

Location:           **Land At  
Windmill Close  
Barkway  
Hertfordshire**

Applicant:           **Mr D Jones**

Proposal:           **Erection of 24 dwellings and associated access roads.  
2.0 m wide pedestrian footpath link to the public open  
space to the south of Plots 15 and 16 and additional  
landscape planting between the parking bays and the  
public open space in the same area of the site (as  
amended by plans received on 21 July 2021).**

Ref. No:             20/02779/FP

Officer:             **Simon Ellis**

**Date of Statutory Expiry Period:** Agreed extension to 30.11.21

**Reason for Delay**

Amended plans received and progression of related S106 Obligation. Additional consultations with Hertfordshire Ecology (HE) and the Hertfordshire County Council Lead Local Flood Authority (LLFA). Amended plans also received (27.07.21) following which a full two-week additional consultation process with local residents and the Parish Council was undertaken. This application has also had three case officers due to staff leaving the authority and absence periods.

**Reason for Referral to Committee**

The application site area at 0.95ha requires that this planning application for residential development must be determined by the Planning Control Committee under the Council's constitution and scheme of delegation.

**Submitted Plan Nos:**

BEV-357-SUR-001 – Location Plan

TS20-240-1 – Topographical Survey

Amended BEV-537-PA-001 Rev E – Proposed site layout plan (received 21.07.21)

Amended BEV-357-PA-010 – Proposed Materials and Elevations Inspiration (received 21.07.21)

Amended BEV-357-PA-011 Rev A – Proposed garages (received 21.07.21)

BEV – 537-PA-012 Proposed street scene elevations

Amended BEV-357-PA-100, 200, 201 Rev A, 300, 400, 500 Rev A – 3 Bed House type A, B, C 4 bed house type D, E and affordable – floor plans and elevations (received 21.07.21)

Amended BEV-357-PA – 600, 700 Rev A – Affordable blocks 1 and 2 – floor plans and elevations (received 21.07.21)

Amended BEV 357-PA-800 Rev A – 4 be house type F – proposed floor plans and elevations  
SK02 Rev A – Swept path analysis for refuse vehicle

**Associated Documents:**

Archaeology Report  
Air Quality Assessment  
Ecology Assessment (additional supporting information received in phases)  
Addendum to Preliminary Appraisal (Ecology)  
Flood Risk Assessment (additional supporting information received in phases)  
Transport Statement  
Arboricultural Report  
Phase I Desk Study and Phase II Site Investigation Report (contaminated land)  
Design and Access Statement (DAS)  
Planning Statement  
Landscape and Visual Appraisal  
Sustainability Report

**1.0 Policies**

**1.1 North Hertfordshire District Local Plan No. 2 – with Alterations (Saved Policies):**

Policy 6 'Rural Area Beyond the Green Belt'  
Policy 7 'Selected Villages'  
Policy 14 'Nature Conservation'  
Policy 26 'Housing Proposals'  
Policy 55 'Car Parking Standards'  
Policy 57 'Residential Guidelines and Standards'

**1.2 National Planning Policy Framework (NPPF) (July 2021):**

In total but in particular:  
Section 2 'Achieving Sustainable Development'  
Section 4 'Decision Making'  
Section 5 'Delivering a Sufficient Supply of New Homes'  
Section 8 'Promoting Healthy and Safe Communities'  
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 'Preserving and Enhancing the Natural Environment'  
Section 16 'Conserving and Enhancing the Historic Environment'

**1.3 Supplementary Planning Documents:**

Vehicle Parking Provision at New Development (SPD – 2011)  
Design SPD  
Planning Obligations SPD (November 2006)

**1.4 Submission Local Plan (2011-2031) (with Modifications):**

**Section 2 – Strategic Policies**

SP1 - Sustainable development in North Hertfordshire;  
SP2 - Settlement Hierarchy;  
SP6 – Sustainable Transport  
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**

BK2 – Proposed Site Allocation

T1 - Assessment of transport matters

T2 - Parking;

HS3 - Housing mix;

HS5 - Accessible and Adaptable Housing

D1 - Sustainable design;

D3 - Protecting living conditions;

NE1 - Landscape;

NE4 – Protecting Open Space;

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

## **2.0 Site Planning History**

2.1 None

## **3.0 Representations:**

### **3.1 Technical and Statutory Consultees:**

#### **Hertfordshire County Council (Highways):**

No objection suggested conditions out below (**see recommended condition nos. 6-11**). Also require a £28,500 contribution towards DDA access improvements to public transport in the local area.

