

ITEM NO:	<u>Location:</u>	Land north of, Luton Road, Offley
	<u>Applicant:</u>	Gladman Developments Ltd
	<u>Proposal:</u>	Outline planning permission for up to 70 residential dwellings (including 40% affordable housing), new village gateway, new retail outlet/village facility, planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access.
	<u>Ref.No:</u>	17/01781/ 1
	<u>Officer:</u>	Kirstie Hough

Date of expiry of statutory period : 13 October 2017

Reason for Delay

I had planned to report this application to Members at the 14 December meeting of the Planning Control Committee, by which time the Examination in Public (EiP) relating to the North Hertfordshire District Submission Local Plan (2011-2031) would have been underway. By which time the Council may have had some indication on the Inspector's views relating to the proposed Green Belt boundary changes set out in this Local Plan (The Inspector is due to consider Green Belt issues at the EiP on 20 November 2017).

However, the applicant has now submitted an appeal against non-determination (as the application has gone past the Statutory expiry date of 13th October). At the time of writing this report, a start date for the appeal has not been received from the Planning Inspectorate (PINs), therefore the appeal is not technically valid. However, following confirmation from PINs of a valid appeal including an official start date the Council will have 5 weeks in which to notify the Inspector as to how the Council would have determined the application had it had time to do so. Given that the Council are limited to the 14 December Planning Control Committee date, should the start date for the appeal against non-determination be prior to 9th November 2017, then it would not be possible to notify the Inspector of our determination decision without organising an extra special meeting of the Planning Control Committee. As such, this application has been placed on this agenda; albeit we are not able to have sight of any further submissions from the applicant with regard to the appeal.

Reason for Referral to Committee

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

1.0 Relevant History

- 1.1 17/01329/1PRE – Pre-application advice given
- 1.2 Land off Luton Road White Hill 17/02119/1PUD- Use of land as a private allotment GRANTED

2.0 Policies

- 2.1 **North Hertfordshire District Local Plan No.2 with Alterations**
 - Policy 6 - Rural Areas beyond the Green Belt
 - Policy 14 - Nature Conservation
 - Policy 26 - Housing Proposals
 - Policy 29 - Rural Housing Needs
 - Policy 51 - Development Effects and Planning Gain
 - Policy 55 - Car Parking Standards
 - Policy 57 - Residential Guidelines and Standards
- 2.2 **Supplementary Planning Documents**
 - Supplementary Planning Document - Vehicle Parking Provision at New Development (September 2011)
 - Supplementary Planning Document – Design
 - Supplementary Planning Document – Planning Obligations
- 2.3 **National Planning Policy Framework**
 - Paragraph 14 'Presumption in Favour of Sustainable Development'
 - Paragraph 17 'Core Planning Principles'
 - Section 1 - Building a strong, competitive economy
 - Section 3 - Supporting a prosperous rural economy
 - Section 4 - Promoting sustainable transport
 - Section 6 - Delivering a wide choice of high quality homes
 - Section 7 - Requiring good design
 - Section 8 - Promoting healthy communities
 - Section 9- Protecting Green Belt land
 - Section 10- Meeting the challenge of climate change, flooding and coastal change
 - Section 11 - Conserving and enhancing the natural environment
 - Section 12 - Conserving and enhancing the historic environment
- 2.4 **North Hertfordshire District Local Plan – Submission Local Plan 2011-2031**
 - Policy SP1: Sustainable development in North Hertfordshire
 - Policy SP2: Settlement hierarchy
 - Policy SP5: Countryside and Green Belt
 - Policy SP8: Housing
 - Policy SP9: Design and Sustainability
 - Policy SP10: Healthy Communities
 - Policy SP12: Green infrastructure, biodiversity and landscape
 - Policy D1: Sustainable Design
 - Policy D3: Protecting living conditions
 - Policy D4: Air Quality
 - Policy T1: Assessment of Transport Matters
 - Policy T2: Parking
 - Policy NE1: Landscape
 - Policy NE4: Protecting Publically accessible open space

Policy NE7: Reducing flood risk
Policy NE8: Sustainable drainage systems
Policy HS2: Affordable Housing
Policy HE1: Designated heritage assets

The Proposed Submission Draft Local Plan was considered and approved by the Councils Cabinet in April 2017 following public consultation. The Plan has now been submitted for examination.

The site is currently allocated as Rural Area Beyond the Green Belt, however following a Green Belt review and Background Paper in 2016 (Green Belt Review (NHDC, 2016), Housing and Green Belt Background Paper (NHDC, 2016)), the draft Local Plan includes the site within the Green Belt.

The draft Local Plan includes the following wording:

Para 4.55- In part to offset the Green Belt releases necessary to meet housing needs, particularly in the Stevenage, Hitchin and Luton area, an additional area of Green Belt is designated around Offley and Whitwell to cover an area which was not previously Green Belt. This has the effect of linking the formerly separate Metropolitan and Luton Green Belts. This new area of Green Belt is intended to strengthen protection in the area of the District between Stevenage and Luton.

2.5 National Planning Practice Guidance

3.0 Representations

3.1 **Offley Parish Council** – Object to the proposal on various grounds which Include:

- Residents have not been consulted.
- The site is outside the current village boundary and therefore Policy 6 - Rural Areas beyond the Green Belt, applies.
- Offley is classed as a Category 'A' village in the proposed submission Local Plan and further development will be allowed within the village boundary. The remainder of the parish is classed as Green Belt. There are no allocated sites in Offley, in the proposed submission Local Plan and the site is outside the proposed village boundary, in the Green Belt.
- There are no serious employers in the area and very few places to spend any new money coming into the area.

