

<u>Location:</u>	<b>Land Adjacent To Red Brick Cottage The Street Kelshall Royston Hertfordshire SG8 9SQ</b>
<u>Applicant:</u>	<b>Mr Bill Brede</b>
<u>Proposal:</u>	<b>Erection of custom/self-build detached 5-bed dwelling with shared vehicular access.</b>
<u>Ref. No:</u>	24/01962/FP
<u>Officer:</u>	<b>Alex Howard</b>

**Date of expiry of statutory period:** 7<sup>th</sup> November 2024

**Extension of statutory period:** 13<sup>th</sup> December 2024

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

**Reason for Referral to Committee:** The application has been called in by Cllr Martin Prescott in support of the reasons set out in the formal objection from the Kelshall Parish Meeting.

1.0 **Site History**

1.1 **24/01096/DOC** - Detail reserved by Condition 3 (Construction Management Plan) of Section 73 agreement application reference 24/00065/S73 granted on 26.03.2024 (as amended by details received 4th July 2024)

1.2

**Approval of Details**

**24/01138/DOC** - Detail reserved by Condition 4 (Hard and Soft Landscaping) of Section 73 agreement application reference 24/00065/S73 granted on 26.03.2024.

**Approval of Details**

**24/01265/DOC** - Details reserved by Condition 6 (External Materials Schedule) of Section 73 application reference 24/00065/S73 granted on 26.03.2024.

**Approval of Details**

1.2 **24/00065/S73** - Removal of Condition 2 (approved drawing numbers - omit drawings; 2021/60/01, 2021/60/02 C, 2021/60/03 B and replace with drawings; 2021/60/01C, 2021/60/02 E, 2021/60/03 B) of planning permission 22/01229/FP granted 06.09.2023 for Erection of one detached 4-bed dwelling including new vehicular access, garage, parking and landscaping (as amended by plans received 9th August 2022).

## **Conditional Permission**

- 1.3 **22/01229/FP** - Erection of one detached 4-bed dwelling including new vehicular access, garage, parking and landscaping (as amended by plans received 9th August 2022).

## **Refused – Allowed at Appeal**

## 2.0 **Policies**

### 2.1 **North Hertfordshire District Local Plan 2011 – 2031**

Policy SP1: Sustainable Development in North Hertfordshire  
Policy SP2: Settlement Hierarchy and Spatial Distribution  
Policy SP8: Housing  
Policy SP9: Design and Sustainability  
Policy SP12: Green Infrastructure, Landscape and Biodiversity  
Policy SP13: Historic Environment  
Policy T1: Assessment of Transport Matters  
Policy T2: Parking  
Policy CGB1: Rural Areas beyond the Green Belt  
Policy D1: Sustainable Design  
Policy D3: Protecting Living Conditions  
Policy D4: Air Quality  
Policy NE1: Landscape  
Policy NE4: Biodiversity and Geological Sites  
Policy HE11: Contaminated Land  
Policy HE4: Archaeology

### **Supplementary Planning Documents (SPD)**

Sustainability SPD September 2024

### 2.2 **National Planning Policy Framework (July 2021)**

Section 2: Achieving sustainable development  
Section 5: Delivering a sufficient supply of homes  
Section 8: Promoting healthy and safe communities  
Section 9: Promoting sustainable development  
Section 11: Making effective use of land  
Section 12: Achieving well-designed places  
Section 15: Conserving and enhancing the natural environment

## 3.0 **Representations**

- 3.1 **Site Notice and Neighbour Consultation** – A total of 31 responses have been received from interested parties, 29 objecting and 2 neutral, to the proposal on the following grounds:

- The proposal would be facilitated by a footpath diversion which is well used by local residents and requires the formal approval of the County Councils Right of Way Department.
- The proposal would squeeze two large properties onto the site which are larger than the dwelling allowed at appeal. This would not constitute small infill development, nor would it retain sky gaps and open character as considered by Officers and the Inspector.
- The notion that this property is a self/custom build is flawed without justification.

- The original dwelling built out on site currently was approved under Kelshall's Category B status.
- This proposal is very different to that which was allowed at appeal and should be sent back to PINs for this reason.
- The dwelling being built out on site was subsequently amended to be taller, wider and deeper overall with a different design, this proposal is a mirror image of that latest approved dwelling.
- The appellants justification relied heavily on the plot accommodating a single dwelling, which is no longer the case with this proposal.
- The dwellings are likely to result in 3 cars each, worsening traffic conditions on this quiet lane with limited passing places.
- Existing utilities and services are inadequate, and this proposal will make this matter worse.
- Increased risk of flooding as a result of this additional dwelling from the pond at the rear of the site and run off onto the highway.
- The Local Ramblers Group objects to this application due to the assumed diversion of the Kelshall Footpath 007. Mentions a lack of detail about the diverted path but mentions that support could be forthcoming if certain measures are met and adhered to.
- Concerns that the mature hedgerow fronting The Street will be totally removed as a result of this proposal.
- The proposal would not support the consideration of infill development in Kelshall under ref: 20/02292/OP which stated "*categorisation of Kelshall as a Cat B settlement and this will inevitably invite further applications for housing development as part of a planned approach to increasing housing supply in smaller settlements. The issue is not that more development will be encouraged in the village, rather that it will be delivered in a measured, appropriate and sensitive manner*".
- The developer has not followed the plans for construction on the first dwelling.
- The proposal would diminish the considerable wildlife on the site.
- The dwellings will detract from the areas rural character.
- Concerns that when the site was sold, undertakings were given to not build houses on the site, which is not the case here.
- The proposal would continue to disrupt residents due to the construction traffic and processes.
- The previous refusal was allowed on appeal because the Council did not represent themselves or their application.
- Concerns relating to the access and manoeuvrability were made clear to the Council during the last application but were ignored.
- The proposal would increase the existing sewage issues with overflow into the River Rib.
- This is planning creep and should not be approved.
- The proposal is contrary to Local and National Planning Policies, namely Policies SP9, CGB1, D3 and SP2 of the Local Plan.
- There is some confusion with the phrase 'Built Core' in the context of Kelshall, where one does not exist.
- Kelshall has seen a disproportionate amount of housing growth which is not in accordance with Policy SP2.
- Concerns that approving this dwelling would set a precedent for future unacceptable development.

