

Location: Land East of Ashmill Poultry Farm
High Street
Barkway
Hertfordshire

Applicant: Edit Residential

Proposal: Outline planning permission for the erection of 6 no. dwellings with access, parking and associated works (all matters reserved except for access) (as amended by plans received on 22 May 2023)

Ref. No: 23/00523/OP

Officer: Alex Howard

Date of expiry of statutory period: 5th May 2023

Extension of statutory period: 15th March 2024

Reason for Delay: In order to present the application to an available committee meeting.

Reason for Referral to Committee: The proposal is for residential development and the site area is larger than 0.5 hectares and is presented to Planning Committee for determination, in accordance with the Council's constitution.

This application has also been called in by Cllr Gerald Morris given the objection from Barkway Parish Council, on the basis that the site is not an allocated housing site in the Local Plan.

1.0 **Site History**

1.1 Pre-application advice was sought on this site in 2018 for a 9-dwelling scheme.

2.0 **Policies**

2.1 **North Hertfordshire District Local Plan (The Local Plan) 2011 – 2031**

Policy SP1: Sustainable Development in North Hertfordshire

Policy SP2: Settlement Hierarchy and Spatial Distribution

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 SP13: Historic Environment

Policy HS3: Housing mix

Policy T1: Assessment of Transport Matters

Policy T2: Parking

Policy D1: Sustainable Design

Policy D3: Protecting Living Conditions

Policy NE1: Landscape
Policy NE2: Green Infrastructure
Policy NE4: Biodiversity and geological sites
Policy NE6: New and improved public open space
Policy NE7: Reducing Flood Risk
Policy NE8: Sustainable drainage systems
Policy NE10: Water conservation and wastewater infrastructure
Policy NE11: Contaminated land
Policy NE12: Renewable and Low Carbon Energy Development
Policy HE1: Designated Heritage Assets
Policy HE4: Archaeology.

2.2 **National Planning Policy Framework (NPPF) (December 2023)**

Section 2: Achieving sustainable development
Section 4: Decision making
Section 5: Delivering a sufficient supply of homes
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 and beautiful places
Section 14: Meeting the challenge of climate change, flooding and coastal change
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment

Vehicle Parking at New Development SPD

3.0 **Representations**

3.1 **Site Notice and Neighbour Consultation** – Comments received from 9 interested parties, objecting to the proposal on the following grounds (summary):

- The land is unsuitable for development due to its proximity to the adjacent poultry farm which has existing odour issues.
- Development of this site will make existing drainage issues in the village worse, increasing risks of flooding.
- The development of this site will increase the risk of overflow at the local sewage plant and further pollute the local rivers.
- The site supports a considerable amount of wildlife which would be lost as a result of this development.
- The proposed access is a risk as traffic moves faster along the road despite its 30mph speed limit. Concerns over refuse vehicles reversing into the site and causing risks.
- Number of vehicle movements has been underestimated.
- The development would not be in-keeping with adjacent listed buildings.
- Concerns over the remaining sections of the field which could see further development in the future if permission is granted for this site.
- The site has previously been considered for housing development in the Local Plan process and was rejected.
- Disappointment that the landowner demolished an existing pillbox.
- The Local Plan has allowed for 160 new dwellings at the north end of the village.
- The proposed dwellings closest to the boundary would have a direct view into the rear windows of Clockhouse Cottage.
- The children's play area directly behind the garden at Clockhouse Cottage would be noisy and disruptive.
- The submitted ecological report is not thorough enough to be considered.

- The village does not have a usable public transport network, meaning that occupants would be reliant on private vehicles.
- The scheme if permitted should incorporate a condition that requires integrated Swift bricks.

3.2 **Hertfordshire Highways** – A formal response was received on the 31st March 2023 which whilst not opposing the principle of the development indicated that the access needs to be a standard double dropped kerb.

Further information was submitted by the applicant to overcome the concerns raised and Hertfordshire Highways were re-consulted and they now raise no objections to the proposal.

3.3 **Barkway Parish Council** – Objects to the proposal on several grounds. Full response can be viewed on the application portal.

3.4 **Environmental Health (Air Quality)** – No objection subject to conditions.

3.5 **Environmental Health (Land Contamination)** – No objection subject to conditions.

3.6 **Environmental Health (Noise/Nuisances)** – A formal response was received from the Environmental Health officer (EHO) on the 9th May 2023 recommending refusal of planning permission on the grounds of inadequate information: - i) Inadequate odour assessment by nature of the desk based assessment and no site visits. ii) High risk of odour releases, currently controlled by the existence of an odour management plan for the poultry farm iii) High sensitivity of the proposed residential dwellings by nature of the close proximity of the poultry farm.

As a result of this formal response from the EHO, the applicants commissioned a further Odour Assessment which was submitted the Council on the 26th July 2023. Following a re-consultation with the EHO on this further information, a formal response was received on the 7th November 2023 (summary):

“The Applicant has previously submitted a desk based survey, which involved no on site visits. I responded to this in my previous memo. Further to my previous response the Applicant has submitted a “Field Odour Survey: Barkway Near Royston Hertfordshire”. Various issues were raised e.g Section 3.17 odour nuisance from poultry facilities which was distinct; Section 3.22 Negligible to slight adverse odour effects were detected throughout the proposed development site; Section 3.25 “During the survey, multiple odour sources were identified in the local area, including odour nuisance from poultry facilities which was distinct and covered the survey area at reasonably regular intervals. Section 4.4 “The odour sources identified include poultry... The intensities of the odours included some stronger poultry odours. The main odour source was the adjacent poultry shed extracts.