See full representation via link:

http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

3.2 **Highway Authority (Hertfordshire County Council)** - Would not wish to restrict the grant of permission, subject to the imposition of conditions.

3.3 **Herts Ecology** – Comment as follows:

'- We have no existing ecological data for this site other than the presence of some birds in the immediate area. I note from historic map evidence, however, that the NE corner of the site had a substantial orchard in the 1880s and which lasted until at least the 1930s although nothing of this now remains.

- The ecological assessment of the area appears thorough. No significant ecological interest was identified which is not unexpected given the past

management of the site. The main features are the remaining historic hedgerows and occasional trees, one of which to the SW is clearly a significant and old oak tree. The allotments are recent so they are unlikely to have developed an established resource for reptiles. They were not present in 2010 and were in any event a replacement for historic allotments now developed to the south – they are now to be moved again

They do not consider there to be any ecological constraints associated with the proposals. Suggest that issues raised are formally presented as part of a landscape / ecology management plan should permission be granted.

- 3.4 **Lead Local Flood Authority (LLFA)** – In the absence of an acceptable flood risk assessment they object to the grant of planning permission and recommend refusal on this basis that the Flood Risk Assessment carried out by MLM Consulting reference 618538-REP-CIV-FRA Rev 2 dated 26 June 2017 does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

An update will be provided to Members at Committee, as at the time of writing this report, the LLFA are considering further information submitted by the applicant.

- 3.5 **Landscape and Urban Design Officer** –Raises some concern about the setting of the AONB and the relocation of the allotments.

- 3.6 **NHDC Housing Development Liaison Officer** - Following the Cabinet meeting in September, public consultation and the Council meeting on 11 April 2017, the affordable housing requirement is 40% on sites which will provide 25 dwellings and above, in accordance with the proposed submission Local Plan.

Within the overall 40% affordable housing requirement a 65%/35% rented/intermediate affordable housing tenure split is required, in accordance with the proposed submission Local Plan and the councils Planning Obligations SPD, supported by the 2016 Stevenage and North Hertfordshire Strategic Housing Market Assessment (SHMA) Update.

Based on the provision of 70 dwellings overall, a 40% affordable housing requirement would equate to 28 affordable dwellings; 18 for rent and 10 intermediate affordable housing tenure.

- 3.7 **Environmental Health (noise)** – make the following comments:

Acoustic Report

I have reviewed the submitted Noise Assessment. I consider that the relevant noise sources have been identified (Section 2.2.2 A505 road traffic noise); appropriate design criteria standards have been applied (Section 2.3); and that adequate noise monitoring has been undertaken.

Noise mitigation measures were found to be required. These may include an acoustic fence or changes to building orientation such that outdoor amenity areas of dwellings are not positioned closest to the A505 at the northern site boundary. Internal building layouts, glazing and ventilation specifications to achieve the appropriate design criteria standards will still need to be confirmed on a plot by plot basis (higher specification for dwellings closest to road traffic noise). As this is an application for outline planning permission specific mitigation measures will need to be confirmed on a plot by plot basis, once a detailed design layout is available. Noise associated with retail outlet /village facilities could also be assessed at a later

stage.

Taking into account the measured noise levels at the site, I consider that appropriate noise mitigation measures can be implemented at the proposed development site to achieve satisfactory internal and external amenity area noise levels. The proposed noise mitigation measures in the submitted noise assessment are not currently enforceable (general comments rather than plot specific); I therefore recommend the submission of a supplementary noise assessment to incorporate detailed, plot specific noise mitigation measures should the application proceed to apply for full planning permission.

3.8 Environmental Health (contaminated land and air quality)- Raise no objection to the proposal in terms of local air quality, but recommend planning conditions be attached to any permission.

3.9 Herts County Council (Archaeology) – Comment as follows:

'The site lies immediately adjacent to Area of Archaeological Significance no.139 as identified in the Local Plan. This notes that Great Offley is a medieval settlement recorded in Domesday Book as Offelei. The parish church of St Mary Magdelene dates to the 12th century. Additionally, the Historic Environment Record notes that Offley has Anglo-Saxon origins, and is first recorded in c.990. There is also an early tradition, recorded in c.1230 by Matthew Paris, that King Offa of Mercia (A.D. 757-96) built a palace at Offley, and that the village was named for him as 'Offanlege'. If the tradition is genuine, an important settlement, possibly a royal palace may have existed in Offley. Archaeological evidence for the early medieval (e.g. Anglo-Saxon) period is rare in Hertfordshire and Offley may therefore have the potential to contain extremely significant archaeological remains.

The Historic Environment Record (HER) notes that flint tools have been found in or close to the site (HER44530). The site of Westbury Farm lies adjacent to the site and this is thought to have been a medieval manor mentioned in Domesday Book. Archaeological investigations have found evidence dating from the 10th-13th centuries (HER12743). The site itself is approx. 5.5 ha. This is relatively large for Hertfordshire and this office normally asks to be consulted on all proposals of 1ha or more because of the likelihood of archaeological remains existing in an area of that size or greater.

I believe therefore that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest. I recommend that the results of an archaeological evaluation of the site are included with any planning application. This evaluation is likely to comprise geophysical survey followed by trial trenching

Subsequently a geophysical survey report has been submitted and is considered acceptable but County are still awaiting the results of trial trenching before they would wish any application be granted for development at the site.