3.2 **Hertfordshire Highways** – No objection to the proposal including the use of the existing access, subject to conditions.

3.3 **Kelshall Parish Council** – Objects to the proposal for various reasons (summary):

- The dwelling being built out on site has not been done so in accordance with the Construction Management Plan, which will be repeated with this proposal if approved.
- Increased traffic during construction will cause damage to the narrow single track road.
- This proposal would not retain sky gaps or the open character of the area, as considered by the Inspector. This would alter the character of the village.
- The site is prone to flooding and the proposal would cause this issue to make the matter worse.
- The village has insufficient infrastructure to cope with the additional housing.
- Diverting the footpath through the site does seem to be an unnecessary inconvenience for regular users in the village.

3.4 **Environmental Health (Air Quality, Land Contamination, Noise)** – No objection subject to conditions covering EV charging points and contamination.

3.5 **County Council Rights of Way** – *“Drawing (Ref P01) illustrates Public Right of Way Kelshall 007. The D&A states: The existing RoW would be diverted around the boundary. Should this be given planning permission please see guidance below.*

*Whilst any works are underway, the Public Right of Way (Kelshall 007) must remain unobstructed and safe for public use at all times. If, for safety reasons, it becomes necessary to close the footpath then a Temporary Traffic Regulation Order must be applied for and granted before any such works take place.*

*With regard to an application to divert the footpath, the current Definitive Line of Kelshall Footpath 007 must remain unobstructed and safe for public use whilst an application is being processed. It must also be stressed that there is no guarantee that an application to divert the footpath will be successful. No works that would obstruct the existing route of the footpath may take place until a diversion application has been successfully confirmed.*

*The proposed diversion route is restricted on both sides by a fence and hedgerow and includes a sharp right-angled bend; neither of these features are desirable and could raise objections from user groups and local residents. It should be noted that HCC’s policy on new footpaths states that they must be an absolute minimum of 2m in width, with greater widths being preferred, especially by user groups.*

*If the developer would like to discuss the diversion process, they should contact Hertfordshire Rights of Way at: [row@hertfordshire.gov.uk](mailto:row@hertfordshire.gov.uk).”*

3.6 **Waste and Recycling** – Suggested general guidance given.

#### 4.0 **Planning Considerations**

##### 4.1 **Site and Surroundings**

4.1.1 The site is a parcel of land located adjacent to Red Brick Cottage and fronting The Street, Kelshall. A dwelling is currently under construction on this site on the northern half, see the site history for further details.

The site is split from The Street by a mature hedgerow which has been partially removed to facilitate vehicular access to the dwelling currently under construction. There is a public footpath that runs in a diagonal line through the site from the southernmost corner to the north of the site.

4.1.2 Kelshall is designated as a Category B settlement and all of the site is within the Rural Area beyond the Green Belt, as per the Adopted North Hertfordshire Local Plan.

## 4.2 **Proposal**

4.2.1 Planning permission is sought for the erection of one custom/self-build detached 5-bed dwelling with shared vehicular access. The proposal would seek to mirror the design and scale of the dwelling approved on the site under application ref: 24/00065/S73, comprising a two-storey dwelling with a 'H' shaped plan with a recessed central ridge line between two front facing gable ends. The dwelling would incorporate an attached single-storey garage with a hipped roof on the frontage which would be slightly offset. The proposal would be set slightly forward compared to the other approved dwelling on the site, with the main two-storey part of the dwelling set back from The Street by approx. 21.0m with the single storey garage set back by approx. 12.0m. The property would be finished in the same external materials as the other approved scheme, specifically black stained weather boarding/red brick work to the walls, and natural slate roof tiles. The windows would be finished in aluminium frames in a great/green colour.