*In addition, I have reviewed Planning appeal reference APP/X1925/W/17/3173257 for the same site. This Appeal was dismissed on the following grounds – “Due to the proximity of the adjacent poultry farm, the living conditions of future occupiers of the dwellings would be affected by odour”. Section 13 of the Report states “I conclude that the living conditions of future occupiers would be **significantly affected by odours** as a result of the proximity of the existing poultry farm”.*

*In summary, based on the odour survey and the Appeal Decision, I recommend **REFUSAL** of planning permission due to the likely adverse impact on future residents”.*

The applicants were not satisfied with the level of detail and consideration in these two formal comments from the EHO, who has since left the Council. Therefore, it was agreed that another EHO would consider the supporting information and come to a view based on odour. This formal response was received on the 5th December 2023 and states (summary):

“In summary this service concurs with the previous recommendation of REFUSAL of planning permission due to the likely adverse impact on future residents for the.... There is a high risk of future residents being affected by odour sufficient to cause a nuisance. The Institute of Air Quality Management – Guidance on the Assessment of Odour for Planning 2014 states that “Significant sources of odour should be separated from odour sensitive users of the surrounding land”.

The applicants requested a further meeting with the EHO and reconsideration of the submitted information. This was considered by the EH team who decided to let a third member of their team consider the submitted information in correspondence with their team leader. It was therefore agreed by the EHO to maintain the objection from the current and previous EHOs.

3.7 **Archaeological Implications** – No objection subject to conditions.

3.8 **Waste and Recycling** – General guidance given on size of operating vehicles.

3.9 **Conservation Officer** – An initial response was received on the 26th June 2023 raising **OBJECTION** and concluding that proposal would significantly curtail and impair the countryside setting and impinge upon the former turnpike toll house and cause harm to the established character of the village. The proposal fails to satisfy the provisions of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims of para 130 c) and Section 16 of the NPPF and the aims of Policy HE1 of the North Hertfordshire Local Plan 2011-2031. The degree of harm is considered ‘less than substantial’.

The applicants commissioned their Heritage Consultant to review and rebut the comments made by the Conservation Officer, which was received on the 26th July 2023. The Conservation Officer was re-consulted on this rebuttal and provided the following formal conclusion on the 7th November 2023 maintaining **OBJECTION** and recommending the following draft reason for refusal.

“Barkway Conservation Character Statement states that “most of the Conservation Area is surrounded by pasture which is, in turn, surrounded by arable farmland.” According to the BCACS, Barkway’s special interest lies in its high concentration of listed buildings in the High Street with the feeling of being enclosed. This contrasts with the rural open character at the southern end of BCA which contributes not only to the setting of the BCA but also to the setting of Clockhouse Cottage and Barkway Cottage (both grade II). Although in outline, by reason of the number, spacing and orientation of the proposed dwellings (effectively turning its back onto the road), the suggested site layout would impact upon the rural setting of Clockhouse Cottage, Barkway Cottage (both grade II) and the BCA. The degree of harm is judged to be less than substantial and at a moderate level in heritage terms on this continuum and would not safeguard the established local character and history of the village. The proposal fails to satisfy the provisions of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims of para 130 c) and Section 16 of the NPPF and the aims of Policy HE1 of the North Hertfordshire Local Plan 2011-2031”.

3.10 **Hertfordshire Ecology** – No objection subject to conditions. Full response can be viewed on the application portal.

- 3.11 **Hertfordshire Growth and Infrastructure** – No obligations sought as proposed development is below the threshold.
- 3.12 **Housing Development Officer** - Full response can be viewed on the application portal.
- 3.13 **Thames Water** – None received.
- 3.14 **The Water Officer** – a condition is required for the provision and installation of a fire hydrant, at no cost to the county council, or Fire and rescue services to ensure there are adequate water supplies available for use at all times.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The application site comprises an open field/pasture on the western side of the High Street, Barkway. The site is located on the southern edge of the village and is bounded by the highway to the east, residential properties to the north, open fields to the south and Ashmill Poultry farm to the west, with existing dense landscaping on three sides. The site is currently accessed via a field gate on Ash Mill to the north, measures 0.91 Ha and is relatively flat.
- 4.1.2 The site is located outside of the defined settlement boundary for Barkway in the Local Plan. The whole site is therefore designated within the Rural Area beyond the Green Belt. The site is also partly within the Barkway Conservation Area where it fronts the High Street. The site is within Flood Zone 1.

4.2 **Proposal**

- 4.2.1 Outline planning permission is sought for the erection of 6 no. dwellings with access, parking, and associated works (all matters reserved except for access) (as amended by plans received on 22 May 2023).
- 4.2.2 The development would be facilitated via the formation of a new access onto the highway opposite No.147 High Street, which would require the removal of existing hedgerow and engineering work. The application has been supported by a proposed site plan and illustrative masterplan to identify how the proposal could be delivered on site. However, all matters are reserved for subsequent approval apart from access.

