

<u>Location:</u>	<b>Land East Of Bedford Road Hitchin Hertfordshire</b>
<u>Applicant:</u>	<b>Mr Will Naalchigar</b>
<u>Proposal:</u>	<b>Residential development comprising of 53 dwellings together with the creation of vehicular access off Bedford Road and associated parking and landscaping.</b>  <b>Informative ??? The scheme proposes 53 new residential units (including 40% affordable homes), comprising the following mix: 14x1-bed, 19x2-bed, 11x3-bed and 9x4-bed</b>
<u>Ref. No:</u>	22/03040/FP
<u>Officer:</u>	<b>Paul Chaston</b>

**Date of expiry of statutory period**

Thursday 23 February 2023

**Extension of statutory period**

Friday 28 July 2023

**Reason for Delay**

Ongoing discussions and waiting to receive further information.

**Reason for Referral to Committee**

The site area for this application exceeds 0.5 hectares and proposes residential development. Under the Council's scheme of delegation, the application must be determined by the Council's Planning Control Committee.

**1.0 Site History**

- 1.1 21/00053/PRE – Pre-application submission for the redevelopment of the site for approximately 40 new homes.
- 1.2 22/00919/PRE – Pre-application submission for the redevelopment of the site for 55 new homes (variation of pre-application advice 21/00053/PRE).

## 2.0 **Policies**

### 2.1 **North Hertfordshire District Council Local Plan 2011-2031**

Adopted 8<sup>th</sup> November 2022.

Policy SP1: Sustainable Development in North Hertfordshire  
Policy SP2: Settlement Hierarchy  
Policy SP5: Countryside and Green Belt  
Policy SP6: Sustainable transport  
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, landscape and biodiversity  
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 D3: Protecting living conditions  
Policy D4: Air quality  
Policy NE1: Strategic green infrastructure  
Policy NE2: Landscape  
Policy NE4: Biodiversity and geological sites  
Policy NE6: New and improved open space  
Policy NE7: Reducing flood risk  
Policy NE8: Sustainable drainage systems  
Policy NE9: Water quality and environment  
Policy NE10: Water conservation and wastewater infrastructure  
Policy NE11: Contaminated land  
Policy HE4: Archaeology

### 2.2 **National Planning Policy Framework**

Section 2: Achieving sustainable development  
Section 5: Delivering a sufficient supply of homes  
Section 6: Building a strong competitive economy  
Section 8: Promoting healthy and safe communities  
Section 9: Promoting sustainable transport  
Section 11: Making effective use of land  
Section 12: Achieving well-designed places  
Section 13: Protecting Green Belt land  
Section 14: Meeting the challenge of climate change, flooding and coastal change  
Section 15: Conserving and enhancing the natural environment

### 2.3 **Supplementary Planning Documents**

Design SPD (2011)  
Planning Obligations SPD (2023)  
Vehicle Parking Provision at New Development SPD (2011)  
North Hertfordshire and Stevenage Landscape Character Assessment

## **Hertfordshire County Council**

Local Transport Plan (LTP4 – adopted May 2018)

Hertfordshire Waste Core Strategy and Development Management Policies  
Development Plan Document (2012)

### **2.4 National Planning Practice Guidance**

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

### **3.0 Representations**

#### **Consultees**

- 3.1 **NHDC Environmental Health (Contaminated Land)** – No objection regarding contamination, subject to condition requiring a Phase I written preliminary environmental risk assessment report to be undertaken and any subsequent phases and remediation, if necessary.
- 3.2 **NHDC Environmental Health (Noise)** – No objection subject to three conditions including a condition requiring full details of a construction phasing and environmental management programme for the development to be submitted to the LPA prior to the commencement of works.
- 3.3 **NHDC Greenspace Manager** – No objection, subject to North Herts Council adopting open space and parks. Recommendation for 1x LEAP, with financial contributions towards the upkeep of green spaces.
- 3.4 **NHDC Housing Supply Officer** – Objection based on an unsuitable affordable housing mix. The applicant subsequently put forward a revised mix which was confirmed acceptable by the Housing Supply Officer. However, updated plan drawings have not been submitted to reflect the revised affordable housing mix. Therefore, a holding objection remains.
- 3.5 **HCC Highways** – No objection subject to six conditions and s106 obligations.
- 3.6 **HCC Growth and Infrastructure** – No objection subject to financial contributions via a s106 legal agreement towards Primary Education, Secondary Education, SEND Services (Special Educational Needs and Disabilities), Library Services, Youth Services and Waste Services.
- 3.7 **HCC Lead Local Flood Authority (LLFA)** – Objection based on insufficient level of information provided within the Flood Risk Assessment and Drainage Strategy to ensure the development would not increase the flood risk to the site and that it can be sustainably drained.
- 3.8 **Herts and Middlesex Wildlife Trust** – Objection based upon omission of full biodiversity metric, significant net loss identified, and no biodiversity offset identified. Biodiversity net gain not demonstrated as required by the NPPF and North Herts Local Plan.

