

<u>Location:</u>	Land Between 134 And 148 High Street Kimpton Hertfordshire SG4 8QP
<u>Applicant:</u>	-
<u>Proposal:</u>	Residential development comprising of 15 dwellings (all matters reserved except means of access).
<u>Ref. No:</u>	21/00541/OP
<u>Officer:</u>	Andrew Hunter

Date of expiry of statutory period:

25 September 2021

Reason for delay:

Agreement of Heads of Terms and progressing the Section 106 legal agreement.

Reason for referral to Committee:

The application is to be determined by Planning Control Committee by reason of the development being residential development with a site area of 0.5 hectares or greater (the site area is 0.65ha), as set out in 8.4.5 (a) of the Council's 2023 Scheme of Delegation.

1.0 **Site History**

- 1.1 15/02963/1 - Retrospective application for temporary car park for 30 vehicles (as amended) - Approved 19/05/16.
- 1.2 79/01636/1 - Proposed sports ground and pavilion – Required 04/03/80.

2.0 **Policies**

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

Policies:

- SP1 – Sustainable development in North Hertfordshire
- SP2 – Settlement Hierarchy and Spatial Distribution
- SP6 – Sustainable transport

SP7 – Infrastructure requirements and developer contributions
SP8 - Housing
SP9 – Design and sustainability
SP11 – Natural resources and sustainability
SP12 – Green infrastructure, landscape and biodiversity
SP13 - Historic environment

T1 – Assessment of transport matters
T2 – Parking
HS1 – Local Housing Allocations
HS2 – Affordable Housing
HS3 – Housing mix
D1 – Sustainable Design
D3 – Protecting Living Conditions
D4 – Air quality
NE2 – Landscape
NE4 - Biodiversity and geological sites
NE6 - New and improved open space
NE7 – Reducing flood risk
NE8 – Sustainable drainage systems
NE11 – Contaminated land
HE1 - Designated heritage assets
KM3 – Land north of High Street

2.2 National Planning Policy Framework

Chapter 5 – Delivering a sufficient supply of homes
Chapter 9 – Promoting sustainable transport
Chapter 11 – Making effective use of land
Chapter 12 – Achieving well-designed and beautiful places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

2.3 Supplementary Planning Document

Developer Contributions Supplementary Planning Document 2023

3.0 Representations

3.1 Site Notice:

Start Date: 26/02/2021

Expiry Date: 28/03/2021

3.2 Press Notice:

Start Date: 04/03/2021

Expiry Date: 27/03/2021

3.3 **Neighbouring Properties:**

The following objections were received from Nos. 151, 155, 173, 130 and 88 High Street:

- Unable to see the designs of the dwellings.
- Too many houses.
- The houses that face No. 134 High Street are overdevelopment and are in front of the building line of No. 134 and below.
- Can't determine parking provision.
- The High Street can't sustain more on-road parking.
- The Luton Road should be widened.
- Won't be able to access Public Footpath 033.
- Safety issues from new junction.
- Loss of privacy.
- Detrimental to mental health and lifestyles.
- If Kimpton needs, or can sustain, the proposed houses.
- Kimpton has undergone some significant developments.
- Building on Green Belt.
- Loss of green space.
- Loss of views.
- Disruption to wildlife.
- Problems with flooding.
- Increased loads on sewers.

3.4 **Kimpton Parish Council:**

Kimpton Parish Council have provided detailed comments on this application, which is available to view on our website.

In summary the Parish Council considers that that there is insufficient smaller 1 and 2 bedroom units within the housing mix proposed, which should be addressed by the applicant.

A minimum of 6 dwellings should be affordable and this matter should be addressed by the applicant.

The Parish Council seek confirmation, by the stipulation of planning constraints, as to which elements of this application are to be required to be delivered as part of a future detail application.

No quantification of the maximum ridge height of buildings is stated. The Parish Council are unclear to the applicant's dimensional definition of 2.5 stories.

The site boundary to the west is a designated conservation area and also currently Green Belt.

Local Plan Policy KM3 seeks sensitive design to minimise the impacts upon the Conservation area the height of the proposed development should be in line with adjacent dwellings to the east and west. The Parish Council suggest that a maximum height from existing ground level to ridge height of 9m to be stipulated within any planning condition to avoid inappropriate construction height of dwellings to result.

