

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### PLANNING CONTROL COMMITTEE

MEETING HELD AS A VIRTUAL MEETING  
ON WEDNESDAY, 10TH FEBRUARY, 2021 AT 7.30 PM

#### MINUTES

**Present:** *Councillors: Councillor Ruth Brown (Chair), Councillor Daniel Allen (Vice-Chair), Val Bryant, Morgan Derbyshire, Mike Hughson, Tony Hunter, David Levett, Ian Moody, Sue Ngwala, Mike Rice and Tom Tyson*

**In Attendance:** *Councillors Claire Strong and Sam North*

*Simon Ellis (Development and Conservation Manager) and Nurainatta Katevu (Legal Regulatory Team Manager), Tom Allington (Principal Planning Officer), Anne McDonald (Acting Principal Planning Officer), Andrew Hunter (Senior Planning Officer), William Edwards (Committee, Member and Scrutiny Officer), Matthew Hepburn (Committee, Member and Scrutiny Officer)*

**Also Present:** *At the commencement of the meeting approximately 8 members of the public, including registered speakers.*

#### 87 WELCOME AND REMOTE/PARTLY REMOTE MEETINGS PROTOCOL SUMMARY

The Chair welcomed everyone to this virtual Planning Control Committee meeting that was being conducted with Members and Officers at various locations, communicating via audio/video and online. There was also the opportunity for the public and press to listen to and view proceedings.

The Chair invited the Committee, Member and Scrutiny Officer to explain how proceedings would work and to confirm that Members and Officers were in attendance.

The Committee, Member and Scrutiny Officer undertook a roll call to ensure that all Members, Officers and registered speakers could hear and be heard and gave advice regarding the following:

The meeting was being streamed live onto YouTube and recorded via Zoom.

Extracts from the Remote/Partly Remote Meetings Protocol were included with the agenda and the full version was available on the Council's website which included information regarding:

- Live Streaming;
- Noise Interference;
- Rules of Debate;
- Part 2 Items.

Members were requested to ensure that they were familiar with the Protocol.

The Committee, Member and Scrutiny Officer advised Members that due to a change to the remote meeting software votes at this meeting would be conducted by roll-call.

The Chair of the Planning Control Committee, Councillor Ruth Brown started the meeting proper.

**88 APOLOGIES FOR ABSENCE**

*Audio recording – 3 minutes 30 seconds.*

Apologies for absence were received from Councillor Sean Prendergast.

**89 MINUTES - 24 NOVEMBER 2020, 17 DECEMBER 2020**

*Audio Recording – 3 minutes 39 seconds.*

**RESOLVED:** That the Minutes of the Meetings of the Committee held on 24 November 2020 and 17 December 2020 be approved as a true record of the proceedings and the Committee, Member and Scrutiny Officer be authorised to apply the Chair's digital signature.

**90 NOTIFICATION OF OTHER BUSINESS**

*Audio recording – 4 minutes 20 seconds.*

There was no other business notified.

**91 CHAIR'S ANNOUNCEMENTS**

*Audio recording – 4 minutes 29 seconds.*

- (1) The Chair welcomed those present at the meeting, especially those who had attended to give a presentation;
- (2) The Chair advised that, in accordance with Council Policy, the meeting would be audio recorded;
- (3) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.
- (4) To clarify matters for the registered speakers the Chair advised that members of the public had 5 minutes for each group of speakers i.e. 5 minutes for objectors and 5 minutes for supporters. This 5 minute time limit also applied to Member Advocates.

A warning would be given at 4 ½ minutes and speakers would be asked to cease at 5 minutes.

- (5) The Chair advised that the Committee would adjourn for a comfort break around 9PM.

**92 PUBLIC PARTICIPATION**

*Audio recording – 5 minutes 59 seconds.*

The Chair confirmed that all registered speakers and Member Advocates were in attendance.

**93 20/02631/FP Site of Former 15, Luton Road, Offley, Hertfordshire**

*Audio Recording – 6 minutes 10 seconds.*

Erection of one detached 3- bedroom dwelling house, including use of existing garage and existing vehicular access and provision of 2 further on-site car parking spaces (as amended by drawings received 16th and 18th December 2020).

