3.6 **HCC Rights of Way (Footpaths Unit)** – Raised an objection to the application as originally submitted. Following re-consultation on the amended plans they withdrew this objection and made the following comments.

“The changes to the sweep into the development to discourage general use of the eastern section of Ashwell Byway 16 by vehicles, are acknowledged as an improvement. Also the capacity for a shared route into the development being in accordance with Hertfordshire Highways standards for a development of this size, make this development access acceptable.

The non-motorised route though the development, linking Ashwell Street to Lucas Lane however should be a minimum of 6m wide, and have a variety of surfaces, eg sealed, unsealed surface and amenity margin that are in keeping with the development, as described in the Countryside and Rights of Way Design Guide for non-motorised routes, Aug 2020.

Under these terms I do not object to this application, although I have not taken into consideration the changes in the character of Ashwell Street, as a quiet Green lane, that this new access, surface and increased use will produce.”

- 3.7 **HCC Area Highway Development Control Manager** – No objections and recommended conditions and informatives. Withdrew their previous objection following receipt of amended plans to demonstrate that proposed access road serving this site would be adequate by reason of the width to serve the range of waste collection vehicles in current use.
- 3.8 **NHDC Transport Policy Officer** – Comments made regarding parking provision, travel plans and sustainable transport contributions.
- 3.9 **Contract Officer Waste, Recycling and Street Cleansing** - No objections. Consider that the scheme is now acceptable following receipt of further details of the circulation route for refuse collection vehicles.
- 3.10 **NHDC Housing Supply Officer** - No objection to 8 units being provided for affordable housing which is a contribution of 35%.

The applicant’s proposals vary slightly from the recommended mix. The proposals include the provision of 8 affordable housing units: 2 x 1 bed (2 person) flats; 2 x 2 bed (4 person) bungalows; 2 x 2 bed (3 person) houses and 2 x 3 bed (4 person) houses for the affordable housing.

The proposed mix, with the provision of 2 x 2 bed bungalows instead of a two-bed house and a three-bed house is acceptable to the council, provided the 65% rented/ 35% intermediate affordable housing tenure mix is met. The SHMA identifies a greater need for smaller homes for rent and therefore she recommends that the 2 x 3 bed houses are for intermediate affordable housing tenure along with either a two-bed bungalow or house.

The Housing Supply Officer’s comments set out the more detailed requirements for the affordable housing.

3.11 **HCC Growth and Infrastructure Unit, Hertfordshire County Council** – Raised an objection, summarised as follows:

“There is not sufficient capacity in Ashwell Primary School to accommodate this unallocated development site:

- ***Ashwell primary school does not have the capacity to expand.***
- ***There are no other primary schools within a statutory safe walking distance of the application site.***
- ***Therefore, this development is unable to be mitigated and the County Council’s objection to the planning application remains.”***

3.12 **Environment Agency** - Confirm that they will not be commenting on this application as it falls outside their remit at this time.

3.13 **Anglian Water** – No objection and recommended informatives.

3.14 **Affinity Water** – No comments received.

3.15 **HCC Lead Local Flood Authority** – Following submission of further information, the LLFA have withdrawn their objection and recommended conditions. The LLFA were re-consulted following concerns raised by local residents specifically in relation to recent flooding at Hodwell and the timing of the infiltration testing. As such the LLFA have recommended an additional condition to be attached to the planning permission for provision a ground investigation report with further infiltration testing to be carried out to ensure the feasibility of the proposed design.

3.16 **Architectural Liaison Officer Herts Police** – Recommended an informative that the applicant is requested to contact the Hertfordshire Constabulary Crime Prevention Design Service with a view to seeking the Police preferred minimum security standard that is Secured by Design.

3.17 **NHDC Environmental Protection (Contaminated Land)** – No objection and recommended a contaminated land condition.

3.18 **NHDC Environmental Health (Noise and other Nuisances)** – No objections. Recommended a condition requiring full details of a construction phasing and environmental management programme to be submitted and approved prior to commencement. Recommended informatives in relation to BS5228-1:2009 (Code of Practice for noise control on construction and open sites) and hours of work during construction phase.

3.19 **NHDC Environmental Protection (Air Quality)** – Recommended condition requiring that prior to occupation, the new development shall incorporate Electric Vehicle (EV) ready domestic charging points on the basis of 1 charging point per unit (dwelling with dedicated parking), or 1 charging point per 10 spaces (unallocated parking).

- 3.20 **HCC Minerals and Waste Planning Policy** – Confirmed that British Geological Survey Data reveals that the site is not underlain with any sand and gravel deposits and as such the county council, as the Minerals Planning Authority, has no concerns with regards to mineral sterilisation. They require a Site Waste Management Plan, which could be required by planning condition.
- 3.21 **NHDC Grounds Maintenance** - Made comments on the application as originally submitted with regard to maintenance, concern about loss of existing open space and queried if there is a need for a formal equipped play area that can serve not only the development but also the surrounding village.
- Following re-consultation on amended plans they commented that due to its location in Ashwell it is unlikely that the District Council would adopt any open space. And as such, there would be little opportunity to consider any off-site contributions for a NHDC location and potentially this is likely to be maintained by a management company if not the parish in the future.
- 3.22 **NHS East and North Hertfordshire Clinical Commissioning Group** – *“It would not be our intention to respond to this application. Any concerns that the Parish Council have can be raised with the CCG direct.”*
- 3.23 **HCC Fire and Rescue Service** – No comments received at time of writing report. They were not consulted initially in error and have been consulted late in the process. On similar scale developments they have said that the provision of fire hydrants is required within the development, which are to be secured by condition.
- 3.24 **Ashwell Parish Council** – The Parish Council made comments on the application as originally submitted in February 2020. They made objections on the amended plans in September 2020. Both sets of comments are attached as appendices and the more recent response includes objections raised by local residents.

The Parish Council’s objections are copied below:

“(i) Vehicular access onto Ashwell Street. Conflict with the right of way; the unmade track known as the Ruddery, BOAT Ashwell Byway 16. Exacerbation of existing safety issues at the Kingsland Way junction. See points 2 (i) and (ii) below.

(ii) Harm to a Heritage Asset; Local Plan Policy HE1 and NPPF. The pre-application advice from NHDC to the applicant stated that the benefits of the development would not outweigh the harm to the character and appearance of the Conservation Area.

(iii) Sustainable development. Para 8 of the NPPF sets out criteria for this but the proposed development conflicts on the following:

- *Education capacity -need for primary age children to travel out of the village,*
- *Medical facility capacity -need to travel out of the village,*
- *Failure to protect the natural and the built historic environment,*

- **Access to other facilities and employment – need to travel, e.g. to the station 2 miles from the village.**

(iv) Adverse impact on important views both into and out of the site.

This conflicts with the District Local Plan: Ashwell Conservation Area Character Statement July 2019, KeyView23. See also point 2 (iii) below.

Also the proposed layout puts the taller houses at the top of the slope further impacting on the views across the site.

(v) Conflict with the emerging Ashwell Neighbourhood Plan. Community views are in favour of small developments of ten houses or less.

(vi) Drainage and flood risk. See also 2 (iv) below. Despite the further information provided by the applicant to the flood authority, concerns remain particularly in the light of recent flooding events to properties in Ashwell. The impact of heavy rainfall on the movement of debris from unmade roads and surfaces on significantly sloping land had not been taken into account. In other parts of the village this had frequently led to blockage and failure of drainage systems. Concerns were expressed about the use of a SUDS system for dealing with surface water given that the proposed development had vehicular access via an unmade road. This would introduce soil and other solid matter that could clog the drainage ‘pores’ that the SUDS system relied on to provide drainage into the underlying ground. Once the SUDS paving was clogged the water would stay on the surface and run downhill towards Lucas Lane properties. The proposals for this site needed to address these issues before any development is given approval.“

3.25 Neighbours

In response to publicity the Local Planning Authority has received objections from some 27 local residents (running total is available to view on the website). For a full understanding of all comments received Members can inspect the relevant pages on the Council's website.

The objections and the issues raised include the following matters:

Principle

- Site currently outside village boundary
- There is currently a dispute as to whether the proposed change in boundary for the new local plan was properly raised in the consultations and is therefore justified.
- Not an allocated housing site in the draft local plan so not plan-led.
- There has already been far too much green field development in Ashwell in recent months.
- Loss of good agricultural land.
- Building on this site would not reflect Government guidelines under NPPF for ‘conserving and enhancing the natural environment’.
- Contributes to the emblematic patchwork quality and ragged edge of the village bringing in greenery and landscape amongst the village houses and built environment. By filling in this gap, Ashwell will have a continuous hard

boundary between the residential settlement and farmland along the high, ancient visible line of Ashwell Street.

- Contrary to emerging Ashwell Neighbourhood Plan.

Highways

- Impact on highway safety.
- Unacceptable vehicle access.
- Impact on safety of users of Ashwell Street, which is a single lane unmade by-way with no footpath, lighting, passing places or turnings areas frequently used by pedestrians, walkers, joggers, families, children, cyclists, horses. Concerns regarding safety due to traffic in both directions, funding for the upgrades, future maintenance, whether it will have a pedestrian walkway and public should have priority over cars as it is a BOAT (a byway open to all traffic), potential for accidents and conflict between Ruddy users and car drivers.
- Ashwell Street unsuitable for increased level of vehicles and larger vehicles - in a poor state of repair with large potholes.
- Questioned why the Ruddy has been considered at all in the first place when there was the possibility of an entrance via Lucas Lane.
- Vehicles would exit east (even if not made up) as quickest route to station and A505.
- Any upgrading of Ashwell street from Station Road to Hunts Ridge would destroy its character
- Impact off increase traffic on Ashwell Street/Kingsland Way junction which is already hazardous because of the gradient and restricted sight lines.
- Impact of increased traffic on Ashwell Street/Station Road junction
- Increased traffic (during construction and from new residents) in already crowded village and on A505 and A1.
- The application makes reference to the availability of public transport; but the first bus is not until 9.30am.
- Concern how refuse collection vehicles or fire engines would be able to enter the site if needed.

Parking

- Inadequate parking provision. This may lead to cars being parked in Lucas Lane or Ashwell Street thus further exacerbating congestion.
- No electric vehicle charging points seem to be proposed in the current housing.

Impact on Heritage Assets

- Adverse impact on the Conservation Area.
- The Icknield Way is part of our National Heritage and should be preserved.
- Site is of significant archaeological significance and concern with regard to loss of archaeological heritage

Visual impact/Impact on character of the area

- Character of Ashwell has been retained until recently by retaining fields and meadows within the village boundary.
- Cumulative impact of recent housing developments granted over left few years (Claybush Hill 30, Lucas Lane 4, and Station Road 9) - disproportionate to the size of Ashwell and not sustainable.

- Visual impact on village as on a slope.
- Out of character architecture.
- This site was identified in the Village Design Statement as an open space of importance to the character of the village.
- The green field is a visual amenity in the village, especially to when seen from north of the village, and should be retained to preserve the village environment.
- The quality of the environment of the byway (Roman road), which is currently a pleasant walkway offering beautiful views, will be ruined by vehicular access to this site due to paving and vehicles and loss of green tunnel banks and trees.
- Loss of much loved and valued view from existing gate at the top of the site looking north over the Cam Valley – identified as important view in NHDC Ashwell Conservation Area Character Statement.
- The field contributes to the village's emblematic patchwork quality and ragged edge – bringing in greenery and landscape amongst the village houses and built environment. By filling in this gap, Ashwell will have a continuous hard boundary between the residential settlement and farmland along the high, ancient visible line of Ashwell St, and all sense of organic development over the last centuries will be irrevocably lost.