The proposed parking allocations need to be improved.

Reference is made to the receipt of confirmation from Thames Water that connection of 15 dwellings to the existing system is acceptable. The Parish Council could not find this documentation within the application to ratify this statement and would request that such information should be submitted and verified prior to any planning approval.

No surface water should be discharged into the utility surface water sewer as indicated in the planning application and this must be maintained within any 'Application for approval of reserved matters'.

The current electrical infrastructure is unable to support the provision of a development of this size without reinforcement. The applicant should confirm where upon the site an additional electrical substation would be incorporated, noting that such a location upon the road frontage would be unacceptable. It may be the case that the applicant is intending an 'off grid' development and the Parish Council would be pleased to hear clarification upon such intentions.

KPC and NHDC have adopted a "climate emergency" policy. Confirmation is sought regarding the climate impact of the development. The applicant has not demonstrated how the proposal supports this requirement. These issues should be addressed by the applicant.

Policy HS1: Local Housing Allocations states:

Local Housing Allocations are listed by parish and settlement in Chapter 13 and shown on the Proposals Map. Planning permission for residential development and associated infrastructure on these sites will be granted where:

- a. Development broadly accords with the indicative number of homes shown;
- b. Proposals successfully address site specific considerations; and
- c. Unless site-specific considerations state otherwise, a variety of homes are provided in accordance with the general policy requirements of this Plan. Planning permission for other uses will be refused.

Based upon the current application there a number of significant issues, as listed above, that need to be addressed to enable a planning permission to be granted.

The applicant highlights the public rights of way that are within the area as a beneficial amenity, however currently the means of connecting to these is by an informal footpath along the east side of the site. This path has been used by the community for over 20 years. The Parish Council proposes that the applicant formalises a foot path from the north end of the new access road to the existing right of way that runs north of the site.

The Parish Council ask that the appropriate S106 contributions are made as part of any planning permission and obtained prior to any consent.

Kimpton Housing Needs survey conducted by CDA in February 2019 concluded there was a need for 24 affordable housing units in the village. Further, there was an identified need for suitable housing for the elderly and disabled to meet local requirements. Development land adjacent to land between 134 and 148 High Street has been identified for this purpose and is owned by the applicant.

The proposed housing development will increase the population of Kimpton creating a demand for the increase of fitness and play equipment and provision of an updated sports facility to provide local facilities to support the health and wellbeing of residents.

Recreational, sports and facility improvements are in the feasibility stage in consultation with the community. Once the requirements are finalised quotes are to be obtained. Kimpton Parish Council is prepared to liaise with the planning team during the s106 negotiations with the applicant and confirm their full support.

3.5 **Statutory Consultees:**

3.6 Environmental Protection Air Quality – No objections.

3.7 Hertfordshire County Council Growth and Infrastructure - Based on the information to date for the development of 15 dwellings we would seek financial contributions towards the following projects:

Secondary Education towards the expansion of Katherine Warrington Secondary School and/or provision serving the development (£197,176 index linked to BCIS 1Q2022)

Special Educational Needs and Disabilities (SEND) towards the new East Severe Learning Difficulty school and/or provision serving the development (£21,087 index linked to BCIS 1Q2022)

Library Service towards increasing the capacity of Hitchin Library and/or provision serving the development (£3,642 index linked to BCIS 1Q2022)

Youth Service towards the delivery of a new centre young people's centre serving Hitchin and the surrounding area and/or provision serving the development (£5,214 index linked to BCIS 1Q2022)

Monitoring Fees – 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). For further information on monitoring fees please see section 5.5 of the Guide to Developer Infrastructure Contributions.

3.8 Environmental Health Officer – No objections.

3.9 Hertfordshire County Council highways officer – Does not wish to restrict the grant of permission subject to the following conditions.

Details of the Highway Authority's comments are available on our website.

The Highway Authority concludes that the development is in accordance with both the National and local Policies and its formal recommendation is that the grant of planning permission should be subject to the attached planning conditions as well as Applicant entering into a section 278 Agreement to cover the safety requirements as part of the application, construction, implementation and adoption of highway works within the existing public highway.