The Principal Planning Officer presented the report in respect of application 20/02631/FP supported by a visual presentation consisting of plans and photographs and provided the following updates:

- Since publication of the report three further consultation responses from the neighbour at 3 & 4 Claypit Cottages had been received which had been circulated to Members;
- The officer summarised the issues raised in these responses including the issues of land levels, surface water runoff and potential overlooking by users of the side access door of the existing garage.
- Condition 4 requiring a landscaping plan to be submitted and approved prior to commencement was to be amended to include details of additional screening to provide privacy;
- Condition 6 requiring survey plans detailing ground levels was to be amended to require the development to match levels as stated in the plans currently before the Committee;
- The Lead Local Flood Authority (LLFA) had raised no objections and was satisfied with the drainage conditions but an informative was to be added to the report advising the applicant to seek approval from the relevant Water and Sewerage Company.

The Chair invited Alan Jones to address the Committee.

Alan Jones thanked the Chair for the opportunity to speak in objection to the application and addressed the Committee including:

- The committee should be bound by the decision of the planning inspector;
- Policy 57 should continue to apply;
- This site had an extensive and complex history with the planning authority in part due to officers' failure to prevent the illegal construction of a property on the site which had to be demolished;
- The first development permitted on this site was unviable due to the location of a drain and the applicant in that case went on to construct in an alternative but not permitted location;
- Mr Jones had instigated proceedings for judicial review of the Council's actions relating to the unlawful construction and these proceedings were still outstanding;
- A senior planning inspector had ordered the unlawful property demolished and stated that the application approved in 2012 would be an acceptable fallback position for all parties;
- The present application did not overcome the reasons for demolition outlined in the decision of the inspector;
- The binding decision of the inspector stated that the operative issue was the distance between the proposed building and the boundary with Mr Jones' neighbouring property, not the distance between the proposed building and his buildings;
- Officers must not attempt to dilute the binding decision and must compare the application at hand with the approval in 2012 and examine any policy which might cause them to deviate from the development approved by the inspector;
- References in the officer's report to Emerging Policy D3 were not relevant and policy 57 deemed relevant by the inspector had not fallen away;
- It was identified that 1350mm was the approved distance between the proposed property and the boundary of 3 & 4 Claypit Cottages; any less than this distance would cause harm;

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- The officer's report identified that this distance cannot be maintained due to the location of the drain and states that the application is to construct the house at a distance of 980mm from the boundary, on the basis that the difference between these figures is insignificant;
- Mr Jones argued that if such a difference was insignificant the applicant should instead reduce the size of their proposed development by that amount.

The following Members asked questions:

- Cllr Sue Ngwala

In response to questions Alan Jones advised:

- The officers' report has identified that 1350mm is the correct distance between the corner of the proposed property and the boundary of Mr Jones' property;
- The applicant has confirmed that this distance cannot be achieved and a distance of 980mm is instead viable;
- The difference between these distances is 370mm;
- The officers' report deems this distance insignificant; if it is insignificant the applicant can reduce the size of the proposed house by that amount rather than adjusting the position of the house away from the site approved by the inspector at appeal.

The Chair thanked Alan Jones for his presentation.

The Chair invited Cllr Claire Strong (Member Advocate) to address the Committee.

Cllr Claire Strong thanked the Chair for the opportunity to address the Committee including:

- There had been much consultation with the parish council on this item;
- The Committee should be minded of the importance of the inspector's decision included at page 61;
- The unlawful property had stood for 5 years until demolished and Mr Jones and his family had lived with an oppressive building at the end of their garden for that time;
- The applicant has made a submission about the history of the site and did not appear to accept the decision of the inspector;
- The Committee decided to refuse a prior application to retrospectively approve the building on this site which the inspector had deemed unlawful;
- The adjusted application before the Committee did not align with the fallback position approved by the inspector and though the difference in distance may be small the inspector's decision should be given due weight;
- This development will be visible from the garden of 3 & 4 Claypit Cottages;
- There was still harm arising from the location of this development and the application would not meet policy 57;
- The only way for the applicant to satisfy the Committee of the suitability of development on this site would be to bring an application in line with the fallback position approved by the inspector.

The following Members asked questions:

- Cllr Daniel Allen

In response to questions Cllr Strong advised that she had only had consultation with Alan Jones and with Offley Parish Council.

The Chair thanked Cllr Claire Strong for her presentation

The Chair invited Chris Watts to address the Committee.