3.9 **Hertfordshire Ecology** – Holding objection. Further information and/or amendments required before application can be determined as follows:

- Further information on Biodiversity Net Gain (BNG) is required; and
- The key for the Boundary Treatment Plan needs revising to include the protected species structures/feature key.

### 3.10 **Neighbour and Local Resident Representations**

The application has been advertised via neighbour notification letters, the display of site notices and a press notice. At the time of finalising this report, a total of 12 comments have been received including 8 objections and 4 neutral comments.

3.11 The objections and the issues raised are summarised as follows:

- Contrary to policy
- Site in the Green Belt
- Site is outside the settlement boundary of Hitchin
- Increased levels of traffic on Bedford Road
- Development will add to congestion issues
- Development will result in loss of light to existing neighbouring properties
- Concerns over highway safety on Bedford Road and new vehicular site access
- Increased demand for on-street parking
- Loss of green space and habitats for wildlife and birds
- Noise and disturbance associated with construction phase

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

4.1.1 The application site is located to the north of Hitchin and to the south of Ickleford. The site is situated in the Green Belt and outside the settlement boundary of Hitchin. The site covers an area of approximately 1.71 hectares. There are residential properties to the north and west. The Priory School and its associated car parks and playing fields are situated to the south and east of the site.

4.1.2 The site is undeveloped land, open in nature and consists of mowed grassland with established hedgerow boundaries. There is a well-established mature tree line with runs adjacent to the eastern boundary of the site. There are also several smaller trees and bushes situated at various points along the northern and western perimeter of the site.

4.1.3 Vehicle access to the site is currently gained via a gated access from Bedford Road in the south-west corner.

### 4.2 **Proposal**

4.2.1 The application seeks full planning permission for the erection of 53 residential units (including 40% affordable homes) consisting of dwellings and flats up to three storeys in height together with associated access, parking and landscaping.

4.2.2 The proposed housing mix is as follows:

- 14x 1-bed units (14x flats)
- 19x 2-bed units (4x flats and 15x dwellings)
- 11x 3-bed units (11x dwellings) and
- 9x 4-bed units (4x dwellings).

4.2.3 The application is supported by the following documents:

- Planning Application Drawings
- Design and Access Statement
- Statement of Community Involvement
- Landscape Plans
- Preliminary Ecological Appraisal
- Biodiversity Net Gain Plan
- Transport Assessment
- Energy, Overheating and Sustainability Strategy
- Environmental Noise Assessment
- Flood Risk Assessment and Drainage Strategy
- Air Quality Assessment
- Archaeological Desk Based Assessment
- RIBA Stage 2 Mechanical, Electrical and Public Health Report
- Reptile Survey

#### 4.3 **Key Issues**

4.3.1 The key issues are:

- Principle of the proposed development and effect upon the Green Belt
- Very special circumstances
- Any other harm
- Loss of agricultural land
- Impact upon Heritage Assets and Archaeology
- Impact upon the character and appearance of the area
- Impact upon neighbouring properties
- Standard of proposed accommodation for future occupiers
- Highway access and car parking
- Flooding and drainage
- Ecology and Biodiversity
- S106 and mitigations
- Planning Benefits
- Planning Balance and very special circumstances

#### **Principle of the proposed development and effect upon the Green Belt**

##### Policy background and the principle of development in the Green Belt

4.3.2 The site is in the open countryside within the Green Belt and therefore Local Plan Policy SP5 applies which states:

*“We support the principles of the Green Belt and recognise the intrinsic value of the countryside. Green Belt and Rural Areas Beyond the Green Belt are shown on the Policies Map.”*

4.3.3 Part c) of Local Plan Policy SP5 is also relevant and states:

*“We only permit development proposals in the Green Belt where they would not result in inappropriate development or where very special circumstances have been demonstrated.”*

4.3.4 Policy SP5 is consistent with the approach to Green Belt in National Policy as set out at Section 13 of the National Planning Policy Framework (NPPF). Paragraph 137 of the NPPF confirms the Government attaches great importance to Green Belts, where the fundamental aim of policy is to prevent urban sprawl by keeping land permanently open.

4.3.5 The Green Belt serves five purposes. These are set out at paragraph 138 of the NPPF and are:

- (a) To check the unrestricted sprawl of large built-up areas;
- (b) To prevent neighbouring towns merging into one another;
- (c) To assist in safeguarding the countryside from encroachment;
- (d) To preserve the setting and special character of historic towns; and
- (e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

#### Whether the development would be inappropriate in the Green Belt

4.3.6 The starting point for the consideration of this application is the development plan. Policy SP5 of the North Herts Local Plan is consistent with national policies on the Green Belt set out in the NPPF.

4.3.7 Paragraph 147 of the NPPF confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal does not fall within any of the exceptions to this approach as set out at paragraphs 149 and 150 of the NPPF. The applicant accepts that the proposed development is inappropriate in the Green Belt but considers that there are material considerations in this case that constitute very special circumstances. These will be considered in detail later in this report.

4.3.8 Paragraph 148 of the NPPF stipulates that substantial weight must be given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations.

4.3.9 Before considering whether very special circumstances exist, the effect of the proposed development on openness and purposes of the Green Belt are considered.