It is considered that this level of traffic would not result in a substantial traffic generation on the local highway network from the proposed development. The above explains the position with the proposed development therefore Hertfordshire County Council as Highway Authority has considered that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways subject to the inclusion of the above highway informatives and recommended planning conditions.

- 3.10 Housing Supply Officer - Following the Cabinet meeting in September 2016, public consultation and the Council meeting on 11 April 2017, the affordable housing requirement is 35% on sites which will provide between 15 and 24 dwellings, in accordance with the proposed submission Local Plan.

Based on the provision of 15 dwellings overall, the affordable housing requirement would be 5 dwellings; 3 rented and 2 intermediate affordable housing tenure/ shared ownership.

Within the 65% rented affordable housing element the following tenure mix best meets housing needs, as identified in the 2016 SHMA:

21% x 1 bed flats (1)
12% x 2 bed flats (0)
26% x 2 bed houses (1)
35% x 3 bed houses (1)
6% x 4+ bed houses. (0)

Within the 35% intermediate affordable housing element the following tenure mix best meets housing needs as identified in the 2016 SHMA:

8% x 1 bed flats (0)
8% x 2 bed flats (0)
20% x 2 bed houses (1)
54% x 3 bed houses (1)
10% x 4+ bed houses (0)

There is higher demand for smaller homes (one and two bedroom) for rent at 59%, and a higher demand for larger homes (three and four bed+) for intermediate affordable housing tenure/ shared ownership at 64%.

Based on the information above the affordable housing should comprise 2 x 2 bed houses and 1 x 3 bed house for rent and 1 x 2 bed and 1 x 3 bed house for shared ownership/ intermediate affordable housing tenure.

The applicant's affordable housing proposals include 4 x 2 bed houses and 1 x 3 bed house and I suggest one of the 2 bed houses is changed to a three bed house to meet the council's affordable housing requirements.

- 3.11 Greenspace Service Manager - Due to the location of the development I feel that the Greenspace provision would be a question better suited to be answered by the Parish Council on this occasion. The Parish in Kimpton already maintain directly themselves the village recreation ground etc and as such I would expect them to be seeking contributions towards the play area as an off site contribution.
- 3.12 Sport England - The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case.
- 3.13 Lead Local Flood Authority - Following a review of the Flood Risk Assessment and Drainage Strategy carried out by TPA reference 1808-23/FRA/01 A dated April 2019. We can confirm that we have no objection in principle on flood risk grounds and can advise the Local Planning Authority (LPA) that the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the principles of the submitted drainage strategy.

We consider that outline planning permission could be granted to the proposed development if the following planning conditions is included as set out below.

- 3.14 County Council Archaeologist - The proposed development is of some size, and therefore has potential to impact heavily on any archaeological remains that may be present. However, the site is outside the historic core of Kimpton, there are no nearby recorded archaeological remains, and the ground is not topographically favourable for e.g. prehistoric or Roman occupation.

In this instance, therefore, I have no comment to make on the proposal.

- 3.15 Waste Officer – No objections.
- 3.16 Hertfordshire Ecology - Consistent with previous comments on this site, we have no concerns with the principle of development at this site.

Recommendations made in the current ecological assessment should be accommodated within any future full application.

A future application for Reserved Matters will need to be informed by an updated ecological assessment

A future application for Reserved Matters should be accompanied by a LEMP or similar that shows how a biodiversity net gain can be achieved

- 3.17 Herts and Middlesex Wildlife Trust - Objection: Biodiversity net gain not proven. Ecological report not consistent with BS 42020 or CIEEM survey guidelines. No consideration of local or national planning policy.

The draft NHLP states:

'All development should seek to deliver net gains for biodiversity'

'Ecological surveys will be expected to involve an objective assessment of ecological value. Surveys should be consistent with BS 42020 Biodiversity- Code of Practice for Planning and Development.

NPPF states:

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

d) minimising impacts on and providing net gains for biodiversity.

In order to objectively claim that the development delivers net gain, it should employ the DEFRA biodiversity metric.

This is the most objective way of assessing net gain on a habitat basis. It assesses ecological value pre and post development and has been upheld by the planning inspectorate as an appropriate mechanism for achieving the ecological aims of NPPF. Its use to determine net gain is advocated in govt planning guidance on the Natural Environment to prove net gain: <https://www.gov.uk/guidance/natural-environment>.