Chris Watts thanked the Chair for the opportunity to address the Committee including:

- He was an agent speaking on behalf of the applicant;
- He was aware of the lengthy and challenging planning history of the site and requested that the Committee note that there were always two sides to every dispute;
- The applicant was grateful for the officers' recognition that the present application overcame the problems identified by the inspector and were recommending approval with conditions;
- Previous concerns were specific and related to siting, scale and height of the house and its impact on neighbours;
- It should be noted that plans submitted with the application were not accepted by officers until they could be verified as accurate;
- On three occasions at appeal the Council had confirmed that the site can accommodate a detached dwelling and accepted the 2012 permission as a fallback position;
- The proposed placement of the house is in a very different place to the unlawful as-built dwelling; the previously as-built dwelling cut across the sight line from 3 & 4 Claypit Cottages and was materially closer to that property;
- The sight line should not be considered in isolation and other factors including changes to the proposed size, height and scale of the property were important;
- The new house was proposed to have a ridge height of 8.1 meters compared to a height of 9.1 meters of the house as-built and the height of 9.6 meters as originally approved in 2012; this is a significant reduction in height;
- The proposed property as a whole was smaller in size with 3 bedrooms rather than the 4-5 bedrooms with rooms in the attic as allowable under the 2012 approval;
- The ground levels had been reduced by up to 200mm as part of the applicant's compliance with the enforcement notice and the applicant was prepared to reduce ground levels by a further 200mm as part of the current proposal;
- The house would benefit from an existing garage which an inspector had been allowed to remain despite being visible from the neighbouring properties;
- An independent transport consultant had examined the parking spaces and advised they were viable;
- The applicant understood and accepted that permitted development rights would be removed in the interests of neighbouring properties;
- The end gable of the new house facing neighbouring properties would have no 1<sup>st</sup> floor windows and result in no loss of light or sunlight;
- The proposed property would be at least 25 meters from the rear wall of N. 6 Claypit Cottages and at least 22 meters from the rear wall of numbers 4 & 5 Claypit Cottages;
- These distances were reasonable and normally accepted especially taken in to consideration alongside the reduced height of the property, reduction in ground levels, and the hedges along the boundary of property N. 4&5 Claypit Cottages;
- The applicant had made major changes to the height and siting of the property in order to accommodate the outlook of neighbours;
- The change in sight lines resulting from this proposal was under a foot in distance and could not cause the material harm suggested by the objectors.

The Chair thanked Chris Watts for his presentation.

The Chair invited the Principal Planning Officer to respond to the issues raised.

In response, the Principal Planning Officer advised:

- Planning history was a material planning consideration;
- Each application must be considered on its own merits;

- On the basis that the application was considered on its own merits the decision before the Committee was not a clear cut choice between following the Inspector's decision in 2018 and rejecting it;
- Planning history including the inspector's determinations was a relevant factor as were previous approvals from this Committee in 2012 and the features of the proposed development in the application;
- The approval in 2012 included assent to a gap between the corner of the proposed property and the neighbouring boundary of 1.35 meters; the current application would have this distance reduced to 98cm, a difference of 37cm.
- The officer did not suggest 37cm was totally insignificant but was relatively minor in the scale of the house, particularly in light of the reduced ground level and the reduced height of the house;

The following Members asked questions and took part in the debate:

- Cllr Daniel Allen
- Cllr Tony Hunter
- Cllr David Levett
- Cllr Sue Ngwala

In response to questions the Principal Planning Officer advised:

- The recommendations in the report represented his professional opinion and in his view an Inspector would agree with his assessment were this application brought to appeal;
- The decisions of the inspectors regarding this site were circulated to Members to read for themselves and in his view they did not mean that no approval could be granted without the distance in question meeting the 1350mm mark; the 2018 decision stated that the crucial feature of the acceptable 2012 fallback position was that the development was situated north of the sight line and the unlawful house was significantly south of it as-built;
- The current applicants were not the applicants for the 2012 approval;
- The 2012 proposal could not be implemented without building over a drain;
- The Committee had to determine the proposal in the application before them.

Councillor Daniel Allen proposed, Councillor David Levett seconded and it was:

**RESOLVED:** That application 20/02631/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager and the following amended conditions and additional informative:

Condition 4 be amended to read:

"4. Prior to the commencement of the development hereby approved, a landscaping plan is to be submitted to and approved by the Local Planning Authority and only the approved details must be implemented on site. The landscaping plan shall include the following:

- a) which, if any, of the existing vegetation is to be removed and which is to be retained;
- b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting;
- c) the location and type of any new walls, fences or other means of enclosure and any hardscaping proposed including boundary treatments with the neighbouring Claypit Cottages as well as within the development; and
- d) details of any earthworks proposed.
- e) details of additional screening to the western boundary of the site, to ensure privacy between the plot and neighbouring properties.

Reason: In the interests of the visual amenity of the site."

Condition 6 be amended to read:

“6. No development shall take until details of the proposed finished floor levels; ridge and eaves heights of the building hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels surrounding the dwelling hereby approved. The ground level immediately surrounding the proposed dwelling, the finished floor level and ridge height will match those shown on drawings 19.20:03J and 19.20:05D. The development shall be carried out as approved.”