#### Impact upon openness and purposes of including land within the Green Belt

4.3.10 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPG confirms there is both a spatial and visual dimension to openness.

4.3.11 The applicant addresses the impact of the proposed development upon the openness of the Green Belt in the submitted Planning Statement. The applicant acknowledges that this is currently an open site that would be developed. The applicant asserts that the harm to the Green Belt from this change is limited by virtue of the site not having a strong Green Belt function, having strong boundaries and providing a logical boundary

to Hitchin. The applicant considers that harm to the openness of the Green Belt is extremely limited given that the scheme has been designed to provide low rise housing and significant landscaped areas which will limit the views of the site and the perceived openness of the Green Belt.

- 4.3.12 As noted in paragraph 137 of the NPPF, the fundamental aim of the Green Belt and Green Belt policy is keeping the Green Belt permanently open. The application site currently comprises an open rectangular-shaped field which features hedgerows, trees and other vegetation primarily along the site boundaries. The land is almost entirely devoid of any form of built structures, other than an entrance gate in the south-west corner of the site.
- 4.3.13 Whilst the proposal would incorporate an open landscaped area at the northern end of the site, the proposed development of 53 residential units, including dwellings and flats, would constitute a significant body of new development within the Green Belt which in turn would materially change the openness of the site in both visual and spatial terms. Therefore, in a physical sense, the proposal would inevitably result in a very significant reduction in openness, therefore conflicting with the primary aim of paragraph 137 of the NPPF. This harm attracts substantial weight when considering whether there are very special circumstances to justify proposed development.
- 4.3.14 In terms of the application site itself, beyond the western boundary of the site is existing built form, with residential properties to the west of Bedford Road. Along the eastern and southern boundaries of the application site are well-established trees and vegetation which makes the site feel more enclosed. Notwithstanding this, beyond the eastern and southern boundaries of the site are the playing fields and school grounds associated with the adjacent Priory School which are relatively large open areas like the application site.
- 4.3.15 In light of the above observations, the impact of the proposals on the openness of the Green Belt across the site is substantial. This harm attracts substantial weight.
- 4.3.16 As indicated earlier, the NPPF sets out five Green Belt purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns from merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns and (e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
- 4.3.17 As part of the evidence base for the now adopted North Hertfordshire Local Plan, the North Hertfordshire Green Belt Review (Update 2018) divides the Green Belt into areas for assessment of the contribution that respective parcels of land make to the openness and purposes of the Green Belt. The application site is located within parcel 13 (Ickleford). This parcel of land is identified as overall making a moderate contribution to Green Belt purposes.
- 4.3.18 A more refined review is undertaken at Section 3 of the NHGBR where the parcels of land are divided into sub-parcels, which were assessed in the same way as the original larger parcel. The application site falls within sub-parcel 13c.
- 4.3.19 Parcel 13c is an area of land that lies between the northern edge of Hitchin and southern edge of Ickleford bounded by the A600 Bedford Road and east coast railway line. The land is assessed as making a moderate contribution in preventing the outward expansion of both Hitchin and Ickleford into the gap between them, though this land is fragmented and has limited relationship with wider countryside. Overall, the land

makes a moderate contribution towards safeguarding the countryside from encroachment. This sub-parcel plays a significant role in preventing the outward spread of Hitchin and maintaining separation from Ickleford. Overall, the sub-parcel is assessed as making a significant contribution to Green Belt purposes.

- 4.3.20 The applicant has assessed the proposed development for its potential harm to Green Belt purposes, considering the same criteria used for the assessment of development sites within the Green Belt Review and considers that the application site has a low contribution to restricting sprawl and the site is enclosed on all but one side by the same built-up area.
- 4.3.21 Regarding preventing the merging of neighbouring towns, the applicant asserts that there will be no lesser gap between Ickleford and Hitchin through the development of the application site.
- 4.3.22 In terms of safeguarding the countryside from encroachment, the applicant accepts that the site sits outside the settlement boundary; however, they assert that the site is surrounded on three sides by the urban area of Hitchin and question the contribution of the site to the open countryside.
- 4.3.23 Regarding preserving the setting and special character of historic towns the applicant considers that the proposed development would cause no harm to this purpose given the physical separation of the site from historic towns.
- 4.3.24 However, your officers consider that the application site makes a contribution to the purposes of the Green Belt as set out in the table below, the reasoning for this assessment is set out after this table.