4.2.2 The application is supported by the following documents:

- Plans and Elevations: 738 Location Plan, 738 P-01 Proposed Site Plan, 738 P-02 Proposed Plans and Elevations
- 738 Design and Access Statement.
- Proposed Site Plan Soft Landscaping P3708-B-SLS01 V1

## 4.3 **Key Issues**

4.3.1 The key issues for consideration are the:

- Principle of Development
- Planning History
- Design/Impact on the Character of the Area
- Impact on Neighbouring Dwellings/Future Occupiers
- Landscaping
- Access, Parking and Highways
- Rights of Way
- Other Matters

### Principle of Development

4.3.2 Policy SP1 of the Local Plan supports the principles of sustainable development and seeks to maintain the role of key settlements as the main 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.

4.3.3 Kelshall is designated as a Category B village within Policy SP2 of the Local Plan, where it states that *"infilling development which does not extend the built core of the village will be allowed"*. This village does not have a defined settlement boundary and is therefore designated as Rural Area beyond the Green Belt in the Local Plan, where there is a general presumption against development unless certain criteria are met. Policy CGB1 sets out these criteria, stating that permission will be granted for *"infilling development which does not extend within the built core of a Category B village"*. As such, as was the case for the previous application at this site under ref: 22/01229/FP, the main consideration at this stage is whether the site can be regarded as infill and whether the proposal will extend the built core of the village, for the purposes of the aforementioned policies.

4.3.4 Officers remain of the view that Kelshall can be characterised as a linear village, with sporadic built form from the southern part of The Street up towards North End. The village does not have a defined settlement boundary, so an objective assessment is required to determine what is considered the 'built core'. There are small clusters of built form in Kelshall, located towards North End, the centre of the village around the junction, and on The Street. These clusters are, in the spirit of Policy SP2 and CGB1 of the Local Plan, considered to be the built core of Kelshall. The application site is located on the north-east side of The Street, with a number of residential properties located to the south-east and west. There are residential properties to the north of the site, but there is a coppice which separates them physically. On this basis, it is considered that the due to the built form that is present in the areas surrounding the site, it can be classed as part of the existing built core of the village. Planning permission was granted on appeal for a dwelling on this site, a revised version of which is under construction at the site (ref: 22/01229/FP and 24/00065/S73), the Inspector's decision sets out the following in this respect:

*"6. The appeal site is large and therefore spacious, comprising approximately half of an existing paddock with further open agricultural land beyond to the rear. However, the NHLP policies provided do not state that the size or spaciousness of a site is a determining factor of whether a proposal represents infill.*

*7. The proposal would be situated on land set between built form within the village, with residential dwellings continuing along The Street in both directions. Whilst there is an intervening piece of land with trees to the immediate boundary on one side of the site and an intervening piece of land and a Public Right of Way (PRoW) to the opposite side, and dwellings continue further beyond in both directions. Thereby, the proposed development would infill an area of land that is an existing gap within the village"*.

Therefore, whilst Officers acknowledge that the proposal is subject to the diversion of the Public Right of Way, in accordance with the previous views of Officers and the Inspector, the proposed development would be considered infilling development in a Category B village.

4.3.5 As already stated, there are a number of residential properties located within close proximity to the site, with Red Brick Cottage to the south-east, five dwellings to the west on the opposite side of The Street and Flint Cottages immediately north of the separating coppice. Therefore, in a village where built form is sporadic in nature, this proposed

dwelling would be physically and visually related to existing properties on three sides in a linear fashion. Indeed, the Inspector also considered this in the appeal decision, stating that:

*“Furthermore, the proposal would not extend the built core of the village, as it does not lie at the edges of the village. Additionally, there are existing residential properties opposite the appeal site, so the proposed dwelling would be seen in the context of other dwellings nearby”.*

Therefore, in accordance with the previous views of Officers and the Inspector, it is considered that the proposed development would not extend the built core of the village.

4.3.6 Many of the responses received from interested parties in opposition to this proposal, which were indeed raised for the last application, are concerned about the potential for a precedent being set. These concerns are indeed acknowledged but as set out in the Officer report to Planning committee for the last application and upheld by the Inspector at appeal, Kelshall has been designated as a Category B village in the adopted Local Plan, where infilling development is supported in principle. Whilst further applications for housing as part of the planned approach to increasing housing supply in smaller villages, in accordance with the criteria set out in Policy SP2 and CGB1 of the Local Plan may be forthcoming, each application will be considered on its own merits.

4.3.7 As such, in light of the aforementioned considerations regarding the designation of Kelshall as a Category B settlement in the Local Plan, the sporadic nature of the village and the clusters of built form that make up the villages’ built core, and the relevant extracts from the Inspectors appeal decision for the dwelling currently under construction at this site, it is considered that the proposed development would constitute infilling development that would not extend the built core of this village.

4.3.8 The proposed development is therefore considered acceptable in principle, in accordance with Policy SP2 and CGB1 of the Local Plan.