The following Informative be included:

“It is recommended that approval is sought from the relevant Water and Sewerage Company (WaSC) for the intended discharge of surface water into the foul sewer which crosses the site.”

**94 20/00891/FP Land at Turnpike Lane and Adjacent To 4 Manor Close, Turnpike Lane, Ickleford, Hertfordshire**

*Audio Recording – 53 minutes 53 seconds.*

Erection of five dwelling houses in association with a new access spur from the Lodge Court, on-site parking, landscaping (inclusive of new trees), formation of a pedestrian footpath and designated communal open space. (Amended plans received 22/06/20 and 07/12/20).

The Acting Principal Planning Officer presented the report in respect of application 20/00891/FP supported by a visual presentation consisting of photographs and plans along with the following updates to the report:

- An additional condition was to be added to the report as follows:

*“Condition 18:*

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

*A full detailed drainage design and surface water drainage assessment should include:*

- 1. Full detailed drainage plan including location of all the drainage features.*
- 2. Where infiltration is proposed, evidence of ground conditions / underlying geology and permeability including BRE Digest 365 compliant infiltration tests.*
- 3. Evidence that if discharge to the local sewer network is proposed, confirmation from the relevant water company that they have the capacity to take the proposed volumes and run-off rates is provided.*
- 4. Discharge from the site should be at an agreed rate with the water company. This should be at Greenfield run-off rate; justification will be needed if a different rate is to be used.*
- 5. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.*
- 6. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving.*

7. *Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.*

*Reason*

*To prevent the increased risk of flooding, both on and off site and To reduce the risk of flooding to the proposed development and future occupants.”*

- A letter of objection had been submitted by Ickleford Parish Council and circulated to all members of the Committee prior to the meeting;
- The letter of objection did not raise any new issues additional to those brought during the consultation period and set out at paragraph 2.10 of the report.

The following Members asked questions:

- Cllr Mike Rice
- Cllr David Levett
- Cllr Tom Tyson

In response to questions the Acting Principal Planning Officer advised:

- The advanced stage of the Emerging Local Plan and that there were no objections to the change of the Ickleford settlement boundary was significant;
- The Housing Delivery Test Action Plan adopted by the Council allows for green belt applications such as this to be determined in advance of the adoption of the emerging local plan where proposed sites are losing green belt designation and there are no outstanding objections to the change of designation;
- The proposal was considered acceptable in its layout and design;
- The inspector had not yet given a determination on larger strategic release sites from green belt designation in the Emerging Local Plan but the modifications and comments that had been received made no mention of objections to the change of the Ickleford settlement boundary;
- Under the Emerging Local Plan the land in this site was undesignated and was therefore not considered alongside the strategic release sites designated for housing which had yet to be reviewed by the inspector;
- The land in this site would become ‘white land’ under the Emerging Local Plan as it moved in to the Ickleford settlement boundary and as such there would be no objection in principle to residential development.

The Chair invited Kate Sargent to address the Committee.

Kate Sargent thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- She represented a group of local residents in reiterating their objection to this application;
- The primary focus of their objection was the green belt status of the land which afforded it protection unless very special circumstances could be demonstrated;
- The developer had failed to demonstrate these circumstances and as such the proposal was inappropriate development;
- The developer had failed to articulate the benefits of the proposal which did not meet rural housing needs in failing to meet the requirements of the SHLAA and in view of the Emerging Local Plan which already went above and beyond in providing housing for the district;
- A substantial amount of development had already taken place or was planned in Ickleford;



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- The land provided ecological benefit to the community and many objections cited the irreversible loss of biodiversity, trees and wildlife habitat;
- The ecological report commissioned by the developer was conducted by a body not recognised by the CIEEM and relates to a survey carried out in late November 2020;
- The developer had already felled mature trees on the land;
- The Committee should consider whether approving development on this site was consistent with the Climate Emergency declared by the Council;
- The application impacts on the Ickleford Conservation Area, 5 Grade-II listed buildings, and the Ickleford Village Archaeology Area in the immediate vicinity of the site;
- There would be breaches of privacy and light amenity to residents of Lodge Court and Manor Close; the officer's report noted with concern the proximity of the site to 4 Manor Close in particular;
- The previous planning officer had objected to the layout and design of the proposed development and found them to be grounds for refusal;
- 33 comments had been made against the original application and highlighted the conditions in the village of Ickleford in particular the issue of traffic;
- The developers transport statement underestimated the level of car ownership and use in the village;
- Other objections identified the already overwhelmed sewerage system which would be exacerbated by further development;
- There was support for sustainable development and the proposal to build new residences on a site nearby but there was no justification for holding the benefit of 5 additional houses as sufficient to constitute very special circumstances necessary to outweigh the manifest harms that would be caused by this development;
- The development would contribute to the erosion of the boundary between Ickleford and Hitchin.

