



Alison Stuart  
Head of Legal and  
Democratic Services

**MEETING** : DEVELOPMENT MANAGEMENT COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 25 APRIL 2018  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

**MEMBERS OF THE COMMITTEE**

Councillor T Page (Chairman)

Councillors M Allen, D Andrews, R Brunton, S Bull, M Casey, B Deering,  
J Goodeve (Vice-Chairman), J Jones, R Standley, T Stowe and K Warnell

**Substitutes**

Conservative Group: Councillors P Ballam, P Boylan, S Cousins,  
D Oldridge and P Ruffles

*(Note: Substitution arrangements must be notified by the absent Member to the Committee Chairman or the Executive Member for Development Management and Council Support, who, in turn, will notify the Committee service at least 7 hours before commencement of the meeting.)*

**CONTACT OFFICER: PETER MANNINGS**

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## **DISCLOSABLE PECUNIARY INTERESTS**

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
  - must not participate in any discussion of the matter at the meeting;
  - must not participate in any vote taken on the matter at the meeting;
  - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
  - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
  - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:
  - fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
  - fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
  - participate in any discussion or vote on a matter in which a Member has a DPI;
  - knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

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## AGENDA

### 1. Apologies

To receive apologies for absence.

### 2. Chairman's Announcements

### 3. Declarations of Interest

To receive any Members' declarations of interest.

### 4. Minutes - 27 March and 28 March 2018 (Pages 7 - 34)

To confirm the Minutes of the meetings of the Committee held on:

Tuesday 27 March 2018

Wednesday 28 March 2018.

### 5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 35 - 40)

(A) 3/17/2216/OUT - Outline application for 27 no. dwellings on land west of High Road, High Cross for Craddick or c/o Agent (Pages 41 - 58)

Recommendation for Refusal.

(B) 3/17/1726/FUL - The construction of a new farmyard including 3 new agricultural buildings, associated yard area, cattle handling pens and silage storage area, landscaping and drainage at Tewin Water Farm, Churchfield Road, Tewin Water, Tewin AL6 0BW for William Brothers Partnership (Pages 59 - 74)

Recommended for Refusal.

- (C) 3/18/0290/FUL - Construction of Two Storey Vehicle Storage Building in association with existing car sales business at 295 - 297 Stansted Road, Bishop's Stortford CM23 2BT for Mr Cottenden (Pages 75 - 98)

Recommended for Approval.

6. Items for Reporting and Noting (Pages 99 - 158)

- (A) Appeals against refusal of Planning Permission/ non-determination.
- (B) Planning Appeals Lodged.
- (C) Planning Appeals: Inquiry and Informal Hearing Dates.
- (D) Planning Statistics.

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

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MINUTES OF A MEETING OF THE  
DEVELOPMENT MANAGEMENT  
COMMITTEE HELD IN THE BIRCHWOOD  
HIGH SCHOOL, PARSONAGE LANE,  
BISHOP'S STORTFORD, CM23 5BD ON  
TUESDAY 27 MARCH 2018, AT 7.00 PM

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PRESENT: Councillor T Page (Chairman)  
Councillors M Allen, D Andrews, P Boylan,  
M Casey, B Deering, J Goodeve, P Ruffles,  
R Standley, T Stowe and K Warnell.

ALSO PRESENT:  
  
Councillors G Cutting, H Drake, L Haysey,  
G Jones, S Rutland-Barsby, N Symonds and  
C Woodward.

OFFICERS IN ATTENDANCE:

Simon Aley	-	Interim Legal Services Manager
Fiona Brown	-	Planning Technician
Thomas Howe	-	Planning Student
Peter Mannings	-	Democratic Services Officer
Femi Nwanze	-	Service Manager Quality Places
Helen Standen	-	Director
Kevin Steptoe	-	Head of Planning and Building Control Services
Liz Watts	-	Chief Executive

409     APPOINTMENT OF VICE-CHAIRMAN

It was proposed by Councillor P Ruffles and seconded by Councillor M Allen that Councillor J Goodeve be appointed Vice-Chairman of the Development Management Committee for the remainder of the 2017/18 civic year.

After being put to the meeting and a vote taken, Councillor J Goodeve was appointed Vice-Chairman of the Development Management Committee for the remainder of the 2017/18 civic year.

RESOLVED – that Councillor J Goodeve be appointed Vice-Chairman of the Development Management Committee for the remainder of the 2017/18 civic year.