### **3.2 Hertfordshire County Council (Growth and Infrastructure and Fire and Rescue):**

Require the following elements on a S106 Obligation:

Middle Education - £38,927 (index linked) towards the expansion of King James Academy and upper education of £41,964 towards expansion of the same school;

Youth provision - £1,185 towards improvements to the Royston Youth People's Centre;

Library provision - £4,396 towards expansion of Royston Library;

Fire Hydrant provision across the development site.

### **3.3 Hertfordshire County Council (Lead Local Flood Authority):**

After a series of objections to various amendments to the Flood Risk Assessment withdrew their objections prior to the preparation of this report. Suggested conditions. (**see recommended condition nos.16+**).

### **3.4 Hertfordshire County Council (Historic Environment – Archaeology):**

No objection. Suggested condition (**see recommended condition no. 13**).

- 3.5 **Hertfordshire County Council (Ecology):**  
After a series of objections to the applicants evolving Ecology Study for the site, finally withdrew their objections prior to the preparation of this report. Request additional information to be provided by a suitably worded planning condition relating to the management and maintenance of on-site landscaping and associated biodiversity (**see recommended condition no. 12**). Also require an off-site biodiversity net gain payment of £72,670 to be secured via an associated S106 Obligation.
- 3.6 **Herts and Middlesex Wildlife Trust:**  
Again, originally objected to the first version of the Ecology report but following further clarifications withdrew their objection and note the retention of hedgerows proposed in the scheme as the main feature to secure biodiversity on this site.
- 3.7 **Environment Agency (Contaminated Land and Controlled Waters):**  
No objection. Suggested conditions (**see recommended condition no. 14**).
- 3.8 **Housing Supply Officer (NHDC):**  
Accepts the proposal for eight affordable housing units within this scheme (5 two bed and 3 three bedroom units) of which five would be affordable rent and three intermediate tenure. This equates to a policy compliant 35% affordable housing offer from this scheme. Also notes that as Barkway has a population of less than 3000 staircasing rights for affordable rent and intermediate tenure can be limited to a maximum of 80% (70% limit for affordable rent for three bed units) of the market value which ensures the units can remain as affordable housing in perpetuity through the S106 Obligation.
- 3.9 **Environmental Protection – Air Quality (NHDC):**  
Requests conditions and informatives to secure an appropriate provision of EV charging point across the site (**see recommended condition no. 15 and informatives**).
- 3.10 **Environmental Protection – Contaminated Land (NHDC):**  
Recommends conditions requiring notice and remediation of any contaminants found during construction on this low risk site (**see recommended condition no. 14**)
- 3.11 **Environmental Health – Noise (NHDC):**  
Requires a condition seeking details of a construction management plan to avoid nuisance during the construction phase (**see recommended condition no. 11**)
- 3.12 **Environment Agency:**  
No meaningful comments received. Control of over contamination of controlled waters can be secured through the condition recommended by NHDC Environmental Protection (**see recommended condition 14**). Surface water flood issues dealt with by LLFA.
- 3.13 **Barkway Parish Council:**  
Concern that the proposed development will generate additional demand for on street car parking on Barway Road, adding to congestion. Consider that the Local Plan indicative figure of 20 dwellings on this proposed site allocation should be adhered to in order to limit the level of overspill car parking.

### 3.14 **Public Comments:**

Full details can be viewed on the Council's website and Members are advised to read comments posted on the website. However, a brief summary of views expressed is set out below:

- Loss of daylight and sunlight, particularly to 5 Millcroft Court;
- Harm to local amenity;
- Development here would harm the village character;
- Poor local infrastructure to cope with this level of growth;
- Lack of local facilities to sustain associated increase in population;
- Lack of local employment opportunities so few local jobs for increased population;
- Excessive traffic and congestion on Windmill Close and on street car-parking already, and this will worsen that problem;
- Insufficient car parking planned within the development;
- Plots 10 and 16 would harm local trees;
- Impact on biodiversity and local wildlife;
- Poor housing mix for local needs.

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

4.1.1 The application site comprises two fields accessed off the North Eastern edge of Windmill Close, Barkway. The field off the eastern edge of Windmill Close is an area of informal open space which leads to a more actively maintained area of open space and play space to the east of the application site, to the rear of Royston Road, further to the East. This more actively maintained area of open space is outside the planning application site and would therefore be retained. The field to the north of Windmill Close rises to the fields beyond toward the location of the prominent telegraph tower which dominates the landscape in this locality. This second, larger field is not in active use as public open space but is not farmed either. This second field is larger in area and contains a disused small building in the far north west corner of the site.

