

ITEM NO:**9**

Location: **Baileys Close Farm
Pasture Lane
Breachwood Green
Hertfordshire
SG4 8NY**

Applicant: **DLP Planning Ltd**

Proposal: **Residential development comprising of 4 x 1 bedroom flats, 6 x 2 bedroom houses and 8 x 3 bedroom houses with associated landscaping, parking and vehicular access following demolition of existing commercial buildings**

Ref. No: **17/04392/FP**

Officer: **Tom Rea**

Date of expiry of statutory period: 18.04.2018

Submitted Plan Nos

PL006	PL005
PL002	PL001
PL010	PL008
PL012	PL003
PL011	PL004
PL009	PL007

Reason for Referral to Committee

Councillor Barnard has requested that this application be considered by the Planning Control Committee due to the public support from the Parish Council and the possible conflict of opinion with the officer recommendation.

1.0 Relevant History

- 1.1 91/00280/1 – Continued use of premises for the repair and maintenance of motor vehicles, granted.
- 1.2 17/01957/1PRE – Erection of 13 residential dwellings with associated landscaping and car parking.

2.0 Policies

2.1 North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)

Policy 2 - Green Belt.
Policy 26 - Housing proposals.
Policy 51 - Development Effects and Planning Gain.
Policy 55 - Car Parking Standards.
Policy 57 - Residential Guidelines and Standards.

Supplementary Planning Documents.

Design SPD
Planning Obligations SPD
Vehicle Parking Provision at New Development SPD.

2.2 National Planning Policy Framework

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 9 - Protecting Green Belt land
Section 11 - Conserving and enhancing the natural environment.

2.3 North Hertfordshire District Local Plan 2011-2031 Proposed Submission

Policy SP1 Sustainable Development in North Hertfordshire
Policy SP2 Settlement Hierarchy
Policy SP5 Countryside and Green Belt
Policy SP7 Infrastructure Requirements and Developer Contributions
Policy SP8 Housing
Policy SP9 Design and Sustainability
Policy SP10 Healthy Communities
Policy SP11 Natural Resources and Sustainability
Policy SP12 Green Infrastructure, Biodiversity and Landscape
Policy CGB4 Existing Rural Buildings
Policy T1 Assessment of Transport Matters
Policy T2 Parking
Policy HS2 Affordable Housing
Policy HS3 Housing Mix
Policy HS5 Accessible and Adaptable Housing
Policy D1 Sustainable Design
Policy D4 Air Quality
Policy HC1 Community Facilities
Policy NE1 Landscape
Policy NE5 New and improved public open space and biodiversity
Policy NE6 Designated biodiversity and geological sites
Policy NE7 Reducing Flood Risk
Policy NE8 Sustainable Drainage Systems
Policy NE9 Water Quality and Environment
Policy NE10 Water Framework Directive and Wastewater Infrastructure

The application site lies outside of the village of Breachwood Green which is identified as a Category A settlement in the NHDC Submission Local Plan.

2.4 National Planning Practice Guidance

Provides a range of guidance on planning matters including flood risk, viability, design and planning obligations.

2.5 Consultation Draft National Planning Policy Framework (March 2018)

Relevant throughout but particularly Section 13 regarding Green Belt

2.6 Circular 01/2010: Control of Development in Airport Public Safety Zones

3.0 Representations

3.1 Kings Walden Parish Council:

Support this application with the following suggested conditions:

- ☐ A suitably safe pedestrian footway be provided between the development and the recreation ground and school.
- ☐ A contribution towards the recreation ground play equipment is negotiated.

The Parish Council acknowledge that the proposal meets NHDC standards but is concerned at the limited parking and at the use of tandem parking spaces which rarely provide the calculated amount of parking and cause additional vehicle movements when one vehicle is trapped by another.

3.2 Hertfordshire Highways:

Does not wish to restrict the grant of permission subject to conditions, highway informatives and the applicant entering into a Section 278 Agreement to cover the safety requirements as part of the application such as the construction of the new access and the widening works opposite the site access.

3.3 NHDC Waste Services Manager:

Recommends the imposition of a condition seeking further details of the circulation route for refuse collection vehicles. Provides advice on various aspects of waste and recycling collection standards and procedures for collection.