The following Members asked questions:

- Cllr Tom Tyson

In response to questions Kate Sargent advised that she was not aware of why the site had not met the criteria outlined in the Strategic Housing Land Availability Assessment (SHLAA) but only that it did not.

The Chair invited Cllr Sam North to address the Committee as Member Advocate.

Cllr Sam North thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- Cllr Sam North was speaking in objection to the application and wished to reinforce some of the points raised in comments submitted on the application and the evidence presented by Kate Sargent;
- The Council had declared a Climate Emergency in 2019 and Members took this declaration seriously; the Council had an obligation to current and future residents of North Hertfordshire;
- This land was currently in the green belt;
- The Emerging Local Plan was still far from completion;
- The removal of land from green belt designation was wrong;
- The Campaign for Rural England had submitted a letter which Members were aware of that stated that until the Emerging Local Plan was adopted the current designation of sites under the Adopted Local Plan must take precedence, citing *Suffolk Coastal District Council v Hopkins Homes Ltd* [2017] UKSC 37;
- The Committee should appreciate that the ruling in the cited case compels them to consider the designation of the site under the Adopted Local Plan as green belt with full strength;

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- The environmental impact of allowing this development would outweigh the slim benefits involved and therefore no very special circumstances were present;
- Issues of sewage, traffic, proximity to sites of archaeological interest, and the overprovision of housing in the Emerging Local Plan were all factors Members should consider against this application;
- The development would have a harmful impact on the conservation of heritage assets nearby;
- Objection to this development had garnered significant local support.

The Chair invited James Clark to address the Committee.

James Clark thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- The developers had sought to reflect the character of the area and its edge of village location while at the same time using the site to meet the pressing housing needs of the borough;
- The designs of the properties were of a traditional nature;
- The built footprint of the properties including patios and hardstanding was small and the majority of the site would be open or garden development;
- There was a range of housing size in the development including two two-bedroom units suitable for first time residents and the mix was compliant with Council policies;
- The development had a dedicated area of green space as a buffer between the conservation area and the development which was visually attractive, enhanced biodiversity, and a future play area for residents;
- The loss of the lime tree was regrettable but the development proposed to plant 9 heavy to medium trees and native hedgerows and soft landscaping;
- The report by Cherry Field Ecology (a locally based company) provided confirmation that there was no high animal activity on the site and this report should not be downplayed;
- The properties would all have solar panels and EV charging points;
- The site had been designated for green belt release to white land in the settlement boundary of Ickleford and development would help meet the housing needs of the district;
- The Council was under the presumption in favour of sustainable development and housing needs were pressing;
- The residence proposed closest to 4 Manor Close would be situated 15-16 meters from the residence, with no side windows and angled to avoid sitting face on to the property to reduce loss of amenity;
- Trees which had been cut down were cut down by an employee of the Council due to their condition of decay, not by the developer;
- The case law on the applicability of historical local plans was not as clear cut as had been suggested.

The following Members asked questions:

- Cllr Daniel Allen
- Cllr Mike Hughson

In response to questions James Clark advised that

- The trees felled had been on the western boundary of the site, were conifers, and were diseased; None of these trees were subject to a TPO; The trees had been felled by an employee of the Council.

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- The Supreme Court had made a number of decisions recently, including that in some cases historic Planning Policies should not be discounted, but also that in other cases housing need should take precedence over green belt designation.

The Chair thanked James Clark for his presentation.

In response to questions the Acting Principal Planning Officer advised:

- The objections submitted by the Ickleford Parish Council made reference to the SHLAA and the fact that the site had been deemed incompatible due to access to the site impacting the listed buildings and conservation area in Lodge Court;
- This SHLAA assessment was out of date and a second study had recommended that development in the village could be accommodated using access via Turnpike Lane, concluding that impact would depend on individual schemes;
- The comments made by other officers and referenced by Cllr Sam North that mentioned less than substantial harm to the amenity and character of the heritage assets neighbouring the site referred to an earlier application for 8 houses not the present application for 5 including a large area of open space; these changes overcame the problem of harm to the listed buildings and conservation area.

The following Members asked questions and took part in the debate:

- Cllr David Levett
- Cllr Tony Hunter
- Cllr Val Bryant
- Cllr Mike Rice
- Cllr Mike Hughson

In response to questions the Acting Principal Planning Officer advised that applicants have a period of 6 months to appeal a decision.