Table 1 – Purposes of the Green Belt

<b>Purpose</b>	<b>Effect</b>	<b>Degree of Harm</b>
(a) To check the unrestricted sprawl of large built-up areas	The site adjoins a large existing built-up area on the northern edge of Hitchin	Significant
(b) To prevent neighbouring towns merging into one another	Proposed development would significantly contribute towards the merging of Hitchin and Ickleford into one another	Significant
(c) To assist in safeguarding the countryside from encroachment	The site is undeveloped, and the proposal would have an urbanising effect	Moderate
(d) To preserve the setting and special character of historic towns	Parcel 13c makes a limited contribution towards the setting of historic towns. The application site forms part of this parcel and there is limited historical interest in this northernmost part of Hitchin	Negligible
(e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land	The site is outside the settlement boundary of Hitchin and the site is not a brownfield site	Limited



- 4.3.25 The site lies within a parcel of land that has been identified by the Green Belt review as *“playing a significant role in preventing the outward spread of Hitchin and maintaining separation from Ickleford”*. In terms of Green Belt purpose (a), the application site does adjoin a large existing built-up area in the northern edge of Hitchin. It is therefore considered that the site makes a significant contribution to the purposes of checking the unrestricted sprawl of large built-up areas.
- 4.3.26 As previously mentioned, the site lies within a parcel of land (parcel 13c) that has been identified by the Green Belt Review as playing a significant role in preventing the outward spread of Hitchin and maintaining separation from Ickleford. In the context of the application site, there are residential dwellings to the west of the site and The Priory School to the south, which are all located within the settlement boundary of Hitchin. To the north of the site is the village of Ickleford with the nearest part of the Ickleford settlement boundary being around 140m away from the application site. In between the application site and the Ickleford settlement boundary (directly to the north of the site) is a cluster of three dwellings. Given that these dwellings are located adjacent to the Ickleford settlement boundary and on the north side of the River Oughton, it is considered that these dwellings are more closely related to Ickleford rather than Hitchin. However, this cluster of three dwellings is also sited on land adjacent to the northern boundary of the application site, with the nearest dwelling being around 40m away from the application site boundary.
- 4.3.27 When considering the areas surrounding the application site, it is considered that the application site currently serves as the last remaining large open space in between Hitchin and Ickleford that serves to break up the built form in this part of Bedford Road; this would be lost as a consequence of the proposed development and would significantly contribute towards the physical erosion of space between Hitchin and Ickleford, which in turn would significantly contribute towards the perceived merging of the two settlements into one another. It is noted that Green Belt purpose (b) relates to the merging of ‘neighbouring towns’. Notwithstanding this, Ickleford albeit a large village, has its own settlement boundary, therefore, the same Green Belt principles should apply.
- 4.3.28 In terms of Green Belt purpose (c), the proposed buildings and associated infrastructure would be located on a site which is currently an undeveloped, open, green field outside the settlement boundary of Hitchin. Although the proposed development would have an urbanising effect, there are clearly urban features in the immediate area, such as the existing dwellings on Bedford Road to the west of the site and The Priory School to the south of the site. Nevertheless, the proposed development is inappropriate within the Green Belt and there would be moderate harm to the purpose of safeguarding the countryside from encroachment.
- 4.3.29 The application site makes little contribution to the setting of nearby historic towns due to the physical distance between the site and the historical core of Hitchin. Furthermore, there are no listed buildings or other designated heritage assets within the application site or in the vicinity. Therefore, it is considered that the proposal would have a negligible impact upon Green Belt purpose (d) to preserve the special character and setting of historic towns.

4.3.30 With regard to the fifth purpose of the Green Belt, under e) *'to assist in urban regeneration, by encouraging the recycling of derelict and other urban land'*, it is noted that there is little in the way of brownfield land in Hitchin and in the district as a whole to be able to meet identified housing needs. That being said, approving a development on open Green Belt land would inherently fail to encourage the recycling of derelict and other urban land. As such, it is considered that this site and the proposal currently under consideration would have a limited impact on this purpose of the Green Belt.

#### Conclusion

4.3.31 The proposed development would conflict with the development plan and national policy as they relate to the Green Belt. The proposed development would be inappropriate development within the Green Belt that would result in significant harm to openness, significant harm to two purposes of the Green Belt, and moderate harm to a further purpose. It is therefore concluded that substantial weight should be attached to the totality of harm that would be caused to the Green Belt as required by paragraph 148 of the NPPF.

#### **Very special circumstances**

The applicant has put forward a case in the submitted Planning Statement that there are material considerations that constitute 'very special circumstances', which clearly outweigh the harm to the Green Belt and any other harm and that as such the proposed development is acceptable.

#### Housing Need

The applicant asserts that housing need is an important factor in the consideration of the site. Although the new North Hertfordshire Local Plan has been adopted, the applicant also asserts that the Council is not able to provide a 5-year housing land supply in the early years of the Plan.

The applicant requested a formal response from the Council setting out the Council's current 5-year housing land supply position. A response was produced by the Council's Strategic Planning Manager and sent to the applicant on 18 July 2023. A full copy of the response letter is attached to Appendix 1 of this report. In summary, the response confirms that the Council is currently able to demonstrate a 5-year housing land supply.

#### 'Backloading' and availability and delivery of new homes, particularly during years 0-5 of the Plan

The applicant asserts that it is a very special circumstance that the application site can deliver 53 much needed homes within the next 1-2 years when housing need is so acute and when the newly adopted Local Plan will not deliver the homes that are needed per annum until at least 2028.

#### Sustainability of the site

The applicant asserts that the site is adjacent to the boundary of the urban area of Hitchin. The site is well located in relation to the urban area, schools, shops, and public transport. The applicant states that this provides a sustainable location for new housing development, and this is a very special circumstance that weighs in favour of the scheme.