Design/layout

- Car dominated layout.
- Density is too high.
- Bungalows not very accessible for elderly or those who have mobility needs.
- Proposed location of affordable housing.

Impact on neighbours

- Overlooking/loss of privacy.
- Loss of light, overshadowing and dominance particularly to the bungalows in Lucas Lane.
- Nothing in the proposals to show visual impact on neighbouring properties.
- The proposed layout maximises housing at the lower end of the field which carries the greatest intrusion (due to elevation) on the privacy of neighbouring properties.
- Noise and disturbance.
- No green buffer for residents in Lucas Lane.
- Loss of neighbouring properties' enjoyment of private outside space.

Housing need

- Almost all the affordable houses are clustered in the north-east corner. If developed this would be a better location of bungalows – less impact (bulk and privacy) on neighbouring properties and easier access for residents on foot into the village.
- Ashwell has exceeded Governmental housing demands and houses built some years ago remain unsold – there is no demand for more houses in Ashwell.
- Ashwell is already having around 40 extra houses being built or approved and cannot take anymore.

- The housing need in Ashwell is for small developments of housing for the elderly and those who have mobility issues (as shown in the housing survey undertaken by the Ashwell Neighbourhood Working Party in 2015 and has been corroborated by the report of the Office for National Statistics of September 2018). Scheme does not address this need as one of the bungalows is half-way up the hill.

Impact on local infrastructure

- Cumulative impact of recent developments on infrastructure and local services - waste disposal, sewers, roads, parking, doctors, dentist and schools.
- Impact on schools - Ashwell school and neighbouring schools are at capacity. Not sustainable for children to have to travel elsewhere to attend primary school. Knights Templar Secondary School in Baldock is oversubscribed.
- Impact on GP surgery - Currently a non-urgent/routine appointment with the local GP surgery is normally at least 3-week wait.
- Impact on dental surgery.
- Impact on the sewerage system - The sewerage system around the area of development needs major investment. Sewerage system is heavily overloaded. Inadequate water/sewage services, particularly in respect of the dwellings in Lucas Lane.

Loss of habitat and wildlife

- Impact on owls, bats, hedgehogs, newts, birds and various amphibians.
- Excessive tree or hedgerow removal can affect drainage, soil stability, wildlife habitat, hunting, atmosphere and appearance of the area.

Impact in light of climate crisis

- The houses as proposed do nothing to address the needs of climate change.
- Plans state that British Gas can supply gas into the development – no mention of using heat or air pump in these houses; lack of integrated solar power is disappointing, no details as to whether the properties being constructed and insulated to a standard which gives zero heat transfer in or out of the properties and little on information on how this development would impact on the water supply.

Security/safety issues

- Concerns regarding impact on security of the new pedestrian access to Lucas Lane between the gardens of no 8 and 4.
- The application provides no information on street lighting, fence construction/heights, boundary ownership and maintenance.

Concerns with regard to drainage /run off/flooding

- Increased risk of surface water flooding, as inadequate provision for rainwater run off.
- Concerns that the proposed development will drain via infiltration and that all parts of the development will drain via permeable paving. Recent experience at Philosopher's Gate is that permeable block paving is not absorbing of all the run-off and is causing problems.

This would be exacerbated on a hill location. Massive potential for harm to the properties lying down the if the drainage is not managed to completely percolate within the site boundary. The properties in Lucas Lane are at risk of flooding.

- Exacerbate existing surface water flooding issues in Lucas Lane. The drains in Ashwell regularly cannot cope with the existing rain run off at present.

Insufficient information

- No full and accurate site sections

Further objections were received on the **AMENDED** plans. Many of the objections raised issues set out above so have not been repeated below. However, the comments specifically in relation to the amendments included the following points:

Highways

- The amended plans do not address concerns about the adverse impact on nearby road junctions which are already dangerous.
- The amended plans have not addressed concerns about the encroachment into the Ruddery (Ashwell Street).
- The amended plan has the exit onto the Ruddery curving so it apparently will force traffic to turn right – it is naive to maintain traffic will turn right when turning left would offer a shortcut to the station and the A505.

Parking

- There remains insufficient parking (not quite 2 per household) bearing in mind that each household in this rural area is likely to have at least two cars. This could lead to yet more cars being parked on Ashwell St or Lucas Lane.
- The revised plan adds a small number (6) of visitor parking spaces, which would not be enough.

Design/layout

- The amended plan offers more green space but offers no detail regarding maintenance of these areas
- Regarding housing mix and distribution, the revised scheme is an improvement on the last proposal - there is a group of bungalows directly adjacent to the existing Lucas Lane bungalows, which seems an appropriate arrangement.
- If planning permission is given, then the hedgerow at the south side of the site should be left in place – do not agree that it is in a poor state.
- Proposed density is too high.

Visual impact

- The two 'viewing corridors' proposed by the developer only partly respond to this objection offering glimpses between rows of houses – they would not be inferior and not as dramatic as that from the present gate.
- Introduction of the possibility of two, different, narrow and inferior views and losing an irreplaceable, much valued and enjoyed vista.
- Loss hedgerow along the Ruddery is unnecessary and would have impact on wildlife.

Impact on neighbours

- There is nothing in the proposal to show the visual impact on adjoining properties.

Housing need

- The amended plans do not address the housing needs of Ashwell.

Impact on local infrastructure

- The developers have still not addressed concerns regarding the strain on Ashwell's infrastructure which does not have the capacity for continuous expansion.

Loss of habitat and wildlife and impact in light of climate crisis

- Comments received from Greening Ashwell, which is a new community group formed to protect and enhance the biodiversity of Ashwell's natural environment. This includes proposed development where, if approved, the external works and landscape proposals should also provide net biodiversity GAIN. The current revised proposal does not achieve this objective and need to be revised.
 - o Lack of proposals for solar energy, power points for electric vehicles, bicycle provision, car sharing initiatives etc.
 - o Impact another development will have on us already over stretched services, traffic, sewage, lack of real affordable homes for locals and provision for the growing elderly populations.
 - o The impact the proposal will have on Ashwell Street, not only an ancient by-way but an important ecological corridor, already effected by current usage let alone possible increase traffic.

Security/safety issues

- Concerns regarding security with the new pedestrian access to Lucas Lane between the garden of no. 8 and no. 4 Lucas Lane. The application provides no information on street lighting, fence construction / heights, boundary ownership and maintenance – if the application is approved, would like to see it conditioned that the boundaries to the existing bungalows either side of the path are full height brick walls that can't be easily scaled.

Concerns with regard to drainage /run off/flooding

- Concerns about drainage and run off have not been adequately addressed.
- Apparently, the drainage testing was carried out from 3 months from May 2020. This was when there was a drought and there was little or no rainfall so the grave concerns from the Lucas Lane residents regarding water run-off and the ability of the sewerage system to cope with such a large extra number of houses have not been assuaged.
- Queried why the result of this testing is not online for all to view.

In June 2020 an email was submitted from a local resident with photos of flooding in Hodwell, Ashwell, just outside the Church. Said that this is a regular occurrence at this site even with lighter levels of rainfall.

Asked if this could be taken into consideration against current planning applications for the village, particularly application ref. 20/00126/FP where the developers have been asked to prove that the site will not add to flooding and indeed evidence how they could mitigate existing levels of flooding. This site is at a much higher level in the village and would presumably contribute to increasing water levels.

3.26 North Herts Archaeological Society

Objection received 7th March 2020:

"I am writing to you on behalf of the North Hertfordshire Archaeological Society to OBJECT to this application. Our reason is that we consider the known archaeology of this field to be of national importance which should be preserved from development. I attach documents which explain and evidence why we think this, including one showing the location of our test pits in relation to the geophysical (magnetometry) survey.

The site is covered in highly significant archaeological remains of the prehistoric, Iron Age, Roman, Saxon and Medieval periods. These include Roman ditched enclosures, one of which on the west side of the site may well be enclosing a Roman temple overlooking Ashwell Springs, evidence for which includes the finding of a silver-gilt Roman priest's ritual rattle handle, currently the subject of a Treasure Inquest; post-holes of timber buildings which may be Roman or Saxon; a deep hollow containing early Saxon pottery, bone pins and needles, etc. which may be either a ritual ceremonial hollow or a grubenhaus (sunken-featured building – timber building with a shallow cellar). I believe it to be the former, but if the latter the finds in it may suggest ritual closure by votive offerings at the end of its life. Moreover, the geophysical survey indicates that there are other such features nearby on that west side of the site which have not been investigated either by this Society's test pitting or by the Mola trial trenching.

You may see from the attached documents that my interpretation of the archaeology of the site is profoundly different from Mola's. You will see from the attachments that Mola is mistaken to write that there are no finds from the site to support my interpretation. I did offer to share the NHAS site archive with Mola, but they did not take up the offer.

As the Society believes this site to be of national importance we are applying to Historic England to have it Scheduled as a Monument of National Importance. At the very least, we believe that the area where the Saxon hollow within the double-ditched Roman (possible temple) enclosure is located should be preserved as a public green open space. This could be achieved by altering the layout of dwellings."

Further comments received 12th September 2020:

“I am writing on behalf of the North Hertfordshire Archaeological Society. Further to our earlier comments, as you know, we applied to Historic England to have the whole site Scheduled as an archaeological monument of national importance. Failing that, we encourage the applicant and Local Planning Authority to enlarge the planned public open space in the north-west quadrant of the field so that it is 70 m north-south and 30 m west-east. This would preserve the most significant parts of the known buried archaeological remains.”

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The site lies on the south-east edge of Ashwell. Ashwell is a Selected Village in the current Saved Local Plan. It is approximately 1.2 Ha in area. The site is currently outside the settlement boundary of this selected village. However, the site is included within the settlement boundary in the Emerging Local Plan along with other open spaces along Ashwell Street and Ashwell is classified as a Category A Village. The site is within the Conservation Area. It is also covered by an Archaeological Area designation.

4.1.2 The site is currently grassland and slopes down to the north towards Lucas Lane. As a result, the change in levels across the site is quite significant. It is bounded by residential development on its west, north and east sides and by Ashwell Street along its southern boundary. The site lies to the south of Lucas Lane, rear of numbers 2-12 Lucas Lane. The site adjoins the properties Huntsridge, Ashwell Street, and 5 High Street to the west and East Lodge, 22 Lucas Lane to the east. Ashwell Street is Public Right of Way and a Byway Open to All Traffic, which runs along Ashwell Street between Kingsland Way and Station Road. Beyond Ashwell Street there is open countryside to the south. There is a row of mature trees along the southern boundary with Ashwell Street and there are mature trees on the strip of land between 4 and 8 Lucas Lane.

4.2 Proposal

4.2.1 The proposal is for the erection of 24 dwellings comprising 2 flats, 4 bungalows and 18 houses. The proposal includes the creation of a vehicle access off Ashwell Street. Two new pedestrian accesses are proposed, one off Lucas Lane on the northern boundary and one, off Ashwell Street, on the southern boundary. The scheme includes two areas of public open space - one in the north east corner of the site and the other along the southern boundary of the site. The scheme includes hard and soft landscaping.