4.3 **Key Issues**

- 4.3.1 The key issues for consideration are the
- The Principle of Development
 - The Impact on Designated Heritage Assets
 - Design and Layout
 - Living Conditions
 - Highways, Access, and Parking
 - Ecology
 - Archaeology
 - Surface Water Drainage
 - Waste and Recycling
 - Climate Change/Sustainability
 - Planning Obligations

- Planning Balance

Principle of Development

- 4.3.2 The North Hertfordshire Local Plan was adopted in November 2022 and is now part of the development plan, where full weight shall be given to relevant policies. The National Planning Policy Framework (NPPF) is a material consideration attracting significant weight.
- 4.3.3 Policy SP1 of the Local Plan supports the principles of sustainable development and seeks to maintain the role of key settlements as the focus for housing and to ensure the long-term vitality of the villages by supporting growth which provides opportunities for existing and new residents and sustains key facilities. The policy elaborates on this stating that planning permission will be granted for proposals that deliver an appropriate mix of homes, create high quality development that respects and improves their surroundings and provides for healthy lifestyles, provides for necessary infrastructure to support an increasing populations, protects key elements of the District's environment including biodiversity, important landscape, heritage assets and green infrastructure, the mitigates the impact on climate change.
- 4.3.4 Policy SP2 of the Local Plan sets out that the majority of the District's housing developments will be delivered in the settlement boundaries of the main towns. It further states that a smaller proportion of housing and supporting infrastructure will be delivered in the adjusted settlement boundaries of five villages, of which Barkway is one of them and is estimated to deliver 208 dwellings. It goes on to categorise the remaining villages into A, B and C based on their size and availability of services.
- 4.3.5 The supporting Planning Statement makes several points on this principal issue, setting out that Barkway is one of five villages that will support higher levels of new housing than the Category A villages and that windfall sites such as this will support the delivery of new homes over the plan period. However, the application site is outside of the defined settlement boundary of Barkway. As such, the proposed development conflicts with Local Plan Policy SP2. The proposed development is not required to maintain the vitality of the village. There are two housing sites allocated by the Local Plan in Barkway for an estimated 160 new homes and 57 homes have been built or granted within the parish since 2011.
- 4.3.6 The applicant also contends that the Council cannot demonstrate a five-year housing land supply and has a history of poor housing delivery, which would engage the tilted balance set out at paragraph 11d) of the NPPF. Paragraph 76 of the revised NPPF confirms that from 20 December 2023, the Council is not required to identify and update annually a 5-year supply of deliverable housing sites because the adopted local plan is less than five years old and identified at least a five-year supply at the time the examination concluded. However, this only applies to applications received after that date. Regarding the allegation of poor housing delivery, the Council published updated Housing Delivery Test results for 2021 in January 2022 and achieved a HDT measurement of 125%. The NPPF confirms that delivery below 85% of the housing requirement would constitute poor delivery. Therefore, housing delivery has not been poor. However, regarding housing land supply, as this application was received before December 2023 the NPPF Paragraph 76 exemption does not apply to this application. Whilst it is considered that at this point the Council has around 3.5 years supply of housing land, for the purposes of deciding on this application, for reasons set out later in this report it is considered that the tilted balance does not apply in this case.

- 4.3.7 The site is designated as within the Rural Area beyond the Green Belt, which is covered under Policy CBG1 of the Local Plan, which sets out circumstances where planning permission would be granted. The proposed development would not comply with any of the criteria for suitable development in the Rural Area beyond the Green Belt and therefore the proposed development conflicts with Policy CGB1 of the Local Plan.
- 4.3.8 The applicants have also made the case that the proposed development was a suitable candidate for residential development by the Strategic Housing Land Availability Assessment (SHLAA) (2016), with the main reason why it was not selected relating to the impact of odour caused by the poultry to the west. However, this site was not allocated for housing in the Local Plan and the fact is that the site may have been considered for housing in the SHLAA, is a material consideration that carries little weight.
- 4.3.9 On the 12th February 2024, the applicants submitted a revised proposal to the Council for consideration under this current application. The revised proposal looks to deliver 5 self-build dwellings and 1 affordable dwelling on site, instead of 6 market dwellings and an off-site affordable housing contribution of £123,000. Given the nature of these revisions in the context of this outline application, it is considered that re-consultation is not required.
- 4.3.10 The applicants contend that the Annual Monitoring Report (AMR) 2021 states “*Relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by the number of entries added to the self and custom build register during a base period*”. They consider that AMR shows entries on the self and custom build register and permissions granted via private windfall schemes, where it reveals a requirement for 412 self-build homes, but only 145 permissions for such homes have been recorded. This equates to 35% of the statutory obligation which is a shortfall. Therefore, the applicants consider that delivering 5 self-build homes at this site will significantly aid NHC’s housing delivery. Furthermore, the shift from an off-site affordable housing contribution to the delivery of 1 affordable dwelling on site would be more advantageous and would meet the tests set out under paragraph 57 of the NPPF.
- 4.3.11 The recent revisions to proposal set out above is acknowledged and has benefits compared to the original submission for 6 market dwellings and an off-site affordable housing contribution, as it would contribute to the shortfall in delivery of self-build homes set out in the AMR and supply 1 affordable dwelling on site. The supporting text under Policy SP8 of the Local Plan supports the delivery of self-build homes on windfall sites, of which this would be, but where they are compatible with the policy framework of this plan. In this regard, it is considered that the proposal conflicts with Policies SP2 and CGB1 of the Local Plan. As such, whilst the self-build provision is a planning benefit to which moderate weight is attributed, as is the delivery of 1 affordable unit on-site, it is considered that these benefits do not overcome the principal objections stated above.
- 4.3.12 Overall, notwithstanding the revised provision of 5 self-build homes and 1 affordable dwelling on site, it is considered that the proposed development in this location is unacceptable in principle, due to the location of this greenfield site within the countryside outside the defined settlement boundary for Barkway. The proposal does not meet any of the criteria for suitable development in the Rural Area beyond the Green Belt and is therefore contrary to Policies SP2 and CGB1 of the Local Plan.