4.1.2 The site is bordered by the existing housing estate development of Windmill Close to the south, the open space and then the houses along the western side of Royston Road to the east and open countryside to the north and north west. This edge of the settlement location is on lower ground to the higher countryside to the north. The northern and western boundaries of the site are well screened with significant hedgerow and tree belts.

4.1.3 The existing dwellings along Windmill Close are all of the same era (1960s/70s) and are of red brick and a mix of two storey detached and semi-detached houses and bungalows. The dwellings on the northern side of Windmill Close (which would adjoin the proposed affordable housing cluster) are two storey, whereas the dwellings on the far edge of the existing settlement on the western side of Windmill Close are bungalows.

## 4.2 The Proposals

- 4.2.1 Full planning permission is sought for the development of 24 no. dwellings on this site and associated servicing and infrastructure. The proposed accommodation mix would be as follows: 2 x 2 bedroom market units; 6 x 3 bedroom market units, 10 x 4 bedroom market units; 6 x 2 bedroom affordable units and 2 x 3 bedroom affordable units. The proposal also includes associated roads, footpaths, fencing and 67 off street car parking spaces as a mixture of garages, driveways and visitor spaces. The proposed affordable housing would be located in one block located immediately off the eastern edge of the existing Windmill Close Hammer head.
- 4.2.2 The house types would consist of a mix of two storey detached, terrace and semi-detached units. The built form includes some detached and attached garages as well as off street driveways and car parking spaces. The design and form can be described as fairly standard two storey house types, with some gable features, and all with pitched roofs. Proposed finishing materials include red brick and dark grey cladding for the elevations, concrete roof tiles and UPVC grey window and door materials.
- 4.2.3 The proposed plots are of varied size, with the smaller plots located closest to the existing dwellings along Windmill and the more generous lower density plots located to the north closer to the open countryside.
- 4.2.4 A reasonable landscape buffer is proposed around the perimeter of the site on the countryside edge, to preserve the well established tree and hedgerow belt that surrounds the countryside border of this. There is also space for some on street landscaping and planting within the garden areas. Amended plans received in July 2021 show a clearly identifiable footpath link to the north of one of the proposed estate roads linking the site to the existing open space located to the east of the application site.

## 4.3 Key Issues

- 4.3.1 Taking account of the relevant development plan policies and other material considerations listed above, including the latest version of the NPPF and the emerging Local Plan (now at a very advanced stage of preparation) together with the representations also listed above I consider the main issues to be addressed in the determination of this planning application are as follows:
- The principle of development on the site and the overall policy basis for any decision;
  - Whether the associated loss of open space is acceptable under Policy NE4 of the emerging Local Plan;
  - Whether the design, layout and form of the development is acceptable in relation to the character of the locality and wider countryside beyond;
  - Whether the proposed development would create acceptable living conditions for future occupiers and maintain acceptable living conditions for residents within the surrounding area;
  - Whether sufficient and accessible car parking would be provided within the proposed development and that movement around the site would be safe and

convenient without unacceptably adding to congestion on the existing road network;

- Whether all other technical matters, such as biodiversity net gain and Sustainable Urban Drainage are addressed in line with the requirements of the various technical consultees;
- Whether any harm identified that would be caused by this development proposal would significantly and demonstrably outweigh the benefits of delivering new homes in the clear absence of a five-year land supply of deliverable housing sites in this District (latest published estimate of approx.1.5 year land supply - April 2021));
- Finally, it is necessary to consider the S106 Obligation that would be required if Members were minded to grant planning permission and whether the currently agreed draft S106 Obligation delivers all the necessary funding to services and other obligations such as affordable housing provision.

The following paragraphs address these broad issues and related detailed matters in this order before reaching conclusions on the planning balance and setting out a recommendation.

#### 4.3.2 Principle of Housing and Policy Basis for the Decision

Addressing the Saved Policies of the North Hertfordshire District Local Plan No. 2 – with Alterations (adopted 1996) first; the northern section of the site (not public open space) is located outside the Selected Village boundary of Barkway wherein Saved Local Plan Policy 6 applies. This policy is a general rural restraint policy which seeks to protect the Rural Area Beyond the Green Belt from most forms of development including housing. The public open space section of the site, immediately to the east of Windmill Close before the hammer heads is located within the Selected Village boundary, wherein Saved Local Plan Policy 7 allows for sensitive additional development including housing within the settlement boundary.