In summary the proposed dwellings comprise:

- 2 x 1 bed flats
- 2 x 2 bed detached bungalows
- 2 x 2 bed semi-detached bungalows
- 4 x 2 bed semi-detached houses
- 2 x 3 bed semi-detached houses

- 4 x 3 bed mid-terrace houses
- 3 x 3 bed end terrace houses
- 4 x 4 bed link-detached houses
- 1x4 bed detached house

8 of the properties would be affordable housing and would comprise of:

- 2 x 1 bed flats
- 2 x 2 bed bungalows
- 2 x 2 bed semi-detached houses
- 2 x 3 bed semi-detached houses

52 parking spaces are proposed. All the properties have two allocated parking spaces, except for the two one-bedroom flats which would have one parking space each, and there would be six visitor spaces. The scheme includes five detached car ports, which each serve two properties and are proposed in addition to the allocated parking spaces. Each dwelling has a private garden area, except for the two flats which have a small communal garden area.

4.2.2 Amended plans were received on 19th August 2020. The agent confirmed that the main amendments consist of:

- A new 3-metre-wide landscape buffer along the west and east boundaries;
- Removal of the proposed 2.5-metre-high reclaim brick wall on the eastern boundary;
- A second pedestrian link connecting to Lucas Lane;
- Revised layout of first floor of plot 1 style units;
- Revised layout of plots 16-19 and plots 21-22 and 24;
- A second viewing corridor from Ashwell Street to Lucas Lane;
- Removal of all single carport/garages;
- Revised junction details on Ashwell Street.

Local residents and statutory consultees were re-consulted on the amended plans.

4.2.3 The agent submitted a rebuttal letter with the amended plans in response to a detailed feedback letter from the case officer which set out the issues with the application.

4.2.4 The application is supported by the following documents:

- Planning Statement
- Design and Access Statement
- Heritage Report
- Landscape and Visual Appraisal
- Detailed Landscape Design
- Arboricultural Impact Assessment
- Phase 1 Habitat Survey
- Ecological Mitigation Statement
- Archaeological Desk-based Heritage Assessment
- Archaeological Trial Trench Evaluation
- Geo-Environmental Desk Study Report
- Geo-Environmental Results of the Soakage Testing
- Geo-Environmental Groundwater Monitoring Results

- Flood Risk Assessment (revised)
- Statement of Community Engagement
- Transport Note
- Travel Plan
- Services Appraisal
- Education Report
- Draft S106 Heads of Terms

All these documents are available to view on the Council's website.

4.3 **Key Issues**

4.3.1 The key material planning considerations are as follows:

- Principle of development and planning balance
- Impact on Heritage Assets
- Visual impact on the character of the area
- Design, layout and landscaping
- Living conditions
- Open space management
- Highways
- Parking
- Right of Way
- Ecology
- Archaeology
- Surface water drainage
- Housing mix
- Waste and recycling
- Climate change
- Planning obligations

4.3.2 **Principle of development and planning balance**

The site is undeveloped agricultural land in the Rural Area beyond the Green Belt which falls outside of a Selected Village (Ashwell) as specified in Policy 6 of the North Hertfordshire District Local Plan No. 2 with Alterations 1996 (Saved Local Plan - SLP), albeit the site borders the Ashwell village boundary on its north and west sides. The whole site is within a Conservation Area. The North Hertfordshire District Council Local Plan (2011-2031) Proposed Submission (Emerging Local Plan - ELP) sets a settlement boundary for Ashwell that includes the application site.

4.3.3 The adopted Saved Local Plan is however relatively old, with local and national planning policies having changed and evolved since its 1996 adoption. The North Hertfordshire District Council Local Plan (2011-2031) Proposed Submission (Emerging Local Plan - ELP) is now at a reasonably advanced stage having gone through a public examination process and subsequent Modifications published for public consultation.

- 4.3.4 Paragraph 11 d) of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission be granted if the harm of doing so would not significantly and demonstrably outweigh the benefits unless i. or ii. of the same paragraph dictate otherwise.
- 4.3.5 Part i. of 11 d) refers to ‘the application of policies in this Framework that protect areas or assets of particular importance and these provide a clear reason for refusing the development proposed’, (which in footnote 6 includes designated heritage assets – in this case being the Ashwell Conservation Area). The footnote specifies that the policies referred to are those in this Framework and include those relating to designated heritage assets. Paragraph 196 states:
- “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”***
- 4.3.6 The planning balance in this case must be calibrated neutrally (not tilted) as the proposal would occasion ‘less than substantial’ harm to a heritage asset, harm which by itself offers clear reasons to refuse planning permission. The NPPF clearly requires that any harm to a heritage asset requires clear and convincing justification (paragraph 194). This harm amounts to conflict with ELP policy HE1 and the NPPF. It is my view that the public benefits of the proposal (provision of 24 houses including 8 affordable dwellings and the required S106 planning contributions) would not outweigh the less than substantial harm to the significance of designated heritage asset (Conservation Area). This balancing assessment is discussed in more detail below.
- 4.3.7 It is acknowledged that the Council is unable to demonstrate a 5 year housing land supply and at the time of writing this report, the latest figure stands at 2.2 years as of April 2020 (as outlined in the Councils most recent response to the Inspector ‘Examination Document ED191B Appendix 1 NHDC 5 year Housing Land Supply at 1 April 2020’) which is a significant and serious deficit. This significant and acute shortfall of housing land supply reflects a historic chronic under supply of housing compared to targets over the past 9 years or so and reflects the severe mismatch between the Government’s ‘standard method’ (which forms the basis of the five-year requirement in the absence of an up-to-date plan) and anticipated supply from ‘deliverable’ housing sites in the coming years.
- 4.3.8 With regard to the Council’s current housing land supply, it is noted that since 2011 (the start date for the planning period in the Emerging Local Plan), housing completions have been on average 313 dwellings per year, with the highest completions in 2016/17 with 539 units and the lowest in 2014/15 with just 180 completions. Until the ELP is adopted, the Council’s 5 year housing land supply for decision-making purposes and Housing Delivery Test results are based on the premise that between 700-1,000 dwellings should be provided per year. Past delivery has been significantly below these levels and this clearly demonstrates a significant shortfall of delivery over a period of 9 years.

4.3.9 The Housing Delivery Test (HDT) is a requirement of national policy. The Action Plan details the steps being taken to improve housing delivery in the District. The first HDT results were published in February 2019. The latest results were published in February 2020. The latest Action Plan was approved by the Council's Cabinet in June 2020. It is acknowledged that North Hertfordshire delivered 44% of the homes required in the three-year period 2016-2019. Paragraph 80 of the Action Plan states:

“Continuing to grant permission for suitable schemes in advance of the new Plan’s adoption will ensure an ongoing supply of new homes until such time as the largest, strategic sites come on stream. Taking greater ownership of the Council’s growth agenda and proposals would allow for more proactive negotiation of (prospective) schemes to ensure they can proceed through the planning system without unnecessary delay.”

However, for the reasons set out in this report, this proposal is not considered to be a suitable scheme.

4.3.10 In terms of public benefits, we have given some weight to the provision of 24 houses in light of the Council's lack of a five-year land supply. It is accepted that the public benefits of delivering new housing are greater when we only have a 2.2 year housing land supply than they would be with a 5 year housing land supply. It is acknowledged that the Council does not have a 5 year housing land supply and therefore the public benefits of delivering new housing can be given some weight. Although it is also worth noting the progress of the Emerging Local Plan, which is approaching a point where we can achieve a 5 year housing land supply and therefore the weight that can be given to unplanned development is reduced. It is considered that the S106 obligations would constitute public benefits, although a S106 agreement has not been submitted and agreed. It could be argued that the areas of public open space would constitute public benefits. However, it is questionable how much these open spaces would be used by the wider community, particularly as an equipped play area is not proposed. Also, the proposal would result in the loss of large area of open space, albeit private, which has public amenity value. It could also be argued that the pedestrian link to Lucas Lane would be a public benefit. However, whilst this connection is a positive of the scheme it is fairly tenuous in terms of a public benefit, given that pedestrians can access Lucas Lane from Ashwell Street via Station Road or Kingsland Way. The applicant maintains that the creation of two viewing corridors is a public benefit of the scheme. However, this is not significant in my opinion, particularly given the loss of the existing view from the gate. As such, it has been concluded that the public benefits of the proposed scheme are limited to the provision of 24 homes, including 8 affordable dwellings, and the S106 contributions. It has been concluded that the public benefits would not outweigh the harm to the Heritage Asset, especially as both Historic England and the Conservation Officer have concluded that the degree of less than substantial harm is towards the “higher end”.

4.3.11 In their rebuttal letter that applicant has disputed our approach.

“In your letter, you have argued that the tilted balance of the presumption in favour of sustainable development cannot be applied due to the less than substantial harm identified to the significance of the heritage asset (the Ashwell Conservation Area). We dispute this assessment for two reasons. Firstly, we do not consider the proposal would lead to harm to the significance of the heritage asset, and secondly, you have not, as required by paragraphs 196, carried out a balancing assessment of the harm and public benefits to justify the judgement that you have reached. The reporting of less than substantial harm does not provide a clear reason to refuse the proposal without carrying out a balancing assessment as required by paragraph 196.”

However, it is considered that the decision-making framework we have adopted for assessing the application is correct. Firstly, I consider that the proposal would lead to harm to the significance of the heritage asset - so we have reached a different judgement on this matter to the applicant. I agree with the second point in the respect that the assertion of less than substantial harm does not automatically provide a clear reason to refuse the proposal without carrying out a balancing assessment as required by paragraph 196. However, I have carried out a balancing assessment of the harm vs public benefits such that would justify the judgement that we have reached. I am of the view that the proposal would lead to less than substantial harm to the heritage asset (this is discussed in more detail below). Both Historic England and the Conservation Officer have taken the view that the degree of less than substantial harm is towards the “higher end”. The Conservation Officer has identified that the proposal would result in less than substantial harm to the heritage asset (Ashwell Conservation Area) and has provided a detailed justification of this. The public benefits of the proposed scheme would be the provision of 24 houses, of which 8 would be affordable and the S106 obligations (albeit a S106 agreement has not been submitted and agreed) and these public benefits would be quite significant. However, in my view the harm to the heritage asset outweighs the public benefits, and as such there is a clear reason to refuse the proposal based on a neutrally calibrated assessment (non-tilted). In a situation where the public benefits of the scheme outweigh the less than substantial harm to the heritage asset then there would not be a clear reason to refuse the proposal, and the tilted balance would be engaged. However, that is not the case here.

4.3.12 Saved Local Plan Policy 6 sets out what development would normally be allowed in the Rural Area with an aim of maintaining the existing countryside and villages, and their character. The proposal would not comply with parts i-iv of Policy 6, therefore would not be development acceptable in principle under this policy. Policy 7 of the adopted Local Plan is not relevant as the site is not within the selected village boundary of Ashwell.

4.3.13 In their rebuttal letter the agent has stated that Saved Local Plan Policy 6 should not be given weight, as it has been identified as being inconsistent and out of date when considered against the NPPF.

- 4.3.14 The following clarification on this issue is provided on the Council's website:
“...there are four particular policies where the Council has identified an inconsistency between the Local Plan and the NPPF: Policy 6 on development in the rural areas beyond the green belt: the NPPF is more permissive of rural businesses being allowed to grow”.

This is not relevant to this proposed scheme for residential development. I consider that Saved Local Plan Policy 6 can be given weight in that it is broadly consistent with a core principle of the National Planning Policy Framework, which is to recognise the intrinsic character and beauty of the countryside.