The Legal Regulatory Team Manager & Deputy MO advised that applicants also had the option of applying a second time if circumstances had changed.

The Development and Conservation Manager advised that if the Committee was minded to refuse on the basis of green belt designation under current policy circumstances the applicant would have a period of time to lodge an appeal and the planning authority would have to produce a case; if during that time the policy circumstances changed the Committee could be asked to reconsider this application and their decision in light of those changes.

Councillor David Levett proposed and Councillor Tony Hunter seconded and it was:

**RESOLVED:** That application 20/00891/FP be **REFUSED** planning permission for the reasons below:

The application site is within an area designated in the North Hertfordshire District Local Plan no.2 with Alterations as Green Belt, within which there is a presumption against inappropriate development, such as that proposed, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority the proposal is not supported by such circumstances. Moreover, it would harm the fundamental aim of Green Belt policy which seeks to maintain the openness of the area. As such, the proposal would not accord with the provisions of Policy 2 of the District Local Plan no.2 with Alterations 1996 or with the provisions of section 13 of the NPPF.

*N. B at 9.15 PM the Chair adjourned the meeting for a brief comfort break.*

*The meeting reconvened at 9.20 PM whereupon the Committee, Member and Scrutiny Officer conducted a roll-call to determine the required Members, Officers and Registered Speakers were present.*

**95 20/01564/FP Land Adjacent to Dungarvan, Back Lane, Preston, Hertfordshire, SG4 7UJ**

*Audio Recording – 1 hour 53 minutes and 8 seconds.*

Erection of one detached 4-bed and two detached 5-bed dwellings including garages and creation of vehicular access off Back Lane (as amended by plan received 19.11.2020).

The Senior Planning Officer presented the report in respect of application 20/01564/FP supported by a visual presentation consisting of photographs and plans.

The Chair invited Margaret Trinder to address the Committee.

Margaret Trinder thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- Ms Trinder was Chair of Preston Parish Council and was speaking in objection to this application;
- The Preston Neighbourhood Plan (PNP) was formally made on 3 April 2020 and forms part of the statutory development plan for North Herts; this was the first application assessed against the PNP;
- The report concerning this item did not appear to consider the policies of the PNP and in this applications previous appearance before the Committee it failed to meet policies HD3 and HD4 but was nevertheless recommended for approval;
- The policies of the PNP were described at that meeting as 'aims,' or 'objectives,' where they should have been regarded as policies as required by law;
- The National Planning Policy Framework (NPPF) was clear that every development site should be utilised to maximise the number of dwellings to meet local needs while confirming with the local character of a site;
- This application should be refused because it fails to do this; Paragraphs 77, 117, 123, 127 are particularly relevant; P117 emphasises the need for decision makers to make the best maximum use of development sites;
- Paragraph 77 advises that in rural areas planning policies and decisions should be responsive to local circumstances and support developments that support local needs;
- The revised site plan was welcome but did not clearly demonstrate how landscaping and biodiversity needs were addressed;
- The Parish Council was of the view that the landscape and ecological management plan should have been part of the planning application to allow for scrutiny of the plans;
- The changes to the energy statement were welcome but it was disappointing to discover that the report included a public transport plan which appeared to have been cut and pasted from another application.
- The application should be refused because it is contrary to policies HD3 and HD4, the NPPF paragraphs mentioned, the energy statement was unreliable, and because there had been no pre-decision ecological survey, and it did not meet the needs of residents of Preston.

The Chair thanked Margaret Trinder for her presentation.

In response to the issues raised the Senior Planning Officer advised:

- The focus of the decision tonight should be on whether the revised application conforms with the requirements of policy HD5 as this was the reason for deferral given by the previous Committee;

- The landscape and ecological management plan was a recommendation of Hertfordshire Ecology and it was typical for that information to be required by planning condition rather than form part of an application;
- The report documents did relate to the application site and while there were small errors in a previous draft those had been corrected and the energy strategy statement was sufficient.

The following Members asked questions and took part in the debate:

- Cllr Daniel Allen
- Cllr Mike Rice
- Cllr Tom Tyson
- Cllr David Levett
- Cllr Val Bryant

In response to questions the Senior Planning Officer advised that in his view the energy saving measures included in the application were sufficient and would have resulted in a reduction of expected carbon emissions by over 50% and that solar panels were not necessary.

In response to the issues raised the Development and Conservation Manager advised that a condition requiring a feasibility study on solar panels could be included.