3.4 Lead Local Flood Authority :

Raised an initial objection (31st January 2018) based on the lack of information relating to surface water management. Further comments received 26th March 2018 advising that the submitted Drainage Strategy submitted by Matrix Transport and Infrastructure Consultants does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

3.5 Hertfordshire County Council (Development Services):

Request financial contributions towards the following services:

- 1) Primary education - Expansion of Breachwood Green JMI School - £26,340
- 2) Secondary education – towards either the provision of the new secondary school at the East of Luton development or a further 1 FE expansion at The Priory School, Hitchin, depending on the timing and phasing of development - £25,488
- 3) Youth services – towards the expansion and provision of storage equipment to facilitate and deliver a programme of outreach sessions in NH villages, including Breachwood Green at Bancroft / Nightingale House - £508.00

- 3.6 **Hertfordshire Ecology:**
Recommends a condition requiring the submission of a Biodiversity Management Plan to be submitted and approved by the Local Planning Authority. Recommends an Informative concerning protection of roosting bats.
- 3.7 **NHDC Environmental Health (Contamination)**
Advises that the site is likely to be adversely affected by ground contamination arising from the previous commercial use and therefore recommends a Phase 1 Environmental Risk assessment condition and an Electric Vehicle Recharging Infrastructure condition.
- 3.8 **NHDC Environmental Health (Noise)**
Advises that the main concern is the impact on prospective occupiers of the dwellings from aircraft noise in terms of internal and external noise and the overall cumulative impact. Advises that the adverse impacts on residents is such that planning permission should not be granted.
- The EHO (noise) has reviewed the applicants consultants response to the officers first comments on the proposals and the submitted noise survey and maintains an objection on noise grounds and recommends that permission should be refused for the development.
- 3.9 **NHDC Housing Officer:**
Advises that based on the provision of 18 dwellings a 35% affordable housing provision would equate to 6 affordable dwellings. To meet housing need identified in the 2014 Rural Housing Needs Survey (for Kings Walden) and the 2016 Strategic Housing Market Assessment, the affordable homes should comprise 4 x 2 bedroom houses (3 for rent and one for shared ownership) and 2 x 3 bedroom houses (one each for rent/shared ownership).
- 3.10 **Hertfordshire County Council (Rights of Way unit)**
Any comments received will be reported at the meeting
- 3.11 **Landscape and Urban Design officer:**
Raises concern at the suburban form, appearance and density of the development. Concerned at the loss of existing hedgerow, the urbanising effect of the access road and parking areas. Considers that the proposal is an overdevelopment of the site and will fail to create a high quality development appropriate for this location.
- 3.12 **London Luton Airport Limited (Chief Operations Officer):**
Concern that the site or part of it may fall within the London Luton Airport Public Safety Zone (PSZ). Concern at exposure of new residents to noise levels that are not appropriate for the location of new dwellings. Questions the suitability of this site for new residential development having regard to the PSZ, noise levels, green belt policy and loss of an existing commercial use.
- 3.13 **London Luton Airport Operations Limited:**

The comments of LLAOL are as follows:

‘LLAOL supports the Council’s objectives for housing delivery within the district to help promote a vibrant and prosperous economy. However careful consideration is sought

with respect to new development proposals within the vicinity of the airport, specifically where proposed under a flight path. LLAOL seeks to safeguard the operational requirements of the airport and the residential amenity of any future residents.

LLAOL has witnessed significant growth in recent years. In terms of passenger growth this has increased from 9.7 million to 12.3 million in 2015. LLAOL is expected to welcome 18 million passengers per year by 2020.

Given that major residential development is being proposed directly under a flight path, LLAOL urge North Hertfordshire District Council to consider fully the impact that aircraft noise may have upon any new residential dwellings within the noise contour areas.

LLAOL acknowledges potential impacts, both positive and negative on settlements associated with its expansion plans. As you are aware, LLAOL is committed to being a good neighbour and endeavours at all times to minimise the impact of its operations on local communities. As demonstrated by the LLAOL Noise Action Plan 2013 – 2018, developed in conjunction with stakeholders including your Council, the Breachwood Green area lies within relatively close proximity to the airport and is predominantly affected by easterly departures and westerly arrivals from the airport.

In addition to aircraft noise originating from London Luton Airport, the area is also variably affected by road traffic noise, as well as overflights travelling to and from other UK airports. I attach the Noise Action Plan 2013 – 2018 which, at Appendix E, contains the Noise Contour Maps which show the 54 dB LAEQ 16 hour contour and the 57 dB L night contour.

Action 17 of the LLA Noise Action Plan 2013 – 2018 states that LLAOL will discourage residential development close to the airport boundary or areas affected by aircraft noise, in liaison with Local Authorities. LLAOL are concerned with the proposal to significantly increase the number of residential dwellings within the approach or departure paths that aircraft use.