## NHDC supports the removal of the site from the Green Belt

Previously, the Council supported the removal of the application site from the Green Belt in the submission Local Plan provided to the Inspector in 2017. The applicant asserts that this constitutes a very special circumstance. At the examination hearings, the Inspector was concerned that this was too large an area to leave as 'white land' subject to potential speculative / windfall development, as at the time, the site had not been put forward to be considered for development / potential allocation. Subsequently, the site was proposed to remain in the Green Belt in the 'Proposed Main Modifications' which were consulted on in 2019, and the application remained in the Green Belt in the final version of the Local Plan which was adopted in November 2022.

## Length of the NHDC Local Plan Review

The applicant asserts that the length of the Local Plan review which started in 2013, is an exceptional circumstance which weighs as a very special circumstance.

## The creation of a new more permanent and simplified boundary to the Green Belt arising from the proposals

The applicant asserts that the development of the site would result in a simplified, permanent and more obvious boundary to the Hitchin urban area.

## Summary on very special circumstances

The applicant concludes that the proposed development would only result in extremely limited harm to the Green Belt and considers that very special circumstances have been demonstrated which outweighs the identified harm.

The benefits of the proposed development and the weight attributed to these will be set against the harm outlined in this report, as part of the 'Planning Balance' section set out later in this report in order to assess whether very special circumstances exist to justify a permission in the Green Belt.

## **Any other harm**

Paragraph 148 of the NPPF states that *'...Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations* (emphasis added in this instance). Having assessed the harm to the Green Belt, outlined above, this report will now go through each of the key material considerations applicable to this proposal to identify and attribute weight to *any other harm* which may arise as a result of the proposed development.

## **Loss of agricultural land**

The proposed development would result in the loss of agricultural land. Paragraph 174(b) of the Framework states that decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. land (defined as land in Grades 1, 2 and 3a). The harm arising from the loss of agricultural land is a further factor to be considered.

The Natural England classification maps show the land around Hitchin to fall within Grade 3 good-moderate category.

### **Impact upon Heritage Assets and Archaeology**

There are no listed buildings or other designated heritage assets within the application site or in the vicinity.

In relation to archaeological matters, the application submission was accompanied by an Archaeological Desk Based Assessment which states that the proposed development will not impact on any designed archaeological assets and the site is not located within a locally defined Area of Archaeological Significance

The report concludes that the site likely retains only a modest archaeological potential, and it is unlikely that there would be any remains present that would present a material design constraint or consideration. It is however possible that development of the site could result in adverse impacts to remains of a likely low significance. As a result, it is possible that the archaeological advisor to North Hertfordshire District may request further archaeological work. Given that archaeology is very unlikely to present, it is considered that such works could reasonably be secured by an appropriately worded planning condition.

At the time of writing this report, a consultation response is still outstanding from the HCC Historic Environment Officer. I therefore conclude that I can only attach neutral weight to this matter.

### **Impact upon the character and appearance of the area**

The National Planning Policy Framework requires all development to be of high-quality design and to respect the setting of listed buildings and the Conservation area. Policies SP9 and D1 of the Local Plan states that good design is a key aspect of sustainable development and that proposals will be supported if the development is well designed and located and responds positively to its local context.

It is considered that the proposed development would have an adverse visual impact on the open character of this part of Bedford Road. The application site is one of the few remaining open spaces that break up the built form between the northernmost end of Hitchin and Ickleford. The proposal would result in the erosion of this open space which contributes positively to this part of Bedford Road by providing a gap in the built form. This in turn would lead to an uncharacteristic interruption of this gap and urbanisation of this open space that would be at odds with the open quality of the area.

The proposed development would also have a significant urbanising effect upon this open space that lies outside the defined settlement boundary for Hitchin. The site currently makes a positive contribution to the character and appearance of the area due to its openness. It is considered that the proposed development would not function well and would not add to the overall quality of the area and would not be sympathetic to local character and history, including the surrounding built environment and landscape setting which is advocated in paragraph 130 c) of the NPPF.

In addition to the urbanising impact of the development that would result from the number, size, design and position of the proposed residential dwellings and flats, there are also concerns over the cramped nature of parts of the site layout, particularly in relation to plots 7, 14, 25 and 48. In terms of plots 25 and 48, these are both three-

bedroom dwellings which benefit from private garden spaces which would be small for a family dwelling of this size.

In conclusion on this matter, it is considered that the development of this site would result in material harm to the character and appearance of the area and would conflict with policies SP1, SP9 and D1 of the North Herts Local Plan.

### **Impact on neighbouring properties**

From a residential amenity point of view, the proposed layout of the development is acceptable and does not raise any obvious concerns. The nearest existing dwellings to the development are situated to the west of the site on the opposite side of Bedford Road. By virtue of the separation distance between these existing dwellings and the proposed development, there would be no material harm to the living conditions of occupiers of any these dwellings and any other neighbouring properties.

It is concluded that the proposed development would not result in any significantly adverse impacts on the amenity of neighbouring properties and would comply with policy D3 of the North Herts Local Plan.

### **Standard of proposed accommodation for future occupiers**

A core planning principle set out in the NPPF is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This principle is reflected in the provisions of policy D3 of the North Herts Local Plan.