This score plus 10% must be exceeded by the proposal to claim net gain. If the site is incapable of achieving this score on site then offsite compensation must be provided. A biodiversity offset, or an agreement to provide one, must be provided for the requisite amount. All habitats both present and future must be fully described in accordance with technical guidance to demonstrate that net gain can be achieved and how. The full metric in its excel form should be supplied to enable verification.

BS 42020 states:

'8.1 Making decisions based on adequate information

The decision-maker should undertake a thorough analysis of the applicant's ecological report as part of its wider determination of the application. In reaching a decision, the decision-maker should take the following into account:

h) Whether there is a clear indication of likely significant losses and gains for biodiversity.'

The ecological report does not do this. It does not provide a clear, objective indication of losses and gains by reference to the metric. The application should not be approved until it does so.

The preliminary ecological report is not consistent with the requirements of NHLP, NPPF or BS 42020. The object of an ecological report should be to demonstrate compliance with local and national policy on biodiversity. This report does not do this and fails to consider the application in relation to local or national policy.

The draft local plan also contains a requirement for a 12m buffer to all hedgerows and priority habitats. This application does not do this and so is not compliant with the local plan.

Finally, the report is a preliminary survey. The CIEEM guidelines on PEA states:

'1.5 Under normal circumstances it is not appropriate to submit a PEA in support of a planning application.'

3.18 Growth and Infrastructure Unit Herts CC Fire Hydrants - Based on the information provided to date we would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site is undeveloped land, which is the southern part of an agricultural field. Ground levels slope up to the north. The south front boundary with the High Street is a low grass mound, which allows clear views into the site and its surroundings. The side boundaries are comprised of hedges, trees and vegetation. The north rear boundary is open and part of the wider field that extends to the north.

4.1.2 The site is on the western edge of Kimpton, and its east boundary borders the west side boundary of No. 134 High Street, a two-storey detached dwelling with a pitched roof. Detached and semi-detached dwellings continue east from No. 134 towards central Kimpton. South of the site, on the opposite side of High Street, there are semi-detached and terraced two storey dwellings, which are also part of Kimpton. The west boundary of the site is adjacent to equestrian land and buildings in association with No. 148 High Street (now undergoing development to residential).

4.1.3 The site is within the village boundary of Kimpton in the adopted Local Plan and is allocated housing site KM3. The west boundary of the site is adjacent to a Conservation Area. The north boundary is adjacent to the Green Belt, although the site itself is not within the Green Belt.

4.2 **Proposal**

4.2.1 Outline planning permission is sought for the development of the site to residential, with 15 dwellings proposed. All matters are reserved except access, which is proposed to constitute one vehicular and pedestrian access onto the High Street, with a public footway extending in both directions from the access at the front of the site. Ten of the dwellings are proposed to be market housing, with the other 5 being affordable.

4.2.2 An illustrative masterplan shows a site layout with four 2 bed dwellings, five 3 bed dwellings, and six 4 bed dwellings. This masterplan is indicative and could change at the Reserved Matters stage if outline permission is granted.

4.3 **Key Issues**

4.3.1 The key issues for consideration are as follows:

- The acceptability of the principle of the proposed works in this location.
- The acceptability of the design of the proposed development and its resultant impact on the character and appearance of the area.
- Whether the proposal would provide an acceptable standard of accommodation for future occupiers of the dwellings.
- The impact that the proposed development would have on the living conditions of neighbouring properties.
- The impact that the proposed development would have on car parking provision and the public highway in the area.

- The quality of landscaping proposed and the impact the proposed development would have on trees.
- The impact that the proposed development would have on ecology and protected species.
- The impact of the proposal on drainage and flood risk.
- The impact of the proposed development upon infrastructure, services and facilities and resultant requirement for planning obligations.

Principle of Development:

- 4.3.2 The site is within the village boundary of Kimpton in the adopted Local Plan and not within the Green Belt. Kimpton is designated as a Category A village by Policy SP2 of the adopted Local Plan, which states that general development will be allowed within the settlement boundary. The site is also allocated housing site under Policy KM3 in the adopted Local Plan. The principle of residential development is therefore acceptable.