As you are aware, Local Authorities are required to have regard to policies and advice issued by the Secretary of State.

The Governments Aviation Policy Framework 2013 states *“The Governments overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise”* The Framework goes on to state: *“We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance. However this does not mean that all people within this contour will experience significant adverse effects from aircraft noise. Nor does it mean that no-one outside of this contour will consider themselves annoyed by aircraft noise”*.

LLAOL is increasing in size to accommodate an operational capacity of 18 million passengers per year. LLAOL are committed to develop and deliver policies, procedures and measures which will help to minimise the effects of aircraft noise and encourage improvements from airlines and other operators. The airport expansion proposals include a comprehensive suite of environmental mitigation measures to manage potential adverse effects. However, an increase in residential dwellings in the areas under the flight paths would potentially increase the number of people who may be impacted upon by aircraft noise.

We have carefully considered the location of the proposed dwellings. If your Council are minded to approve the application, we request that a condition is attached to any permission, as follows:

'Prior to the commencement of development, a noise survey for the proposed residential properties shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey, which shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

Dwellings indoors in daytime: 35 dB LAeq 16 hours

Outdoor living area in day time: 55 dB LAeq 16 hours

Inside bedrooms at night time: 30 dB LAeq 8 hours (45 Db LA max)

Outside bedrooms at night time: 45 dB LAeq 8 hours (60 dB LA max)

Such detail and appropriate consequential noise mitigation measures shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of any building on the site and shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise.

3.14 London Luton Airport (Aerodrome Compliance Manager):

Comments will be reported at the meeting.

3.15 Site Notice/ Neighbour consultation: Letters received on behalf of the Trustees of the Baileys Farm Settlement and the Rt Hon R. Pleydell-Bouverie and family raising the following objections:

- Proposal is detrimental to the openness of the rural area
- Loss of employment opportunities
- There is no safe means of walking to and from the site resulting in all journeys being made by car and therefore the development is unsustainable
- Proposals contrary to Green Belt policy
- Will not be integrated with the village
- Design inappropriate for the rural area
- Scale and density of development inappropriate for the site. Will have a far greater visual impact than the current site

Letters of support received from the occupiers of The Bungalow, Baileys Close Farm and Baileys Farm commenting as follows:

- Previous car workshop / repair use resulted in high number of car movements and noise and disturbance to residents
- Current dilapidated buildings are an eyesore and attract anti-social behaviour
- Design and layout will be a huge improvement

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The application site is located on Pasture Lane approximately 0.3 km south of Breachwood Green village. The application site is irregular in shape, relatively flat and covers approximately 0.44 hectares. The site consists of seven industrial buildings previously used in connection with a car repair and workshop business. There are also several storage sheds and mobile structures including a disused caravan located towards the northern boundary of the site. The site includes a large area of hardsurfacing. The site is now unoccupied and several of the buildings are in poor condition. There is a large amount of car parts and associated garage workshop materials littered around the site. Towards the northern section of the site is a brick built tower structure with a flat roof. Vehicular access is via a gated entrance located on a bend in Pasture Lane. Public footpath No. 4 to Wandon End runs along the western boundary. Adjoining the eastern boundary is a single storey residential property including detached garage and garden known as 'The Bungalow' Baileys Close Farm, Pasture Lane. The whole of the site is located within the Green Belt. The site is located approximately 1.65 km to the west of the London Luton Airport boundary.

4.2 Proposal

- 4.2.1 The proposal seeks full planning permission for the redevelopment of the site to remove all existing buildings and hardsurfacing and for the construction of 18 dwellings and associated new access road, landscaping and ancillary works. The housing scheme will comprise of 4 x 1 bedroom flats, 6 x 2 bedroom houses and 8 x 3 bedroom houses. All of the buildings would be two storey with hipped pitched roofs. The development proposes 1 parking space each for the one bedroom flats and two parking spaces and / or garages each for the two and three bedroom houses. In all 35 parking spaces are provide to include two disabled spaces and one visitor parking space.

In terms of layout a new vehicular and pedestrian access is proposed off Pasture Lane extending into the central area of the site with a turning head and section of private drive to the south. The new houses will face onto the central access road in the form of four pairs of semi-detached houses and one terrace of three houses whilst a block of four flats will front the northern boundary with Pasture Lane. Residential gardens will generally adjoin the site boundaries. Dedicated parking spaces are located throughout the site. The proposal includes additional planting around and within the site and the part removal of the conifer tree line along the western boundary.