410     APOLOGIES

Apologies for absence were submitted on behalf of Councillors R Brunton and J Jones . It was noted that Councillor P Boylan was substituting for Councillor J Jones.

411     CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed the press and public and outlined the housekeeping arrangements.

The Chairman thanked Councillor M Freeman for his loyal service to the Committee and in particular as Vice-Chairman in bringing balance and objectivity to the Member debate. The Chairman wished him well



and the Committee expressed their thoughts and best wishes.

The Chairman introduced and welcomed Councillor Tony Stowe to his first meeting as a Member of the Committee.

412     MINUTES - 21 JUNE 2017

RESOLVED – that the Minutes of the meeting held on 21 June 2017 be amended by resolution in respect of the second paragraph in Minute 59, as follows:

Councillor P Boylan declared an interest in application 3/17/0239/FUL, on the grounds that he had previous involvement with the application in his capacity as Chairman of Braughing Parish Council. He addressed the Committee as the adjacent ward Member then sat separately to the Committee and took no part in the debate or vote.

413     MINUTES - 31 JANUARY 2018

RESOLVED – that the Minutes of the meeting held on 31 January 2018 be confirmed as a correct record and signed by the Chairman.

414 3/17/2588/OUT - A HYBRID PLANNING APPLICATION (PART  
DETAIL/ PART OUTLINE) FOR THE COMPREHENSIVE  
REDEVELOPMENT OF THE 5.82HA GOODS YARD SITE FOR  
MIXED USE PURPOSES AT THE BISHOP'S STORTFORD  
GOODS YARD, STATION ROAD, BISHOP'S STORTFORD FOR  
SOLUM REGENERATION (BISHOPS) LLP

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The Head of Planning and Building Control recommended that, in respect of application 3/17/2588/OUT, subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) , planning permission be granted subject to the conditions detailed in the report now submitted.

The Head introduced the application and welcomed Steve Walker from Allies and Morrison and Mark Youngman from Hertfordshire County Council (HCC) Highways Authority to the meeting. The Head detailed the policy background and stated that the consultation on the emerging District Plan had concluded on 29 March 2018. Substantial weight could be applied to the District Plan due to its considerable advanced status.

The Head also referred to the Bishop's Stortford Town Centre planning framework and the Neighbourhood Plan for Bishop's Stortford Central, South and Part of Thorley. Members were also referred to the Additional Representations Summary, which would be online from 28 March 2018. Concerns that had been raised in respect of noise from the adjacent flour mill had been addressed by amendments to conditions as detailed in the Additional Representations Summary.

The Head advised that this key town centre site had been identified in the East Herts Local Plan Second Review April 2007 as suitable for comprehensive redevelopment. The emerging District Plan had also identified the Goods Yard as a strategic development site for at least 600 dwellings as well as a significant amount of B1 office space. Members were provided with a detailed summary of the proposed development as well as a reminder of the relevant planning history. The Head concluded that this was a complex application and emphasised that the scheme broadly met the objectives of all policy documents relevant to the Bishop's Stortford Goods Yard.

The Officer from Allies and Morrison addressed the Committee in his capacity as the Urban Design Advisor to the Authority. He referred to a clearly defined urban form and he stated that the industrial elements had been well worked through. He stated that the proposed undercroft car parking would contribute to improving the quality of the public realm.

The HCC Highways Officer commented that, as a statutory consultee, an objection had not been made to the scheme refused by the Committee on 17 May 2017 as that application had been a more sustainable proposal. He summarised the reasons why HCC Highways felt this scheme was less sustainable and therefore the Highways Authority was maintaining an objection to this application. He referred in particular, to the recommendation for refusal on the basis that the Highway Authority did not support the principle of an all vehicle link road through the site.

Members were also advised that there was concern that the new link road would not serve to calm or restrict traffic flow and the level of car parking was a concern to HCC Highways. There were also concerns over the effect of the application in reducing the size of the Bishop's Stortford bus station.

The following addressed the Committee in objection to the application:

- Mr Rhodes (Bishop's Stortford Civic Federation)
- Mr Dunham (Bishop's Stortford Climate Change Group)
- Mr Skinner (Bishop's Stortford Liberal Democrats)
- Dr Wilson (Local Resident)

The following addressed the Committee in support of the application:

- Mr Serginson (Solum Regeneration – Applicant)
- Tricia Patel (Architect)

Councillor G Cutting addressed the Committee as a local ward Member. Councillor K Warnell stated that he was a resident of the town and represented Bishop's Stortford Meads ward. He welcomed the redevelopment of a brownfield site and commented that the development had to be right. He felt that some of the proposed development was too high in this part of rural Hertfordshire.