Character and appearance:

- 4.3.3 The site is undeveloped and part of an agricultural field, and effectively where the countryside begins at this western part of Kimpton. The proposed development would urbanise the site and would be likely to result in the development of much of it, as shown by the indicative masterplan. This would change the existing rural character and appearance of the site.
- 4.3.4 However, the site is within the defined settlement boundary of Kimpton in the adopted Plan, and is also allocated housing site KM3, therefore there is an expectation that the site will be developed for housing. As an extension to Kimpton the development is small and proportionate to the size of the village. The development would also appear as a continuation of Kimpton to the along High Street. Therefore, the proposed development would not appear out of character in this context. Furthermore, an area of land that adjoins the west boundary is being developed for 9 dwellings under planning permission 20/00667/FP and will have residential development on both sides.
- 4.3.5 The application is outline, with only the access not reserved. The access proposed is conventional and of two lanes, with a footway extending across the front of the site in both directions. The visual impacts of this are considered relatively minimal, and not dissimilar to the residential development opposite the site on the south side of the High Street. Using only one access would also minimise the number of 'breaks' through the south boundary, which could leave room for landscaping and screening of the development from the High Street. The access would be sited away from the Conservation Area and is not considered harmful to its significance, and the footways would have minimal impacts that are not considered harmful to it.
- 4.3.6 The application proposes 15 dwellings for this site, which is considered sufficiently close to the KM3 dwelling estimate of 13 to be acceptable. The housing mix on the application form is not specified, however the indicative plan and the Planning Statement refer to 4 two bed dwellings, 5 three bed dwellings, and 6 four bed dwellings. Local Plan Policy HS3 in supporting paragraph 8.21 makes an initial assumption that smaller dwellings of 1 and 2 bedrooms should be 40% of the number of dwellings of a development. The number of two bed smaller dwellings specified is considered to comply with HS3 and can be required by Condition.

- 4.3.7 The indicative layout shows that 15 dwellings with internal roads, parking areas, hard and soft landscaping, open space and SuDS areas, could be accommodated on the site. However, layout is a Reserved Matter along with scale, appearance and landscaping.

Impacts on Neighbouring Properties:

- 4.3.8 The proposed access and footways would be sited away from the closest dwellings it is considered this would not result in harm to their amenity. The development would be separated from No. 148 High Street to the west by the new residential development undergoing commencement following planning permission 20/00667/FP and would not be likely to adversely affect that dwelling based on the illustrative layout. Nevertheless, this is an issue that would be considered at Reserved Matters stage.
- 4.3.9 As above, land to the west of the site is undergoing development following 20/00667/FP. When comparing the approved plans of that permission with the indicative plan, the two westernmost dwellings would be likely to be visible to some of the new dwellings on the adjacent site. Precise impacts would however only be able to be determined at the Reserved Matters stage as details of that application should show factors that will determine the impacts on amenity such as levels, designs, heights, distances from the boundary etc. Dwellings to the south would be separated from the development by the High Street.
- 4.3.10 The development would be closest to No. 134 High Street, a dwelling that shares its west boundary with the east boundary of the site. The illustrative layout plan shows that the rear elevations of the dwellings shown facing towards No. 134 would all be approx. 15m from that property's side boundary, apart from dwelling 11 which would be 11m. The effect would depend upon the design and scale of the proposed dwellings, and this would be considered at the Reserved Matters stage if planning permission is granted.
- 4.3.11 In conclusion on this matter, the site is allocated for residential development, and it is considered that development can be accommodated on this site without unacceptably harming the residential amenities of occupiers of nearby dwellings. However, this is a matter that would be carefully assessed at Reserved Matters stage.

Amenity of Future Occupiers:

- 4.3.12 Paragraph 130 (f) of the NPPF states that "*decisions should ensure that developments... create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity of future and existing users*". Paragraph 130 (f) is largely reflected in Policy SP9 of the Local Plan.
- 4.3.13 I consider that the uses adjacent to the site would not result in unsatisfactory living conditions for dwellings that could be built on the site.
- 4.3.14 The site also appears sufficiently large to accommodate public amenity space for the dwellings as required by Policy NE6 of the Local Plan. Acceptable future living conditions are considered achievable, and this is matter that would be carefully considered at Reserved Matters stage.