3.10 NHDC Waste Management – No comments received

3.11 Hertfordshire Fire & Rescue Services – No comments received

3.12 NHDC Community Development Officer - No comments received

3.13 **NHDC Parks and Countryside manager** – No comments received

3.14 **Thames Water**- A representation was received stating:

The applicant would need to approach them for a pre-development enquiry, details of which can be found here: www.developers.thameswater.co.uk/developing-a-large-site/planning-your-development/wastewater.

Our sewer records don't indicate any shared drainage within the site, but there may be newly transferred sewers that we haven't yet mapped and aren't aware of.

If the site owner finds shared drainage, the sewers may need to be diverted, as we don't allow new builds over public sewers. They will need to submit their pre-development application to us and then discuss any potential diversions with the engineer dealing with their application.

However, the applicant has submitted a Foul Drainage Analysis with the application which shows that they did have correspondence with Thames Water during March and May of this year with agreement from Thames Water that 70 dwellings is acceptable but is near the limit of the capacity.

3.15 **Environment Agency**- Have made the following comments:

We are currently operating with a significantly reduced resource in our Groundwater and Contaminated Land Team in our Hertfordshire and North London Area. This has regrettably affected our ability to respond to Local Planning Authorities for some planning consultations. We are not providing specific advice on the risks to controlled waters for this site as we need to concentrate our local resources on the highest risk proposals.

We recommend however that the requirements of the National Planning Policy Framework and National Planning Policy Guidance (NPPG) are still followed, as the site is within a Source Protection Zone 2. This means that all risks to groundwater and surface waters from contamination need to be identified so that appropriate remedial action can be taken. This should be additional to the risk to human health that your Environmental Health Department will be looking at.

We expect reports and Risk Assessments to be prepared in line with our 'Groundwater protection: Principles and practice document (commonly referred to as GP3) and CLR11 (Model Procedures for the Management of Land Contamination).

In order to protect groundwater quality from further deterioration:

- No infiltration based sustainable drainage systems should be constructed on land affected by contamination as contaminants can remobilise and cause groundwater pollution.

- Piling or any other foundation designs using penetrative methods should not cause preferential pathways for contaminants to migrate to groundwater and cause pollution.

- Decommission of investigative boreholes to ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 109 of the National Planning Policy Framework.

3.16 **Hertfordshire Property (Development Services)** - seek the following planning obligation project contributions:

- Primary Education towards the expansion of Offley Endowed Primary School (£170,891)

- Secondary Education towards 0.5fe expansion of Hitchin Boys School (£168,755)
- Library Service towards Hitchin library to develop IT on the ground floor enabling customers to access public IT as well as their own mobile devices (£11,586)
- Youth Service towards equipment for outreach sessions in Offley (£3,205)

HCC's standard approach is to request Table 2 of the Toolkit (below) is referred to and included within any Section 106 deed. This approach provides the certainty of identified contribution figures with the flexibility for an applicant/developer to amend the dwelling mix at a later stage and the financial contribution to be calculated accordingly. This ensures the contributions remain appropriate to the development and thereby meet the third test of Regulation 122 of the Community Infrastructure Levy Regulations 2010: "fairly and reasonably related in scale and kind to the development".

Table 2: Hertfordshire County Council Services planning obligations contributions table

Bedrooms*	1	2	3	4	5+	1	2	3
	HOUSES					FLATS		
	Market & other					Market & other		
Primary education	£231	£1,036	£2,469	£3,721	£4,692	£93	£816	£1,392
Secondary education	£263	£802	£2,561	£4,423	£5,662	£47	£444	£1,677
Youth facilities	£6	£16	£50	£82	£105	£3	£13	£41
Library facilities	£98	£147	£198	£241	£265	£77	£129	£164
	HOUSES					FLATS		
	Social Rent					Social Rent		
Primary education	£247	£2,391	£3,860	£5,048	£5,673	£44	£1,167	£2,524
Secondary education	£62	£450	£1,676	£2,669	£2,405	£14	£261	£1,084
Youth facilities	£2	£8	£31	£51	£55	£1	£6	£21
Library facilities	£48	£91	£130	£156	£155	£38	£82	£107

*uses an assumed relationship between bedrooms and habitable rooms
All figures are subject to indexation and will be indexed using the PUBSEC index base figure 175.

Please note that current service information for the local area may change over time and projects to improve capacity may evolve. This may potentially mean a contribution towards other services could be required at the time any application is received in respect of this site.

3.17 **Site Notice / Press Notice and Neighbour consultation** – Representations have been received which express concerns relating to, but not necessarily limited to, the following points.

Summary of responses against the development

- The site is outside of the village boundary
- The development does not form part of the Local Plan 2011-2031 housing allocations
- It is proposed to be allocated as Green Belt within the submission Local Plan

- Would have a negative effect on the village and the quality of life of the residents
- Would be detrimental to the character and appearance of the village and the surrounding area
- The village school is already oversubscribed
- The allotments have already been moved once for development
- The site is prone to flooding
- The infrastructure could not cope with the additional dwellings
- The service of two buses an hour would not be able to cope with the increase of people using them
- The shop is not required and would impact the local shop keeper
- The roads could not cope with the additional vehicles
- The development is not required in the village
- The development would affect wildlife in the area
- Offley has already recently absorbed a similar sized development in the Garden Fields estate on the south side of Luton Road
- It would constitute overdevelopment of the village

These representations can be read in full on the Council's website page via link:

http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

3.18 **Other comments**

North Hertfordshire Archaeological Society :

Have made comments on the Archaeological report submitted. The full representation can be viewed via the Council's website page via link:

http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

3.19 **CPRE Hertfordshire**

Objects to the proposal. The full representation can be viewed via the Council's website page via link:

http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site is located to the west of Luton Road and to the south-west of Westbury Farm Close. The area of the site totals approximately 5.79 hectares and consists of a private allotments and arable field/ grazing land. Two public footpaths (PROW) cross the site- Offley 17 along the sites western boundary and Offley 16 in the southern part of the site.