- 4.3.15 Policies SP1 (Sustainable Development in North Hertfordshire) and SP2 (Settlement Hierarchy) are of relevance to the site, however, given that the ELP is not adopted or even completed examination in public, limited weight can be given to these policies. In my view this development proposal would remain unacceptable even if the plan were adopted and the site was incorporated into the new settlement boundary.
- 4.3.16 To emphasise this point the ELP sets a settlement boundary for Ashwell that includes the application site. The Settlement Boundary has been carried forward to the Modifications. Policy SP2 of the ELP defines Ashwell as a Category A village, where general development will be allowed within the defined settlement boundary. However, the fact that the site is proposed to be included within the settlement boundary does not mean that residential development would automatically be acceptable on the site. Whilst it is noted that the site has now been included within the settlement boundary in the ELP, the site is not an allocated housing site and it is not to be assumed that the site is suitable for residential development because it has been included within the settlement boundary. Any applications on sites which are now within the settlement boundary would be considered as windfall sites and would need to be considered on their own planning merits.
- 4.3.17 The National Planning Policy Framework (NPPF) is a material consideration which is also to be given significant weight. The ELP is considered consistent with the NPPF by implication due to the stage that has been reached towards adoption. The NPPF does not prescribe the type of development that would be acceptable in principle in the rural area. However, as discussed above, the proposed use of the site for residential development is not acceptable in principle when assessed against the adopted Local Plan.
- 4.3.18 Paragraph 8 of the NPPF sets out the economic, social and environmental objectives that should be met in order to achieve sustainable development. The proposal would fail to achieve the environmental objective, as in my opinion it would fail to protect the natural, built and historic environment for the reasons set out below, in particular the development would have an adverse impact on the rural character of Ashwell Street and the surrounding area. Whilst there would be some economic benefits (including creation of employment during the construction phase) and social benefits from the provision of 24 dwellings including 8 affordable homes and S106 contributions (albeit there is not a completed S106 Agreement) in my view the adverse environmental impacts would outweigh the economic and social benefits.

- 4.3.19 It is noted that Paragraph 68c of the NPPF states that: ***“To promote the development of a good mix of sites local planning authorities should...support the development of windfall sites through their policies and decisions giving great weight to the benefits of using suitable sites within existing settlements for homes”***. For the reasons set out below this is not considered a suitable site.
- 4.3.20 It is noted that a recent application (ref. 19/00455/FP) for nine houses was approved in September 2019 by this committee in line with officer recommendation on land at the Junction of Ashwell Street and Station Road. However, each application is considered on its own merits and the Case Officer made the following comments with regard to the balancing assessment.

“The Council’s Conservation Officer has verbally given the view that the development would result in less than substantial harm.

Less than substantial harm should therefore be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. The principle benefit is that the development would approve 9 new dwellings on land that can be relatively easily developed, resulting in an improvement to the District’s housing land supply position. On the scale of ‘less than substantial harm’, the amount of harm is considered to be at the lower end of this as in the wider context of the locality including the Conservation Area the development of the site for residential and the type and quality of residential development are considered acceptable. The development of the site for housing can also be viewed as being a more optimal use for the land given the District’s housing land supply position, with weight also given to the proposal to remove the site from the Rural Area in the emerging Local Plan. Overall, as set out above and in this report as a whole, the public benefits are considered to outweigh the relatively small harm to the Conservation Area.”

As such they employed the tilted balance set out in Paragraph 11 of the NPPF and reached the following conclusion:

“The Local Planning Authority cannot demonstrate a 5 year supply of housing land as required by the NPPF. Indeed the position soon to be confirmed in the Annual Monitoring Report would be less than 1.5 years. I do not consider that the proposed development would harm the significance of the Conservation Area as a designated heritage asset which the site is within, therefore permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of delivering new homes. Appeal decisions have confirmed that the degree of deficit below the five year supply figure is also material, in that the benefits of delivering new homes with a significant deficit must be given more weight in the planning balance than would be the case if the deficit was only just below five years.

No adverse impacts from the proposed development are apparent. A benefit is that the 9 new dwellings proposed would make a contribution to housing supply in Ashwell and the District. The Examination Inspector dealing with the emerging Local Plan has not questioned the designation of the site within the Ashwell settlement boundary. Overall, I consider that the proposals achieve sustainable development as required by the NPPF."

4.3.21 The site is currently in use as pastoral land, used for the grazing of sheep. Paragraph 170 of the NPPF states that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with the statutory status of identified quality in the development plan)."

4.3.22 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."

4.3.23 Agricultural land is graded by the Agricultural Land Classification (ALC) which grades land to assess and compare the quality of the agricultural land at national, regional and local levels. It assesses the potential for land to support different agricultural uses, such a growing crops for food and does not consider the land's current use. Land is graded from 1 – 5 with Best and Most Versatile (BMV) agricultural land being land in the grades of 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

4.3.24 No information on this matter appears to have been provided with the application, but from checking the Natural England website appears that the application site comprises grade 3 agricultural land - good to moderate. It is not specified whether the site is classed as 3a and therefore best and most versatile agricultural land. At approx. 1.2 ha the site area is lower than the 20 ha threshold that would require Natural England to be consulted. However, it is considered that the loss of just over a hectare of grade 3 agricultural land would not be a sustainable reason grounds for refusal in this instance.

4.3.25 Summary on principle of development and planning balance

In summary, the proposal's clear and identified harm to the heritage asset, the proposed development's adverse impact on the rural character of the area and the lack of an agreed S106 Agreement would in my judgement significantly and demonstrably outweigh the public benefits of 24 additional dwellings including 8 affordable units and the required S106 planning contributions. As such there would be an objection in principle to the proposed development.

4.3.26 Impact on Heritage Assets

It is considered that the proposed development would result in less than substantial harm to the Heritage Asset (Ashwell Conservation Area). Historic England were consulted on the amended plans and their position and recommendation is copied below.

“Historic England’s Position

Historic England considers that the proposed scheme would cause less than substantial harm, on the high end of the scale to the significance of the Ashwell Conservation Area.

We consider that any development in this location would be dominant from Lucas Lane and would obliterate the key view mentioned as number 23 within the conservation area appraisal.

We therefore consider that the principle of development within this site would be harmful and that it should be resisted.

Recommendation

Historic England were consulted on the amended plans and I have copied their position and recommendation below.

Historic England objects to the application on heritage grounds. We consider that the site is important to the significance of the conservation area and it should be retained as open space.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 193, 194, 196 and 200.

In determining this application you should bear in mind the statutory duty of section 72(10) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character of appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.”

4.3.27 The Conservation Officer provided detailed comments on the original and amended plans. His summary and recommendation in relation to the amended plans and information is copied below:

“4. Summary

- Strutt & Parker have stated that “It is also not for the CO to direct whether or not the principle of residential development is acceptable on the site”. In response, I acknowledge that the principle of development from a planning***

viewpoint is down to the case officer to comment, however, where I have raised objection to the principle of development, this is based on Heritage matters only.

- **As stated by Strutt & Parker “An assessment of the alleged less than substantial harm to the designated heritage asset and public benefits of the proposal has been carried out in the Conservation Area section below. In terms of environment, this appears to be the main area of contention”. I agree that consideration of the ‘less than substantial harm’ case is key to the determination of this application.**

- **The application site is in the Ashwell Conservation Area (a Designated Heritage Asset) and is identified in Key View 23 of the Ashwell Conservation Area Character Statement.**

- **On the one hand the agent acknowledges that the application site is “within close proximity to the village core” but on the other is rather dismissive of the importance of this view as being one which “looks out over the edge of the settlement and Conservation Area and so has less heritage value”. The heritage value of the conservation area is the sum of all its parts and whilst the view north is not directly towards the historic core, the view does include (see left image below) properties on the east side of The Springs including the late C17 or early C18 thatched pairing that is Mulberry Tree Cottages nos. 6 and 8 Springhead (towards bottom left) and the twin stacks of Ringstead House (considered to be worthy of BLI status) in the background with red brick Victorian properties between. Whilst the right-hand image below shows the mid C19 Alder Cottage (grade II). The map below assists in locating these buildings.**

- **Although not visible in KV23, this area to the east of the historic core still includes listed buildings such as the war memorial designed by Sir Edwin Luytens (grade II) and Ducklake House (grade II*) together with the recreation ground (an important community facility). In other words, although St Mary’s Church cannot be seen in this view (which it could be said identifies approximately the centre of the village), this area to the east still has significance by reason of The Springs, Ducklake House, recreation ground, war memorial and other listed buildings and buildings of local interest.**

- **Although I have previously stated the impact of the development on the setting of listed buildings would be ‘small’ I should have qualified this by stating that this is relative to the impact of the development on the character and appearance of the conservation area.**

- **Apart from being located within the Ashwell Conservation Area, the site’s significance is also held in its relationship to the medieval trackway situated on higher ground that is Ashwell Street and I concur with Historic England’s assessment that the site “represents an important link between the understanding of the routeway and the growth of the village”. I do not share the agent’s view that “... The impact on the rural character of this part of Ashwell Street will be maintained....”.**

- **The agent states that “While the views towards the church and core of the village have obvious heritage value (my emphasis in bold), it is less obvious what degree of heritage value the views towards Lucas Lane and the playing field have”. As noted by Historic England, the site is “an attractive area of open land on a sloping valley side leading down to the springs at the bottom of the valley” and is “probably the only location from which the view, mostly undisturbed by recent development, can be appreciated”. From my recollections, this site possesses some characteristics that are not dissimilar to the character of the sites at Angells Meadow and Woodforde Close pre-development.**
- **The site, thus, enables a view across to and over Lucas Lane towards the open countryside setting to the conservation area beyond. A point that I have made previously.**
- **Notwithstanding: i) the conservation area designation, ii) KV23, iii) the archaeological interest, and iv) the association with the medieval Ashwell Street, the agent disputes the claim that the proposed development of this site would harm the character and appearance of the Conservation Area.**
- **Contrary to the agent’s view that “the potential harm to the Conservation Area arising from the proposals would be very minor”, my view aligns more closely with that of Historic England i.e. the degree of less than substantial harm is towards the “higher end”.**
- **The agent states the following: “With regards to the harm arising from the Inter-visibility point, upon which the CO has placed importance and great weight, the inter-visibility between the described properties is not achievable or experienced from within the public domain (along Ashwell Street). It is not a publicly accessible viewpoint”. In addition, the agent states that “The view identified in the Conservation Officer’s comments towards St Mary’s Church was taken from within the garden of Townsend House, which is a private view”. For the avoidance of doubt, I have not stated that I have given ‘great weight’ specifically to the matter of ‘inter-visibility’, what I have said is that I have given “great weight” to the conservation of the Ashwell Conservation Area (of which the ‘inter-visibility’ issue is but only one part) and I have also considered the setting of nearby listed buildings. I maintain the view that the visual connection between Townsend House, no.5 High Street and the church is a particularly positive one which would be significantly impaired by the development of the application site.**
- **The appearance of this part of the Ashwell Conservation Area is enhanced by a number of important buildings which are not (but in my opinion should be) identified as Buildings of Local Interest on the Ashwell Conservation Area Map - No.5 High Street (Queen Anne Revival building), No.22 (Townsend House) Lucas Lane (pre-1881, 5-bay, Victorian House with portico / pediment entrance), No. 32 (The Cricketers) Lucas Lane and Ringstead Farmhouse, Springhead). The purpose of this point is to ensure that the significance of this part of the conservation area is not understated.**

5. Recommendation

By reason of the following:

- i) The application site makes a very positive contribution to the character and appearance of the Ashwell Conservation Area and (I understand) possesses some archaeological and ecological interest;***
- ii) The fact that (in the agent's own words) the site represents the "last area of land that could be developed along Ashwell Street" heightens the importance of this site's contribution to local character. The development of this site would remove the sole remaining opportunity to experience the village nestled in the so-called 'river valley' from the south side of the village and unfettered by development in the fore or mid ground. The development would impair views towards an area to the east of the historic core which includes properties on the east side of The Springs namely the late C17 or early C18 thatched pairing that is Mulberry Tree Cottages nos. 6 and 8 Springhead and Ringstead House also at Springhead and the mid C19 Alder Cottage, no.16 Lucas Lane (grade II).***
- iii) That part of the development would impact upon the high degree of inter-visibility between Townsend House, 5 High Street and the parish church of St Mary the Virgin; and***
- iv) That Ashwell Street represents an important link between the understanding of the routeway and the growth of the village. Even though the access would narrow back down to tie into Ashwell Street's existing width, the development of this site would adversely impact upon the character of the medieval route that is Ashwell Street by the creation of a 5 metre wide shared surface with the transition from the traditional carriageway to the new shared surface made via a raised table to help reduce speed;***

it is considered that the proposal would fail to satisfy the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018). I raise an in-principle OBJECTION concluding that the degree of harm to the Ashwell Conservation Area would be less than substantial towards the upper end of the continuum."