Highways and Parking:

- 4.3.15 The County Council highways officer has not objected to the proposed access and its impacts on the public highway; therefore, this is considered acceptable. Traffic generation is forecast as being 8 vehicles arriving and departing during the morning and evening rush hours, which would not adversely affect the local highway network.
- 4.3.16 As this application is Outline, details of bedroom numbers for each dwelling, car parking and cycle parking have not been specified and are not known. It is however considered that the indicative layout demonstrates that sufficient parking can be provided as each dwelling would have two parking spaces, which is the minimum required by Policy T2 of the Local Plan. This layout also shows that sufficient internal manoeuvring and turning space can be provided for large vehicles including refuse lorries. The proposal in respect of the access is considered to comply with Policy T1 of the Local Plan.

Trees and Landscaping:

- 4.3.17 There are a small number of young to maturing trees on both side boundaries. The proposed access would not affect these trees. Full impacts of the development on the trees on the boundaries would be determined at the Reserved Matters stage.

Ecology:

- 4.3.18 An ecological survey submitted with the application determined that the site is of modest intrinsic nature conservation interest, and would not harm protected species and their roosts, which Hertfordshire Ecology have agreed with and can be given significant weight. The survey also concluded that the biodiversity value of the site could be improved, which is considered realistic given that it is presently a managed agricultural field. The survey identified 9 recommendations to improve biodiversity and based upon advice received from Hertfordshire Ecology it is considered that these can be secured at the Reserved Matters stage. The proposal is not considered harmful to ecology and should be able to deliver a biodiversity net gain to comply with Policy NE4 of the Local Plan.

Drainage and flood risk

- 4.3.19 The applicant has submitted a Flood Risk Assessment and Drainage Strategy, which have been reviewed by the Lead Local Flood Authority and considered acceptable. Subject to the conditions recommended by the LLFA being imposed, the proposal is considered acceptable in this regard and complies with Policies NE7 and NE8 of the Local Plan.

Planning obligations

- 4.3.20 The applicant proposes a number of planning obligations. As set out in paragraph 56 of the NPPF, planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.

Following detailed negotiations with the applicant, agreement has been reached on a range of matters that are included in a draft S106. All of the S106 obligations are listed in the following table:

Element	Detail and Justification
Affordable Housing (NHDC)	<p>On site provision of 5 affordable dwellings based on 65% rented tenure (2 x 2 bed dwellings, 1 x 3 bed dwelling) and 35% shared ownership (1 x 2 bed dwelling, 1 x 3 bed dwelling)</p> <p>NHDC Planning Obligations Supplementary Planning Document</p> <p>Local Plan Policy HS2 'Affordable Housing'</p>
Waste Services (NHDC)	<p>£1,065 (before indexing) towards the cost of providing waste collection and recycling facilities serving the Development</p>
Secondary education (HCC)	<p>£197,176 (index-linked) towards expansion of Katherine Warington Secondary School and/or provision serving the development</p> <p>Local Plan Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>NHDC Planning Obligations Supplementary Planning Document</p>
Special Educational Needs and Disabilities (SEND) (HCC)	<p>£21,087 (index linked) towards the new East Severe Learning Difficulty school and/or provision serving the development</p> <p>Local Plan Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>NHDC Planning Obligations Supplementary Planning Document</p>
Library Services (HCC)	<p>£3,642 (index-linked) towards increasing the capacity of Hitchin Library and/or provision serving the development</p> <p>Local Plan Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>NHDC Planning Obligations Supplementary Planning Document</p>
Youth Services (HCC)	<p>£5,214 (index-linked) towards the delivery of a new centre young people's centre serving Hitchin and the surrounding area and/or provision serving the development</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p> <p>NHDC Planning Obligations Supplementary Planning Document</p>

Monitoring Fees (HCC)	Monitoring Fees – 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 (before adjusting for inflation). HCC Guide to Developer Infrastructure Contributions (July 2021)
Fire Hydrants (HCC)	Provision of fire hydrants for the development
Open space management and maintenance arrangements (NHDC)	Open Space Management Company to secure the provision and long-term management and maintenance of the open space on-site

4.3.21 The applicant has agreed to the affordable housing requirements and waste contributions. Herts County Council Growth and Infrastructure (HCC GI) had set out planning obligations towards library service and youth service on 12 March 2021. However, on 28 June 2023 they provided revised planning obligations requests for secondary education, SEND, libraries, youth service, and monitoring fees, as set out in the above table.