4.1.2 The site which is roughly an 'L' shape has a frontage onto Luton Road of approximately 260 metres and approximately 170 metres along the rear of properties in Westbury Farm Close. The depth of the site is between approximately 190 metres and 300 metres. The A505 is located to the north-west beyond agricultural land and to the south-east on the opposite side of Luton Road lies the

Garden Fields housing development which was granted planning permission in May 2014 and was previously the site of the private allotments which are now accommodated on the application site.

- 4.1.3 The Great Offley Conservation Area extends for a very small part into the front of the site, at the point of the start of the access and public right of way. The Great Offley Conservation Area also shares part of its western boundary with the site's north eastern boundary and there are two Grade II Listed Buildings on the west side of Westbury Farm Close.
- 4.1.4 Two areas of land to the south of Luton White Hill are shown as potential sites to accommodate the relocation of the private allotments. The use of agricultural land for allotments does not constitute development requiring planning permission.
- 4.1.5 The southern boundary of the site with Luton Road is defined by post and rail fencing along with established mature hedgerow/ trees, as are the western and northern boundaries. A mature oak tree sits in the south-west corner of the site.

4.2 Proposal

- 4.2.1 This application seeks outline planning permission for up to 70 new dwellings (including 40% affordable housing), a new village gateway, new retail outlet/village facility, planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters are reserved for future consideration with the exception of access. Appearance, landscaping, layout and scale associated with the proposed development are therefore reserved matters.
- 4.2.2 The application is accompanied by a 'Development Framework Plan (drawing no. CSA/3282/105) which illustrates the potential site layout with landscape buffer planting to the north, west and south of the main built development and an area of open space to the top of the 'L' at the north-west.
- 4.2.3 The application is supported by the following documents:
 - Planning Statement
 - Design and Access Statement
 - Landscape and Visual Impact Assessment
 - Transport Statement
 - Ecological Survey and Report
 - Arboricultural Report
 - Ground Conditions Desk Study
 - Flood Risk Assessment
 - Foul Drainage Analysis
 - Air Quality Screening Report
 - Noise Assessment
 - Utilities Appraisal
 - Statement of Community Involvement
 - Socio-Economic Report
 - Archaeology and Heritage Statement
- 4.2.4 The applicants planning statement makes the following points in support of the proposed development:

The site is located in close proximity to a variety of services and facilities and is accessible by sustainable transport modes.

The local plan is out of date and does not meet objectively assessed needs, is inconsistent with the National Planning Policy Framework and does not support the delivery of development to meet needs and should be accorded limited weight.

The Council cannot demonstrate a 5 year supply of deliverable housing sites and therefore the presumption in favour of sustainable development exists.

The proposals will deliver a range of benefits including affordable housing. The development presents no significant harm or impacts that outweigh the benefits of delivering housing on the site.

With sensitive and appropriate design, development of the site would not compromise national or local Green Belt objectives for the following reasons:

- Development is well related to the existing settlement;*
- The development extends no further north or west than the existing settlement envelope;*
- The proposed layout and landscape create a defensible settlement boundary;*
- The development will not lead to coalescence; and*
- The development will not impact on the setting of an historic town.*

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

- Provision of up to 70 new homes adjacent to the bus service*
- 40% policy compliant affordable housing*
- Council tax payments of approximately £1,100,000 over 10 years*
- Up to 168 new residents with 89 economically active*
- Generation of total gross expenditure of £1,623,000 annually*
- Support 64 FTE construction jobs over 3 years and 69 FTE indirect jobs in associated industries*
- Delivery of £2.6m of direct GVA over the build period and*
- Potential surface improvements to existing PROW Offley 16 & 17 within and around the application site*
- New visual gateway to Offley*
- Potential relocation of private allotments with improved facilities such as formal parking and water supply*
- Upgrade of Offley 17 & 21 PROW to a bridleway extending from A505 underpass to Luton Road and School Lane including upgrades of gates/ accesses and;*
- New retail outlet with proposed qualifying incentives for operator*

4.3 Key Issues

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

- The principle of the development;*
- Sustainability;*
- Character and appearance of the countryside;*
- Impact upon the designated heritage assets of the Great Offley conservation area and adjacent listed buildings;*
- Highway considerations;*

- Archaeology;
- Other matters relating to flood risk and ecological issues;
- Section 106;
- The Planning Balance.

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

There are three policy documents which are relevant to the consideration of this application: the saved policies of the North Hertfordshire District Local Plan No. 2 with Alterations (adopted 1996) (the development plan), the emerging Local Plan 2011 - 2031 Submitted for Examination to the Secretary of State 9th June 2017, and the National Planning Policy Framework (NPPF). Set out below is my assessment as to weight that should be attributed to various policies within these documents.

