

ITEM NO:	<u>Location:</u>	Land north of Mill Croft, Royston Road, Barkway
	<u>Applicant:</u>	Mr Day Arbora Homes
	<u>Proposal:</u>	Outline application (including Access) for the erection of up to 25 dwellings
	<u>Ref. No:</u>	17/00700/ 1
	<u>Officer:</u>	Kate Poyser

Date of expiry of statutory period: 03 August 2017

Reason for Delay

Not applicable.

Reason for Referral to Committee

The site is for residential development and exceeds 0.5ha therefore under the Council's constitution and scheme of delegation this planning application must be determined by the Planning Control Committee.

1.0 Relevant History

1.1 None.

2.0 Policies

2.1 **North Hertfordshire District Local Plan No. 2 with Alterations** (Saved policies September 2001)

Policy 6: Rural area beyond the Green Belt

Policy 7: Selected village beyond the Green Belt

Policy 14: Nature Conservation

Policy 16: Areas of archaeological significance and other archaeological areas

Policy 26: Housing proposals

Policy 29: Rural housing needs

Policy 51: Development effects and planning gain

2.2 **National Planning Policy Framework**

Achieving sustainable development

Core planning principles

Section 4: Promoting sustainable transport

Section 6. Delivering a wide choice of high quality homes

Section 10 Meeting the challenge of climate change, flooding and coastal change

Section 11. Conserving and enhancing the natural environment

Section 12. Conserving and enhancing the historic environment

2.3 **Emerging Local Plan 2011-2031**

Policy SP1: Sustainable development in North Hertfordshire

Policy SP2: Settlement hierarchy

Policy SP5: Countryside and Green Belt

Policy SP8: Housing

Policy SP12: Green infrastructure, biodiversity and landscape

Policy CGB1: Rural areas beyond the Green Belt

Policy NE1: Landscape
Policy HS1: Local Housing Allocations
Policy HE1: Designated heritage assets
Policy HE4: Archaeology

2.4 **Supplementary Planning Document** - Planning obligations

3.0 Representations

- 3.1 **Highway Authority** - does not wish to restrict the grant of permission, but recommends 7 conditions: these include conditions relating to the width and radii of the access road, the provision of a footpath and cycle access to the bus stop on Royston Road, visibility splays, and submission of a construction method management plan. Recommends a S106 Agreement for contributions to provide upgrades to bus stops in the vicinity of the site.
- 3.2 **Hertfordshire Ecology** - no comments received.
- 3.3 **Herts & Middlesex Wildlife Trust** - Objects as the submitted information does not adequately demonstrate that there would be no net loss or net gain to biodiversity.
- 3.4 **Lead Local Flood Authority** - has no objections in principle and recommend a condition requiring a surface water drainage scheme be submitted.
- 3.5 **Environment Agency** - no comments received.
- 3.6 **Affinity Water Ltd** - no comments received.
- 3.7 **Anglian Water** - no comments received.
- 3.8 **Hertfordshire Property** - seek the following planning obligation amounts:
- First Education towards the expansion of Barkway First School (£54,218)
 - Middle Education towards the expansion of Greneway Middle school from 4fe to 5fe (£44,781)
 - Library Service towards the provision and development of study and IT facilities in Royston library (£4,765)
 - Youth Service to support the delivery of the youth work curriculum at Meridian Youth Centre (£1,314)
- 3.9 **Hertfordshire Architect Liaison Officer** - no comments received.
- 3.10 **Environmental Health (noise and other nuisances)** - raises no objections to the development, but has the following concern.
"Noise from traffic on the Royston Road and commercial activities at New Farm to the North West of the site have the potential to adversely affect any future residents. A noise assessment will be required to determine what noise mitigation measures, if any, will be required."
- 3.11 **Environmental Health (contaminated land and air quality)** - raises no objections to the development and recommends conditions relating to a site contamination survey and EV recharging infrastructure.
- 3.12 **Waste Management** - no comments at this stage.
- 3.13 **Community Development Officer** - no comments received.
- 3.14 **Parks and Countryside Development** - no comments received.
- 3.15 **Contracts and Project Manager** - no comments received.