Councillor K Warnell referred to the Air Quality Management Area at the Hockerill crossroads and the

24 hour operation of the flour mill. He referred to the low percentage of affordable housing and commented on the dilemma should the appeal on the previous application be upheld and this application refused by the Committee.

Councillor M Casey welcomed the new proposals and made a number of comments in respect of the proposed north/south link road. He expressed concerns regarding the potential for delays for vehicles accessing the car parks.

Councillor B Deering referred to this being a much better proposal and commented on the concerns of HCC Highways. He pointed out that the link road cut the southern elements of the development in half and would also encourage traffic into the development.

The Head referred to Neighbourhood Plan policy GY1 and the downward gradation of building heights towards the River Stort. Members were advised that the buildings proposed to the south of the footbridge were generally lower than those on the northern part of the site. Members were referred to the Town Centre Planning Framework and the Town Centre Management Masterplan.

The Head commented at length regarding highways modelling and the position of HCC Highways Officers that the benefits of extra highways capacity would quickly be filled by the latent demand of other road users. He referred to potential alternative travel options in urban areas.

Councillor K Warnell commented on heritage and character assessments and referred to the proposed design being sympathetic to design and heritage assets. He referred to the importance of the points highlighted in paragraph 7.18 of the report submitted.

The Head responded to further comments from Councillor Warnell in respect of pedestrian and cycle solutions and he also responded to a query from Councillor M Allen regarding step-free access. The Head considered that overall the application covered a strong set of proposals.

Councillor P Ruffles commented on the sensitive redesign of the multi storey car park and praised the visual permeability of the site. The Officer from Allies and Morrison emphasised that there would not be a loss of any particular views and views could be improved by good quality designs which resulted in a more positive experience.

The HCC Highways Officer confirmed to Councillor D Andrews that the bus station would offer a similar number of stops but not all in the same space as per the status quo. The Head confirmed that the relocation of two stops allowed passengers to potentially be dropped much nearer to the station than was currently possible.

The Head referred to the projected increase anticipated by Network Rail for usage of the railway through Bishop's Stortford. The proposed development would facilitate sufficient parking to meet the projected increase.

The Head highlighted the aspiration of the applicant to ensure that car parking provision was maintained by bringing new car parks into use when other areas became unavailable. He referred to significant benefits of enhanced green space adjacent to the river.

Following a comment from Councillor B Deering in respect of the adequacy of 2 multi storey car parks, the Head confirmed that this site was the most sustainable in transport terms that could be found in East Herts. Officers considered that the proposed parking provision of 0.47 spaces per unit was acceptable on the basis that the emerging standards permitted a 75% reduction in spaces to 146, which was below the 153 being proposed on site.

After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/17/2588/OUT, subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), planning permission be granted subject to the conditions detailed in the report now submitted.

#### 415 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

- (A) Appeals against refusal of planning permission / non-determination;

- (B) Planning Appeals lodged;
- (C) Planning Appeals: Inquiry and Informal Hearing dates; and
- (D) Planning Statistics.

The meeting closed at 8.57 pm



MINUTES OF A MEETING OF THE  
DEVELOPMENT MANAGEMENT  
COMMITTEE HELD IN THE COUNCIL  
CHAMBER, WALLFIELDS, HERTFORD ON  
WEDNESDAY 28 MARCH 2018, AT 7.00 PM

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PRESENT: Councillor T Page (Chairman)  
Councillors M Allen, D Andrews, P Ballam,  
P Boylan, R Brunton, M Casey, B Deering,  
J Goodeve, P Ruffles, R Standley and  
T Stowe.

ALSO PRESENT:

Councillors S Bull and S Rutland-Barsby.

OFFICERS IN ATTENDANCE:

Simon Aley	-	Interim Legal Services Manager
Thomas Howe	-	Planning Student
Peter Mannings	-	Democratic Services Officer
Paul Mumford	-	Service Manager Quality Places
Lisa Page	-	Principal Planning Officer

416 APOLOGIES

Apologies for absence were submitted on behalf of  
Councillors J Jones and K Warnell. It was noted that

Councillors P Boylan and P Ruffles were substituting for Councillors J Jones and K Warnell respectively.