4.3.3 Paragraph 49 of the NPPF states that:

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

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

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

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

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

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

4.3.5 **North Hertfordshire District Local Plan No. 2 with Alterations**

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

Paragraph 215 of the NPPF states that:

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

The applicant states that the Council cannot currently demonstrate a five year supply of deliverable housing sites, and so development plan policies which seek to restrict the supply of housing are out-of-date. Saved Policy 6 - Rural Areas beyond the Green Belt, in so far as it deals with the supply of housing, is in my view out of

date. However, insofar as it seeks to operate restraint in the Rural Area for the purpose of protecting the intrinsic character and beauty of the countryside the policy accords with one of the core planning principles of the NPPF as set out in paragraph 17 of the document.

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

4.3.7 As well as stating that the Council cannot demonstrate a five year supply of deliverable housing sites (a point I do not dispute, see below), the applicant considers that the submission Local Plan does not meet the requirements of paragraph 47 of the NPPF to provide objectively assessed need and therefore Policy 6 (of the saved Local Plan) carries reduced weight and along with Policy 7 is also inconsistent with paragraph 157 of the NPPF. This does not take into account the decision of the Supreme Court above which considers that policies to protect the countryside from development are consistent with the NPPF. Moreover, the emerging Local Plan makes provision to meet the Districts own full objectively assessed needs for housing and additionally makes positive contributions towards the unmet housing needs of its neighbouring authorities such as Luton. The emerging Local Plan achieves all of this without the need to allocate this application site for housing.

4.3.8 In taking the view that material weight can still be attached to Policy 6 it is clear that the proposed development does not meet any of the exceptions for development in the Rural Area Beyond the Green Belt. The development would not maintain the existing countryside and the character of the village of Offley by reason of its location (which would expand the village westward), which would in my view have an adverse visual impact on the landscape and density of development contrary to the aims of Policy 6.

4.3.9 Submission Local Plan Policies (2011-2031)

With regard to the relocation of the allotments, there are no specific protections for the allotments under the saved policies of the District Local Plan. However, Policy NE4 of the Submission Local Plan states that:

**'Planning permission will be granted for any proposed loss of open space only where [among other things]:
the quality and accessibility of alternative open space [is appropriate];
it is mitigated against by:
i re-provision of an appropriate open space taking into account quality and accessibility; and/or
ii financial contributions toward new or existing open space where:
the required provision cannot reasonably be delivered on site; or the required provision cannot be provided on site in full; and the proposal has over-riding planning benefits.'**

4.3.8 The explanatory text to this policy (paragraph 11.16) in the Submission Local Plan includes allotments as a type of open space that is applicable to Policy NE4. The proposed development which would lead to the loss of allotments on this site must therefore be assessed against this policy, albeit given limited weight prior to examination and adoption of the new Local Plan.

- 4.3.9 I make this assessment as follows: As is explained in paragraph 1.2 above, a lawful use certificate has been granted for the use of an alternative site for allotment purposes at White Hill, Luton Road (ref. 17/02119/1PUD). This area of land is of similar size and accessibility.
- 4.3.10 This area is one of two possible options for the relocation of the allotments are identified on the framework plan. The current allotments on the site were previously relocated here to make way for the Garden Fields housing development.
- 4.3.11 Allotments were relocated from the site opposite Luton Road to this site before planning permission was granted for the 63 dwelling scheme (ref. 13/00267/1). In this case a mechanism would be needed to ensure the relocation within any planning permission and having given this matter very careful consideration I do not consider that the loss of and re-location of allotments can be a sustainable reason for refusal of planning permission for the following reason:
- 4.3.12 Were Members minded to grant planning permission for this development as the applicant has demonstrated two feasible alternative sites for the re-provision of allotments in my view a grampian condition could be imposed which would secure this re-provision, by stating that no development can commence until suitable allotment re-provision has been secured and is operational. Relevant case law and government guidance is clear that when a matter can be addressed by means of appropriately worded planning conditions it should not be included as a reason for refusal of planning permission.
- 4.3.13 Under the provisions of the new plan, Great Offley is identified as a Category A village within which general development will be supported. However, this site lies beyond the proposed village boundary and has not been allocated for future development.
- 4.3.14 The NPPF offers guidance on the weight that can be attributed to emerging Local Plan policies which is set out in paragraph 216 of the Framework as follows:
- 'From the day of publication [of the NPPF, March 2012], decision takers may also give weight to relevant policies in emerging plans according to:***
- * the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);***
- * the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater weight that may be given); and***
- * the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in this Framework, the greater the weight that may be given).'***
- 4.3.15 Where local planning authorities cannot demonstrate a five year supply of deliverable housing sites, the NPPF places a further restriction on weight that can be attributed to development plan policies which seek to restrict the supply of housing (NPPF paragraph 49). The Council has recently published a Housing and Green Belt Background Paper together with the proposed submission Local Plan (2011-2031). This paper argues that from the date that Full Council decided to submit the Local Plan to the Secretary of State for examination at the meeting held

on 11 April 2017, the Council can demonstrate a deliverable five year land supply of housing sites, at 5.5 years land supply. The emerging Local Plan was Submitted to the Secretary of State 9th June 2017 and this claim will of course be tested at the forthcoming Examination in Public (EiP) due to start in November 2017. Therefore, until the plan is adopted, I consider a precautionary approach should be taken to the weight that should be given to the emerging Local Plan. This precautionary approach has recently been supported at appeal.