The applicant has confirmed in the Planning Statement that all residential units would comply with the Nationally Described Space Standards (NDSS) and the internal layouts of the units have been designed to provide living spaces that maximise outlook, ventilation and sunlight and daylight.

All the proposed residential units comply with minimum separation distances between habitable rooms windows, ensuring all future residents are afforded appropriate levels of privacy. All houses benefit from private gardens ranging in size from 51.1m<sup>2</sup> to 109.8m<sup>2</sup>.

It is concluded that future occupiers of the proposed development would benefit from a sufficient level of amenity. The proposal would therefore comply with policy D3 of the North Herts Local Plan on this matter.

### **Highways, Access and Car Parking**

A transport statement has been submitted with the application in line with the requirements of policy T1 of the North Herts Local Plan.

The proposed plans show a new vehicular access from Bedford Road to serve the development which would comprise a 5.5m wide carriageway with radii of 8m. Visibility splays of 2.4m x 56m are required and can be provided within the site and/or existing adopted highway. These visibility splays can be kept clear of obstructions, including vegetation. The access would be flanked by footways into the site, connecting with the footway on Bedford Road. Associated access roads, turning areas, visitor car parking and off-street car parking is also shown.

Following comments from Hertfordshire County Council (HCC) Highways, a Technical Note was submitted providing further information including the details of a Stage 1

Road Safety Audit (RSA) of the proposed access and highway works which had been undertaken and details of the works required in relation to the proposed site access and off-site highway improvements. It is understood that these amendments have addressed all highways matters raised by the highways officer.

The proposed development includes a total of 91 parking spaces including 14 visitor spaces which exceeds the minimum requirements in the Local Plan. Therefore, the proposed development meets the requirements set out in Appendix 4 of the Local Plan in line with policy T2.

In conclusion on this matter, the proposed development would not result in any adverse impacts upon highway safety and would comply with policies T1 and T2 of the North Herts Local Plan.

### **Flooding and drainage – LLFA holding objection**

Flood risk considerations are a key local concern which is reflected in the Local Plan and the Environment Agency's flood risk mapping. All development must therefore ensure that they do not exacerbate existing issues. A formal flood risk assessment is required and policies NE7, NE8 and NE10 identify a range of drainage and water issues which should be considered and incorporated into the development of the site.

Following consultation with the LLFA, they currently have a holding objection as there is a lack of supporting information to demonstrate that the development will not increase the risk of surface water flooding to the site and the surrounding area.

Pre and post development modelling has not been carried out for rainfall events up to and including the 1 in 100 year event with climate change. Once flood extents, flood depth, flow route and velocities have been calculated, the applicant will need to demonstrate that there is no increase in flood risk to the site and the surrounding area as a result of loss of flood storage and impedance of flood flows. On top of this, the results must demonstrate that there will still be safe access and egress routes from the site.

In addition, a detailed drainage plan has not been submitted, with the locations of all SUDS measures, pipe runs, discharge points and any other associated drainage elements. The plan should also be accompanied by a full set of engineering drawings covering all the SUDS measures and drainage elements which are being utilised.

No further information to address the LLFA's comments has been submitted by the Applicant. Therefore, a reason for refusal is recommended to reflect this objection.

### **Ecology and Biodiversity Net Gain – Herts Ecology holding objection**

The Local Plan sets out a clear strategic approach for the protection, enhancement, creation and management of networks of green infrastructure. This is detailed in Policy SP12 (Green Infrastructure, Landscape and Biodiversity). Policy NE4 (Biodiversity and Geological sites) states that planning permission will only be granted for development proposals that appropriately protect, enhance and manage biodiversity in accordance with SP12. All development should deliver measurable net gains.

The site is a greenfield site which currently contributes to the green infrastructure of this part of Hitchin. Given the proposal will involve the loss of existing undeveloped land, there is potential for the proposal to affect existing species and habitats. There is also the opportunity to create new habitats and increase the biodiversity of the site. In

this regard, a Preliminary Ecological Appraisal, Reptile Survey and Biodiversity Net Gain Plan identifying opportunities for protecting and improving these elements have been submitted.

The Biodiversity Net Gain Plan report concludes that the proposal would lead to a net loss of 35.85% in biodiversity on-site which results largely from the loss of existing habitat on-site. This is in direct conflict with the submitted Planning Statement which indicates that new landscaping, open spaces and SUDS attenuation point will deliver Biodiversity Net Gain on-site (page 11). The submitted information is insufficient as it fails to detail how a measurable Biodiversity Net Gain would be achieved.

No further information to address Herts Ecology's comments has been submitted by the agent. Therefore, a reason for refusal has been drafted to reflect this objection.

### **Trees and Landscaping**

The site includes many trees and hedgerows within the site and adjacent boundaries. The retention of all these trees and hedgerows would be desirable. However, the submitted plans indicate that some trees would need to be removed to facilitate the creation of the vehicular access from Bedford Road. It is also unclear whether other trees would need to be removed as part of the development proposal. Several of the proposed buildings, especially along the eastern side of the site also appear to be located in the root protection areas of the tree line adjacent to the eastern boundary of the site and no details have been provided in this regard.