The proposed dwellings (included flat block) are all two storey in height with hipped pitched roofs. The buildings will have an eaves height of 5 metres and overall ridge heights of between 8.0 and 8.6 metres. The external materials will be predominantly red facing brick and dark brown roof tiles with soldier course and stone cill detailing.

The following documents are submitted with this application:

- Planning Statement
- Design and Access statement

- Transport Assessment
- Arboricultural report
- Drainage strategy (updated to March 2018)
- Landscape and Visual Appraisal
- Land Contamination Phase 1 desk top study
- Noise Impact Assessment (plus further response to NHDC EHO officer comments)

4.3 Key Issues

4.3.1 The key issues are considered to be as follows:

- The principle of the development including the effect on the openness and purposes of the Green Belt
- Design and appearance
- Living conditions of existing and prospective occupiers
- Access and parking considerations
- Other matters (Ecology, Flood risk, Contamination)
- Section 106 matters
- Planning balance and conclusion

4.3.2 The principle of the development

4.3.3 Policy 2 of the NHDC Local Plan (Saved Policies) states that:

In the Green Belt, as shown on the Proposals Map, the Council will aim to keep the uses of land open in character. Except for proposals within settlements which accord with Policy 3, or in very special circumstances, planning permission will only be granted for new buildings, extensions, and changes of use of buildings and of land which are appropriate in the Green Belt, and which would not result in significant visual impact.

4.3.4 The proposal is not sited within a settlement. It will result in significant visual impact by reason of the scale and amount of development proposed. Therefore the development is contrary to Saved Policy 2 of the local plan.

4.3.5 Policy CGB4 of the Submission Local Plan ('Existing Rural Buildings') states

Planning permission for the re-use, replacement or extension of buildings in the Green Belt or Rural Area beyond the Green Belt will be granted where:

- Any existing building to be converted does not require major extension or reconstruction;*
- The resultant building(s) do not have a materially greater impact on the openness, purposes or general policy aims of the Green Belt or Rural Area beyond the Green Belt than the original building(s); and*
- Any outbuilding(s) are sited as close as possible to the main building(s) and visually subordinate to them.*

Policy SP5 of the Submission Local Plan (Countryside and Green Belt) states that the Council : *Will only permit development proposals in the Green Belt where they would not result in inappropriate development;*

Due to the height, scale and density of the development it will have a materially greater impact on the openness of the Green Belt and is therefore considered to be

inappropriate contrary to the aims of both the above emerging local plan policies.

- 4.3.6 The National Planning Policy Framework states in paragraph 89 that the construction of new buildings in the Green Belt should be regarded as inappropriate subject to a number of specific exceptions. The sixth bullet point is relevant in this case as it refers to:

'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development'

- 4.3.7 The definition of 'Previously Developed Land' in Annexe 2 of the Framework states PDL as being:

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

- 4.3.8 There is little doubt that the majority of the existing buildings on the application site meet the definition of previously developed land. Certainly the block and rendered single storey buildings and brick tower meet the definition in my opinion and there is a large amount of hardsurfacing on the site. The conclusion of whether the proposal represents inappropriate development depends on an assessment of whether or not the proposal would have a greater impact on the openness of the green belt and the purposes of including land within the Green Belt.

- 4.3.9 The applicant has provided existing sections drawing and a schedule of existing and proposed building volumes as follows:

Schedule		
	Existing	Proposed
Total Area	955 sqm	930 sqm
Total Volume	3550 cubic metres	5580 cubic metres

- 4.3.10 The above schedule illustrates that there would be a slight reduction in footprint as a result of the development but a large increase in volume (36.3%). This is due to the provision of two storey housing across the site. In addition to the volumetric increase the section drawing shows that there are only two buildings of any significant height (the brick tower at 6.7m and building 5 close to the southern boundary at 6.04 metres to its ridge). The remainder of the buildings are all low level with ridge heights of no more than 3.7 metres) This contrasts with the proposed ridge height of between 8.0 metres and 8.6 metres across the 7 housing blocks.