- 3.16 **Planning Policy** - Object to the proposal as it conflicts with both the Saved Policy 6 of the current local plan and conflicts with policies in the emerging local plan, which has now gained significant weight. Consideration should also be given to whether it would be sustainable development under para. 14.
- 3.17 **Landscape and Urban Design Officer** - Notes that the development would be restricted to the southeast corner of the site and advises that substantial planting would be required to create a buffer to Royston Road and adjoining uses. Some form of residential development in this corner of the site could be acceptable in landscape and urban design terms.
- 3.18 **Barkway Parish Council** -
"We object completely to this application on the following grounds.
- 1) **The proposed site is outside the existing permitted development boundary**
 - 2) **The proposed site was not included or even offered, in Preferred Land allocations, the proposed Local Plan Submission, or the local Plan Submission approved by the Council on 11 April 2017.**
 - 3) Given the lack of essential services in the vicinity of the site, the proposed dwellings would be heavily dependent upon services provided outside the immediate area, giving rise to a significant reliance on private transport. In the absence of any realistic measures or other reasons which may offset this unsustainable impact, the proposal would be contrary to the objectives of the National Planning Policy Framework, generally and specifically Paragraphs 14 and 49.
 - 4) By reason of its siting between Mill Croft House and RAF Barkway Site, and on the Chiltern Ridge, the development proposal would fail positively to enhance the wider landscape setting of the village, nor would it improve the character and quality of the area and, as such, would afford harm to the intrinsic value of the Rural Area. The development of this site from its current undeveloped and verdant character and appearance, being disconnected with the main built core of the village and accessed via Royston Road at its termination and the Joint, which is a rural country road not characterised by such housing developments or accesses as proposed, would be contrary to the character of the area and would significantly and demonstrably harm the character and visual amenity of this part of the countryside. This harm is considered to clearly outweigh the benefits of providing new dwellings on the site. The proposal is therefore contrary to the provisions of the NPPF."
- 3.19 **Local Residents** - Five letters of objection to the development have been received. They are from the occupiers of 'Talland' and 'Keepers Cottage', Royston Road, 5 Periwinkle Close, 'Howletts Farm', and one without an address. The objections are summarised below:
- site beyond the defined village boundary;
 - site not included for consideration under land allocations at any stage or within the Submitted Local Plan;
 - Barkway has limited facilities in village, a lack of a cycle route or regular bus service and would, therefore, be unsustainable development;
 - highway danger due to bend in the road and speeding vehicles;
 - lack of employment in the area;
 - concern about adequate sewage capacity;
 - adjacent tower would fall further onto site than plans show;
 - the site is Grade II agricultural land;
 - harmful to the landscape;
 - loss of a view from Keepers Cottage.

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site is currently 2.1 hectares of Grade 2 agricultural land, roughly triangular in shape. It is located to the west of Royston Road, north of Mill Croft and southeast of the mast formerly owned by the ministry of defence. Residential properties exist in a loose knit arrangement with high hedges on the opposite side of Royston Road and open countryside to the west of the site. It is located within the Rural Area beyond the Green Belt and is beyond the defined village boundary. It also lies partly within an Area of Archaeological significance.

4.2 Proposal

4.2.1 The proposal is an outline application for 25 houses to the southeast part of the application site; a public open space to the southwest part of the site and; the retention of the agricultural use to the north of the site, with planting along the boundary with Royston Road. A vehicular access onto Royston Road forms part of the application.

4.2.2 The applicant has submitted a planning statement in support of the proposal. The main arguments put forward are summarised below:

- the development would be infilling, as the site is built on three sides;
- Barkway is a sustainable village as it has a good range of services;
- the Council cannot demonstrate a 5 year housing supply of land and paragraphs 14 and 49 of the NPPF apply (presumption in favour of sustainable development in the absence of an up-to-date local plan);
- up to 40% affordable housing would be provided.

4.3 Key Issues

4.3.1 The application is for outline planning permission and the key considerations relate to:

- Whether housing development is acceptable on this site in principle,
- whether it would be sustainable development;
- loss of agricultural land;
- effect on the character and appearance of the countryside;
- archaeology;
- highway considerations;
- other matters.

4.3.2 Principle of the development in the Rural Area beyond the Green Belt

There are three policy documents which are relevant to the consideration of this application: North Hertfordshire District Local Plan No. 2 with Alterations (adopted 1996), the emerging Local Plan 2011 - 2031 Submitted for Examination to the Secretary of State 9th June 2017, and the National Planning Policy Framework. The weight that should be attributed to these are considered below.

4.3.3 Paragraph 49 of the NPPF states that:

'housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five -year supply of deliverable housing sites.'