417 CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that the following applications had been withdrawn:

- 3/17/2897/OUT - Outline planning application for up to 105 residential dwellings, with associated landscaping, amenity space, vehicle and pedestrian access from High Street, and associated works. All matters reserved except for access at Land west of High Street and south of Dovehouse Lane, Walkern, SG2 7PF for Welbeck Strategic Land II LLP c/o agent.
- 3/17/2216/OUT - Outline application for 27 no. dwellings at Land west of High Road, High Cross for Caddick or c/o agent.
- 3/18/0105/OUT - Outline planning application for the erection of up to ten dwellings (all matters reserved) at Blind Lane, Ardeley for Mr Owen York c/o agent.

418 DECLARATIONS OF INTEREST

Councillor P Ruffles declared an interest in application 3/17/1867/FUL, on the grounds that a similar application had been determined by Hertfordshire County Council. He stated that as this was not a disclosable pecuniary interest, he would remain in the room but would take no part in the debate or vote.

Councillor D Andrews declared interests in applications 3/17/0414/REM and 3/17/0424/REM, on the grounds that he knew personally a senior Officer in the company that was the applicant in both applications. He confirmed that although these were not disclosable pecuniary interests, he would leave the room for both items and would take no part in the debate or vote.

- 419     3/17/1867/FUL - CHANGE OF USE FROM AGRICULTURAL LAND TO GOLF COURSE; ERECTION OF GOLF CLUB HOUSE WITH BAR, RESTAURANT, CHANGING AND PRO SHOP FACILITIES; INCORPORATION OF A WATER HARVESTING SCHEME FOR SUSTAINABLE IRRIGATION AND AN IMPROVED DRAINAGE SYSTEM THROUGH THE IMPORTATION OF RECOVERED SOILS; UPGRADED PRACTICE FACILITY INCLUDING COVERED PRACTICE BAYS; AND ENHANCED LANDSCAPING AT HERTFORD GOLF CLUB, LONDON ROAD, HERTFORD FOR MR A RUBINO, BELVIEW GOLD LTD
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The Head of Planning and Building Control recommended that in respect of application 3/17/1867/FUL, planning permission be granted subject to the conditions detailed in the report now submitted.

The Head summarised the application and detailed the relevant planning history. Members were referred to the additional commentary in the late representations summary as well as the comments of Hertford Town Council circulated by email. The Head advised that none of the additional comments had altered the recommendation.

The Head advised that, in green belt terms, the engineering operation was appropriate and significant weight has been applied to the extant permission. Hertfordshire Highways were content that the highway network could cope with the additional loads and Officers were satisfied that the landscape impact would be acceptable and had therefore recommended the application for approval.

Mr Wansell addressed the Committee in objection to the application. Ms Osborn spoke for the application. Councillor S Rutland-Barsby addressed the Committee as a local ward Member.

The Interim Legal Services Manager commented on a decision taken by Basildon District Council that had been quashed on the basis that an Environmental Impact Assessment (EIA) must be carried out due to the scale of the waste due to be deposited. Members were advised that guidance was now much clearer in terms of what waste could be deposited on a site for the purposes of a golf course.

Members were advised that an EIA would not assist with the issue of vehicle movements as that matter would be addressed via a transport assessment and Highways Officers had indicated they were content to abide by the 3 year old assessment. The Interim Legal Services Manager concluded that Members must determine what they hoped to achieve by any further assessment.

The Head confirmed that Officers had assessed the

proposals and were of the view that whilst there would be environmental affects these were not significant enough to justify an EIA. Councillor J Goodeve commented that much of the transport assessment dated from 2010 and a significant number of new properties had been built, including a new primary school at Simon Balle and on that basis, the traffic study was deficient and needed to be repeated.

Councillor D Andrews expressed concerns regarding detritus and mud that had previously obscured road markings and signage on Ware Road. He was concerned for the pedestrians and school children using footpaths near Hertford Heath to access Simon Balle School and other schools. He concluded that his primary concerns centred on the issue of the greenbelt, buildings and openness. He queried why 400,000 tonnes of material was required for the construction of a golf course.

Councillor M Casey commented on whether Officers had any evidence to suggest that the intention of the applicant was to build a golf course or whether this was a front for a waste disposal operation. Councillor B Deering commented on the likely number of lorry movements per day to this site. He emphasised the policy position in that very special circumstances did not exist unless it could be demonstrated that the harm to the Green Belt was clearly outweighed by other considerations.

Councillor P Boylan stated that he considered that 240 lorry movements over a 12 hour day or a movement every 3 minutes was a little heavy. He referred to the

comments of HCC Minerals and Waste as detailed in paragraph 5.7 of the report submitted. The Committee debated the conditions detailed in the report in respect of lorry movements. Officers responded to Members' comments by referring in detail to a number of conditions in the report as well as the comments of the Highway Authority and the Landscape Officer.