- 4.3.11 The current site layout is that the site is relatively open in the central area (the main buildings being located in the northern and southernmost parts of the site. Compared with this the proposed layout shows an almost continuous built up form of development across the site from north to south and a wide and tall building (19.7 metres wide x 8.0 metres high) containing four flats across the site frontage onto Pasture Lane.
- 4.3.12 The resultant impact of the increase in height and spread of buildings across the site together with the segregation of the site into individual gardens with resultant boundary fencing would reduce openness of the site and the scale of the development would be particularly obvious from both Pasture Lane and public footpath No. 4 which runs immediately along the western boundary.
- 4.3.13 The application site is clearly separated from Breachwood Green village and in open countryside being surrounded by open fields in agricultural use. The proposed development would introduce a modern two storey housing development significantly at odds with this open and agricultural character, increasing urban sprawl and encroachment into the countryside. This would be contrary to the fundamental aims of the Green Belt as set out in paragraph 79 of the NPPF and the third purpose in paragraph 80.
- 4.3.14 It is concluded therefore that the proposal would reduce openness and be contrary to one of the purposes of the Green Belt. The proposal is harmful to the Green Belt (paragraph 87) and does not meet the criteria set out in the sixth bullet point of paragraph 89 in that it would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. The development would also be contrary to Policy 2 of the Saved local Plan and Policies SP5 and CBG4 of the emerging local plan.
- 4.3.15 **Design and Appearance**
- 4.3.16 Any re-development on the application site, if appropriate in planning policy and environmental terms, should respond to the agricultural landscape and the rural character of the countryside.
- 4.3.17 Paragraph 58 of the Framework requires decision makers to ensure that new developments:

- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development*
- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit*
- *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks*
- *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation*
- *create safe and accessible environments where crime and disorder, and*

the fear of crime, do not undermine quality of life or community cohesion

- *are visually attractive as a result of good architecture and appropriate landscaping*

In addition paragraph 64 of the Framework is also relevant to the consideration of this application in that it advises:

- *Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*

4.3.18 Unfortunately the proposed development is completely out of place in this open countryside and agricultural environment. Whilst acknowledging the presence of a bungalow to the south of the site which is reflective of the low density, occasional isolated dwellings / farmsteads in the locality the proposed development introduces a modern housing estate of 40 dwellings per hectare, a density that far exceeds what would be considered appropriate for this location even taking into account the existing footprint. The layout proposes the removal of existing hedgerow along the Pasture Lane frontage and provision of low level shrub planting together with a wide, heavily engineered bellmouth access road - features that would be alien to the character of this rural lane. All of the houses would be two storey with pitched roofs of between 8.0 metres and 8.6 metres in overall height. It is considered that this scale of development would be prominent and intrusive particularly for users of the public footpath and Pasture Lane and also prominent in the wider landscape. It is accepted that there is a brick built tower on the site however this has a very small footprint and lower height than the proposed development. The present open views across the site and the general rural tranquillity enjoyed by walkers, cyclists and existing residents would be substantially harmed by this proposed housing estate. Two storey flatted development with its associated car parking area at the rear would be particularly inappropriate in terms of scale and context with the character of the area.

4.3.19 The development proposes a uniform development of red brick two storey dwellings. The overtly domestic design and scale of these buildings would not be appropriate in this rural, agricultural landscape and would fail to respond to local character.

4.3.20 It is absolutely accepted that the industrial nature of the existing site and its untidy and semi-derelict appearance detracts from the character of the area. This does not provide any excuse for the redevelopment of the site with an equally inappropriate form of development especially one that is '*of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*' (paragraph 64 – NPPF).

4.3.21 In terms of landscape effects it is considered that the height, scale and quantum of development would be harmful to the open and rural character of the landscape. Whilst it is appreciated that the surrounding landscape is of no special quality or value the application site is passed by walkers, cyclists, horses riders and motorists and the urbanising effect and encroachment into the countryside would be clearly apparent with the proposed development.

4.3.22 By reason of the number of dwellings proposed, their excessive height, overtly domestic appearance and the generally urban form, the development would have a

harmful effect on the character and appearance of the area. Furthermore the proposed development would have significant adverse landscape and visual effects due to its separation from the village to the north and its prominent location adjacent to a public footpath and rural lane. As such the proposals would not comply with Policy 57 of the adopted local plan or Submission Local Plan Policies SP1, SP9 and D1. The proposals would not enhance the quality of the area and would constitute poor design not complying with paragraphs 58 and 64 of the National Planning Policy Framework.

4.3.23 Living conditions

4.3.24 There are two main issues that may affect the living conditions of proposed residents on this site – airport safety and noise.