Impact on Designated Heritage Assets

- 4.3.13 Policy SP13 of the Local Plan states that “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight will be*

given to the asset's conservation and the management of its setting". This reflects paragraph 205 of the NPPF which stipulates that great weight should be given to the conservation of designated heritage assets, such as conservation areas. Policy HE1 of the Local Plan states that "Planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they: c) Will lead to less than substantial harm to the significance of the designated heritage asset, and this harm is outweighed by the public benefits of the development, including securing the asset's optimum viable use". This is reinforced by paragraph 208 of the NPPF.

4.3.14 Whilst only part of the site is within the Barkway Conservation Area (BCA), that is the eastern part of the site that fronts the High Street, the remainder is within its setting. The site is also due south of the grade II listed property known as Clockhouse Cottage (no.158 High Street) and opposite the grade II listed building known as Barkway Cottage (no.147 High Street) and can be considered within the setting of these listed buildings. Therefore, consideration is given to the impact of the proposal upon these heritage assets. Section 66 (1) of the Planning (Listed Buildings and Conservation Act 1990 requires that when considering whether to grant planning permission for development which affects a listed building, or its setting, special regard shall be had to the desirability of preserving the building or its setting. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise of planning powers, in conservation areas "*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*".

4.3.15 The Council's Conservation Officer was formally consulted on this application, providing an initial formal comment in June 2023 and another in November 2023, following the submission of a rebuttal from the applicant in July 2023. The Conservation Officer has provided a draft reason for refusal in his most recent formal comments, in which he considers that the proposed development would result in moderate harm on the 'less than substantial harm continuum' on the rural setting of Clockhouse Cottage, Barkway Cottage and the BCA.

4.3.16 The applicant initially submitted a Heritage Statement which considered the impact of the proposal upon these heritage assets and concluded as follows:

"Barkway's historic development has been piecemeal and opportunistic, with infilling, linear extension, and rebuilding. This has given rise to a highly varied but informal grouping of buildings which collectively give the village its individual mark. The Proposed Development can be seen as the latest chapter in this pattern of small-scale interventions. The site does not contribute markedly to the special interest of the Barkway Conservation Area and development on the scale proposed will not disturb its character and appearance of the Conservation Area. None of the key views identified in the CACS or the draft Neighbourhood Plan would be disturbed by the Proposed Development. There is no harm to the significance of any of the designated heritage assets. None of the non-designated heritage assets identified in the CACS are affected by the proposal. The Proposal accords with the principles set out in the National Planning Policy Framework 2021 and the North Hertfordshire Local Plan".

The subsequent rebuttal Heritage Statement submitted by the applicant in July 2023 sought to consider the Conservation Officers initial comments, concluding as follows:

"The setting of a heritage asset is defined in the NPPF Glossary:

The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make

a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Historic England points out that setting itself is not a heritage asset, nor a heritage designation. The test is to examine how the current setting contributes to the significance of the asset and establish whether the proposed change would alter that significance.

Changes to the setting of the grade II Clockhouse Cottage will be modest, with no harm caused to the ability to appreciate its former role as a toll house. There will be no loss of heritage significance to the building, nor to Barkway Cottage or the wider Barkway Conservation Area”.

4.3.17 Notwithstanding the applicant’s submissions, I consider that the proposal would give rise to moderate harm on the less than substantial harm continuum to the heritage significance of the designated heritage assets through changes to the pastoral rural setting. It is accepted that the outline nature of this planning application is such that the detailed consideration of the design, landscaping, layout, and scale of the scheme are not to be considered. However, it is reasonable to make a balanced and informed assessment based on the indicative plans submitted and considering the existing contribution of this site to the setting of nearby listed buildings and the Conservation Area, which would without doubt be impacted by the erection of buildings on it.

4.3.18 Therefore, the proposed development would conflict with Policy HE1 of the Local Plan and Section 16 of the NPPF, which requires development proposals to conserve or enhance the setting and significance of designated heritage assets. The harm to the setting and significance of the grade II listed Clockhouse Cottage and Barkway Cottage, and the Conservation Area, should attract great weight. Under the provisions of Local Plan Policy HE1 and paragraph 208 of the NPPF this harm should be weighed against the public benefits that would arise from this proposal, which is considered towards the end of this report.

Design and Layout

4.3.19 Policy D1 of the Local Plan states that planning permission will be granted provided that development responds positively to the site’s local context in addition to other criteria. Policy SP9 of the Local Plan further considers that new development will be supported where it is well designed and located and responds positively to its local context. These considerations are echoed in Section 12 of the NPPF.

4.3.20 As this application is for outline planning permission with all matters reserved apart from access, I am unable to comment on the layout and design of the scheme, as these details would be considered under a Reserved Matters application if outline permission was granted.

Living Conditions

4.3.21 Policy D3 of the Local Plan states that planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.

4.3.22 In terms of neighbour amenity, given the outline nature of this application, it is difficult to fully assess the impact that the proposed development would have on neighbouring properties. The site only has one neighbour that is likely to be affected by the development at Clockhouse Cottage, owing to the indicative site plan which shows Plot 6 right up against the shared boundary at two-storey. In my opinion, there is potential

harm to this neighbour's reasonable living conditions and amenity with respect to overdominance and overlooking from Plot 6, but this is a Reserved Matters consideration.