- 4.3.28 It should be highlighted that this is one of the few examples left of pockets of grazing land / open space amongst the built development on the edge of Ashwell. It is acknowledged that there have been other schemes granted in this part of the Conservation Area in recent years including one house at 22 Lucas Lane (10/02608/1), four houses on Lucas Lane (20/00847/FP) and nine houses on the junction of Ashwell Street and Station Road (19/00455/FP). There is an argument to say that should this application be granted it would represent a cumulative erosion of the Conservation Area. Taking account of these representations it is concluded that the less than substantial harm to the significance of the designated heritage asset would outweigh the public benefits of the proposal.

As set out by Historic England and the Conservation Officer I agree with their assessment that the degree of less than substantial harm is towards the “higher end”. The public benefits are limited to the provision of 24 houses, of which 8 would be affordable and the S106 obligations (albeit a S106 agreement has not been submitted and agreed). Even though there have been some improvements to the detailed design and layout of the scheme in the amended plans, the objection in principle to wholesale development of this site cannot be overcome in my judgement.

4.3.29 Summary on impact on Heritage Assets

It is concluded that the degree of less than substantial harm is towards the “higher end”; and that the less than substantial harm to the significance of the designated heritage asset would outweigh the public benefits of the proposal.

4.3.30 **Visual Impact on the character of the area**

I consider that the proposed development would have an adverse visual impact on the rural character of Ashwell Street (known locally as the Ruddery). The Principal Landscape and Urban Design Officer have made comments on the original and amended plans. Her description of the site is copied below:

“ 1. The 1.1ha site lies on the south-east edge of Ashwell within the settlement boundary and the Conservation Area. It is also covered by an Archaeological Area designation. The site is currently grassland and slopes down towards Lucas Lane. It is bounded by residential development on its west, north and east sides and by Ashwell Street along its southern boundary. Ashwell Street is PROW Ashwell 016, a BOAT (Byway Open to All Traffic) which runs along Ashwell Street between Kingsland Way and Station Road. The fall across the site down towards Lucas Lane affords views to and from the north from the upper slopes and from gaps in the boundary vegetation along Ashwell Street.

2. There is an existing gated access off Ashwell Street which at this point is an unsurfaced, single track lane bordered by mature hedgerow trees and shrubs growing on banks lining the route. These features create a rural character more akin to a country lane. Any change to the access into the site will impact on the rural character of this part of Ashwell Street.”

4.3.31 This describes the character of Ashwell Street. This is reinforced by Ashwell Village Design Statement, which includes a photograph of ***“Ashwell Street: a ‘green lane’”***. The key issue is that the proposed development would have an adverse impact on the rural character of this part of Ashwell Street and the surrounding area, as a result of the development itself and the loss of vegetation to achieve sightlines for the new vehicular access and the resurfacing of a section of Ashwell Street. We remain to be convinced that an adequate access could be created without having a detrimental effect on the rural character of Ashwell Street and therefore this is a fundamental objection that cannot be overcome. The comments on this matter from the Landscape and Urban Design Officer are copied below:

4.3.32 ***“Proposed access plan (190-TA10 rev F)***

2. The previous Proposed access plan 190-TA10 rev D showed that five trees will be lost to accommodate the entrance and visibility splays. A further five trees, one on the east side of the entrance and four on the west side, together with hedging, would be impacted by the cutting into of the embankment on the north side of Ashwell Street to create the extra width for the shared surface.

190-TA10 rev F amends the eastern side of the access and no longer shows the visibility splays required but the five trees will still need to be removed and the further five trees will still be affected. There is still no information on what pruning works to the trees and hedging is needed to create the visibility splay and what the impact is on tree and hedge roots where the embankment is cut into and presumably roots will be severed. It would still be useful to have a cross-section through the embankment showing the change in profile.

3. 190-TA10 rev F still shows what looks like a slight cutting into of the embankment on the south side of Ashwell Street to achieve the 5m shared surface width. Will tree roots be affected? What protection is being given to the roots of trees on the south side?

4. There is no information on the proposed new pedestrian access into the site located further east along Ashwell Street

5. What will happen to the existing gated access off Ashwell Street?”

4.3.33 Given the recommendation further information was not requested. However, these comments highlight how the removal and works to the trees, hedging and embankment required to create the vehicular (and pedestrian) access onto Ashwell Street would fundamentally change the rural character of this lane.

4.3.34 The Principal Landscape and Urban Design Officer reached the following conclusion considering the amended plans and information submitted:

“Conclusion

The amendments do not fully address my concerns about the layout, and I am still particularly concerned about the access off Ashwell Street. There is still insufficient information provided on the changes to Ashwell Street to accommodate the new junction into the site to assess the full landscape and visual impact of creating a vehicular access off Ashwell Street. The information that has been submitted indicates that the development will have a detrimental effect on the character of Ashwell Street. Without an acceptable access into the site there can be no development.”

4.3.35 I consider that the development would have a detrimental effect/adverse landscape and visual impact on the rural character of Ashwell Street, and a recommended reason for refusal has been framed accordingly on this basis.

- 4.3.36 It is acknowledged that Woodforde Close has a tarmac access and generous bell mouth junction onto Ashwell Street. However, to repeat this form of development here would further erode the rural character of this locality as a bridleway track with a rural aspect.
- 4.3.37 The Landscape and Urban Designer would have liked to have seen more information on aspects of the scheme including, what would happen to the existing gated access off Ashwell Street, clarification of the boundary between public and private space for maintenance purposes, details of means of protecting existing vegetation to be retained and the reasoning behind the use of different hard surfacing. However, given the recommendation further information and amended plans were not requested.
- 4.3.38 The Landscape and Visual Appraisal submitted with the application refers to views of the site from many viewpoints. However, it is considered that the important view is the one looking north from the existing gate. This view is identified as a “key view” in the Ashwell Conservation Area Character Statement - Key View 23: View from Ashwell Street looking north across field towards Alder Cottage including the tree coverage within the Conservation Area. It is repeatedly mentioned in the neighbour representations as well as the Parish Council comments, which reinforces that it is a highly valued local view. As set out above the view has historic value. This is a commanding view that allows members of the public to experience the Conservation Area within the wider context of the countryside/landscape to the north east beyond. This view would be clearly impacted by the proposed development and as such the setting of the Conservation Area as experienced when viewed from the existing gate on Ashwell Street would be adversely affected by the development. The applicant has offered to retain the gate as an original feature. However, it is not the gate that is of value, but the view itself from this gate that would be lost and as such the experience of the setting of the Conservation Area.
- 4.3.39 It is noted that the scheme introduces a viewing corridor south to north across the site. However, this view would not replace the view from the current gate. The current view from the gate takes in the wider landscape to the north east. Another important view is the view of the church across the site and it is welcomed that the viewing corridor of church across site would be retained. The agent for the application suggests that this would be public rather than private view should permission be granted for the development. However, this is already the case as there is currently a view of the church from footpath round edge of field to south east of the site and there are glimpses of the church from Ashwell Street. In any case it is considered that the two viewing corridors shown on the plans would not compensate for the loss of the current highly valued view from the gate.
- 4.3.40 The site would be clearly visible from the elevated footpath directly to the south of the site, as the property, Huntsridge, is currently visible from here. There would also be glimpsed views of the site between 22 and 24 Lucas Lane from the footpath to the south east. The proposed development would also be visible from Lucas Lane, given the topography of the site.

- 4.3.41 The North Herts Landscape Study (Character, Sensitivity and Capacity) (a background evidence for the ELP is of relevance, as it covers the wider landscape surrounding Ashwell. The site is immediately to the north of the site falls within Landscape Character Area 224 North Baldock Chalk Uplands as identified in this document. There is a comment within this statement that: ***“The southern edge of Ashwell is well contained and would be sensitive to further development.”*** It identifies as visual sensitivities ***“long distance views from localised high points”***. The view from the gate takes Landscape Character Area 226 Steeple Morden to the north east with its ***“gently rolling landform to west”***. It is notable that one of the landscape character sensitivities for Character Area 225 Hinxworth Lowlands (to the north west of Ashwell) is: ***“The character area consists mainly of large-scale arable fields but with small paddocks and grazing land with fragmented vegetation adjacent to settlements and watercourses.”*** Whilst sited to the south of Ashwell, the application site would represent an area of grazing land adjacent to the settlement – one of the last remaining pockets of green that breaks up the built development on the edge of Ashwell and forms part of the character of the village.
- 4.3.42 One of the Local Design Principles for Ashwell as set out in the Supplementary Planning Document (Design) is: ***“Seek to protect open spaces maintaining the existing character.”*** Whilst private rather than public open space, the application site is an open space nonetheless and it contributes to the existing village character. It is one of the few remaining meadows that break up the built development on the edge of Ashwell.
- 4.3.43 The proposal would not create a high-quality development that respects and improves its surroundings and would fail to protect key elements of North Hertfordshire’s environment including important landscapes, heritage asset and green infrastructure contrary to Emerging Local Plan Policy SP1 (Sustainable development in North Hertfordshire). The proposal would fail to respond positively to the site’s local context and would not enhance the public realm. As such the proposal would fail to comply with Saved Local Plan Policy D1 (Sustainable Design).
- 4.3.44 It is considered that the proposed development would not function well and add to the overall quality of the area and would not be sympathetic to local character and history, including the surrounding built environment and landscape setting (paragraph 127 of the NPPF). Also, the proposed development would constitute poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 130 of the NPPF). Paragraph 170 b of the NPPF states that: ***“Planning policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside...”*** It is considered that the proposal would harm the intrinsic character and beauty of the countryside.
- 4.3.45 As such it is considered that the wholesale development of this site would be unacceptable in principle, particularly the development on the higher ground.

4.3.46 Summary on visual impact on the character of the area

In conclusion it is considered that the development would have a detrimental effect on the rural character of Ashwell Street, resulting from the creation of an access onto Ashwell Street with the tree removal and surface upgrading that would be involved. In addition, the setting of the Conservation Area as experienced when viewed from the existing gate on Ashwell Street would be adversely affected by the development.