Airport safety

The site is located under the flight path of London Luton Airport and within the airport Public Safety Zone (see **Appendix A**). Circular 01/2010: Control of Development in Airport Public Safety Zones (PSZ's) provides guidance to Local Planning Authorities on the siting of developments within PSZ's. The guidance states at paragraph 10:

'There should be a general presumption against new or replacement development, or changes of use of existing buildings, within Public Safety Zones. In particular, no new or replacement dwellinghouses, mobile homes, caravans or other residential homes should be permitted. Nor should new or replacement non-residential development be permitted'

The proposed development does not comply with any of the permissible forms of development within PSZ's set out in the Circular.

Noise

The site is located within the current Noise Contours for London Luton Airport as set out in the airports' Noise Action Plan 2013 – 2018. In fact, the application site is within one of the higher noise categories (dB – sound pressure level) centred around the runway take-off and landing zones (see **Appendix B**). The NAP states at Action 17 in the document:

'Discourage residential development close to the airport boundary or areas affected by aircraft noise, in liaison with Local Authorities.

The advice received from London Luton Airport Operations Ltd (LLAOL) as set out above makes it clear that they have a concern with the location of the development :

'LLAOL are concerned with the proposal to significantly increase the number of residential dwellings within the approach or departure paths that aircraft use'.

In addition to the above, the Councils Environmental Health officer has considered the additional arguments supplied by the applicants noise consultants and has responded as follows:

Internal noise levels

Accepts that there are certain measures that could be adopted to provide mechanical ventilation and control internal noise levels. However the noise contours for the site will change over the next 10 years as LLA expands. The proposed glazing and ventilation specifications may not match up with increased noise levels in the future. For this

reason I still consider that planning permission should be refused due to the elevated noise levels inside.

External amenity area noise

The consultant has quoted BS 8233 to support the development but it is my understanding that the development site is not on the list of prioritised development sites in the emerging Local Plan and in fact lies within green belt land. As a result, I don't feel there is a strong enough argument that the site is desirable for development such that a compromise of this magnitude over elevated noise levels should be allowed. To this end, my objection still stands.

4.3.25 Luton Luton Airport Ltd announced in December 2017 a 'Vision for Sustainable Growth 2020 – 2050'. The Vision envisages increasing the capacity of the airport to between 36 – 38 million passengers per annum. Currently the airport is the fifth largest in the UK and the fourth largest in the London region behind Heathrow, Gatwick and Stansted. This projected growth will undoubtedly result in greater environmental impact including aircraft movements and noise and associated impacts such as road traffic and pollution. The application site lies within the airport public safety zone and noise contour area within which both London Luton Airport and the Government state that development should be restricted. Concern has been expressed by the Airports Operations officer and the Council's Environmental Health officer has recommended refusal on the grounds that the proposed residential development would be subject to unacceptable aircraft noise.

4.3.26 Given the above it is considered that the proposed development would fail to achieve an adequately high standard of amenity for future occupiers of the proposed development failing to meet the social and environmental roles of sustainable development required by the NPPF.

4.3.27 In terms of living condition of existing residents the occupiers of 'The Bungalow' are unlikely to be significantly impacted by the proposed residential development given the separation distances landscaping shown on the site layout plan.

4.3.28 Access and parking considerations

4.3.29 The proposed development will be served by a new access off Pasture Lane. The access road would be 5 metres in width with footpaths either side of the vehicular entrance. The Highway Authority has confirmed that the access meets visibility requirements and that traffic generation from the new development will not have a significant impact on the local highway network. The Highway Authority is satisfied that that in technical terms the development is acceptable.

4.3.30 The development provides 35 parking spaces including one visitor space and two disabled spaces. However, this does not meet the minimum standards required by the Council's residential parking standards as set out in Appendix 4 of the Submission Plan or the currently adopted Supplementary Planning Guidance 'Vehicle Parking Standards at New Development (2011)'. The scheme proposes 25 surface spaces (excluding the disabled and visitor space) and the standards require 0.25 visitor element for each space. There are 7 garages in the scheme and this requires 0.75 visitor element for each garage. Discounting the proposed visitor and disabled spaces shown there is a deficit of 8 spaces. Furthermore the proposed garages do not meet the minimum dimensions required (7.0 metres x 3.0 metres measured internally) and therefore cannot be counted as parking spaces meaning an overall deficit of 15 spaces.

4.3.31 There is a limited bus service from the village to Hitchin and Luton (Bus 88) and only a limited range of services in the village. There is no direct footpath from the site to the village. As such the proposed development is likely to be car dependent and there are no exceptional circumstances here to allow a reduction on minimum parking standards. The implications of a non-compliant parking standards scheme is the likelihood of the site becoming dominated by street parking and encroachment of parked vehicles onto the adjacent highway to the detriment of the visual amenities of the locality.