#### Planning History

4.3.9 As set out at section 1.0 of this report and already mentioned in the above section of this report, the planning history of this site is relevant and material. Planning permission was sought under ref: 22/01229/FP for ‘Erection of one detached 4-bed dwelling including new vehicular access, garage, parking and landscaping (as amended by plans received 9th August 2022)’. This application received significant opposition from local residents and the Parish Meeting, which resulted in it being called-in to Planning Control Committee should Officers be minded to approve the application. Officers recommended approval, subject to conditions. Following the committee meeting, the application was refused for the following reason, which was drafted in accordance with the Planning Committee Members who voted on its refusal:

*“The scheme is considered contrary to Local Plan policies that inform on appropriate development in the Rural Area beyond the Green Belt. The proposal fails to comply with any of the criteria within Policies SP2 and CGB1 of the Local Plan, as the proposal is not considered to fall within the remit of infill development given the sizable and spacious nature of the plot.*

*Moreover, the scheme would be harmful to the character and appearance of the village and would be at odds with the sporadic pattern of development that makes up the settlement of Kelshall. The proposal is therefore deemed contrary to Policies SP2, D1 and CGB1 of the Local Plan, as well as Section 12 of the NPPF”.*

4.3.10 The decision to refuse planning permission was then appealed to the Planning Inspectorate. As a result of the Officer recommendation being overturned, the LPA reached out to the Planning Committee Members who attended the meeting to seek their views as to the wording of the reason for refusal, the reasoning behind the views on the night and why they were not prepared to support the application. Emails were received from Councillors who supported the wording and rationale behind the decision on the night, and these responses were submitted to the Planning Inspector, alongside the minutes from the Committee meeting. The Inspector considered the application on its merits and opted to allow the appeal, coming to the view that the site did constitute infilling development that would not extend the built core of the village, and that the development would not be harmful to the character and appearance of the area.

4.3.11 As such, the repeated accusations from interested parties that the appeal was only allowed due to insufficient evidence or because the Council opted not to represent its decision, is unfounded. Due process was followed.

4.3.12 Following the grant of planning permission for the detached 4-bedroom dwelling and a detached garage, the applicants opted to submit another application to amend the scale and design of the approved scheme under ref: 24/00065/S73. This proposal sought to increase the size of the dwelling and change its external appearance, which can be summarised as follows from the corresponding Officer report:

*“The proposed amendments to the scheme for a single dwelling compared to the previous application allowed at appeal can be summarised as follows:*

- *The proposed dwelling would be approx. 1.0-1.2m taller than the approved dwelling and would be comprised of a single built mass measuring approx. 19.0m wide, compared to the approved dwelling and garage which was approx. 15.5m wide (dwelling) and 7.5m wide (detached garage). The proposed dwelling would be 3.0m closer to The Street compared to the approved dwelling, but this is in the form of a single storey hipped front garage element. The two-storey mass of the proposed dwelling is 21.0m away from The Street, compared to 17.0m for the dwelling allowed at appeal.*
- *Through negotiation with the agent, they have agreed to amend the plans to reflect the palette of materials approved at appeal (ebony stained featheredge boarding/plain brickwork and slate roof tiles)”.*

4.3.13 This application was also met with strong opposition from local residents and the Parish Meeting, stating that increasing the height, footprint and moving built form closer to the boundary should not be supported and that the vehicle through which amendments were sought was not appropriate. However, Officers were of the opinion that whilst the Inspector considered the initial dwelling to be acceptable in principle and external appearance, the scale of changes proposed on what is a sizable plot were not unreasonable. It was considered at the time that the extent of changes sought did not justify the refusal of planning permission, such that the application was approved under delegated powers. There is no requirement or legal basis for applications seeking amendments to schemes allowed on appeal to be reverted to the Planning Inspectorate.

4.3.14 The application with ref: 24/00065/S73 that was approved under delegated powers is the dwelling being constructed currently on the northern half of the site. The current application under consideration is a mirror image of that approved dwelling.

Design/Impact on the Character of the Area



- 4.3.15 Policy D1 of the Local Plan states that planning permission will be granted provided the 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.
- 4.3.16 The proposed dwelling seeks to mirror the scale, design and appearance of the dwelling approved under application ref: 24/00065/S73, comprising a two-storey dwelling with a 'H' shaped plan with a recessed central ridge line between two front facing gable ends, the tallest of which measures approx. 8.7m to ridge and 4.5m to eaves. The dwelling would incorporate an attached single-storey garage with a hipped roof on the frontage which would be slightly offset. The proposal would be set slightly forward compared to the other approved dwelling on the site, with the main two-storey part of the dwelling would be set back from The Street by approx. 21.0m with the single storey garage set back by approx. 12.0m. The property would be finished in the same external materials as the other approved scheme, specifically black stained weather boarding/red brick work to the walls, and natural slate roof tiles. The windows would be finished in aluminium frames in a grey/green colour.
- 4.3.17 The proposed dwelling is larger and visually different to the original scheme allowed at this site and it is acknowledged that the Inspector referred to the sense of spaciousness and retaining significant sky gaps in their appeal decision for the original scheme, which was the case for that application and true at the time in the view of Officers. However, the current application must be considered on its merits in the context of the subsequent changes that were made to the dwelling which were considered acceptable by the Council. In this respect, it is considered that there is a wide variety of traditional architectural styles and differing scales, proportions and forms of residential dwellings in Kelshall, which can be seen amongst the immediate neighbouring properties of the site and further up towards North End. This mixture of house types is part of the character of the village and as the Council has already considered the design of this dwelling acceptable, albeit in mirrored form currently being built out, the design of the proposed dwelling is also considered acceptable and sympathetic to the character of the area. Officers accept that this proposal is large which has been designed to mirror the approved scheme on the northern part of the site, but these are large plots which can accommodate a dwelling of this size which are suitably set back from The Street behind the retained mature hedgerow, with suitable separation distances between boundaries. The proposal would not result in overdevelopment of the site. The materials are high quality as negotiated by Officers for the scheme currently being built out on site, of which this will match.
- 4.3.18 In terms of the cumulative impact of the proposed dwelling and the dwelling currently being built, Officers accept that there would be a noticeable visual change compared to the single dwelling scheme being built out as at present, half of the site would remain undeveloped. However, the design and scale of this dwelling, would match the form and proportions of the approved dwelling. In addition, there would be significant setback from The Street and screening provided by a mature hedgerow and the side boundaries. Therefore, it is considered that the pair of dwellings would result in an acceptable visual impact on the character of the area.
- 4.3.19 The proposed dwelling and that under construction would be visible above the mature 2.5m hedgerow that fronts The Street. There would be a noticeable change compared to the currently built out scheme with two dwellings rather than one and this will have a subsequent impact on the character of the area. However, the proposed dwelling is shown to be set back from The Street by approx. 12.0m to the single-storey hipped garage element and approx. 21.0m to the principal two-storey element, which is considered to be a significant distance and appropriate given the raised ground level at