4.3.16 Therefore, the Council cannot yet demonstrate a 5 year supply of deliverable housing sites. As a result, this application for housing development must be assessed against the presumption in favour of sustainable development (paragraph 14 of the Framework). This states that for decision-taking granting permission for housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of delivering new homes, when assessed against the policies within the Framework taken as a whole.

4.3.17 The emerging Local Plan does not allocate the site for development. Indeed, the site has not been identified for consideration as a possible housing site at any stage of the emerging Local Plan process, but moreover is included as part of the extended Green Belt. The applicant has objected to the omission of this site from the Local Plan, although it was not previously promoted during the preparation of the plan

4.3.18 Policy SP5 - Countryside and Green Belt states that under criteria c) that the Council will:

'Only permit development proposals in the Green Belt where they would not result in inappropriate development'.

This site will only become Green Belt if the Inspector agrees the terms of the proposed new Green Belt boundary (following the EiP) and only following adoption of the new Local Plan. Until this time the site is not located in the Green Belt and whilst this proposal would in my view clearly be inappropriate development in a future Green Belt designation, at this stage and before being tested at EiP I can only give limited weight to the proposed designation as Green Belt in the submission Local Plan.

4.3.19 The development is not for a proven local need for community facilities or services. A local shop is proposed as part of the scheme but as confirmed by the representations received, this is not required nor is it regarded as a community facility. Furthermore the development is not for a proven need for rural housing (in compliance with Policy 29 of NHDLP). The application refers to 40% affordable housing, but this relates to Policy HS2: Affordable Housing, of the emerging plan and not to Policy CGB2: Exemption Sites in Rural Areas.

4.3.20 National Planning Policy Framework

Although the Council considers the emerging Local Plan 2011 - 2011 to hold sufficient weight for the Council to be able to demonstrate a 5 year housing land supply, this is situation that can be predicted with any certainty, as the Plan has yet to taken through EiP and adopted. The National Planning Policy framework directs us in this instance under paragraphs 14 and 49, mentioned and quoted above. I, therefore, take a precautionary approach by assessing this application on the basis that the Council cannot with any degree of confidence demonstrate a five year supply of deliverable housing sites. I therefore consider the proposal under the following paragraphs whether the development is sustainable and whether the

adverse impacts of the development would significantly and demonstrably outweigh the benefits of delivering new homes.

4.3.21 Summary on the principle of the development

The development site is in the Rural Area beyond the Green Belt. Saved Local Plan Policy 6 can still be afforded weight in determining this application in that it seeks to protect the countryside from development which would be in conformity with the NPPF; which requires decision makers to recognise the intrinsic character and beauty of the countryside. The proposed development is in open countryside and fails to meet any of the criteria set out in Policy 6 and as such is contrary to the provisions of the saved District Plan No. 2 with Alterations.

4.3.22 Furthermore, the proposed development would be contrary to policies in the Emerging Local Plan in that the development site lies outside of the proposed defined village boundary and within part of the proposed extended Green Belt area, so would be covered under Green Belt Policy (Policy SP5) should the plan be taken successfully through EiP and adopted. However, given that the site is not Green Belt at the present time, it is of most relevance to this scheme to understand the Councils intention to continue applying a policy of restraint to this site in the new Plan by not including it within the 'white land' of the adjoining Category A village. As such, the development would be contrary to Policies SP5 of the North Hertfordshire District Council Submission Local Plan 2011 – 2031.

4.3.23 **Character and Appearance of the Countryside**

The site is fairly level and lies in an elevated position within LCA 211 Offley – St Pauls Walden which is characterised by gently rolling upland plateau landscape. To the north, the A505 dual carriageway runs through a cutting less than 500m away and beyond that, on the northern side of the A505, lies the Chilterns AONB.

4.3.24 The erection of dwellings on the site and the introduction of the associated infrastructure would permanently alter the agricultural and thus rural character of the site and its contribution within the landscape. The erection of dwellings on the site, introduction of the associated infrastructure and shop would permanently alter the appearance of the site and would represent a substantial change to the character of the area. The scheme has a heavily landscaped led approach in which a high proportion of the site would be dedicated to green infrastructure. Whilst this landscaping would break up views of the proposed dwellings, it would in itself bring about changes to the character of the area. I consider that the extent of the westward encroachment of the development into the countryside would have a detrimental impact upon the wider views of the settlement, to the significant detriment of the character of the landscape.

4.3.25 The upgrading of PROW 17 and 21 would also give the perception of the village expanding into the countryside and the effect for those approaching the village along these footpaths from the north would be the perception that the settlement would be experienced much earlier than at present. I consider these impacts would cause a detriment to the visual amenity of the countryside and character of the wider area.

4.3.26 Summary on character and appearance

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

4.3.27 **Designated Heritage Assets**

The site lies partially within and adjacent to the western boundary of the Great Offley conservation area. To the east of the site lie Grade II listed buildings within Westbury Farm Close, both of which comprise designated heritage assets.

Where development can impact designated heritage assets, specific policies in the Framework indicate development should be restricted. In this respect paragraph 132 states:

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."

4.3.28 Due to this being an outline application with all matters reserved apart from access, the Framework plan submitted shows an indicative layout and it is therefore not possible to know exactly where housing would be sited. The applicant has submitted a Heritage Statement which I note in paragraph 6.34 states:

'Agricultural land within the site immediately adjacent to the west of the Conservation Area may be considered to make a small contribution to its illustrative value, due to views towards the Conservation Area from the public right of way within the site, as well as views from the Conservation Area to the site from adjacent to the post office and chapel...'

and in 6.36 it goes on to say ***'Overall, the setting of the Conservation Area will remain, as currently, a combination of agricultural land and post-war built form.'***

4.3.29 I disagree with this analysis, as I believe the agricultural land makes a significant contribution to the open setting of this part of the Conservation Area adjacent to the site and as such, development here would have a detrimental impact upon it's setting.