4.3.32 **Other matters**

4.3.33 Ecology

Given the previous commercially active condition of the site and the amount of hardsurfacing and buildings it is likely to be of low ecological value. The development provides an opportunity for net gains in biodiversity and could incorporate enhancement measures. As such there are no specific objections on ecological grounds.

4.3.34 Flood Risk

The Lead Local Flood Authority has assessed the revised Matrix Transport and Infrastructure Consultants Limited Drainage Strategy dated March 2018 and still considers it unsuitable to properly address flood risks associated with the development. Accordingly, at the time of writing this report, the objection of the LLFA on flood risk grounds still stands.

4.3.35 Contamination

A phase I Environmental Risk Assessment is required by the NHDC Environmental Health officer. This can be secured by planning condition should permission be granted for the development.

4.3.36 **Section 106 matters**

4.3.37 The NPPF advises that planning obligations should only be used where it is not possible to address impacts through a planning condition and that they should be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

4.3.38 In this case the development is for 18 dwellings which is above the threshold at which the Government considers planning obligations can be sought. A Section 106 Agreement is considered necessary to address a number of infrastructure related matters involving financial contributions and the provision of affordable housing. The submitted Planning Statement refers (p22) to the importance of planning obligations however considers that a contribution should only be sought in respect of local community / leisure facilities through agreement with the Parish Council. No specific leisure or community facilities have been identified and no specific contributions proposed.

4.3.39 Kings Walden Parish Council have asked for a contribution towards equipment in the nearby recreation ground. I consider that this facility is likely to be used by residents of the new development and is a reasonable request. A footpath link from the site to the primary school (to be provided in Pasture Lane) is desirable in terms of highway and pedestrian safety and to encourage walking from the site into the village. However

such a link would depend on feasibility, the land being available and the agreement of the highway authority. In both cases no financial costs either on the playground equipment or footpath link have been submitted. In addition to the above the following matters would also need to be secured by a Section 106 Agreement:

Herts County Council

- Education contributions – Primary £26,340, Secondary £25,488
- Youth services £508.00
- Fire Hydrants

North Hertfordshire District Council

- Affordable Housing (6 dwellings provided on site for rent/ shared ownership)
- Waste and recycling collection (£1,020)

4.3.40 The above financial contributions are based on the County and District Council's standard charges and specific projects and services. They address, in proportion to the scale of the development, the limited local capacity for primary and secondary education, to mitigate the impact on local recreational facilities and to assist in meeting affordable housing need in the parish. The contributions also provide for improvements to the existing pedestrian routes and would encourage the use of sustainable transport modes.

The planning obligations provisions are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably relate to it in scale and kind. The tests in paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 are therefore met.

4.3.41 Unfortunately the planning application does not include a draft Section 106 agreement or 'Heads of Terms' document to form the basis of such an agreement. No affordable housing is proposed (the application form at Question 17 states all housing will be market housing). In view of the lack of a draft Section 106 Agreement or significant progress towards such an agreement, the development fails to address the impact of the development on local infrastructure and is therefore unsustainable.

4.3.42 Planning balance and conclusion

The proposal is contrary to policies in the current saved local plan and the emerging local plan which is at an advanced stage. The current local plan is however out of date and it does not address the housing needs of the district. The emerging plan is yet to be adopted and therefore, although at an advanced stage, significant weight cannot yet be attributed to it. As such and in line with paragraph 14 of the NPPF the 'tilted balance' in favour of granting planning permission should apply unless specific policies in the NPPF and the local plan indicate development should be restricted. Footnote 9 of paragraph 14 includes policies relating Green Belt within which this site is located.

4.3.43 For the reasons set out above the proposals represent inappropriate development in the Green Belt, because even though the development is sited on previously developed land it would adversely affect openness and be contrary to the purposes of the Green Belt and therefore by definition be harmful to the Green Belt.