- 4.3.3 Within the Submission Local Plan (2011-2031 as modified in 2019 and 2021) the field on the northern part of the site is allocated for housing development under proposed allocation BK2, with a dwelling estimate of 20 dwellings. The only specific policy requirement of this designation is to ensure that suitable archaeological evaluations are carried out in advance of any development. Whereas the public open space section of the site is now proposed as ‘white land’ within the Category A settlement designation of Barkway. An earlier version of the site allocation (2016 Submission Local Plan) designated the whole of this application site as BK2 but included a specific requirement for any development proposal to maintain the current area of public open space. By removing the current open space from the BK2 designation through the modifications to the emerging Local Plan the need to maintain the open space as part of the BK2 policy was removed. And although the remaining open space lies within the Category A village boundary of Barkway, any development on this land would need to be assessed against Policy NE4 ‘Protecting Open Space’ of the emerging Local Plan. This assessment is set out below under separate heading.

- 4.3.4 Paragraph 11 of the NPPF is of critical importance in setting out the presumption in favour of sustainable development, which for decision making reads as follows:

**‘[for housing development]**

- c) Approving development that accords with an up to date Development Plan without delay, or
- d) where there are no relevant development plan policies, or the policies which are most relevant are out of date, granting permission, unless;
  - i) the application of policies within this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework when taken as a whole.'

4.3.5 Addressing point c) first. The Council does not have an up to date Development Plan. In the year 2021 of an emerging Plan period 2011-2031 the Council has still not adopted a new Local Plan since 1996. Therefore, the Saved Policies of the 1996 Plan represent the current Development Plan for North Hertfordshire. For point d), there are no policies in the Framework listed in the footnote to the paragraph 11, such as Green Belt, National Park, SSSI or heritage that indicate a refusal for development on this site in principle. Moreover, the Council currently has at best a 1.5 year land supply of deliverable housing sites (April 2021), down from 2.2 years in 2020 and is in fact one of the worst performing authorities for housing delivery in England. This means policies that are most relevant (e.g. Saved Local Plan Policy 6) are out of date in their entirety.

4.3.6 On this basis any assessment of development on this site sits firmly within the test set out in the NPPF paragraph 11 (d) (ii). To refuse planning permission the Council must demonstrate with evidence that any harm identified as a result of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

4.3.7 Loss of Open Space

Emerging Policy NE4 must be applied to the affordable housing element and plots 14, 15 and 16 of the market element of the proposal which is proposed to be developed on the existing public open space to the east of Windmill Close. The policy states that:

**'Planning permission will only be granted for any proposed loss of open space provided that a) it can be demonstrated that the open space is surplus to requirements and justified on the basis of:**

- i) **The quality and accessibility of the open space;**
- ii) **The extent to which the open space is serving its purpose;**
- iii) **The quality and accessibility of alternative public open space; and**

**b) It is mitigated against by:**

- i) **Re-provision of an appropriate open space taking account quality and accessibility; and/or**
- ii) **Financial contributions towards new or existing open space where;**
  - **The required provision cannot reasonably be provided on site; or**
  - **The required provision cannot be delivered on site in full; and**
  - **The proposal has over-riding planning benefits.'**

The policy does not designate open space and this open space is located within white land within the proposed Category A village boundary of Barkway. The policy does however in my view capture this open space as it is listed in the supporting text as one of the categories to be protected, 'amenity green space'.

- 4.3.8 This development would lead to the loss of this open space and the overall development proposal provides very little, if any rep-provision of open space within the scheme. Whilst it could be argued that the open space is surplus to requirements this is largely as a result of its on-going management as a wild grassland area rather than a genuine and well maintained public open space facility. The scheme does however maintain the accessibility of the adjoining open space through a footpath link which is shown on the amended layout plan received in July 2021. The applicant has also agreed to provide a combined play space and open space improvement payment of £24,778.44 (index linked from 2006 costs) towards the provision of enhanced open space and new play space facilities which can be allocated to the Parish Council (who maintain the adjoining open space) to be used to upgrade this facility.
- 4.3.9 Weighing up these factors it is clear that the proposed development does not achieve full compliance with the strict criteria set out in emerging Local Plan Policy NE4 and the associated permanent loss of amenity green space associated with this development must weigh as identifiable harm in the wider planning balance.
- 4.3.10 Design in Relation to the Character of the Area and Wider Countryside beyond  
In terms of design and layout the scheme is of a form and density that is of the upper end of acceptability on what would become an edge of village site, on the village rural interface. Whilst the built form and height of dwellings and their overall density are on the high side the scheme does seek to clearly retain the existing landscape buffer in the form of a hedgerow and tree belt to the north and west of the site. This maintenance of the landscape buffer would not only help to soften the visual impact of the development in the wider landscape but help to maintain a good level of biodiversity around the edge of the site and indeed this is recognised by the ecology consultees as a positive element of the scheme.
- 4.3.11 The scheme itself is of a reasonable standard of design and layout when seen in isolation, with sufficient amenity space, publicly accessible footpaths and sufficient and well-designed road and car parking layouts. There is also space for significant planting as part of a wider landscape plan within the scheme.
- 4.3.12 When judged against the wider townscape whilst there is some jarring between the wholly two storey development scheme and the low-density layout of bungalows on the western side of Windmill Close I am satisfied that when judged in the round the scale, form and layout of the proposal would be broadly acceptable in relation to the existing built form of the surrounding village.
- 4.3.13 It is regrettable that the affordable housing element of the scheme is proposed within one block of development of slightly different house types to the market units. However, as this element of the scheme would be the most integrated part of the development with the wider townscape and on this basis upon completion I consider that the development would be sufficiently tenure blind so as not to appear out of keeping with the surrounding area.