4.3.4 Paragraph 14 of the NPPF defines the presumption in favour of sustainable development for decision makers as follows:

- approving development proposals that accord with the development plan without delay; and

- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

specific policies in this Framework indicate development should be restricted.'

Under paragraphs 14 it is necessary to assess the weight that can be applied to relevant development plan policies to this application.

4.3.5 North Hertfordshire District Local Plan No. 2 with Alterations

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 215 of the NPPF states that:

'due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework.'

North Hertfordshire District Local Plan No. 2 with Alterations cannot demonstrate a five year housing supply, so policies in that plan relating to the supply of housing are out-of-date. Policy 6 - Rural Areas beyond the Green Belt, in so far as it deals with the supply of housing, is out of date. However, it largely seeks to operate restraint in the Rural Area for the purpose of protecting the intrinsic character and beauty of the countryside and for this purpose it is in accordance with paragraph 17 of the NPPF.

4.3.6 The site lies within the Rural Area beyond the Green Belt as defined by the Proposals Maps. The applicant seeks to demonstrate that the proposal is in accordance with one of the criteria of Policy 6 -

- *Infilling is allowed within the built core of the village.*

It is the applicant's case that this development would be infilling as there is development on three sides of the site. Although this could be viewed as an out-of-date aspect to the policy, for the purpose of completeness, I nevertheless deal with this matter.

4.3.7 The definition of infill development (Planning Portal glossary) is "the development of a relatively small gap between existing buildings." The site measures 2.1 hectares in size and I would not describe this as a "small". The land lies beyond the main built form of the village and beyond the defined village boundary in both the existing and emerging local plans. To the south of the site lie two parcels of land: one is open common land occupied by a small allotment and small shed. The other is the residential plot of "Mill Croft". To the west are two parcels of land: one is put to agricultural use and the other is occupied by a former military mast and associated buildings. To the north and east of the site lies Royston Road. It is acknowledged that beyond the road, some of the land is occupied by loose-knit housing strung along the road, and agricultural land is to the west. I consider that the development would not meet the definition of infill development. Furthermore the site does not lie within the core of the village, but beyond the village boundary as shown on the Proposals Maps.

4.3.8 Emerging Local Plan 2011 - 2031

The NPPF offers guidance on the weight that can be attributed to emerging Local Plan policies which is set out in paragraph 216 of the Framework as follows:

'From the day of publication [of the NPPF, March 2012], decision takers may also give weight to relevant policies in emerging plans according to:

** the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

** the extent to which there are unresolved objections to relevant policies (the less*

significant the unresolved objections, the greater weight that may be given); and

** the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in this Framework, the greater the weight that may be given).'*

4.3.9 Where local planning authorities cannot demonstrate a five year land supply of deliverable housing sites, the NPPF places a further restriction on weight that can be attributed to development plan policies which seek to restrict the supply of housing (NPPF paragraph 49). The Council has recently published a Housing and Green Belt Background Paper together with the proposed submission Local Plan (2011-2031). This paper argues that from the date that Full Council decided to submit the Local Plan to the Secretary of State for examination at the meeting held on 11 April 2017, the Council can demonstrate a deliverable five year land supply of housing sites, at 5.5 years land supply. The emerging Local Plan was Submitted to the Secretary of State 9th June 2017 and this claim will of course be tested at the forthcoming Examination in Public (EiP). Therefore, until the plan is adopted, I consider a precautionary approach should be taken to the weight that should be given to the emerging Local Plan. This precautionary approach has recently been supported at appeal.

4.3.10 The emerging Local Plan allocates three sites in Barkway for housing, BK 1, BK 2 and BK 3. The application site does not relate to any of these sites. Indeed, the site has not been identified for consideration as a possible housing site at any stage of the emerging Local Plan process. Policy CGB1 -Rural Areas beyond the Green Belt is a policy of general restraint in the countryside and is in accordance with paragraph 17 of the NPPF, as it seeks to retain the intrinsic character and beauty of the countryside. Development may be allowed if certain criteria are met. The applicant seeks to demonstrate that one of the criteria allowing development would be satisfied. This relates to infilling within the built core of a Category B village. Barkway is a category B village. However, the merits of the development in relation to being infilling within the built core of the village have been discussed above, as, in this respect, the policy is similar to Policy 29 of the NHDLP No.2. It is not necessary to repeat the considerations, other than to reaffirm the view that the development would not satisfy the criteria of infilling within the built core of the village and, therefore, not comply with the relevant policy in the emerging Local Plan.