- 4.3.44 No very special circumstances have been advanced by the applicants to justify inappropriate development in the Green Belt – primarily due to the fact that the applicants consider that the development is on previously developed land that would not have a greater impact on the openness of the Green Belt. The submitted volumetric analysis and comparison of the development to the height of existing buildings on the site clearly demonstrates that the development does not meet the sixth bullet point of paragraph 89 of the NPPF and is therefore inappropriate. I attribute significant weight to the harm to the Green Belt in this regard.
- 4.3.45 The applicants state that the development will contribute to local housing supply and that it is sustainable in all respects. Whether North Herts District Council has a five year supply of housing land or not National Planning Policy Guidance states at Paragraph 34 that ‘unmet housing need is unlikely to outweigh the harm to the green belt and other harm to constitute ‘very special circumstances’ justifying inappropriate development on a site within the green belt’.
- 4.3.46 The applicants say that the development is in a sustainable residential location. However the site is outside of the village boundary and sited a 0.3 km walk from the village. There is no public footpath to the village from the site and no street lights. The village has only a limited amount of services – it has no shop, no doctors surgery, very limited employment opportunities and a limited bus service. The majority of journeys to and from the site would be by private car and would therefore be unsustainable in locational terms.
- 4.3.47 The applicants noise consultants state that ‘*the site is suitable for the development in terms of noise levels*’ However the submitted noise impact assessment confirms that measured noise levels at the site are between 66dB and 85 dB, significantly above World Health Authority guidelines for residential development. The Council’s Environmental Health officer considers that even with high specification glazing and closed ventilation systems (i.e. all windows permanently closed) the living conditions would be unacceptable particularly as the airport expands in the future and noise levels increase.
- 4.3.48 The site is within the airport Public Safety Zone within which Circular 01/2010 advises that no residential homes should be permitted. I consider significant weight should be attached to the objection raised to this aspect of the scheme.
- 4.3.49 The Lead Local Flood Authority maintain an objection on flood risk grounds although it is accepted that this matter is capable of resolution subject to additional information being provided.
- 4.3.50 The proposed development is of an urban density and form detracting from the rural character of the lane and would overall be harmful to the character and appearance of the locality. I consider this adverse impact attracts medium weight.
- 4.3.51 The NPPF advises that inappropriate development should not be approved except in very special circumstances. In this case the benefits of delivering new homes are outweighed by the harm to the Green Belt and the other identified unacceptable aspects of the development in terms of the harm to the character and appearance of

the area noise impact, public safety, flood risk and the generally unsustainable location. In particular the development would fail to meet the social and environmental dimensions that represent sustainable development. I conclude that the harmful effects of the development are far outweighed by the limited benefit of delivering new homes and therefore that planning permission should be refused.

5.0 Legal Implications

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

6.0 Recommendation

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

1. The application site is within the Green Belt as identified in the North Hertfordshire District Local Plan No. 2 with Alterations (Saved Policies, 2007) wherein permission will only be given for the erection of new buildings for agricultural purposes, other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. The proposed development is an inappropriate form of development in the Green Belt and therefore is unacceptable in terms of Policy 2 of the North Hertfordshire Local Plan No. 2 with Alterations (Saved Policies, 2007) and the guidance in Section 9 of the National Planning Policy Framework. The proposed development cannot be justified in terms of the purposes specified and no very special circumstances have been demonstrated which may justify an exception to be made for such development in the Green Belt.
2. By reason of the number of dwellings proposed, their excessive height, overtly domestic appearance and the generally urban form, the development would have a harmful effect on the character and appearance of the area. Furthermore the proposed development would have significant adverse landscape and visual effects due to its separation from the village to the north and its prominent location adjacent to a public footpath and rural lane. As such the proposals would not comply with Policy 57 of the adopted local plan or Submission Local Plan Policies SP1, SP9 and D1. The proposals would not enhance the quality of the area and would constitute poor design not complying with paragraphs 58 and 64 of the National Planning Policy Framework.
3. The proposed development would be located within the London Luton Airport Public Safety Zone within which development should be restricted on safety grounds. The development would be contrary to the guidance contained within Circular 01/2010: Control of Development in Airport Public Safety Zones.
4. The proposed development would be located within the London Luton Airport Noise Contour area which is subject to high noise levels from aircraft movement. As such, the development would be likely to result in a poor standard of residential amenity to the occupiers of the proposed dwellings contrary to the provisions of Policy 57 of the North Hertfordshire District Local Plan and Sections 6 and 7 of the National Planning Policy Framework.

5. Inadequate information has been submitted to demonstrate that the development will not result in flood risk contrary to Section 10 of the National Planning Policy Framework.
6. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing the provision of affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance - toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF)

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through early engagement with the applicant at the pre-application stage. This positive advice has however been ignored and therefore the Council remains of the view that the proposal is unacceptable. Since the Council attempted to find solutions, the requirements of the Framework (paragraphs 186 and 187) have been met and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.