4.3.47 **Design, layout and landscaping**

Notwithstanding the fundamental objections to the scheme, following negotiations the detailed design and layout of the development has been amended. This followed comments from the Conservation Officer and Landscape and Urban Design Officer. Amended plans have been submitted and they address some of the concerns and make some of the suggested changes. However, they have not addressed all the concerns raised.

4.3.48 The removal of the brick wall and introduction of a 3m buffer along the eastern boundary as well as the western boundary is welcomed. The changes to the layout in the north-east part of the site are welcomed – in particular, the replacement of the two storey buildings with two bungalows and a parking area near the boundary with 8-12 Lucas Lane is a definite improvement. The removal of the four single detached car ports is welcomed as it reduces the overall the built development on site.

4.3.49 There are still concerns about some elements of the proposed design and layout in particular the design of the terraces of three houses with their wide palette of materials, the amount of development created by the car ports and the length of built development along the eastern boundary. However, it is not considered that any of these represent a sustainable reason to withhold planning permission.

4.3.50 There is still a concern that the proposed development could dwarf the bungalows in Lucas Lane, given its largely two-storey nature and the topography of the site. However, given that the layout has been changed so that the two-storey development in the north east corner of the site has been replaced with bungalows and a parking area it is considered that this would not be a sustainable reason to withhold planning permission.

4.3.51 There is an Ash tree (T10) with high public amenity value adjacent to proposed path to south east of 8 Lucas Lane and another Ash tree (T11) with public amenity value closer to the access with Lucas Lane to the north east of 4 Lucas Lane. It is noted from the Arboricultural Impact Assessment that these trees would be retained and there will be modest pruning required. Their retention is welcomed.

4.3.52 Whilst it is disappointing that the amended plans have not taken on board all the suggestions, the internal design and layout of the scheme has been improved and on balance it is considered that there would not be sustainable reasons to refuse planning permission on the basis of the detailed internal design and layout of the scheme.

4.3.53 Living conditions

Concerns were raised with regards to the original design and layout of this scheme, as it was considered that the proposed development would have an adverse impact on the living conditions of neighbouring properties. Amended plans were received which have largely addressed these concerns by making the following changes.

- 4.3.54 The layout of the north east corner of the site has been amended so that two bungalows and a parking area would be adjacent to the boundary with 8-12 Lucas Lane and this has adequately addressed the concerns regarding dominance and overlooking. The 3m wide landscape buffers have been introduced along both the west and east boundaries and this has improved the relationship with 22 Lucas Lane. The layout of the first floor of plot 1 style units means that there would only be obscure glazed en-suite windows at first floor level facing neighbouring properties rather than clear glazed bedroom windows, which has addressed concerns with regard to loss of privacy to Huntridge and 4 Lucas Lane.
- 4.3.55 There are elements of the scheme that are still rather unneighbourly, including the overall built impact of the development on Lucas Lane due to the change in levels; the amount of built development adjacent to the eastern boundary which to some extent would result in a sense of enclosure and some overlooking to 22 Lucas Lane; the width and bulk of built form of plots 7 and 8 in relation to 5 High Street which would result in some intrusion into their aspect currently enjoyed given the change in levels; the views from first floor windows in plots 18-20 towards 5 High Street; and the views from plots 6 and 7 towards Huntridge, as this property is very exposed. These matters were all raised with the developer and it is disappointing that more has not been done to improve the relationships with neighbouring properties. However, on balance it is considered that the proposed development would not result in a material loss of light to neighbouring properties or be unduly dominant in the outlook they currently enjoy. It is also concluded that the proposal would not result in a material loss of privacy to the neighbouring properties, particularly given the separation distances. The security concerns raised by neighbours with regards to the pedestrian access being very close to 8 and 4 Lucas Lane are noted, however it is not considered this would be a sustainable reason for refusal. The Architectural Liaison Officer Herts Police has not raised any objections to the scheme.
- 4.3.56 It is considered that the proposed development would provide adequate living conditions for the future occupiers in line with Saved Local Plan Policy 57 (Residential guidelines and standards) and Emerging Local Plan Policy D3 (Protecting living conditions).
- 4.3.57 In conclusion, it is considered that the proposed development would not have an adverse impact on living conditions of the occupiers of neighbouring properties to an extent that planning permission could be refused for this reason.

4.3.58 Open space management

The Council's Service Manager, Greenspace, was consulted on the application and made the following comments:

“Ashwell Parish tend to undertake their own maintenance of the Greenspaces within the village themselves. It would be worthwhile identifying if they wish to do the same with this new development.

There is a concern about loss of existing open space and I do query if there is a need for a formal equipped play area that can serve not only the development but also the surrounding village

Currently our preference would be for the parish to adopt and undertake future maintenance or a management company is created.”

4.3.59 They made the following comments on the amended plans:

“Due to its location in Ashwell it is unlikely that the District Council would adopt any open space. Traditionally open spaces in Ashwell have been maintained by the Parish Council who may have their own thoughts regarding this issue.

As such, there would be little opportunity to consider any off site contributions for a NHDC location and potentially this is likely to be maintained by a management company if not the parish in the future.”

4.3.60 Highways

The Highways Authority raised an objection to the original plans on the basis that the proposed access road serving this site was inadequate by reason of the width to serve the range of waste collection vehicles in current use. Amended plans showing revised junction details with Ashwell Street and vehicle tracking plans have been submitted which have overcome this objection. The Highways Authority have withdrawn their objection and now recommend conditions. In order to achieve highways requirements for the access the proposed development would result in the removal of vegetation and hard surfacing which would urbanise the rural lane. Whilst the turning space for waste collection vehicles within the site layout this has resulted in a layout that would be vehicle dominated.

4.3.61 The concerns raised by the Parish Council and local residents about the impact of the proposed development on highway safety are noted. Their concerns about the impact of the proposed development on the junctions of Ashwell Street with Kingsland Way and Station Road are appreciated and their concern that the design of the proposed junction with a tight radii will not in fact discourage vehicles from turning left out of the site is acknowledged. However, given that the Highways Authority have raised no objections to the amended scheme, it is considered that a reason for refusal on highway safety grounds would not be defensible should the application go to appeal.

4.3.62 Parking

The scheme includes 52 parking spaces. All the properties have two allocated parking spaces except for the two one-bedroom flats which would have one parking space each, and there would be six visitor spaces. The scheme includes five detached car ports, which each serve two properties and are in addition to the allocated parking spaces. The Council's Transport Officer was consulted on the application and considers that the developer has provided sufficient visitor parking. Therefore, the proposed development would meet the requirements of Supplementary Planning Document: Vehicle Parking at New Development, which requires a minimum of 1 space per 1-bedroom dwelling, 2 spaces per 2+bedroom dwellings and 0.25 visitor spaces per dwelling (as there are no garages in the proposed scheme). The SPD also requires 1 secure covered space per dwelling. Whilst no specific cycle parking spaces have been shown on the plans, all the properties have gardens and ten properties have car ports so this would be satisfactory.

4.3.63 Right of Way

The Access Project Officer, Countryside & Rights of Way, Environment & Infrastructure, Hertfordshire County Council, raised objections to the application as originally submitted. Following re-consultation on the amended plans they withdrew this objection and made the comments set out above. Whilst they have withdrawn their objection, they did make the following comments:

“Under these terms I do not object to this application, although I have not taken into consideration the changes in the character of Ashwell Street, as a quiet Green lane, that this new access, surface and increased use will produce.”

4.3.64 As discussed above it is considered that the changes required to create a safe access onto this lane and the upgrading of the surface and the increased use of the lane would fundamentally change the character of the lane and there is an objection on the grounds of visual impact.

4.3.65 Ecology

The application was accompanied by an extended Phase 1 ecological survey. The application site is described as an improved grassland. It is presently managed by sheep grazing. The Ecology Advisor, Hertfordshire Ecology, Hertfordshire County Council provided detailed comments on the application. They advised that:

“The report carried out surveys of the likelihood of the presence of protected species including bats, reptiles, breeding birds and mammals such as badger and hedgehog. Appropriate measures to ensure they are safeguarded are recommended within the report in sections 9.7 to 9.19. The sections on pollution control 9.7-9, should be secured by Condition. The remaining measures except 9.15 should be included as Informatives with any consent given.”

Initially insufficient information was submitted enable the Local Planning Authority to make a fully informed decision regarding the potential presence of bats (European Protected Species). An outline mitigation strategy was submitted and Hertfordshire Ecology have said that: ***“With these reports in place, I advise that the LPA now has sufficient information to enable the LPA to consider the impact of the proposal on bats prior to determination and satisfy the Habitats Regulations 2017 (as amended).”*** They have recommended a condition to secure the enactment of the proposed strategy for the removal of the ivy clad trees along the southern boundary.

4.3.66 Hertfordshire Ecology were reconsulted following receipt of amended plans including amended landscaping plans. They are pleased to see that the amended landscaping plans have adopted the recommendation as to the siting of fruit trees to the North West of the proposal and removing potential shading problems within the wildflower meadow located to the south of the site. They have advised that a Landscape and Ecological Management Plan (LEMP), which includes the Defra / Natural England v2 metric to demonstrate net gain, should be secured by condition.

4.3.67 The comments made on behalf of Greening Ashwell are noted, however given that Hertfordshire Ecology have raised no objections and recommended the conditions and informatives mentioned above it is considered that there are not ecology grounds to refuse the application.

4.3.68 **Archaeology**

The site is within an Archaeological Area and the Natural, Historic and Built Environment Advisory Team, Hertfordshire County Council have raised no objections and recommended conditions. They commented that: ***“The trial trenching report, along with a geophysical survey carried out by Kris Lockyear of UCL and test pitting by North Herts Archaeology Group (NHAG), has indicated that significant archaeological remains are present on the site.”*** The North Hertfordshire Archaeological Society have made comments on the application. These were brought to the attention of the Historic Environment Advisor who considered their representation. He responded to their comments, but he confirmed that his recommended provisions and conditions remain the same.

“As per my comments of 24 February, therefore, the entire field should be subject to strip, map and record excavation. The area of the rectangular ditched Roman enclosure and Roman/Saxon ‘hollow’ should be very carefully stripped of topsoil and subsoil and then, in consultation with NHDC and ourselves, a decision made about further archaeological investigation, potential preservation in situ, or full hand excavation and recording. Please note that this should not occur before Historic England have made a decision on any proposed scheduling (unless advised otherwise by Historic England).”

4.3.69 The North Hertfordshire Archaeological Society made an application to add the site to the Schedule of Monuments. Historic England decided not to schedule Hunts Close, field between Ashwell Street and Lucas Lane, Ashwell. North Hertfordshire Archaeological Society requested a review of this decision.

The Listing and Scheduling Review Team at the Department of Culture, Digital, Media and Sport have considered their review request and it contained significant new information. As the original application was rejected at the initial assessment stage, Historic England re-activated the original scheduling application. On 24th August we received confirmation from Historic England that:

“We have taken into account all the representations made and completed our assessment of the monument. Having considered our recommendation, the Secretary of State for Digital, Culture, Media and Sport has decided not to add Multi-period archaeological remains at Hunts Close, Ashwell, North Hertfordshire to the Schedule of Monuments.”