4.3.11 The development is not for a proven local need for community facilities, services or rural housing (in compliance with Policy 29 of NHDLP or Policy CGB2 in emerging LP. The application refers to 40% affordable housing, but this relates to Policy HS2: Affordable Housing, of the emerging plan and not to Policy CGB2: Exemption Sites in Rural Areas.

4.3.12 National Planning Policy Framework

Although the Council considers the emerging Local Plan 2011 - 2011 to hold sufficient weight for the Council to be able to demonstrate a 5 year housing land supply, this is not a water tight situation, as the Plan has not yet been adopted. The National Planning Policy framework directs us in this instance under paragraphs 14 and 49, mentioned and quoted above. I, therefore, take a precautionary approach and shall consider the proposal under these paragraphs and consider whether the development is sustainable and whether the adverse impacts of the development would significantly outweigh the benefits.

4.3.13 Sustainability

There are three roles to sustainable development set out in the NPPF, an economic, social and environmental role. All roles must be satisfied to achieve the objective of a genuine sustainable development. I briefly address each role in turn.

- 4.3.14 Economic role - the construction of the development would provide some employment for the duration of the work. There would be a loss of high quality agricultural land and therefore some loss to the agricultural economy.
- 4.3.15 Social role - development proposes a small area of public open space. However, this is not supported by any detail of its practical use or whether there is a demand for such. The development would provide some support for existing facilities.
- 4.3.16 Environmental role -The facilities of Barkway consist of a school, public house, hairdresser, petrol filling station and car repair garage. There is also a golf club nearby. There is no shop, doctors surgery or secondary school. Employment opportunities are extremely limited and relate mostly to the above facilities. In the emerging local plan, housing proposal site BK3 is required to provide a shop within the development. (There is some opposition to site BK3 to be considered at Examination) However, at this stage, there is no certainty that a shop will be provided for the village. There are 6 buses a day to Royston. In the absence of a shop and any significant employment opportunity, it is likely that the occupiers of the development would heavily rely on private transport. For a development of 25 houses, this would be significant. **I would consider the overall balance of sustainability would be against this development.**

4.3.17 **Agricultural Land**

The application site is Grade 2 agricultural land. Paragraph 112 of the NPPF states: *"Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land, Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."*

The best and most versatile land is defined as Grades 1, 2 and 3a and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non food crops for future generations. There is no evidence to demonstrate that the use of high quality agricultural land for housing and public open space is necessary. **The development would, therefore, be harmful to the natural environment and contrary to the NPPF, paragraph 112 and to Planning Practice Guidance - Natural Environment para 026.**

4.3.18 **Landscape**

The site lies within landscape character area LCA 230 Barkway Plateau, in an elevation position. The site is mostly open in character, although there are hedgerows around some of the perimeter. It is particularly open to public view from most of Royston Road. There are longer views of the site, including the approach road into the village from Royston, where it forms the ridge of a hill. It is also visible from footpaths across the fields to the west and north - Footpaths 1, 26 and byway 2.

- 4.3.19 The approaches to the village from the north would provide angled views across the site towards the proposed housing. The Royston Road boundary would require substantially planting to ensure screening of the houses from the longer views as well as close by. I consider this would significantly change the distinctive open plateau character of the site here and its contribution within the landscape. **As such, it would be harmful to the intrinsic beauty of the countryside, contrary to Policy NE1 of the emerging local plan and paragraphs 17, 109, 116, 156 of the NPPF.**

4.3.20 **Highway Considerations**

Royston Road is a local access road with a 30mph speed limit to the southern approach and derestricted to the northern direction. The vehicle to vehicle inter-visibility from the junction within the development is shown on the submitted drawings to accord with Design Manual for Roads and Bridges. The internal road layout would need to provide for a waste collection vehicle. There are no footways

or cycleways within the vicinity of the site, but these could be required to be provided by the applicant by condition. **The Highway Authority raises no objections to the proposal and I can see no sustainable planning objections on highway grounds. However, a S106 Agreement is required to provide bus stop up-grades and this has not been provided.**

4.3.21 **Archaeology**

The proposed development site lies partially within an Area of Archaeological Significance. This covers a likely prehistoric ring-ditch and trackway. The former is probably a Bronze Age barrow or funerary monument. The Hertfordshire Historic Environment Records holds details of several further records in close proximity to the proposed development that suggest it lies in an area of significant archaeological potential. The site is located on the apex of an important chalk escarpment which was favourable for prehistoric funerary activity. Given the archaeological potential of the site, the County Archaeologist recommends that investigations should be undertaken prior to determination. An informed decision can then be made with reference to the impact of the proposal on the historic environment. Where archaeology is identified, but does not meet NPPF para 139, an appropriate level of archaeological mitigation can then be secured by negative condition (NPPF, para 141).