4.3.22 The table below sets out the contributions sought by HCC GI on 12 March 2021, which the applicant is prepared to agree to. This is based upon the indicative housing mix and affordable housing contributions set out by the applicant. This Housing Mix is:

Overall: 4 two bed, 5 three bed, 6 four bed

Affordable Social Rent: 2 two bed, 1 three bed

Market + other: 2 two bed, 4 three bed, 6 four bed

Library Services (HCC)	£2,844 (index-linked) towards the enhancement of Hitchin Library
Youth Services (HCC)	£761 (index-linked) towards the increased provision at Harpenden Young People's Centre or its future re-provision

- 4.3.23 The parties were working on a draft S106 agreement prior to reporting this application to Planning Committee under the provisions of the previous and superseded planning obligations supplementary planning document. However, under the new adopted Developer Contributions SPD (January 2023), it is no longer a requirement that a draft S106 must be agreed before reporting the application to Committee.
- 4.3.24 The contributions now requested by HCC reflect the replacement of their planning obligations guidance toolkit of 2008 with their Guide to Developer Infrastructure Contributions document (approved July 2021). It is considered that the latest contributions sought result from changes to requirements for local services, with HCC GI stating in their 2021 letter that this “may potentially mean a contribution towards other services could be required at the time any application is received in respect of this site”. It is considered that HCC can request new planning obligations prior to a resolution being made by Planning Control Committee on this application.
- 4.3.25 The applicant has not agreed to pay the HCC GI contributions requested in June 2023 on the basis that HCC GI have not engaged from 2022 to get the obligations requested in 2021 agreed in a draft S106. Whether this is the case or not, the present situation is that the applicant does not agree to the planning obligations requested by HCC GI.
- 4.3.26 The applicant has not set out any detailed reasoning as to why they can’t provide all the contributions now sought by HCC. The NPPF paragraph 58 states:
- Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.*
- 4.3.27 A viability assessment has not been provided by the applicant, which would be required to justify a reduction in the obligations sought given that HCC considers the contributions they are seeking are justified and have provided detailed justification based on their guidance. Moreover, from the information available, I consider that the S106 obligations sought comply with the tests for planning obligations in paragraph 57 of the NPPF and as set out at in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- 4.3.28 HCC will not therefore sign the S106 in the absence of the obligations that they are now seeking. An S106 needs all relevant parties to agree to it. Consequently, none of the other contributions requested and agreed will also be provided. Therefore, the impacts of the proposed development upon infrastructure and services will not be mitigate and the proposal does not comply with Policy SP7 of the Local Plan, and with the NPPF.

Climate Change Mitigation:

4.3.29 The NPPF supports the transition to a low carbon future and the increased use of renewable energy sources. North Hertfordshire District Council has declared itself a Climate Emergency authority and its recently adopted Council Plan (2020 – 2025) seeks to achieve a Council target of net zero carbon emissions by 2030 and protect the natural and built environment through its planning policies. Local Plan Policy D1 seeks to reduce energy consumption and waste. To assist in achieving these aims, Electric Vehicle Charging points will be conditioned at the Reserved Matters stage to be installed on each of the proposed new dwellings. The applicant has also submitted a Sustainability Statement demonstrating that the new dwellings in terms of carbon emissions generated would exceed the latest Building Regulations requirements, therefore further helping to minimise climate change.

4.4 **Conclusion**

4.4.1 The proposed development is unacceptable because its impact upon services and facilities will not be mitigated in the absence of agreed planning obligations and is considered that the proposal would fail to comply with Policy SP7 adopted Local Plan and relevant policies of the National Planning Policy Framework.

4.5 **Alternative Options**

4.5.1 None applicable

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 reason:

1. In the absence of a completed S106 Legal Agreement or Unilateral Undertaking the proposal fails to make provision for infrastructure, services and facilities that are necessary in order to accommodate the additional demands resulting from the development and therefore fails to satisfy the provisions of Policy SP7 of the adopted North Hertfordshire Local Plan Local Plan 2011 to 2031 as supported by the Council's Developer Contributions Supplementary Planning Document January 2023.

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 positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.