4.3.70 Further comments have been received from North Hertfordshire Archaeological Society:

“I am writing on behalf of the North Hertfordshire Archaeological Society. Further to our earlier comments, as you know, we applied to Historic England to have the whole site Scheduled as an archaeological monument of national importance. Failing that, we encourage the applicant and Local Planning Authority to enlarge the planned public open space in the north-west quadrant of the field so that it is 70 m north-south and 30 m west-east. This would preserve the most significant parts of the known buried archaeological remains.”

However, it is considered that it would not be reasonable for the LPA to request this given the advice of the statutory consultee - the Natural, Historic and Built Environment Advisory Team, Hertfordshire County Council.

4.3.71 **Surface water drainage**

Following submission of further information, the Lead Local Flood Authority have withdrawn their objection and recommended conditions. Local resident raised concerns regarding surface water drainage, based on their local knowledge and recent surface water flooding in Ashwell and their concerns as to when the drainage testing was carried out. These issues were raised with the LLFA and they provided the following comments:

“Thank you for consulting the LLFA on behalf of concerned residents and comments in relation to the above development and the flooding at Hodwell in Ashwell.

Concerns have been raised in relation use of infiltration features at the above planning application site and the potential impact this may have to the existing flooding issues in the area. The LLFA are aware of the existing flood risk issues to the west of the proposed development site and can confirm this was considered when assessing the proposed surface water drainage scheme.

We can confirm that the applicant is proposing to infiltrate all surface water drainage from the site into ground via infiltration measures so there will be no surface water run-off leaving the development site up to the 1 in 100-year rainfall event including an allowance for the impacts of climate change. It is proposed that any exceedance of the surface water drainage system following a rainfall event above the 1 in 100 year + climate change rainfall event, will be routed to and managed within the area of proposed Public Open Space to ensure there will be no surface water run-off discharging off site onto Lucas Lane.

Based on these proposals the LLFA has issued a letter dated 20 May 2020 to the Local Planning Authority recommending conditions relating to the management and maintenance of surface water drainage scheme, compliance of the proposed drainage scheme and the detailed design of the Public Open Space prior to commencement of the development.

We note concerns were raised in relation to the infiltration tests that were carried out. The concerns relate to timing of the infiltration testing, which were carried out during a dry period and this is not representative of the ground conditions during periods of high rainfall. The applicant has undertaken infiltration tests to determine feasibility of soakage as part of the drainage strategy for the purposes of planning. However, at the discharge of condition stage we would expect further details in relation to the ground conditions and the proposed drainage scheme to be provided.

Should the LPA be minded to approve the application, the LLFA can recommend an additional condition to be attached to the planning permission for provision a ground investigation report with further infiltration testing to be carried out to ensure the feasibility of the proposed design. This would include groundwater level monitoring to be carried out during the wetter months.”

- 4.3.72 Responses from Affinity Water and Anglian Water have raised no objections. The latter recommended conditions. It is noted that local residents have also raised concerns regarding the capability of the water/sewerage system to cope with the proposed development. This issue has been raised with Anglian Water and Affinity Water; however no further response has been received.
- 4.3.73 The Environment Agency were consulted on the application and have confirmed that they will not be commenting on this application, as it falls outside their remit at this time.
- 4.3.74 In the absence of objections from the LLFA and the water authorities, it is considered that there are no sustainable reasons to withhold planning permission based on impact on surface water drainage or water/sewerage services.

4.3.75 Housing mix

The Housing Supply Officer has provided comments on the housing mix for the affordable housing and considers it to be acceptable.

Policy HS3 in the ELP states that: ***“On most suburban and edge of settlement sites, applicants should therefore make an initial assumption of 60% larger (3+ bed) and 40% smaller (1 or 2 bed) homes to ensure an overall mix is achieved.”***

4.3.76 The housing mix has been amended during negotiations to closely align with this policy - the proposed mix is now 58% larger and 42% smaller.

4.3.77 The comments from local residents regarding housing need is noted, however it is considered that the amended proposed housing mix would be acceptable, as it would meet the requirements of the relevant planning policies.

4.3.78 Waste and recycling

The Contract Officer Waste, Recycling and Street Cleansing considers that the scheme is acceptable. He has removed the requirement for a condition requiring details of the circulation route for refuse collection vehicles have been submitted to the local planning authority and approved in writing, as this information has been provided during the course of the application.

4.3.79 Climate change

The comments raised by local residents and Greening Ashwell group are noted that state that opportunities have been missed with regard to tackling climate change. The developer has responded to the issues raised regarding climate change as follows:

“In terms of climate change, the proposal would comply with ELP policy D1. The proposal would create public realm with the introduction of two areas of POS and links to the existing recreation field. The LLFA has raised no objection on flooding or drainage grounds and recommend a condition on the final drainage scheme. The proposed dwellings will be designed to meet building regulation standards for energy consumption and waste will be minimised and dealt with responsibly by the contractor, and this could form part of a construction waste management plan condition. The proposal will retain as much of the existing vegetation within the site and proposes significant new planting. The proposal includes two pedestrian paths that will link to Lucas Lane to encourage foot and cycling connectivity into the village core.

There is no specific policy requirement to provide electric charging points and these could be retro-fitted by future occupiers if they wish. However, the applicant would be willing to agree to installing EV charging point in some of the dwellings. We would be happy to discuss this in more detail with you to agree the number and location of the charging points.”

4.3.80 The proposed development has missed opportunities to reduce carbon footprint through the design process including maximising passive solar gain where possible and to look at alternative energy solutions. These issues were raised with the developer and it is disappointing that they have not been incorporated into the amended plans. However, given the recommendation further negotiations have not taken place to amend the scheme and it is considered that there would not be a sustainable planning reason to refuse on these grounds.

4.3.81 The Environmental Protection Officer (Air Quality) has recommended a condition that prior to occupation, the new development shall incorporate Electric Vehicle (EV) ready domestic charging points on the basis of 1 charging point per unit (dwelling with dedicated parking), or 1 charging point per 10 spaces (unallocated parking).

4.3.82 **Other Matters**

4.3.83 The Environmental Health Team raised no objections regarding land contamination and noise and other nuisances, and recommended conditions and informatives.

4.3.84 Several of the local residents referred to the Ashwell Neighbourhood Plan, however this can be given little weight, given the stage it is at in the consultation process.

4.3.85 **Planning Obligations**

In considering planning obligations in relation to this development the Framework (paragraph 56) advises that:

“Planning obligations should only be sought where they meet all of the following tests:

- o necessary to make the development acceptable in planning terms;***
- o directly related to the development; and***
- o fairly and reasonably related in scale and kind to the development.”***

The Community Infrastructure Regulations 2010 (regulation 122) coincides with the above requirements of the Framework.

The application does not include a draft Section 106 document, however it did provide a draft Heads of terms document which lists the following Heads of Terms:

- Affordable Housing
- Primary Education contribution
- On site open space provision
- Waste and recycling
- Library service and youth service

Following consultation with service providers, the developer has been advised that the S106 Agreement would need to cover the following:

- Contribution towards the Ashwell Pavilion Project collected under the 2006 SPD categories of community halls / centres; leisure, play space and pitch sport. To give an indication for the scheme as submitted I calculate the contributions to be J52,000 (based on the 2006 figures – which need to be index linked) so with a possible uplift of about 50% it would be approx. J78,000.
- Affordable Housing. The Housing Supply Office made detailed comments on the requirements.
- SUDs scheme and management scheme. Include a clause that the private management of open spaces includes servicing and maintaining the approved SUDS scheme.
- Open space management plan. Details of the management plan for the open space to be submitted to and agreed by the Council's and these details have to be implemented on site.
- Waste and recycling provision. A contribution towards bin provision (J2,062 (index linked) based on J71 per dwelling house and J54 per flat as per the 2006 SPD);
- County contributions. Notwithstanding their objection on the grounds of primary education, Hertfordshire County Council have set out in their comments the planning obligations contributions they would require for secondary education, youth facilities and library facilities. They would seek indicative financial contributions towards the following projects:
 - Library Service towards providing additional capacity at Royston library (J4,130 index linked)
 - Youth Service towards the increase of capacity at Royston Youth centre (J991 index linked)
 - Secondary school education provision in Baldock (J51,874 index linked)
 - The provision of fire hydrant(s).
 - Sustainable Transport Contributions. Bus passes to be provided for all new residents as part of the Travel Plan for the development, to encourage sustainable transport for journeys to/from the development. The equivalent of a monthly (four week) ticket for each adult, assuming two per dwelling - J6,720. The contribution would be paid to Herts County Council and administered by them.

4.3.86 With regard to possible health contributions the NHS East and North Hertfordshire Clinical Commissioning Group were consulted on this application, however they have not sought planning contributions.

4.3.87 A revised Heads of Terms document was not submitted. The applicant provided the following comments on this matter:

“Please can you ensure the contributions requested are justified in terms of three tests in Regulation 122 and contained within the adopted planning obligations strategy. We have provided a heads of terms document which contains what we considered appropriate and would be happy engage in further discussions over any other items over and above that which we have put forward. It is important for the Council to ensure what has been requested, is compliant with the regulation and justified.”

- 4.3.88 We are comfortable that the planning obligations that have been sought meet the tests of Paragraph 56 of the NPPF. However, no agreement has been reached between the applicant and Hertfordshire County Council as Education Authority regarding Primary School contributions.
- 4.3.89 The applicant submitted an Education report by EFM with their application and made the following comments regarding this issue:

“The North Hertfordshire County Council (CC) has objected to the proposal due to the identified lack of capacity within the local primary school. The proposed development would generate up to two primary school aged pupils (and two secondary aged pupils).

The CC position on this matter has previously been dismissed by an Inspector for appeal (ref: APP/X1925/W/17/3192151) at Land at Station Road, Ashwell for 46 dwellings. The Inspector stated on this that “the proximity to services must be judged as a whole and whilst access to a local primary school may be an important consideration, it forms just one of a list of numerous facilities and services...”. The appeal Inspector said Ashwell contains a broad range of shops, services, recreational and religious establishments. Therefore, when taken as a whole, the Inspector concluded that even if a small number of children were unable to find school places in Ashwell, the other locational advantages would not form a reason for dismissing the appeal. Notwithstanding, the appeal Inspector’s view on this, we understand that based upon the CC’s latest School Capacity projections for the Baldock Villages area – the roll is expected to fall in the coming years, likely due to the falling birth rate. CC was forecasting the schools to be oversubscribed in 2022/23; they are now forecast to have surplus capacity in 2023/24. Therefore, in view of the low number of pupils that would be generated, particularly for primary school (up to 2), and the locational advantages of Ashwell, we believe making a contribution towards primary education provision would be sufficient to off-set the relatively small impact of the development. The contribution could be used towards the CC’s school building programme. The lack of primary education places (for up to 2 pupils) is not a reasonable justification to refuse this application in light of the housing significant housing needs. This issue was raised in a recent appeal for an outline application for up to 90 dwelling in Stilton, Huntingdonshire (Appeal APP/H0520/W/19/3228494 – Land to the East of North Street, Stilton – decision date 3 February 2020). The Council refused, in part, the application due to lack of primary school capacity in the local primary school, which would require children to would have to attend out of catchment schools resulting in travel by car.

The Inspector stated that education is a more fluid environment with access to Ofsted ratings whereby parents may choose to send their children to schools that require travel by private car. Therefore even if the local primary school had sufficient capacity to accommodate children from the development, there is no guarantee or requirement that children from the appeal site would attend that school. There is no reason why the same consideration could not apply here, particularly in light of the low number of Primary school pupils the scheme would generate.