Councillor Daniel Allen proposed, Councillor Mike Rice seconded and it was:

**RESOLVED:** That application 20/01564/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager and the following additional condition:

“Prior to first occupation of the development hereby permitted, a feasibility study shall be undertaken to fully ascertain the installation of solar panels on the approved dwellings. The study shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. If the feasibility study determines that solar panels are appropriate in certain locations, such panels shall be fitted onto the dwellings prior to their occupation and thereafter retained and maintained for their intended purpose.

Reason: In the interests of reducing potential carbon emissions and mitigating climate change.”

**96 20/00598/FP Land North of Oakleigh Farm, Codicote Road, Welwyn, Hertfordshire**

*Audio Recording – 2 hours 17 minutes 41 seconds.*

Erection of one detached 4-bed and two detached 5-bed dwellings including garages and creation of vehicular access off Back Lane (as amended by plan received 19.11.2020).

The Senior Planning Officer presented the report in respect of application 20/00598/FP supported by a visual presentation consisting of plans and photographs along with the following updates to the report:

- An extension of time had been agreed with the applicant to 15 February
- A neighbour objection from N.85 Codicote Road had been received stating that the road layout drawing 019/942/02F showed works being undertaken and a public footpath which were inaccurate; upon review the applicant confirmed that no such works were being undertaken.

The following Members asked questions:

- Cllr Mike Rice
- Cllr Val Bryant

In response to questions the Senior Planning Officer advised:

- It is the view of the planning officers that both Planning Authorities concerned with this application should come to a determination relating to the application as a whole;
- Welwyn Hatfield Borough Council had already considered the application submitted to them and resolved to refuse planning permission;
- Welwyn Hatfield were not of the view that the site was previously developed land, believed the development would have a more significant visual impact than the existing properties, and took the view that the development would have a suburbanising impact resulting in a spatial and visual loss of openness encroaching into the countryside;
- The view taken by NHDC Planning Officers is that the site was on previously developed land on the basis that a certificate of lawfulness had been issued by NHDC and that the land was used for commercial equestrian purposes which is considered previously developed under the NPPF.
- It was not his view that the dwellings would encroach any further than the existing dwellings or structures.
- Welwyn Hatfield had a further grounds for refusal on the basis that no Section 106 Agreement had been planned.

The Chair advised that it was the role of the Committee to adjudicate on the application before them and that the decision taken by Welwyn Hatfield Borough Council was not a relevant planning consideration.

Councillor Tom Tyson asked for clarification on the legal situation with respect to the duplicate applications.

In response the Development and Conservation manager advised:

- Where developments straddled planning authority boundaries it was incumbent on applicants to submit duplicate applications to all authorities concerned;
- Each authority had to make a decision on the merits of the application before them;
- Paragraph 1.2 of the Report highlights that NHDC had granted a Lawful Development Certificate considering that the use of the buildings was industrial not agricultural and was therefore considered previously developed land;
- Welwyn Hatfield had started from the premise that the buildings were agricultural rather than industrial;
- If Members were minded to refuse on the basis that the proposal was inappropriate development in the green belt the existence of the lawful development certificate issued in 2019 would have to be accounted for at appeal;
- Viability was not a material planning consideration.

The Chair invited Tom Donovan and Scott Moore to address the Committee.

Tom Donovan thanked the Chair for the opportunity to address the Committee and explained that Scott Moore was present in the event that Members had any technical questions. He went on to give a presentation including:

- The site contained a number of former agricultural buildings which had been used for a range of commercial, industrial and equine uses and that the site had functioned as an industrial estate with unrestricted use for some years;

- The application site was in the green belt and its current use was out of keeping with the character of the green belt and its locality, particularly given the proximity of residential properties;
- The applicants intention was to provide a high quality residential development in place of an aesthetically unpleasant industrial plot;
- A significant benefit of the proposal was the remediation of the large area of open storage and scrap to the north east of the site;
- This proposal represents the best opportunity to secure its clearance;
- There was no proposal to develop land outside of the application site;
- The scheme brought with it a number of significant benefits including a benefit to the housing stock, ecological benefits from waste clearance and decontamination, and improvements for biodiversity;
- The applicants were preparing for an appeal on the Welwyn Hatfield refusal.

The following Members asked questions:

- Cllr David Levett

In response to questions Tom Donovan advised:

- The applications submitted to each local planning authority were identical but the terms used by each local authority to couch those applications had differed; that Welwyn Hatfield referred to it as a change of use was not as a result of the applicants.

In response to the issues raised the Senior Planning Officer advised that Welwyn Hatfield Borough Council's decision to describe the application differently was their choice but that both applications were for the same development proposal.

The Chair thanked Tom Donovan for his presentation.