4.3.30 As such, it is considered that the applicant has failed to demonstrate that development of up to 70 dwellings on this site would not cause harm to the setting of the Conservation Area.

4.3.31 **Highway Considerations**

Access is currently provided via the north-eastern corner of the frontage. This un-gated access is tarmac for a short distance and also forms the start of a Public Right of Way (PRoW) which crosses the site. Luton Road is a two-way single carriageway which acts a local distributor road subject to a speed limit restricted to 30 mph and runs parallel to the A505, connecting to it east and west of Offley. The road provides direct frontage access to existing residential dwellings and local shops/amenities within Offley, in addition to providing access to additional residential streets via priority junctions on both sides of the carriageway.

4.3.32 Access to the site is proposed to be provided from Luton Road, via a simple priority T-junction located to the south-east of the site.

4.3.33 Hertfordshire County Highways have commented that:

- The vehicle to vehicle inter-visibility from the new junction within the new development is shown on the submitted drawings to accord with Manual for Streets.
- The width of the access road has been shown at 5.50 metres wide on the submitted drawings which would conform to the minimum width of an access road that would be able to accommodate a waste collection vehicle in current use.
- The new junction at Luton Road would have the capacity to carry the total volume of traffic from the new development. Bearing in mind that the traffic flows are fundamental to the assessment of traffic impact HCC is satisfied that the data comparison provides an overall picture of the existing traffic movements and the future traffic generated from the new development.

4.3.34 The overall conclusion of Hertfordshire County Council as Highway Authority is that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways and does not wish to restrict the grant of permission subject to recommended planning conditions and highway informative's.

4.3.35 As there are no objections from the Highway Authority I am of the opinion that the proposed development would not cause harm that can be sustained by way of objective evidence in terms of highway impacts.

4.3.36 Summary on Highway issues

The Highway Authority raises no objections to the proposal and I can see no sustainable planning objections on highway grounds. However, a S106 Agreement would be required to secure a Construction Traffic Management Plan.

4.3.37 Archaeology

Hertfordshire County Council Historic Environment team have commented that the site lies immediately adjacent to an Area of Archaeological Significance no.139 as identified in the Local Plan. This notes that Great Offley is a medieval settlement recorded in Domesday Book as *Offelei*. The parish church of St Mary Magdelene dates to the 12th century. Additionally, the Historic Environment Record notes that Offley has Anglo-Saxon origins, and is first recorded in c.990. Archaeological evidence for the early medieval (e.g. Anglo-Saxon) period is rare in Hertfordshire and Offley may therefore have the potential to contain extremely significant archaeological remains.

4.3.38 HCC considers that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest and recommends that the results of an archaeological evaluation of the site are undertaken prior to determination. This evaluation is likely to comprise a geophysical survey followed by trial trenching.

4.3.39 Subsequently a geophysical survey report has been submitted, and HCC advise that given the proximity of the site to the early medieval manorial settlement at Westbury Farm and the Anglo-Saxon features (including possible timber building) at the old allotments a short distance to the east, they continue to advise that the results of a trial trenching evaluation should be included with any application. At the time of writing this report, these details have not been submitted.

4.3.40 Summary on archaeology matters

At present not enough information is provided to demonstrate the archaeological significance of the site and that there would not be an impact upon heritage assets of archaeological interest. As such, the proposed development would be contrary to Section 12 of the NPPF and therefore generates a reason for refusal of the application.

4.3.41 Sustainability

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

4.3.42 **Economic role** – I recognise that the construction of the development would provide some employment for the duration of the work contributing to a strong responsive and competitive economy. It is also recognised that there would be increased expenditure in local shops and pubs and other services. Additionally there would be economic benefit from the new homes bonus which assists local authorities to maintain and provide services. The economic role is therefore positive.

4.3.43 **Social role and Environmental Role** – The development would provide housing to assist in meeting the needs of existing and future generations including badly needed affordable housing (the application form states 42 open market and 28 intermediate dwellings). It would also support community facilities such as the church, the Public House as well as potentially contributing towards recreational facilities and their improvement. The applicant has stated that it would provide potential surface improvements to existing PROW Offley 16 & 17 within and around the application site; potential relocation of private allotments with improved facilities such as formal parking and water supply; upgrade of Offley 17 & 21 PROW to a bridleway extending from A505 underpass to Luton Road and School Lane including upgrades of gates/ accesses and; provide a new retail outlet with proposed qualifying incentives for the operator. However, in my view the relocation of the allotments would have some negative social impact, given that they have already been relocated to this site to make way for the Garden Fields housing development so a further move would once again be detrimental to the allotment holders and their produce. In addition, there is no substantial explanation about why the proposed shop is necessary and how it would be delivered.

4.3.44 The Submission Local Plan seeks to designate Great Offley as a category A village, which implies that it has sufficient local services to accommodate sustainable growth in housing. The facilities of Offley consist of a primary school, one public house, a Country House Hotel, a village hall, a church, a salon, a restaurant, a playground and a village shop which includes a post office. Whilst there is not a full range of services in the village given the proposed category A designation and this site immediately adjoins the proposed village boundary I consider this development proposal would be reasonably sustainable in social and environmental terms.