4.3.14 Development on the wider site outside the existing Selected Village boundary would undoubtedly cause some harm to the intrinsic character and beauty of the countryside which the NPPF recognises as a core planning principle (NPPF para 174). Whilst visually the harm would be limited there is an inherent encroachment into currently open countryside associated with this development. This is a harm that must be addressed in the planning balance whilst acknowledging that the site is designated for housing under emerging Local Plan Policy BK2 which must also weigh heavily in favour of allowing housing development on the part of the site that is currently open countryside.

4.3.15 Living Conditions

I am satisfied that the layout and spacing of development would ensure adequate living conditions in terms of outlook, privacy, amenity space and daylight and sunlight for occupiers of the proposed development.

4.3.16 Turning to surrounding development, as can be seen from the layout plan, the majority of existing housing around the application site have very long back gardens which provide generous buffers between the homes and the development. These gardens would in the large part face onto the flank elevations of most of the proposed houses except in the case of plots 19 and 18 which would offer some limited overlooking into the gardens of neighbouring plots. However, given the back-to-back distances here I am satisfied that any material loss of privacy would not be significant.

4.3.17 Car Parking and Traffic

The proposal provides 67 car parking space for 24 dwellings. This exceeds relevant standards and is more than sufficient to accommodate all the car parking requirements of future residents and visitors in my view. Members will note that there are no objections from Hertfordshire County Council (Highways) who, subject to specifically worded conditions are satisfied that the proposed highway layout is safe and accessible and that this development proposal would not cause any significant highway safety or additional congestion harm to the local highway network. I have no reason to disagree with their conclusion.

4.3.18 Biodiversity Net Gain and other Technical Matters

The main reason for delay in the determination of this planning application has been continued objections to the scheme from HCC (Lead Local Flood Authority) (LLFA) and HCC (Hertfordshire Ecology) (HE). At the time of writing and following updates to the various technical documents both the LLFA and HE have confirmed they no longer object to the development proposed on this site.

4.3.19 The HE requirement is now for a biodiversity net gain S106 contribution of £72,670 and a condition requiring details of management and maintenance of retained landscaping on site. The hierarchy of optimum biodiversity benefits associated with new development means that it is preferable to deliver biodiversity net gain on site as part of the development scheme through new planting and orchard provision for example. In the absence of new such on site provision as part of this proposal, with the support of the Wildlife Trust and HE who recommend an offsite payment instead, the development proposal and its compensatory offer would ensure that the overall scheme provides the necessary and in this stage in advance of the enactment of the Environment Bill, non-statutory, biodiversity net gain requirement of 10%. It will however be necessary to ensure suitable donor sites are secured which can deliver

this net gain as part of the wider implementation of the associated S106 Obligation, should Members be minded to grant planning permission. The Council itself does have land assets where these funds could be spent on wildlife enhancement projects but very few within the vicinity of this site. The evolving system in advance of the enactment of the Environment Bill does unusually allow for the donor sites to be unspecified within S106 Obligations at the time that any planning permission is granted. This system does in my mind does not sit comfortably with Community Infrastructure Levy (CIL) regulations but there is an emerging enviro bank fund whereby Hertfordshire County Council receive funds from developers and then seek to establish a network of potential donor sites for biodiversity enhancement schemes across the County which can be funded through developer contributions such as that set out here.