The following Members asked questions and participated in the debate:

- Cllr David Levett
- Cllr Ruth Brown
- Cllr Tony Hunter
- Cllr Daniel Allen
- Cllr Sue Ngwala
- Cllr Tony Hunter

In response to questions the Senior Planning Officer advised:

- Welwyn Hatfield Borough Council determined to treat the site as one composite location which had been used for multiple things i.e storage, equestrian, and took the decision not to grant a certificate of lawful development on that basis.
- NHDC's approach was to look at each building independently leading to a certificate of lawful development on the basis that most of the buildings had been demonstrated as of an existing industrial use.
- Paragraph 145 of the NPPF referring to previously developed land holds that developments should not adversely impact the existing openness of the site; the proposed development only 2% larger than the existing industrial buildings;
- All of the buildings in the northern part of the site where the proposed houses were to be situated were considered as lawfully previously developed land.

It was proposed by Councillor David Levett, seconded by Councillor Daniel Allen and:

**RESOLVED:** That application 20/00598/FP be **REFUSED** planning permission for the following reason:

“The proposed development constitutes inappropriate development in the Green Belt and causes harm to the openness of the Green Belt. In addition to the harm by reason of inappropriateness, other harm is identified in relation to one of the purposes of including land in the Green Belt and the impact on the character and appearance of the area. The harm by reason of inappropriateness, and the other harm identified, is not clearly outweighed by other material planning considerations such as to constitute the very special circumstances necessary to permit inappropriate development in the Green Belt. The proposal does not comply with Policies 2 and 3 of the 1996 Adopted Local Plan; Policies SP1, SP2, SP5 and D1 of the Emerging Local Plan; and Sections 12 and 13 of the National Planning Policy Framework.”

**97 20/01254/FP Bibbsworth Hall Farm, Bibbs Hall Lane, Ayot St Lawrence, Hitchin, Hertfordshire, SG4 8EN**

*Audio Recording – 2 hours 59 minutes.*

Erection of one semi-detached 5-bed dwelling, one semi-detached 4-bed and one detached 4-bed dwelling including garaging and home office outbuilding following demolition of existing buildings, re-location of public footpath (amended plans received 18/11/20)

The Senior Planning Officer presented the report in respect of application 20/01254/FP supported by a visual presentation consisting of photographs and plans as well as the following updates to the report:

- An extension of time had been agreed to 15 February;
- Paragraph 4.4.1 should be amended to change “is not however engaged” to “is engaged”;
- Condition 15 should be amended to remove “such as prohibition of construction traffic being routed through any of the country lanes in the area.”

The following Members asked questions:

- Cllr Sue Ngwala

In response to questions the Senior Planning Officer advised:

- There was no Kimpton Parish Neighbourhood Plan and sufficient weight could not be given to the representations of Kimpton Parish Council in order to press for the mix of dwellings they had asked for.

The Chair invited Andy Moffat to address the Committee.

Andy Moffat thanked the Chair for the opportunity to address the Committee and gave a presentation including:

- The form of the development had been led by guidance on design from the conservation officer;
- The applicant owned land in and around Kimpton and was engaged in wider discussions with the Parish Council about the provision of affordable housing;
- It was the view of the conservation team that a rebuild of the properties on the site was of greater heritage benefit than continued reuse;
- The number of units had been reduced from 4 to 3 at the request of the conservation officer, with smaller further changes made since;
- The site was not presently in the green belt;



- Each comment from local residents and the Parish Council had been responded to in detail;
- The large number of conditions on approval in the report had been accepted and agreed.

The following Members asked questions:

- Cllr Mike Rice

In response to questions Andy Moffat advised that the site was not designated as green belt in the Adopted Local Plan but that the designation of the site was due to change in the Emerging Local Plan.

The Chair thanked Andy Moffat for his presentation.

The following Members asked questions and took part in the debate:

- Cllr David Levett
- Cllr Daniel Allen
- Cllr Tony Hunter

Councillor David Levett proposed, Councillor Daniel Allen seconded and it was:

**RESOLVED:** That application 20/01254/FP be **GRANTED** planning permission subject to the conditions and reasons set out in the report of the Development and Conservation Manager.

## 98 PLANNING APPEALS

*Audio recording – 3 hours 21 minutes.*

The Development and Conservation Manager presented the report entitled Planning Appeals.

There were no questions from Members.

**RESOLVED:** That the report entitled Planning Appeals be noted.

**REASON FOR DECISION:** To keep the Planning Committee apprised of planning appeals lodged and planning appeal decisions.

The meeting closed at 10.43 pm

Chair