the site. This set back distance of the proposal, coupled with the screening provided by the hedgerow with the exception of the central part of the hedgerow removed for access purposes, will limit the impact of the proposal upon the character and appearance of the area, such that the level of harm attributed would not be unacceptable. It is proposed to remove permitted development rights under Class E of Part 1 to Schedule 2 of the Town and Country Planning General Permitted Development Order, which includes outbuildings. Given the size of garden and proximity to the public footpath it is considered that relatively large buildings that could be permitted development may have a material impact upon the character and appearance of the area. The removal of such rights would not prevent outbuildings from being erected, but would introduce control over such matters, as planning permission would be required.

- 4.3.20 As such, the proposed dwelling is considered acceptable in design, scale and appearance. Furthermore, in isolation and cumulatively with the dwelling being built out, the proposal would not result in unacceptable harm to the character of the area. This is in accordance with Policy D1 and SP9 of the Local Plan and Section 12 of the NPPF.

#### Impact on Neighbouring Dwellings/Future Occupiers

- 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. Policy D1 seeks to ensure that residential development will meet or exceed the nationally described space standards.
- 4.3.22 The proposed dwelling would be sited relatively in line with the approved dwelling being built out on site, with an approx. 5.3m separation distance between a proposed shared boundary hedgerow. The dwelling would face The Street directly and would comprise a dual-pitched roof which matches the approved dwelling. The proposed dwelling would be significantly separated from the existing residential properties on The Street to the south and west. Therefore, it is considered that the proposal is unlikely to result in an unacceptable impact on the reasonable living conditions and well-being of neighbours, in respect of overdominance, loss of privacy through overlooking, and loss of daylight/sunlight. This is in accordance with Policy D3 of the Local Plan and Section 12 of the NPPF.
- 4.3.23 The proposed dwelling would exceed the nationally described space standards for a 5-bedroom/10-person property, all habitable rooms would benefit from suitable levels of natural light, and the dwelling would benefit from a sizable private amenity area to the front, side and rear. Therefore, the proposal would provide a high standard of amenity for future occupiers, in accordance with Policy D1 of the Local Plan and Section 12 of the NPPF.

#### Landscaping/Ecology

- 4.3.24 In regard to landscaping, the proposed landscaping scheme seeks to retain the existing mature hedgerow that fronts The Street and incorporate new planting on the south and east boundaries and the proposed shared boundary with the approved dwelling on the north of the site.  
The plan seeks to utilise the space around the dwelling for a lawn/grass area with new trees planted across the site. The proposed soft landscaping plan is deemed acceptable in planning terms, in line with Policy NE4 of the Local Plan.
- 4.3.25 The proposal also looks to incorporate hard landscaping for the driveway, in the form of permeable gravel which is deemed acceptable.

- 4.3.26 Further to the proposal regarding the mature hedgerow that fronts The Street, there has been further comments received relating to its future and possible removal. The hedgerow is approx. 2.5m in height and spans the entire width of the site's frontage. Many of the representations that have received from interested parties are concerned with the hedgerow, suggesting that it may need to be removed. In response, the proposal has always been clear that apart from the necessary removal of the central part of the hedgerow for vehicular access and the removal of parts of the frontage to achieve the required visibility splays, no more of the mature hedgerow is proposed to be removed. This was indeed the case for the approved dwelling being built out on site and has been consistently shown on the proposed plans.
- 4.3.27 With regard to the ecology of the site, during the first application on this site under ref: 22/01229/FP, the applicant submitted a Preliminary Ecological Assessment. The report concluded that no protected species were present on the site, with a precautionary working method to be adopted throughout the development and for hedgerow removal at the appropriate time of the year. Some of the interested parties for this application have set out views contrary to this, suggesting there are various species of wildlife at this site that would be impacted by the proposal. However, as was the case for the first application, it is considered appropriate and reasonable to condition that the precautionary measures set out in the Preliminary Ecological Assessment be carried out on site, should permission be granted. This was supported by the Inspector when the appeal was allowed.
- 4.3.28 This development is considered exempt from BNG Legislation, defined under article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, due to it falling under the scope of the 'self-build' exemption.