- 4.3.20 At the time of writing the LLFA have confirmed in writing that they have withdrawn their long-standing objection to this planning application. However, they are yet to specify the exact wording of the condition(s) they require should Members be minded to grant planning permission. The LLFA have also sent a letter to all local planning authorities within Hertfordshire stating that they are suffering from a severe staff and skills shortage and barely able to fulfil their responsibility as statutory consultees on all planning applications of 10 dwellings or 0.5ha site area plus. This is causing significant delays on virtually all qualifying planning applications. In these circumstances if Members are minded to grant planning permission I recommend that an additional spot is left on the recommendation for any condition(s) required by the LLFA and that any such condition(s) if not reported before the Committee resolution are added under delegated powers prior to the final grant of planning permission.
- 4.3.21 As Members will note from the above list, all other technical consultees, contaminated land, air quality, noise and archaeology all raise no objection to the development proposal subject to suitably worded conditions for their respective specialisms.
- 4.3.22 Conclusions on Merits of the scheme and Planning Balance  
From the above discussion there would be some harms that would be caused by this development that must be weighed in the planning balance. The most significant harm in my view would be the associated loss of an area of informal public open space. Whilst the scheme does offer compensation in the form of payments for off-site open and play space enhancements and also provides an accessible public access route from within the development scheme to the adjoining open space the scheme does not in my view achieve full compliance with the criteria of emerging Local Plan Policy NE4.
- 4.3.23 The element of the proposal outside the existing Selected Village boundary (Saved Local Plan) but contained within proposed land allocation BK2 would in my view cause some harm to the character of the countryside, undermining one of the core planning principles of the NPPF in recognising the intrinsic value and beauty of the countryside.
- 4.3.24 These identified harms must be weighed in the planning balance against the benefits of the scheme, which are manifest when the Council can only demonstrate an at best 1.5 year land supply of deliverable housing land, the fourth worst performing local authority in terms of housing delivery. The scheme provides a wide range of well-designed market and affordable housing within a relatively accessible and sustainable location. The additional housing provides economic benefits in the form of local employment in the construction industry and additional customers for local businesses

and services. As Members will note from recent appeal decisions the benefits of delivering new homes weigh very heavily in the mind of appeal Inspectors in reaching decision on housing appeals.

4.3.25 In the clear absence of a five-year land supply and an out-of-date Local Plan, paragraph 11 of the NPPF requires a tilted balance whereby any harm caused by development must significantly and demonstrably outweigh the benefits (in this case of delivering new homes). In my view, under any reasonably objective assessment I do not consider that the harms that are clear but limited in their impact on the locality can be considered to significantly and demonstrably outweigh the benefits of delivering new homes on this site. On that basis, applying the tilted balance, I support this scheme and recommend that planning permission be granted.

4.3.26 S106 Matters

Preparation of the S106 Obligation required in connection with this planning application is at an advanced stage of and in accordance with the new Planning Obligations SPD (approved for adoption subject to adoption of the Local Plan) which seeks to avoid a scenario whereby the Planning Control Committee resolve to grant planning permission subject to a long lead in time for the completion of the necessary S106 Obligation thereafter, this planning application is ready to be determined by the Planning Control Committee. The terms of the currently agreed version of the S106 Obligation are set out below:

<b>Element</b>	<b>Details</b>	<b>Justification</b>
Affordable Housing	5 x 2 bedroom affordable units and 5 x 3 bedroom affordable units. 5 units affordable rent and 3 intermediate tenure at 35% of total	Emerging Local Plan Policy HS2 which requires 35% affordable housing for schemes of 24 units
HCC Middle School Contribution	£38,927 (index linked) towards expansion of King James Academy	HCC toolkit and revised guide
HCC Upper School contribution	£41,964 (index linked) towards the expansion of King James Academy	HCC toolkit and revised guide
HCC Youth Services	£1,185 (index linked) towards improvements to Royston Youth People's Centre	HCC toolkit and revised guidance
HCC Library Provision	£4,396 (index linked) towards expansion of Royston Library	HCC toolkit and revised guidance
HCC off site highway improvements	£28,500 (index linked) towards DDA improvements to local bus stops	Requirement of HCC (Highways)
Biodiversity Net gain payment	£72,670 (index linked) towards unspecified off site improvements to biodiversity	Draft Environment Bill not enacted and HE guidance

Play space and open space combined contribution (NHDC)	£24,778.44 (index linked) towards improvements to play equipment and open space on adjoining open space land	Saved Local Plan Policy 51 and Planning Obligations SPD (adopted 2006) and emerging Local Plan Policy NE4
Waste collection Contribution (NHDC)	£71 per dwelling (index linked) towards waste collection and recycling facilities for each dwelling	Saved Local Plan Policy 51 and Planning Obligations SPD (adopted 2006)
On site management and maintenance arrangements of SUDs and open space	Applicant to submit to the Council an on-going management and maintenance scheme for all public realm and SUDs maintenance on site	Saved Local Plan Policy 51 and Planning Obligations SPD (adopted 2006) and Policies NE7 and NE8 of emerging Local Plan

#### 4.3.27 Climate Change Mitigation

The scheme would create new soft landscaping opportunities and retain on site landscape features. An offsite biodiversity net gain payment has also been secured. Other sustainable development objectives could be secured by conditions (such as EV charging points) were Members minded to grant planning permission for this development. This is in accordance with Section 14 of the NPPF 2021.