4.3.50 Section 106

At the time of submission the application did not include draft Section 106 document. As such and given the substantial planning objections to this proposal no further negotiations have been undertaken in respect of S106 matters. The applicant was provided with an option to extend the statutory expiry date until the end of March 2018 in order to enable time to complete the necessary S106 Obligation and by this time review the underlying policy position post EiP. The

applicant refused this option and as is explained above have lodged an appeal against non-determination; this has forced me to make a recommendation on this planning application before negotiations could commence on the necessary S106 Obligation. As Members will know planning permission cannot be granted until a S106 Obligation is completed and the absence of a completed agreement is of itself a reason for refusal of permission.

4.3.51 **The Planning Balance**

As set above I have identified broad areas of how I consider this planning application is unacceptable in terms of the principle of development in addition to other planning considerations.

4.3.52 Whilst paragraph 187 of the NPPF requires local planning authorities to act pro-actively and seek to find solutions, in my view the substantial and compelling planning objections to this development are not capable of resolution in my judgement, certainly not without a dramatic change in the submission Local Plan following EiP. In the light of the progress with the emerging Local Plan and the programme of dates for the EiP I consider that the Council is now moving forward towards achieving its Housing Allocations (this site not being one of them) and thus demonstrating it has a 5 year land supply. The agent was given the opportunity to defer determination of the application until March 2018 after the EiP however, did not wish to do so.

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

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

4.3.54 Whilst the Council now claims to be able to demonstrate an up to date five year land supply of deliverable housing sites (since the submission of the Local Plan to the Secretary of State in June 2017) I have applied a precautionary approach and have assessed this application against paragraph 14 of the NPPF whereby any adverse impacts must significantly and demonstrably outweigh the benefits of delivering new homes.

4.3.55 This planning application proposes up to 70 new homes which would make an important contribution towards improving the five year land supply but also helping to meet the objectively assessed housing need for at least 14,000 (+ 1,950 for Luton's un-met need) new homes across the District through the plan period (2011-2031). Meeting housing need is in itself a clear benefit of the proposed development.

4.3.56 The applicant also offers 40% affordable housing and there are clear social and economic benefits arising from the delivery of the new homes as I have acknowledged above and the case for which has been clearly made by the applicant.

4.3.57 Applying the presumption in favour of sustainable development it is necessary to critically assess this planning application against the policies of the NPPF taken as a whole before judging whether any identified harm as a result of this analysis

would 'significantly and demonstrably' outweigh the benefits of delivering new homes on this site.

4.3.58 I have identified however that there would be significant and demonstrable environmental harm caused by this development relating to the following:

- The development would cause harm to the intrinsic beauty of the countryside and as such would conflict with paragraph 17 of the NPPF
- The development would be harmful to the character and appearance of the landscape
- There would be a harmful urbanising impact of the development beyond the settlement boundary
- The application has failed to demonstrate that the development would not cause harm to the setting of the Great Offley Conservation Area
- Full details of an archaeological survey have not been submitted

4.3.59 The application is also unacceptable because it is not accompanied by a satisfactory Section 106 Planning Obligations agreement within which would also need to ensure that there is a strategy to ensure continuity and long term provision of the allotments.

4.4 Conclusion

4.4.1 I conclude that even with the associated economic and social benefits of providing new housing, as set out above, the harm that would be caused by the development, would significantly and demonstrably outweigh the benefits of allowing the development and, as such, it is recommended that planning permission should be refused. At the time of writing the appeal against non determination has not been registered by PINs as a valid appeal. Therefore as things stand the Council remains the determining authority for this application and the recommendation below reflects this. If before the Committee the Council is informed of a valid appeal by PINs and given a start date for the appeal proceedings the recommendation will be changed to a resolution to inform PINs that had the Council been able to determine this planning application it would have refused permission for the reasons set out below.

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

1. By reason of its siting beyond the built limits of Offley, the location within open allotments and farmland in an area of countryside adjacent to Great Offley and the Great Offley Conservation Area, the development proposal would fail to positively enhance the wider landscape setting of the village, nor would it improve the character and quality of the Rural Area and, as such, would afford significant and demonstrable harm to the intrinsic beauty of the countryside.

Moreover, the development would afford harm to the setting of the Great Offley Conservation Area as it would develop an area which currently provides an open aspect of views to and from the Conservation Area. Subsequently, this harm is considered to clearly outweigh the benefits of providing new dwellings on the site. The proposal is therefore contrary to the provisions of saved Policies 6 of the North Hertfordshire District Local Plan No. 2 with alterations and, Paragraphs 17, 109, 116, 132 and 156 of the National Planning Policy Framework. The development would also be contrary to Policy SP5 of the North Hertfordshire Emerging Local Plan 2011 - 2031.

2. The proposed development lies immediately adjacent to an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of extremely significant archaeological potential. Given this and the large scale nature of the proposal, this development should be regarded as likely to have an impact on significant heritage assets with archaeological interest, some of which may be of sufficient importance to meet NPPF para 139. This could represent a significant constraint on development. In the absence of a full archaeological field evaluation, there is insufficient information to determine the importance of any archaeological remains on the site. The proposal will be contrary to Section 12 of the NPPF.
3. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) setting out how the shop would be delivered, along with the provision of 40% affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations and provision of the allotments is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary to the requirements of the National Planning Policy Framework (NPPF).

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.