4.3.23 One of the primary considerations for development on this site is the issue of odour, given proximity to Ashmill Poultry Farm to the west of the site. As already stated, the impact of odour from the adjacent poultry farm was one of the fundamental reasons why the site was not allocated for residential development through the NHC SHLAA 2016.

4.3.24 The applicants commissioned Odour Consultants Kalaco Group Ltd to undertake a desk-based Odour Assessment to fully understand the areas of land at the site that are affected by the potential odours from the farm buildings. This assessment and its findings informed the final design of the indicative plan for development on this site, where the proposed dwellings were set on the eastern side of the site away from the identified odour zones which are on the western side. The Council's Environmental Health Officer (EHO) considered this desk-based assessment in the context their own records and following a site visit. On the 9th May 2023, the EHO formally objected and considered that *"the proposed residential development in very close proximity to an intensive poultry farm since. The EHO was consulted on two previous applications - 15/02761/1 in November 2015 and 16/02588/1 in November 2016 for residential development on the same site by the same Applicant(s). Application 16/02588/1, was refused and dismissed on appeal (reference APP/X1925/W/17/3173257) The Inspector stated at paragraph 13, "I conclude that the living conditions of future occupiers would be significantly affected by odours as a result of the proximity to the existing poultry farm...." The Inspector goes on to say at paragraph 16, "I have found that the proposed development would have an unacceptable impact on the living conditions of future occupiers of the dwellings through odours from the adjoining poultry farm.My view of the adverse effects identifiedoutweigh the benefits when assessed against the Framework"*.

A sensitive use i.e residential development, is being proposed near to an existing odorous process – in this case intensive poultry rearing. Consequently, the EHO considers that there is a risk of future residents being affected by odour sufficient to cause a nuisance and significant sources of odour should be separated from odour sensitive users of the surrounding land.

The EHO's main concern is the adjacent poultry farm for 60,000 birds and in particular the odour from the poultry litter and flies to adversely affect the proposed residents which will be in very close proximity to the poultry farm. The birds are housed for 38 days then dispatched. It is at the end of this 38-day period that odours are at their worst. This is then followed by 10 days when the three empty sheds are disinfected. Then the cycle starts again.

The poultry farm has the benefit of a permit from the Environment Agency YP393OUJ where ongoing pollution control of the operations (release to air soil and water) is regulated by the Environment Agency. Even with effective operational pollution regulation in place there can remain some residual odour and these residual odour effects may make a development unsuitable for nearby sensitive receptors. The EHO understands that an Odour Management Plan has been in place since 2007, designed to prevent or where this is not practicable, to minimise odours. Any future enforcement

action would be taken by the Environment Agency – Environmental Health would have no regulatory powers to deal with any nuisance which might arise should the residential dwellings be given planning permission.

4.3.25 The EHO goes on to state *“I have reviewed the submitted “Odour Assessment Barkway”, Report reference ODCP1013A_A2-1, Revision 2, dated 21/2/2023 by Odour Consultants Kalaco Group Ltd. I note Section 5.1/5.2 which state no odour complaints within a 3 km radius for the last 6 years however the proposed dwellings will be directly adjacent to the poultry farm. From memory I believe that the Farm Owner/Manager used to live in the property closest to the site so therefore would not complain.*

Section 3.15 and 4.4 state only a slight to moderate adverse effect but again these are for existing or proposed residents not immediately adjacent to the poultry farm. The odour assessment submitted has been a desk based and odour modelling exercise. There is no indication that the consultants have been out on site, or that they made efforts to be aware of what state in the livestock growing process they were considering. Following contacting the site owner to determine the details of the growing cycle, I visited the site towards the end of the growing cycle on 4th May. To the east of the site odours were noticeable, so with a change in wind direction odours would therefore also be noticeable at the proposed dwellings.

I visited the site on 4th May 2023. The weather was sunny and warm – 18 degrees. In close proximity to the conifers that provide separation between the poultry farm and the proposed dwellings (site itself unable to be accessed due to earth mound and vegetation), flies were very abundant and I consider would cause a nuisance as for example you would not be able to sit outside and enjoy your garden or even have your windows open, i.e affecting the residential amenity of the occupiers.

Taking into account all the above I recommend refusal of planning permission on the grounds of inadequate information: -

- i) Inadequate odour assessment by nature of the desk-based assessment and no site visits.*
- ii) High risk of odour releases, currently controlled by the existence of an odour management plan for the poultry farm*
- iii) High sensitivity of the proposed residential dwellings by nature of the close proximity of the poultry farm”.*

4.3.26 In respect of this formal comment, it is acknowledged that the EHO makes reference to two applications considered at Land Adjacent to Ash Mill, with the latter refused and dismissed at appeal due to the impact of odour on the living conditions of future occupiers. Whilst this appeal site is closer to the poultry farm compared to the application site and within the direction of prevailing wind, it is likely that the impacts here would be worse. In any case, the EHO has identified clear concerns that the proposal would result in the same significant adverse impacts from odour, which had not been appropriately considered by the submitted desk-based assessment.

4.3.27 In response, the applicant commissioned a further Odour Assessment which was submitted the Council on the 26th July 2023, with the author conducting sniff testing on site. This second assessment was carried out on site by a qualified expert in this field, which the Council acknowledge as well-substantiated. The agents have stated that this assessment can be summarised as follows:

“Clarified that three visits were carried out in peak summer 30th June, 5th and 6th July 2023.