4.3.28 In terms of building construction, design and occupation the scheme includes the following features: Use of low carbon materials of construction and recycled materials where possible, water conservation measures to achieve <105 litres per person water consumption per day, cavity wall insulation, high rate efficiency gas combi boilers, living space and sleeping spaces on separate heating zones to reduce need for heating and clear waste collection and recycling installations in each home to ensure waste minimisation.

#### 4.3.29 Conclusions

The absence of a five-year land supply of deliverable housing sites underscores the benefits of delivering new homes on this site, both 16 market and 8 affordable homes in a relatively sustainable location, within a proposed expanded category A Settlement as proposed in the emerging Local Plan. There are harms that would be caused by the scheme in the form loss of informal open space and some harm to the intrinsic value of the countryside on which much of the development would take place. However, in my opinion, and subject to the completion of a necessary S106 Obligation to secure the affordable housing, on site open space and SUDs maintenance and all necessary financial contributions I recommend that planning permission be granted for this development as is set out below.

- 4.3.30 Alternative Options Considered  
See discussion of case merits above.

## 5.0 **Legal Implications**

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

## 6.0 **Recommendation**

- 6.1 That planning permission be **GRANTED** subject to the following conditions and subject to the completion of the necessary S106 agreement;
- 6.2 That the applicant agrees all necessary extensions to the statutory determination - period to enable the completion of the S106 agreement. In the event that agreement is not secured to extend the statutory determination that the Members allow the Development and Conservation Manager to refuse planning permission based on absence of the requisite legal agreement
- 6.3 Recommended Conditions, Reasons and Informatives

### Conditions and Reasons:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.  
  
Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.
3. Details and/or samples of materials to be used on all external elevations and the roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.  
  
Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area.

4. Prior to the commencement of the development hereby permitted full details of a comprehensive hard and soft landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. All approved hard standing shall be completed prior to the first occupation of the development and thereafter retained and maintained to the satisfaction of the Local Planning Authority. The approved soft landscaping / planting details shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To ensure that the full landscaping scheme set out in the application is improved and implemented in full in a timely manner in the interests of phasing and to ensure the development is comprehensively landscaped in the interests of visual amenity.

5. Prior to the commencement of the development hereby permitted full details of a construction method statement for construction with the tree root protection zones as identified on revised site layout plan ref. Amended BEV-537-PA-001 Rev E – Proposed site layout plan (received 21.07.21) shall be submitted to and approved in writing by the Local Planning Authority. Such works shall thereafter be carried out in complete accordance with the approved details or particulars unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that methods of construction within the identified tree root protection zones maintain the health and stability of the trees.

6. Prior to the occupation of the development hereby permitted the principal access road shall be provided 5.5 metres wide with the side access road being 4.8 metres wide to include localised widening to 6.0 metres wide to accommodate the turning of cars from parking spaces adjacent and opposite to plot 16. All exiting footways are to include tactile and dropped kerbs at crossing points and links to footways on the new development, thereafter the access roads and footways shall be retained at the position shown on the approved site layout plan number BEV-537-PA-001 Rev E. Arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

7. Prior to the commencement of the development hereby permitted full details in the form of scaled plans and written specifications shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority to illustrate the following:

- i) Roads, footways, foul and on-site water drainage;

- ii) Proposed access arrangements including, accurate radius kerbs at the main access to the site, visibility splays, with acceptable stage 1 Road Safety Audit;
- iii) Servicing areas, loading areas and turning areas for all vehicles.

Reason: To ensure satisfactory access into the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

8. Before development commences, additional plans shall be submitted and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which demonstrate that all on-site parking spaces can be accessed by a vehicle, and that on-site turning space is sufficient to enable mid-sized service vehicles (e.g. a supermarket delivery van at 6.5 metres in length) and a fire tender to enter and exit the site in forward gear.

Reason: To ensure that service and emergency vehicles entering and exiting the site do not adversely affect the free and safe flow of traffic on the public highway.