This position is also supported by the Education Report produced by EFM which was submitted with the application. It states that it would be a dereliction of duty on the part of the CC to object to the application on the basis that there is not capacity in the local school. It is the responsibility of the CC to put in place long term infrastructure projects/measures to help facilitate the delivery of housing and population growth in the District and Ashwell, which is a focus for development. The report advises that it would be prudent for a financial contribution to be made towards future primary education projects to enable increase in capacity. The applicant is willing to make an education contribution towards future growth/expansion of the existing primary school.

In our view, the CC's objection is wholly unreasonable and represents a failure to discharge its duty towards facilitating growth. Their position is not sustainable, unreasonable and has been dismissed by appeal Inspectors.

Hertfordshire County Council (in this case now through joint working with CBC) has a statutory responsibility to ensure the provision of all school places and associated infrastructure within its area. In addition all new development should contribute appropriately to infrastructure requirements so as to mitigate and accommodate the impact of new development and growth. In providing their advice relevant to this application HCC consider that the requested financial contributions have been calculated correctly according to the scale and type of development and consequent pupil yield. HCC consider that the contributions meet the test set out in Regulation 122 of the Community Infrastructure Regulations 2010 that they are appropriate and 'fairly and reasonably related in scale and kind to the development'.

4.3.90 Later in their rebuttal letter they made the following comments:

"This issue has been addressed in the above section of the letter. However, we believe the Council's position on this is unsustainable and if this position is maintained and the application goes to appeal, we will be seeking a cost claim against the unreasonable and inappropriate position taken by both the County and District Council.

The County Council is failing in its statutory duty to make provision for schools particularly in light of the District Council's future housing growth needs. We therefore request that the District Council reconsiders their position on this.

The applicant is willing to make a contribution towards primary education provision in order to help the County Council to facilitate the extension of the existing primary school in order to help accommodate future housing growth. Also, there are primary schools in the neighbouring villages and towns which could accommodate the pupil numbers generated from the proposed development. The number of pupil this development would generate (up to 2) is not significant to warrant justifying refusing this application and much needed housing.”

4.3.91 The Growth and Infrastructure Team provided detailed comments on the application in February 2020, which can be viewed on the Council’s website. The section with regard to primary education provision is copied below.

“In terms of primary education provision, Ashwell Primary School is currently full or almost full in every year group. Analysis of the current pre-school aged population, sourced from GP registration data, who live in the village and for whom Ashwell Primary School is the nearest school confirms a close match between the number of children already living locally and the number of places the school is able to offer.

Furthermore, the additional yield expected from new housing proposed locally within the emerging North Hertfordshire District Council Local Plan, the existing demographic and Ashwell Primary School’s current accommodation concludes that beyond the allocated development of Land west of Claybush Road (Ref AS1 and 16/01797/1) for 33 homes, which is already included within HCCs primary education strategy, there would not be sufficient primary school provision to meet the needs of any further new development in the village. This includes the proposed development Land between Huntsridge and Ashwell House, 5 High Street, Ashwell. Additionally, professional advice confirms the school does not have the capacity to expand beyond its current size of 1 Form of Entry and appropriate mitigation cannot be provided.

There are no other primary schools within a statutory safe walking distance of the application site, with the closest Hertfordshire school being approximately 4.5 miles away and the closest primary schools outside of Hertfordshire being approximately 2.5 miles away. Transporting primary age pupils to schools beyond the statutory walking distance would be both costly and incongruent to Hertfordshire County Council’s duties to promote sustainable school travel under section 508A of the Education Act 1996. Furthermore, to transport pupils to alternative schools would have social, health and environmental implications, as well as leading to unsustainable patterns of school commuting. These are all contrary to the National Planning Policy Framework and the need to create sustainable new developments and communities.

The severity of these issues is the reason that Hertfordshire County Council object to the planning application and no contributions towards primary education provision are sought on this basis.”

4.3.92 In a further response in June 2020 they made the following comments:

“We have assessed the education report that accompanied the application and consider that none of the points raised in the paper alter HCCs position as outlined in our response dated 26th February 2020. To reiterate our position:

• There is not sufficient capacity in Ashwell Primary School to accommodate this unallocated development site:

• Ashwell primary school does not have the capacity to expand.

• There are no other primary schools within a statutory safe walking distance of the application site.

• Therefore, this development is unable to be mitigated and the County Council’s objection to the planning application remains.”

The Growth and Infrastructure Team were sent a copy of the rebuttal letter and they confirmed in August 2020 that they do not have any further comments to make.

4.3.93 As mentioned above an application was refused in October 2017 by this committee in accordance with officer recommendation for residential development of 46 dwellings at land off Station Road, Ashwell (ref. 17/01406/1). One of the reasons for refusal was that given the lack of essential services in the vicinity of the site, in particular a lack of primary education provision to serve the needs of this development, 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. This application was dismissed at appeal in October 2018. There were other reasons for refusal of the planning application. The agent for this current application is of the view that: ***“The CC position on this matter has been previously dismissed by an Inspector for appeal (ref: APP/X1925/W/17/3192151) at Land at Station Road, Ashwell for 46 dwellings.”***

4.3.94 The Inspector’s comments on this issue were as follows:

“Education matters and locational sustainability

12. The County Council as Education Authority express the view that the appeal site would generate children of primary school age, who could not be accommodated at the local Ashwell Primary School. This would then involve children being transported to remote schools, with prejudicial effects on health and well-being, as well as adding to car journeys within the area.

13. The County Council has included within its assessment, the likely numbers of children that would arise from a nearby proposal site within the SLP (referred to as the Claybush site) and has assumed that this development would go ahead, for the purposes of calculating school places. The appellant casts doubt on the likelihood of the Claybush site being developed, pointing out that the planning application has been with the Council for some considerable time and remains undetermined and is the subject of unresolved issues.

14. In my view, the proximity of a site to services must be judged as a whole and whilst access to a local primary school may be an important consideration, it forms just one of a list of numerous facilities and services which could determine whether a site or village is well-served or not. In the case of Ashwell, it was acknowledged, and I saw at my visit, that it contains a broad range of shops, health services, social, recreational and religious establishments.

15. When taken as a whole, even if the proposal would result in a relatively small number of children being unable to find a school place at Ashwell, I consider that the other locational advantages are such that this would not form a reason for dismissing the appeal.”

4.3.95 Whilst each planning application must be assessed on its merits, in my view, this appeal decision is a material consideration for the determination of this planning application insofar as the issue of school provision is concerned. The Inspector in the above referenced case was of the view that the issue of sustainability must be considered in the round. The Emerging Local Plan (2011-2031) seeks to classify Ashwell as a category A village, which suggests new development can be accommodated and would be sustainable. It is not for the District Council Planning Authority to comment on or provide evidence outside its area of expertise on when or how education contributions can be spent or where school expansion is feasible or not, particularly in light of the above referenced appeal decision. Having said that, given the above and the lack of agreement between the applicant and the education authority with regard to primary education and consequently, the lack of any formal Section 106 agreement in place a reason for refusal has been framed as follows:

“The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing affordable housing and any other necessary obligations. The secure delivery of these obligations is required to mitigate the impact of the development on local infrastructure and services in accordance with Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) and proposed Local Plan Policy SP7 of the Council's Proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018). 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).”

Moreover, if Members were minded to refuse planning permission and the applicant lodged an appeal it would be for Hertfordshire County Council's Growth and Infrastructure Team to support their objections to this planning application with evidence. This recommended reason for refusal does not explicitly refer to primary education contributions/obligations, because Hertfordshire County Council's Growth and Infrastructure Team are not seeking a primary education contribution, as there is no primary education project. As set out above, they have raised an objection on the basis of the lack of primary education provision to mitigate the impact of the development. In my view the District Local Planning Authority should take a neutral view on this issue for the reasons set out above.

4.3.96 Conclusion

It is considered that the amended plans and further information have satisfactorily addressed the technical issues raised in relation to the internal design and layout of the scheme, the impact on living conditions of neighbouring properties, the lack of information in relation to the potential presence of bats, and the objections from the Highways Authority, Lead Local Flood Authority and Rights of Way team.

4.3.97 However, three fundamental objections to the scheme remain and reasons for refusal have been framed accordingly. The proposal's clear and identified harm to the heritage asset (Ashwell Conservation Area), the proposed development's adverse impact on the rural character of Ashwell Street and the lack of a valid legal undertaking (in the form of a Section 106 obligation) securing appropriate provision for primary education in the vicinity of the site (as required by Hertfordshire County Council as Education Authority) and other necessary obligations, would in my judgement significantly and demonstrably outweigh the public benefits of 24 additional dwellings including 8 affordable units and any planning obligations (if agreed) in the planning balance (notwithstanding that the relevant test in this case is neutral). As such there is an objection in principle to the proposed development.

4.3.98 Alternative Options

None applicable

4.3.99 Pre-Commencement Conditions

Not applicable

4.3.100 Climate Change Mitigation Measures

No climate change mitigation measures are proposed given the recommendation for refusal. Climate change mitigation measures such as alternative energy solutions, solar panels, electric vehicle ready domestic charging points etc. could be controlled by condition and therefore would not amount to a reason for refusal of planning permission.

5.0 Legal Implications

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

6.0 Recommendation

6.1 That planning permission be **REFUSED** for the following reasons:

1. By reason of the following: the very positive contribution the application site makes to the character and appearance of the Ashwell Conservation Area; the fact that the site represents the last area of land that could be developed along Ashwell Street; the removal of the sole remaining opportunity to experience the village nestled in the so-called 'river valley' from the south side of the village and unfettered by development in the fore or mid ground; the impairment of views towards an area to the east of the historic core, the impact upon the high degree of inter-visibility between Townsend House, 5 High Street and the parish church of St Mary the Virgin; and the adverse impact upon the character of the medieval route that is Ashwell Street; it is considered that the proposal would occasion less than substantial harm to the significance of the Ashwell Conservation Area toward the upper end of the continuum such that would outweigh any public benefits associated with the delivery of 24 dwellings. Accordingly, the proposal would fail to satisfy the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 16 of the NPPF and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018).
2. The development would have a detrimental effect on the rural character of Ashwell Street, resulting from the creation of an access onto Ashwell Street with the tree removal and surface upgrading that would be involved. In addition, the setting of the Conservation Area as experienced when viewed from the existing gate on Ashwell Street would be adversely affected by the development. Therefore, the proposed development would not function well or add to the overall quality of the area and would not be sympathetic to local character and history, including the surrounding built environment and landscape setting. The proposed development would constitute poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The proposed development would also fail to recognise the intrinsic character and beauty of the countryside local to the site. As such the proposal would fail to comply with Saved Local Plan Policy 6 of the North Hertfordshire District Local Plan No. 2 with Alterations, Policies SP1 and D1 of the North Hertfordshire Local Plan 2011 - 2031 (Proposed Main Modifications November 2018) and Sections 12 and 15 of the NPPF.
3. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing affordable housing and any other necessary obligations. The secure delivery of these obligations is required to mitigate the impact of the development on local infrastructure and services in accordance with Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) and proposed Local Plan Policy SP7 of the Council's Proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018). Without this mechanism to secure these provisions the development scheme cannot be considered as a sustainable form of development contrary to 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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

7.0 **Appendices**

7.1 Historic England comments – 3rd September 2020

7.2 Parish Council comments – 26th February 2020

7.3 Parish Council comments – 10th September 2020