#### Access, Parking and Highways

- 4.3.29 The proposed dwelling would share the approved vehicular access of The Street with appropriate visibility splays as approved under the original application and the subsequent section 73 application. This access has been facilitated by the removal of the central part of the mature hedgerow which has been carried out on site already for the approved dwelling. The Highway Authority have formally commented on this application stating that they have no objections to the shared access arrangements for both dwellings and the ability for future occupiers to enter and leave the site in forward gear. The requirement to maintain the approved visibility splays is a condition on the already approved dwelling's decision, which is suitable as the access is shared.
- 4.3.30 The proposed development would incorporate an attached double garage on the frontage and sizable front driveway capable of parking several cars. This would exceed the required two parking spaces under Policy T2 of the Local Plan the Vehicle Parking at New Developments SPD and as such, there are no objections to parking. An EV charging point would be incorporated in the proposal, enforced via condition.
- 4.3.31 As considered during the first application for the single dwelling, a number of representations received from interested parties have concerns over the single-track road with no footpaths and two blind bends, where it is stated that numerous near misses have taken place. Further concerns are raised regarding the resulting impact of vehicles clipping residents' cars and using driveways to manoeuvre out of the highway. These concerns suggest that The Street is not designed or equipped to accommodate infill development for this reason, which means that a further dwelling on this site will exacerbate this concern. These concerns were acknowledged under the previous application and are acknowledged again now, but the fact is that the Highway Authority

have no objections to the proposal subject to conditions. Therefore, it would be wholly unreasonable to object to this scheme in this regard in the absence of a formal objection from Highways, who are the experts on such matters.

#### Rights of Way

- 4.3.32 There is an existing public Right of Way across the site (Kelshall 007) which goes from the southern corner to the northern corner of the field. The footpath is proposed to be diverted in order to facilitate the erection of the proposed development, as shown on plan no. 738 P-01 which seeks to re-direct the right of way around the southern boundary in an easterly direction before turning 90 degrees to be adjacent to the north-eastern boundary.
- 4.3.33 The County Councils Right of Way Department have considered the proposal and have provided formal comments. They considered that whilst any development is underway, the Public Right of Way must remain unobstructed and safe for public use at all times. If for safety reasons it becomes necessary to close the footpath, then the applicants must apply for a Temporary Traffic Regulation Order and granted before any development takes place. In terms of the proposed measures to divert the footpath, the current Definitive Line of Kelshall Footpath 007 must remain unobstructed and safe for public use whilst an application is being processed. HCC have stressed that there is no guarantee that an application to divert the footpath will be successful, even if planning permission is granted. The applicants would need to apply for the diversion if planning permission is granted. As such, no works that would obstruct the existing route of the footpath can take place until a diversion application has been successfully confirmed. Should the application be approved but the footpath diversion refused, then the planning permission would not be able to be lawfully implemented. HCC also gave guidance on the proposed diversion route, acknowledging that the proposed route is restricted on both sides by a fence and hedgerow and includes a sharp right-angled bend, which not desirable features and could raise objections from user groups and local residents. It was also noted that HCC's policy on new footpaths states that they must be an absolute minimum of 2.0m in width, with greater widths being preferred, especially by user groups.
- 4.3.34 The agent has advised Officers that they would be happy to resolve these desirable features as set out by HCC, by including a 45 degree splay at the currently shown 90 degree corner and they have confirmed that the diverted footpath is 2.5m wide, in excess of the minimum 2.0m. Officers are of the view that this would be acceptable in principle and should be considered and formalised directly with HCC through their separate process.
- 4.3.35 Overall, subject to the applicants gaining the necessary approval from HCC Rights of Way department to divert the existing footpath, the application is considered acceptable in this regard.

#### Other Matters

- 4.3.36 A concern raised by interested parties was centred around the existing flooding issues that occur on the site which will be impacted by the approved dwelling and therefore exacerbated by the proposed development. The Council acknowledge that flooding is an issue in Kelshall, but the appropriate body to comment on this issue is the Local Lead Flood Authority who do not respond to applications for single dwellings. That said, the site is within Flood Zone 1, where there is low risk of flooding from rivers. Furthermore, for developments of this scale, it will be down to Building Control to ensure that flood matters are suitably addressed.

4.3.37 It is necessary to consider and address the formal representations received from interested parties which are summarised at the start of this report. As such, the summary of concerns will be listed below with a response in italics:

- The proposal would be facilitated by a footpath diversion which is well used by local residents and requires the formal approval of the County Councils Right of Way Department. *This has been considered in full in this report.*
- The proposal would squeeze two large properties onto the site which are larger than the dwelling allowed at appeal. This would not constitute small infill development, nor would it retain sky gaps and open character as considered by Officers and the Inspector. *This has been considered in full in this report. the proposal is considered acceptable in design/layout in isolation and cumulatively.*
- The notion that this property is a self/custom build is flawed without justification. *The applicant has submitted the application as a self-build project.*
- The original dwelling built out on site currently was approved under Kelshall's Category B status. *Officers agree.*
- This proposal is very different to that which was allowed at appeal and should be sent back to The Planning Inspectorate (PINs) for this reason. *This has been considered in full in this report.*
- The dwelling being built out on site was subsequently amended to be taller, wider and deeper overall with a different design, this proposal is a mirror image of that latest approved dwelling. *This has been considered in full in this report.*
- The appellants justification relied heavily on the plot accommodating a single dwelling, which is no longer the case with this proposal. *The application for a single dwelling was justified by the applicant and considered accordingly at the time. However, the current application must be considered on its merits in the context of the subsequent changes that were made to the dwelling which were considered acceptable by the Council.*
- The dwellings are likely to result in 3 cars each, worsening traffic conditions on this quiet lane with limited passing places. *The Highway Authority do not consider this proposal unacceptable in the context of additional traffic or the narrow lane.*
- Existing utilities and services are inadequate, and this proposal will make this matter worse. *It will be the responsibility of the utilities and services providers to ensure that the existing services are not adversely impacted by the proposal.*
- Increased risk of flooding as a result of this additional dwelling from the pond at the rear of the site and run off onto the highway. *This has been considered in full in this report.*
- The Local Ramblers Group objects to this application due to the assumed diversion of the Kelshall Footpath 007. Mentions a lack of detail about the diverted path but mentions that support could be forthcoming if certain measures are met and adhered to. *This has been considered in full in this report.*
- Concerns that the mature hedgerow fronting The Street will be totally removed as a result of this proposal. *This has been considered in full in this report.*
- The proposal would not support the consideration of infill development in Kelshall under ref: 20/02292/OP which stated "categorisation of Kelshall as a Cat B settlement and this will inevitably invite further applications for housing development as part of a planned approach to increasing housing supply in smaller settlements. The issue is not that more development will be encouraged in the village, rather that it will be delivered in a measured, appropriate and sensitive manner'. *The site is a large plot and is capable of sustaining another dwelling as part of the approach to delivering housing growth in this Category B village.*
- The developer has not followed the plans for construction on the first dwelling. *This matter has been considered by Planning Enforcement Officers.*

- The proposal would diminish the considerable wildlife on the site. *This has been considered in full in this report.*
- The dwellings will detract from the areas rural character. *This has been considered in full in this report.*
- Concerns that when the site was sold, undertakings were given to not build houses on the site, which is not the case here. *This is not a material planning consideration*
- The proposal would continue to disrupt residents due to the construction traffic and processes. *Whilst this is acknowledged, construction impacts are inherently temporary, and this is a matter that will be addressed by the Construction Management Plan.*
- The previous refusal was allowed on appeal because the Council did not represent themselves or their application. *This matter has been fully addressed in this report.*
- Concerns relating to the access and manoeuvrability were made clear to the Council during the last application but were ignored. *The concerns in this respect were acknowledged, but the Highway Authority did not have any objections to the proposal in terms of access or manoeuvrability, such that a refusal on such grounds would have been unreasonable. This was upheld by the Planning Inspector.*
- The proposal would increase the existing sewage issues with overflow into the River Rib. *This is a matter for building regulations and the sewage provider.*
- This is planning creep and should not be approved. *For the reasons set out in this report, Officers consider that the proposal is acceptable in layout and scale. The whole site can comfortably accommodate two dwelling.*
- The proposal is contrary to Local and National Planning Policies, namely Policies SP9, CGB1, D3 and SP2 of the Local Plan. *This matter has been fully addressed in this report.*
- There is some confusion with the phrase 'Built Core' in the context of Kelshall, where one does not exist. *This matter has been fully addressed in this report.*
- Kelshall has seen a disproportionate amount of housing growth which is not in accordance with Policy SP2. Officers do not consider that Kelshall has had a disproportionate amount of housing growth. *Aside from the one house at North End, the new dwelling at Red Brick Cottage, and the approved scheme being built out at the site, the other schemes referred to are either conversion schemes or a 7 dwelling scheme a sizable distance from the village of Kelshall close to the A505 on Deadman's Hill.*
- Concerns that approving this dwelling would set a precedent for future unacceptable development. *This matter has been fully addressed in this report.*

#### 4.4 Conclusion

4.4.1 Overall, it is considered that the proposed development would constitute infilling development that would not extend the built core of this village. The Inspectors decision has made this quite clear due to the sporadic nature of the village and the clusters of built form that make up the villages' built core.

The proposed development is therefore deemed acceptable in principle, in accordance with Policy SP2 and CGB1 of the Local Plan.

4.4.2 Whilst the planning history is relevant and material to this application, and indeed the Inspector's considerations at the time of the initial allowed appeal were correct and accurate at the time, the current application must be considered on its merits in the context of the subsequent changes that were made to the dwelling which were considered acceptable by the Council. On this basis, for the reasons set out in this report, the proposed development is considered acceptable in design, scale and appearance. Furthermore, in isolation and cumulatively with the dwelling being built out, the proposal would not result in unacceptable harm to the character of the area. This is in accordance with Policy D1 and SP9 of the Local Plan and Section 12 of the NPPF.