The application was not accompanied by an Arboricultural Report or a Tree Protection Plan to fully assess the quality of the trees on-site and adjacent to the site and there are no details of any works or mitigation measures that would need to be carried out to any trees in association with the proposed development.

On the basis of the above, it is considered that the proposed development is contrary to policy NE4 of the North Herts Local Plan and a reason for refusal has been drafted to reflect this.

### **Affordable Housing**

The applicant has confirmed in the submitted Planning Statement that 40% of the proposed homes would be affordable, comprising 65% affordable rent and 35% shared ownership.

The Council's Housing Policy Officer has indicated a preferred housing mix that would be required to meet the Planning Obligations SPD and the 2016 Strategic Housing Market Assessment (SHMA) Update. Subsequently, the applicant provided a revised housing mix which has since been deemed to be acceptable by the Housing Policy Officer. However, revised plan drawings have not been submitted by the agent to reflect the revised housing mix, therefore, the current submitted plans do not correspond with the revised housing mix. A holding objection therefore remains on this matter, and a reason for refusal has been drafted to reflect this.

### **Environmental Health and Waste**

Regarding Environmental Health (Noise, Contamination and Air quality) and Waste, no technical objections are raised to this development by the relevant statutory and non-statutory consultees. Conditions have been recommended by a number of these consultees if permission were to be granted.

## S106 and mitigations

In considering Planning Obligations in relation to this development, the Framework advises that:

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

- ***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”***

The section below outlines the Heads of Terms and financial contributions sought by statutory bodies:

<b>Element</b>	<b>Detail and Justification</b>	<b>Condition/ Section 106</b>
Primary Education	<p>Towards the expansion of Oughton Primary school and/or provision serving the development</p> <p><b>£296,705 (index linked to BCIS 1Q2022)</b></p> <p>Policy SP7 ‘Infrastructure requirements and developer contributions’ Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 Obligation
Secondary Education	<p>Towards the expansion of The Priory Secondary School</p> <p><b>£329,048 (index linked to BCIS 1Q2022)</b></p> <p>Policy SP7 ‘Infrastructure requirements and developer contributions’ Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation
Special Educational Needs and Disabilities (SEND)	<p>Towards the Delivery of new Severe Learning Difficulty (SLD) special school places (EAST) for pupils aged 2 to 19 years old</p> <p><b>£53,886 (index linked to BCIS 1Q2022)</b></p> <p>Policy SP7 ‘Infrastructure requirements and developer contributions’ Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation



Youth Service	<p>Towards the expansion of/ new centre or shared use young people's centre serving Hitchin and the surrounding area or its future re-provision</p> <p><b>£9,784 (index linked to BCIS 1Q2022)</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation
Library Services	<p>Towards increasing the capacity of Resource Requirements and Reconfigure Floorspace contribution to improve the capacity of Hitchin Library or its future re-provision</p> <p><b>£9,995 (index linked to BCIS 1Q2022)</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation
Waste Service	<p>Towards the expansion at Letchworth Recycling Centre or its future re-provision</p> <p><b>£7,961 (index linked to BCIS 1Q2022)</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation
Waste Service Transfer Station	<p>Towards the new North Transfer Station at Baldock or provision serving the development</p> <p><b>£9,101 (index linked to BCIS 3Q2022)</b></p> <p>Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p>	S106 obligation
Affordable Housing	<p>40% affordable housing, which should be 65% rented and 35% other intermediate tenure.</p> <p>Policy HS2 of the Local Plan and Planning Obligations SPD</p>	S106 obligation

Open Space	<p>Provision of a LEAP place space as a minimum.</p> <p>Off-site contribution to the neighbouring allotments at Old Hale Way for road way improvements and improving security.</p> <p>Preferable for NHDC to adopt the greenspaces dependent upon the provision of an appropriate S106 commuted sum.</p> <p>Suggested enhancement to the boundary adjacent with The Priory School to alleviate issues with noise from the school and any unofficial access into the development.</p> <p>Policy SP7 'Infrastructure requirements and developer contributions' and Planning Obligations SPD</p>	S106 obligation
Sustainable Transport Contributions	<p><b>£354,952 (index linked to Jan 2019)</b></p> <p>HCC's adopted Developers Planning Obligation Toolkit (2021)</p>	S106 obligation
Monitoring Fees	<p>HCC will charge monitoring fees. These will be based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of £340 (adjusted for inflation against RPI July 2021).</p> <p>Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document</p> <p>(£340 for each distinct trigger point)</p>	

### Summary

Given the recommendation set out below, a section 106 agreement has not been completed at the time of writing this report. Should permission be refused, the lack of a completed agreement would need to be part of that refusal (see recommendation below). However, should a subsequent appeal be lodged, I would fully expect the appellant and Council to agree Head of Terms as above as common ground.

### **Planning Balance and very special circumstances**

As set out in this report, there are matters that weigh in favour and against the proposed development. The table below identifies the benefits and harms of the development and the weight attributed to these. Notwithstanding the weight attributed to different matters, some carry greater importance than other and whilst this will not be reflected in the table below, this is addressed in this section of the report.