The poultry units operate cyclically with the risk of odour emissions increasing as the birds grow. **There is also a risk of odour when the poultry sheds are cleaned and disinfected at the end of the growing cycle.** The farmer informed the Client that the last cycle would start on 27th May and finish around 5th July. The survey days were selected to represent both the most odorous parts of the cycle and the meteorological conditions most likely to cause a loss of amenity on the Proposed Development site **i.e. the worst case conditions.**

Field surveys, using sniff-tests, were undertaken over three days, near to the end of the poultry growing cycle, when odour emissions from the poultry sheds are expected to be greatest. The poultry units are cyclical and have an **approximate growing cycle length of 50 days, it is approximated there are 7 growing cycles per annum.** Information on the anticipated end of the growing cycles was provided by the farmer and coincided with the second survey day. **The field odour surveys were undertaken during the summer with temperatures ranging from 20 to 25°C on the field odour survey days. Therefore, the field odour surveys were undertaken to provide worst case exposure at the Proposed Development site.**”

- 4.3.28 The same EHO was formally consulted on this new assessment, and they provided the following formal comments:

“The Applicant has previously submitted a desk-based survey, which involved no on-site visits. I responded to this in my previous memo. Further to my previous response the Applicant has submitted a “Field Odour Survey: Barkway Near Royston Hertfordshire”. Various issues were raised e.g Section 3.17 odour nuisance from poultry facilities which was distinct; Section 3.22 Negligible to slight adverse odour effects were detected throughout the proposed development site; Section 3.25 “During the survey, multiple odour sources were identified in the local area, including odour nuisance from poultry facilities which was distinct and covered the survey area at reasonably regular intervals. Section 4.4 “The odour sources identified include poultry... The intensities of the odours included some stronger poultry odours. The main odour source was the adjacent poultry shed extracts.

*In addition, I have reviewed Planning appeal reference APP/X1925/W/17/3173257 for the same site. This Appeal was dismissed on the following grounds – “Due to the proximity of the adjacent poultry farm, the living conditions of future occupiers of the dwellings would be affected by odour”. Section 13 of the Report states “I conclude that the living conditions of future occupiers would be **significantly affected by odours** as a result of the proximity of the existing poultry farm”.*

In summary, based on the odour survey and the Appeal Decision, I recommend REFUSAL of planning permission due to the likely adverse impact on future residents”.

- 4.3.29 Furthermore, in response to the aforementioned summary of the 2nd Odour Assessment submitted to the Council on the 12th February 2024 via email, the Council’s EHO provided this supplementary comment:

*“I am not able to confirm that that **any** perceived odour issue from the poultry farm only arises at 7 intervals a year. Whilst it is acknowledged that there is a cyclical growing cycle and that the likelihood of odours that may be detectable on the site will fluctuate with the likelihood increasing as the birds grow in size and their waste builds, and in particular when it is cleaned out and removed up, I am not able to say that there will not be any perceived odour outside of the seven occasions quoted. Furthermore, whilst I note that that the odour field test assessments were undertaken toward the end of the growing cycle, I am not able to confirm this is ‘worst case scenario’ as this did not appear*

to be done when 'mucking out' operations were being undertaken. I further note that the temperature recorded at the time of the assessment was 20-25 degrees centigrade which is not likely to be peak summer temperatures and higher temperatures may increase the intensity of odour".

4.3.30 In respect of this 2nd formal comment from the EHO, even with the carrying out and submission of a field-based sniff test odour assessment following the desk-based assessment, concerns remain that the site is unsuitable for housing development due to adverse levels of odour from the poultry farm. The EHO acknowledges that the author of the supplementary report raises several issues with respect to odour impacts, concluding at section 4.7 of the Odour Assessment that:

"Overall, the odour effects are Negligible to Slight Adverse at the Proposed Development site. The significance of these effects, based upon relevant guidance and professional judgement, are considered 'not significant'. This considers that the odour effects are no worse than to the existing exposure of local residents".

4.3.31 Upon receipt of this 2nd formal response from the Councils EHO, the applicants contended that the response lacked sufficient detail to fully consider the supplementary Odour Assessment. Therefore, as the previous EHO has left the Council, it was agreed that another EHO would consider the supporting information and come to a view based on odour. This formal response was received on the 5th December 2023 and states:

"In summary this service concurs with the previous recommendation of REFUSAL of planning permission due to the likely adverse impact on future residents for the reasons given by Mrs Howe in her responses of 7th November 2023 and 9th May 2023. There is a high risk of future residents being affected by odour sufficient to cause a nuisance. The Institute of Air Quality Management – Guidance on the Assessment of Odour for Planning 2014 states that "Significant sources of odour should be separated from odour sensitive users of the surrounding land".

4.3.32 The applicants requested a further meeting with the EHO and reconsideration of the submitted information. This was considered by the EH team who decided to let a third member of their team consider the submitted information in correspondence with their team leader. It was therefore agreed by the EHO to maintain the objection from the current and previous EHOs.