9. The gradient of the access road shall not exceed 1:20 as measured from the extended carriageway.

Reason: To ensure satisfactory access into the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

10. The construction of the development shall not commence until details of construction vehicle movements (routing, amount, types) and traffic management measures are submitted to and approved by the Highway Authority.

Reason: To ensure the impact of construction vehicles on the local road network is minimised.

11. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter construction of the development shall only be carried out in accordance with approved plan. The Plan shall include the following details:

- a) construction vehicle numbers, type and routing;
- b) Access arrangements to the site;
- c) Construction traffic management requirements;
- d) Construction and storage compounds (including areas designated for parking, loading / unloading and turning areas)
- e) Siting and details of wheel washing facilities;
- f) timing and delivery arrangements for construction vehicles;
- g) Cleaning of site entrances, site tracks and adjacent public highway;
- h) Provision of sufficient on-site contractor and construction vehicle parking;
- i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;

j) Where works cannot be contained wholly within the site a plan shall be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;

k) dust and waste minimisation plans and hours of operation and deliveries to and from site.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan.

12. Prior to the commencement of the development hereby permitted a landscape and biodiversity management and maintenance plan shall be submitted to the Local Planning Authority and approved in writing. The plan and associated maintenance arrangements shall be carried out in complete accordance with approved details or particulars unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that on-site landscaping and associated biodiversity is retained and maintained in the long term interests of the ecology of the site.

13. A) No development shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of archaeological significance and research questions; and:

1. The programme and methodology of site investigation and recording;
2. The programme and methodology of site investigation and recording as required by the evaluation results;
3. The programme for post investigation assessment;
4. Provision to be made for analysis of site investigation and recording;
5. Provision to be made for publication and dissemination of analysis and records of the site investigation;
6. Nomination of a competent person or persons/organisation to undertake the works set out in the Written Scheme of Investigation.

B) The development shall be carried out in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the Written Scheme of investigation approved under condition (A) and the provision made for analysis and publication where appropriate.

Reason: To ensure that the appropriate site investigation relating to potential archaeological remains are investigated on this site prior to the implementation of the planning permission.

14. Any evidence of contamination, encountered during the development of this site, shall be brought to the attention of the Local Planning Authority as soon as practically possible and development shall cease; a scheme to render the contamination harmless shall be submitted to and approved in writing by the Local Planning Authority, and subsequently fully implemented prior to the occupation of the development.

Reason: To ensure that any contamination affecting this site is dealt with in a manner that safeguards human health, the built and natural environment and controlled waters.

15. Prior to first occupation, each of the 24 proposed new dwellings shall have installed an Electric Vehicle (EV) ready domestic charging point.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality.

16. Any condition(s) recommended by the LLFA now that they have agreed no objections

#### Proactive Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

#### Informatives

1. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
2. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047.

3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
4. During the construction phase the guidance in BS5228-1: 2009 (code of practice for control and construction on open sites) should be adhered to. During the construction phase no activities should take place outside the following hours: Monday to Friday 0800 to 1800 hours; Saturdays 0800 to 1300 and no work on Sundays or bank holidays.
5. **EV Charging Point Specification:**

A charging point shall be installed by an appropriately certified electrician/electrical contractor in accordance with the following specification. The necessary certification of electrical installation should be submitted as evidence of appropriate installation to meet the requirements of Part P of the most current Building Regulations.

Cable and circuitry ratings should be of adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A (which is recommended for Eco developments)

  - o A separate dedicated circuit protected by an RBCO should be provided from the main distribution board, to a suitably enclosed termination point within a garage or an accessible enclosed termination point for future connection to an external charge point.
  - o The electrical circuit shall comply with the Electrical requirements of BS7671: 2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7 (PDF). This includes requirements such as ensuring the Charging Equipment integral protective device shall be at least Type A RCD (required to comply with BS EN 61851 Mode 3 charging).
  - o If installed in a garage all conductive surfaces should be protected by supplementary protective equipotential bonding. For vehicle connecting points installed such that the vehicle can only be charged within the building, e.g. in a garage with a (non-extended) tethered lead, the PME earth may be used. For external installations the risk assessment outlined in the IET code of practice must be adopted, and may require additional earth stake or mat for the EV charging circuit. This should be installed as part of the EV ready installation to avoid significant on cost later.

- o A list of authorised installers (for the Government's Electric Vehicle Homecharge Scheme) can be found at <https://www.gov.uk/government/organisations/office-for-low-emission-vehicles>

## **7.0 Appendices**

7.1 None