4.4.3 The proposal is unlikely to result in an unacceptable impact on the reasonable living conditions and well-being of neighbours, in respect of overdominance, loss of privacy through overlooking, and loss of daylight/sunlight. Moreover, the proposal would provide a high standard of amenity for future occupiers. This is in accordance with Policies D1 and D3 of the Local Plan and Section 12 of the NPPF.

4.4.4 The proposed access, highway and parking matters are considered acceptable to Officers and the Highway Authority, subject to conditions covering a construction management plan. The diversion of the public Right of Way has been suitably addressed at this stage and is subject to the formal approval of the County Councils Right of Way Department.

4.4.5 Overall, it is considered that the proposed development is acceptable and in accordance with the relevant local and national planning policies.

#### 4.5 **Alternative Options**

4.5.1 N/A

#### 4.6 **Pre-Commencement Conditions**

4.6.1 The agent is in agreement with the proposed pre-commencement conditions.

#### 4.7 **Climate Change Mitigation Measures**

4.7.1 N/A

### 5.0 **Recommendation**

5.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. No development hereby permitted shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include elements of the CLOCS standards, as set out in the Councils' Highway Authority's Construction Management template. Thereafter, the development shall only be carried out in accordance with the approved CMP. The CMP shall include details of the following:

- a. Access arrangements to the site;
- b. Traffic management requirements;
- c. Construction and storage compounds (including areas designated for car parking,

- loading / unloading, and turning areas);
- d. Siting and details of wheel washing facilities;
- e. Cleaning of site entrances, site tracks and the adjacent public highway;
- f. Provision of sufficient on-site parking prior to commencement of construction activities;
- g. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- h. Where works cannot be contained wholly within the site, include a plan showing the site layout on the highway including extent of hoarding, pedestrian routes, and remaining road width for vehicle movements.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

4. No development hereby permitted shall commence until full details of the landscaping scheme for the areas surrounding the proposed dwelling have been submitted to and approved in writing by the local planning authority. The details of the landscaping scheme shall include the following:
- a) what new and existing trees, shrubs, hedges, and grassed areas are to be retained/planted, together with the species proposed and the size and density of planting;
  - b) the location and type of any new walls, fences or other means of enclosure and any hardscaping proposed;
  - c) details of any earthworks proposed.
  - d) a schedule of maintenance for the soft landscaping, including that any planting will be maintained for a period of at least 5 years from the date of planting. The soft landscaping within the approved scheme shall be implemented in the first planting season following the completion of the development, and any hard landscaping, including any means of enclosure within the approved scheme shall be completed prior to the first occupation of the proposed dwelling.

Reason: To ensure a suitable scheme is implemented on the site and in the interests of the finished appearance of the completed development.

5. Before the commencement of any other works on the site, trees and hedgerows to be retained shall be protected by the erection of temporary chestnut paling or chain link fencing of a minimum height of 1.2 metres on a scaffolding framework, located at the appropriate minimum distance from the tree trunk in accordance with Section 4.6 of BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations, unless in any particular case the Local Planning Authority agrees to dispense with this requirement. The fencing shall be maintained intact for the duration of all engineering and building works. No building materials shall be stacked or mixed within 10 metres of the tree. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to trees.

Reason: To prevent damage to or destruction of trees to be retained on the site in the interests of the appearance of the completed development and the visual amenity of the locality.

6. Before any part of the development hereby permitted is commenced above ground level, details and/or samples of all materials to be used on the external elevations and the roof of the proposed dwelling shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in



accordance with the approved details.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area, in line with Policy D1 of the Local Plan.

7. Prior to the first occupation of the development hereby permitted, the vehicular access shall be completed and thereafter retained as shown on drawing 738 P-01 Proposed Site Plan, in accordance with detailed specifications to be first submitted to and approved in writing by the local planning authority. The details shall also include appropriate arrangements for surface water to be intercepted and disposed of separately, so that it does not discharge from or onto the highway carriageway.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety and amenity in accordance with Policies 5 and 7 of Hertfordshire's Local Transport Plan (adopted 2018).

8. The development hereby permitted shall be carried out wholly in accordance with the programme of measures stated to adhere to guidance, legislation and planning policies, set out in Table 6 of the submitted 'Preliminary Ecological Appraisal by Arbtech' dated April 2022, as conditioned by the Inspector for the immediately adjacent site under planning refs: 22/01229/FP and 24/00065/S73.

Reason: To safeguard any protected species that may be present at the site, as required by the NPPF and in accordance with Policy NE4 of the Local Plan.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (or any order revoking and re-enacting that Order with or without modification) no development as set out in Class E of Part 1 of Schedule 2 to the Order, including any building, structures and swimming pool, shall be erected other than those expressly authorised by this permission

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area.

10. Prior to occupation, each new dwelling shall incorporate an Electric Vehicle (EV) ready domestic charging point.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality.

11. In the event that contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken by a competent person, in accordance with BS10175:2011. A written report of the findings should be forwarded for approval to the Local Planning Authority. Following completion of remedial measures a verification report shall be prepared that demonstrates the effectiveness of the remediation carried out. No part of the development should be occupied until all remedial and validation works are approved in writing.

Reason: To protect human health and to ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990.

**Proactive Statement:**

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. 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.