4.3.33 Therefore, over the course of considering this application, three of the Councils EHO's have considered the desk-based odour assessment and the field-based sniff test odour assessment. All three of the EHO's have arrived at the same conclusion that the proposed development is unacceptable in this location, as future occupiers would be adversely impacted by the odour and associated impacts (e.g., flies) facilitated by the processes at the adjacent Ashmill Poultry Farm. This is consistent with the concerns raised during the consideration of this site for residential development in the SHLAA 2016 and the comments from interested parties, many of whom live further away from the poultry farm compared to the proposed dwellings but remain affected by it. Whilst I do acknowledge the complexity and detail submitted within the two odour assessments by the applicants, I concur with the formal view of the previous and current Environmental Health Officers that the adjacent poultry farm would cause unacceptable harm to the living conditions of future occupiers. The submitted Odour Assessment acknowledges that the effects would be negligible to slight adverse and be no worse than the existing

exposure to residents but based on the consistency of comments from neighbours in and around the site, this existing exposure is currently an issue for residents.

- 4.3.34 As such, I consider that the proposed development would not provide acceptable living conditions of future occupiers, contrary to Policy D3 of the Local Plan.

Highways, Access, and Parking

- 4.3.35 The proposed development would be facilitated by the formation of a new access off the High Street, opposite No.147 High Street which would require the removal of existing hedging and engineering works. The proposed access would look to achieve the required visibility splays for a 30mph road.

- 4.3.36 The Highway Authority initially raised concerns that the proposal had a substandard access design and that a swept path analysis had not been carried out. Upon receipt of amended plans from the applicant who sought to overcome these concerns by showing a double dropped kerb and swept path analysis, the Highway Authority formally considered the proposals and raised no objections. Therefore, it is considered that the proposed access and internal road network is acceptable in planning terms.

- 4.3.37 With respect to parking, the proposal would provide 2 parking spaces per dwelling with sufficient space internally for visitor parking, which is in accordance with Policy T2 of the Local Plan.

Ecology

- 4.3.38 The application was submitted with a full Ecological Appraisal and indicative masterplan showing extensive green open space and landscaping. The planning statement states that:

“As shown on the indicative masterplan, the proposed development will deliver substantial ecological enhancement as a result of substantial tree planting and landscaping. Approximately 80% of the application site is retained for green or open space. The proposed development will result in a +42.84% net gain in Habitat Units, a +52.97% net gain in Hedgerow Units on site and a +10.14% gain in River Units. The proposal therefore exceeds the 10% national policy requirements for BNG”.

- 4.3.39 Hertfordshire Ecology formally responded to this application, supporting the conclusions of the applicant that the recommendations of section 4.3 of the Ecological Appraisal are reasonable and should be followed, and that the requirement for a BNG of at least 10% has been met. Therefore, it is considered that the proposal is acceptable with respect to ecological matters, in accordance with Policy NE4 of the Local Plan.

Archaeology

- 4.3.40 The County Council's Archaeological Department considered the proposal and had no objections subject to the standard pre-commencement condition for a WSI. In my view, this is reasonable and in accordance with Policy HE4 of the Local Plan.

Surface Water Drainage/Flooding

- 4.3.41 The site is within Flood Zone 1 and the proposed development is below the threshold for consideration by the Local Lead Flood Authority. The applicants have submitted a Flood

Risk Assessment and Drainage Strategy which concludes that the risk of flooding from fluvial/tidal, groundwater and sewers to the proposed development is considered low. It identifies pluvial and surface water runoff as the governing flood source and therefore appropriate mitigation is necessary for the proposal. The applicants state that given the topography and current site layout, the drainage strategy for the site is to have three separate outfalls from the site and accompanying attenuation tanks with 116.3 m³ storage capacity. The three discharge points will limit flows to 1 l/s per outfall using Hydrobrake flow controls (or similar), with a combined discharge rate at 3l/s. They further state that foul water drainage would be connected to the existing sewer network.

- 4.3.42 Notwithstanding that a formal response from a statutory consultee remains outstanding, it is considered that the proposed development would be acceptable with respect to surface water drainage and flooding, assuming the measures outlined above are implemented. Whilst many interested parties have raised concerns over the existing flooding in the village and the risk of overflow at the local sewage plant, which is polluting nearby rivers, it is considered that these matters do not justify refusal of planning permission.

Waste and Recycling

- 4.3.43 This is a consideration for the Reserved Matters stage, as the plans will need to demonstrate that a large waste vehicle of sufficient size can manoeuvre through the site to collect waste and recycling. Furthermore, details of bin storage on plots are a design consideration which again, is a Reserved Matter.

Climate Change/Sustainability

- 4.3.44 The overarching purpose of the planning system is to contribute to achieving sustainable development, as stated in Section 2 of the NPPF. This is considered against the three objectives of sustainable development, the economic, social, and environmental objectives.
- 4.3.45 In terms of the economic objective, the proposed development would deliver benefits through the creation of employment during the construction phase and the use of nearby services by future occupiers. These benefits would be moderate in the context of the village of Barkway and would therefore attain moderate weight in my view.
- 4.3.46 In terms of the social objective, the proposed development would deliver 6 dwellings (5 self-build dwellings and 1 affordable dwelling), which would make a modest contribution to housing land supply including the delivery of self-build homes, of which there is a shortfall. Moderate weight is attributed to this provision within the context of a recently adopted Local Plan which has allocated two sites in Barkway estimated to deliver 160 new homes. Outline permission has been granted for up to 140 new homes, on allocated site BK3, under application 18/01502/OP and site BK2 is currently under construction (application 20/02779/FP). Therefore, moderate weight is attributed to the social benefits that would arise from a development of the scale proposed.
- 4.3.47 In terms of the environmental objective, the proposed development would deliver some benefits. Although only at outline stage, the indicative masterplan shows a large area of open space, more than 10% biodiversity net gain (BNG) has been demonstrated, and the retention and planting of new soft landscaping. Within the context of the upcoming mandatory requirement for 10% BNG it is considered that this is a benefit to which moderate weight should be attributed.