Table 2 – Benefits and harms

<b>Issue</b>	<b>Effect</b>	<b>Weight</b>
Green Belt Openness	Harm	Substantial
Green Belt Purposes	Harm	Substantial
<b>Overall effect on the Green Belt</b>	<b>Harm</b>	<b>Substantial</b>
Loss of Agricultural land	Harm	Moderate
Biodiversity	Harm	Moderate
Flood Risk/Drainage	Harm	Moderate
Effect upon character of the area	Harm	Moderate
Trees and Landscaping	Harm	Moderate
Delivery of Housing in a 1-2 year period	Benefit	Significant
Delivery of Affordable Housing	Benefit	Significant
Sustainability of the site	Benefit	Limited
NHDC originally supported the removal of the site from the Green Belt	Benefit	Limited
Length of the NHDC Local Plan Review	Benefit	Limited
Alteration to simplify the Green Belt boundary	Benefit	Limited
Heritage and Archaeology	Neutral	None
Noise/Residential Amenity	Neutral*	None*
Highway Safety	Neutral*	None*

\* subject to conditions

The proposed development constitutes inappropriate development in the Green Belt; it does not meet the exceptions set out in paragraphs 149 or 150 of the NPPF. Paragraph 148 confirms that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Turning to the overall planning balance in line with paragraph 148 of the NPPF, the development would cause harm to the Green Belt due to its inappropriateness, loss of openness and conflict with three Green Belt purposes. The NPPF requires substantial weight to be given to any harm to the Green Belt.

The other considerations include those that have been afforded weight as summarised at Table 2 above.

### Conclusion

The applicant has presented their case as to why they believe 'very special circumstances' existing in the assessment of this application. Having taken these points into consideration, officers are of the view that there are material considerations that weigh in favour of the proposed development. However, these material

considerations fail to clearly outweigh the identified harm to the Green Belt by reason of inappropriateness, the harm to the openness and purposes of the Green Belt, and any other harm identified within this report. It is therefore considered that, in the circumstances, and looking at the application as a whole, 'very special circumstances' do not exist in this instance to justify the identified harm to the Green Belt. Therefore, planning permission should be refused.

### **Alternative Options**

None applicable.

### **Pre-Commencement Conditions**

No pre-commencement conditions are proposed due to recommendation for refusal.

## **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:

### **REASON 1 – Principle/Green Belt**

The proposed development would constitute inappropriate development in the Green Belt which would be detrimental to its character and openness whilst conflicting with the purposes of including land within it. The Local Planning Authority does not consider the case put forward by the applicant to constitute very special circumstances sufficient to outweigh the harm by reason of inappropriateness and any other harm to the Green Belt. Accordingly, the proposal is contrary to policies SP1 and SP5 of the North Herts Local Plan and Section 13 of the NPPF.

### **REASON 2 – Loss of Openness / Urban Form**

The proposed development would detract from the open character of the site and this, together with its inappropriate scale, layout and urbanising effect, would have an adverse effect upon the character and appearance of the surrounding area. The proposed development in this regard would conflict with policies SP1, SP9 and D1 of the North Hertfordshire Local Plan and Section 12 of the NPPF.

### **REASON 3 – Biodiversity**

Insufficient information has been provided to demonstrate how the proposed development would appropriately protect, enhance and manage on-site biodiversity and achieve a Biodiversity Net Gain. The proposal is therefore contrary to policies NE2, and NE4 of the North Herts Local Plan.

#### REASON 4 – Flooding and Drainage

To prevent flooding in accordance with National Planning Policy Framework paragraph 167, 169 and 174 by ensuring the satisfactory management of local flood risk, surface water flow paths, storage and disposal of surface water from the site, the submitted planning application has not been accompanied by an acceptable Flood Risk Assessment (FRA) / Drainage Strategy / supporting information relating to local flood risk to the development and demonstrating if the impacts from the development adversely affects floor risk elsewhere. Therefore, the proposed development does not comply with the NPPF, PPG, and policies NE7 and NE8 of the North Herts Local Plan.

#### REASON 5 – Trees and Landscaping

Insufficient information has been provided in the form of an Arboricultural Report and Tree Protection Plan to fully assess the effect of the proposed development upon existing trees and landscaping. The proposal is therefore contrary to policy NE4 of the North Herts Local Plan.

#### REASON 6 – Affordable Housing

Insufficient information has been provided to demonstrate that the proposed development would provide a suitable affordable housing mix in accordance with the Council's current affordable housing requirements. The proposal is therefore contrary to policy HS2 of the North Herts Local Plan.

#### REASON 7 – Section 106

The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing the affordable housing provision 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 - Guide to Developer Infrastructure Contributions Hertfordshire County Council's requirements document. 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, Local Plan Policy HS2 of the Council's 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 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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

7.0 **Appendices**

- 7.1 Appendix 1 – Letter from NHDC’s Strategic Planning Manager to the applicant’s agent (dated 18 July 2023) regarding the Council’s Housing Need and Five Year Housing Land Supply position