4.3.22 Although the applicant's agent is aware of the requirement for the work prior to determination, it has not been requested, due to the expense that would be incurred by the applicant, when the application is being recommended for refusal. Should Members be minded to grant permission, then it would be recommended that this investigation is first carried out prior to determination.

4.3.23 **Other Matters**

Adjacent to the site is a telecommunications mast, formerly used by the ministry of defence, but now holds a variety of telecommunications antenna. The applicant advises that it is 110 metres high. There is some concern by local residents that should this fairly old mast fall, the 121 fall-over zone to be kept clear of houses, would not be enough. I note that planning records show the mast to be 70 metres high, but taking a cautious approach, I shall assume that the applicant's advice of it being 110 metres high is correct. According to the applicant's intentions for the site, should the mast fall, it would land on retained agricultural land. I have no evidence to suggest that a 121 metre fall-over zone is not enough to avoid the proposed residential development and can, therefore, see no sustainable planning objections to this.

4.3.24 There is a concern by a local resident that the existing sewage capacity is inadequate for the development. This issue has not been raised as an insurmountable problem during the housing land allocations process for Barkway, for the emerging local plan. It will be for the sewage authority to ensure adequate provision.

4.3.25 There is an objection from the occupier of 'Keepers Cottage', Royston road to the loss of a view. However, the loss of a view for a private individual is not a material planning considerations that could result in a sustainable planning objection. The effect of the development upon the character of the landscape is considered earlier.

4.3.26 The application is not accompanied by a S106 Agreement to provide planning obligations for the services listed by the County Council, for waste collection and provide improved bus stops for the Highway Authority.

4.3.27 **Summary of objections**

- The development would cause harm to the intrinsic beauty of the countryside and as such would conflict with paragraph 17 of the NPPF.
- Due to the lack of facilities within Barkway and the likely high dependence of future occupiers on private transport, the development would be unsustainable.
- The development would be harmful to the appearance and character of the

landscape.

- It would result in the loss of Grade 2 agricultural land.
- The application is not accompanied by a S106 Agreement for planning obligations.
- A pre-determination archaeological survey has not been carried out.

4.4 Conclusion

- 4.4.1 The benefits of allowing the development do not outweigh the harm and, as such, planning permission should be refused.

5.0 Legal Implications

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

6.0 Recommendation

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

1. By reason of its siting beyond the built limits of Barkway; its elevated position within landscape character area LCA 230 Barkway Plateau; and the heavy use of planting to screen the largely open site, the development proposal would fail to positively enhance the wider landscape setting of the village, nor would it improve the character and quality of the Rural Area and, as such, would afford significantly and demonstrably harm to the intrinsic beauty of the countryside. This harm is considered to clearly outweigh the benefits of providing new dwellings on the site. The proposal is therefore contrary to the provisions of saved Policies 6 of the North Hertfordshire District Local Plan No. 2 with alterations and, Paragraph 17, 109, 116, 156 of the National Planning Policy Framework.
2. Given the lack of essential services in the vicinity of the site, the occupiers of the proposed dwellings would be heavily dependent on services provided outside of the immediate area, giving rise to a significant reliance on private transport. In addition to this, the land on which the site is located is Grade 2 agricultural land, which constitutes the best and most versatile land. As well as being harmful to the natural environment, this would amount to development of the land which is both environmentally and economically unsustainable. In the absence of any realistic measures or other reasons which may offset this unsustainable impact, the proposal would be contrary to the objectives of the National Planning Policy Framework, generally and specifically Paragraphs 14, 49 and 112, and to Policies SP1 and SP6 of the Emerging Local Plan 2011 - 2031, and to Planning Practice Guidance - Natural Environment para. 026.
3. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing the provision of affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031).

Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF).

4. The proposed development lies within an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of significant archaeological potential. Given this and the large scale nature of the proposal, this development should be regarded as likely to have an impact on significant heritage assets with archaeological interest, some of which may be of sufficient importance to meet NPPF para 139. This could represent a significant constraint on development. In the absence of a geophysical survey or archaeological field evaluation, there is insufficient information to determine the importance of any archaeological remains on the site.

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.