Planning Obligations

- 4.3.48 This application is for 6 dwellings which is below the threshold for planning obligations and affordable housing. However, the applicant has stated that instead of the original offer of a financial contribution of £123,000 as a payment towards off-site affordable housing, the proposal would deliver 1 affordable home on site. This would equate to a provision for 1 out of the 6 dwellings (16% of the total proposed dwellings). The applicants state that this is a positive contribution to the delivery of affordable housing, in accordance with Policy HS2 of the Local Plan and is in accordance with paragraph 57 of the NPPF.
- 4.3.49 Whilst the Council acknowledge that this delivery of 1 affordable home on site would be an economic and social planning benefit, it is considered that this should be awarded moderate weight in the context of the two allocated sites in Barkway (BK2 and BK3) that will look to deliver approximately 60 affordable homes, in accordance with the provisions set out in Policy HS2 of the Local Plan.

Planning Balance

- 4.3.50 In accordance with paragraph 208 of the NPPF, the identified moderate harm on the 'less than substantial harm' continuum to the heritage significance of the two grade II listed buildings and the Barkway Conservation Area must be weighed against the public benefits of the proposal.
- 4.3.51 The proposal would deliver moderate economic, social, and environmental benefits through the delivery of 6 dwellings towards the districts housing supply where 5 of which would be self-build and 1 would be affordable, the provision of open space (although indicative), and ecological enhancements through at least 10% BNG. The scheme has addressed the technical matters from the Highway Authority and is considered acceptable in highway and access terms, to which neutral weight is attributed.
- 4.3.52 However, for the reasons set out earlier in the report the proposed development in this location conflicts with Local Plan Policies SP2 and CGB1. It is considered that the odour and associated impacts of the adjacent Ashmill Poultry Farm would cause unacceptable harm to the living conditions of future occupiers, contrary to Policy D3 of the Local Plan.
- 4.3.53 In terms of whether the tilted balance should apply, as the Council cannot demonstrate currently a 5-year supply of housing for applications submitted before 20 December 2023, the titled balance as set out at NPPF Paragraph 11 is potentially engaged. However, it is considered that the proposal would cause a moderate level of harm on the 'less than substantial harm' continuum to the significance of two nearby listed buildings and the Barkway Conservation Area. The NPPF stipulates that great weight should be attributed to this harm. The moderate public benefits that would arise from this proposal does not outweigh that harm. Therefore, the proposal conflicts with policies that protect areas or assets of particular importance (in this case designated heritage assets) and this provides a clear reason for refusal. As such, under the provision of footnote 6 of paragraph 11 of the NPPF, the Local Plan policies most important for determining this application are not out-of-date and the titled balance is not engaged.

4.4 Conclusion

- 4.4.1 It is concluded that the less than substantial harm to designated heritage assets would not be outweighed by the public benefits of the proposal and the proposal would conflict with policies of the NPPF which set to conserve and enhance the historic environment. The proposal would therefore also conflict with Local Plan Policy HE1. The proposal

would result in housing development beyond the defined settlement boundary and conflict with Policies SP2 and CGB1. It is considered that the odour environment would affect the living conditions of future occupiers which cannot be satisfactorily mitigated and therefore the proposal conflicts with Policy D3 of the Local Plan.

4.5 **Alternative Options**

4.5.1 N/A

4.6 **Pre-Commencement Conditions**

4.6.1 N/A.

4.7 **Climate Change Mitigation Measures**

4.7.1 N/A

5.0 **Recommendation**

5.1 That planning permission be **REFUSED** for the following reasons:

1. The proposed development, by virtue of its location outside of the defined settlement boundary for Barkway, would conflict with Policy SP2 of the North Hertfordshire Local Plan 2011 to 2031. Furthermore, the site is designated as within the Rural Area beyond the Green Belt and the proposed development would not comply with any of the criteria for suitable development in this area and therefore conflicts with Policy CGB1 of the Local Plan. The proposal is therefore considered unacceptable in principle in this location.

2. Barkway Conservation Character Statement (BCACS) states that "most of the Conservation Area is surrounded by pasture which is, in turn, surrounded by arable farmland." According to the BCACS, Barkway's special interest lies in its high concentration of listed buildings in the High Street with the feeling of being enclosed. This contrasts with the rural open character at the southern end of Barkway Conservation Area (BCA) which contributes not only to the setting of the BCA but also to the setting of Clockhouse Cottage and Barkway Cottage (both grade II). The proposed development would have an urbanising impact upon the character and appearance of the site which would have an adverse impact upon the rural setting of Clockhouse Cottage, Barkway Cottage (both grade II) and the BCA. The degree of harm is judged to be less than substantial and at a moderate level in heritage terms on this continuum and would not safeguard the established local character and history of the village. Therefore, the proposal fails to satisfy the provisions of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims of para 130 c) and Section 16 of the NPPF and the aims of Policy HE1 of the North Hertfordshire Local Plan 2011-2031.

3. The proposed development, by virtue of its close proximity to the adjacent Ashmill Poultry Farm, would be unacceptable in respect of amenity. Residential development in this location would not be acceptable, as future occupiers would be adversely

impacted by the odour and associated impacts (e.g., flies) facilitated by the processes at the adjacent Poultry Farm, to the detriment of their reasonable living conditions and well-being. This would be contrary to Policy D3 of the North Hertfordshire Local Plan 2011 to 2031.

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.