Councillor D Andrews proposed and Councillor J Goodeve seconded, a motion that application 3/17/1867/FUL be refused on the grounds that the proposed development would be detrimental to the openness and the visual amenity of the Metropolitan Green Belt and was therefore contrary to national planning guidance in section 8 of the National Planning Policy Framework. The proposal development would also give rise to significant additional traffic movements and would thereby be prejudicial to highway safety and a potential danger to other road users and pedestrians.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/17/1867/FUL, planning permission be refused for the following reasons:

1. The proposed development by reason of the amount of importation and associated land level changes, would be detrimental to

the openness and the visual amenity of the Metropolitan Green Belt contrary to national planning guidance in section 8 of the National Planning Policy Framework

2. The proposal development would give rise to significant additional traffic movements, and would thereby be prejudicial to highway safety and a potential danger to other road users and pedestrians.

420 A) 3/17/1491/FUL AND B) 3/17/1492/LBC - A) ALTERATIONS, EXTENSIONS AND CONVERSION OF EXISTING PUBLIC HOUSE TO CREATE 2NO X 2-BED UNITS AND 1NO MICRO-PUB WITH ASSOCIATED CELLAR, UPPER FLOOR ACCOMMODATION, FACILITIES AND PUB GARDEN WITH ASSOCIATED ACCESS, PARKING AND REFUSE. CONVERSION OF DETACHED REAR BARN TO CREATE 1NO 2-BED UNIT WITH ASSOCIATED ACCESS, PARKING, REFUSE AND PRIVATE AMENITY SPACE. ERECTION OF 5.NO DWELLINGS ON THE EXISTING PH CAR PARK AND GARDEN WITH ASSOCIATED ACCESS, PARKING, REFUSE AND PRIVATE AMENITY SPACE; AND B) CONVERSION OF THE EXISTING, LISTED PUBLIC HOUSE TO CREATE 2NO X 2-BED UNITS AND 1NO MICRO-PUB WITH ASSOCIATED CELLAR, UPPER FLOOR ACCOMMODATION, FACILITIES AND PUB GARDEN INCORPORATING ALTERATIONS AND PARTIAL DEMOLITION OF AREAS OF THE EXISTING FLAT ROOF REAR EXTENSION AREA. CONVERSION OF THE LISTED BARN TO THE REAR OF THE PUBLIC HOUSE TO CREATE A 2-BED UNIT WITH ALTERATIONS TO THE LISTED BUILDING AND PARTIAL DEMOLITION OF AREAS OF THE EXISTING CAT SIDE AISLE

The Head of Planning and Building Control

recommended that in respect of applications 3/17/1491/FUL and 3/17/1492/LBC, planning permission and listed building consent be granted subject to the conditions detailed in the report now submitted.

The Head summarised the application and detailed the relevant planning history. Members were advised of representations from Aston Parish Council and the applicant regarding the designation of the building as a community asset and this was summarised in the additional representations summary.

The Head advised that the layout, scale and detailed design of the development would be sympathetic to the character of the area and would provide wider enhancement to the setting of the listed building and the conservation area and would also secure the long term viability of the listed barn.

Members were advised that local concern over the reduction in size of the public house was outweighed by the evidence of the unviability of the pub over a period of time. A retained facility on the site would be of benefit to the village which had other similar facilities.

The Head advised that limited parking was a concern but overall Officers considered that the application was in accordance with local and national policies.

Mr Stimpson addressed the Committee in objection to the application. Mr West and Mr Ritter spoke for the application. Councillor S Brown addressed the



Committee as the Chairman of Aston Parish Council.

Councillor T Stowe emphasised that he intended to address the Committee as a local ward Member and not as a Member of the Committee. He addressed the Committee then left the Council Chamber and took no part in the debate or vote.

Councillor D Andrews commented that it was always sad and unappetising to see pubs being shut in the villages Members and residents enjoyed. He referred to this pub as being closed for a very long time.

Councillor D Andrews stated that he was content with the concept of infilling but was troubled by the concept of a micro pub. He sought clarification from Officers as to the viability of a micro pub as there had been doubt expressed in that regard. Following questions from Councillor R Brunton and the Chairman regarding viability and sustainability, the Head referred Members to policy STC8 and the points raised in paragraph 8.4 onwards of the report submitted.

The Head reminded Members that policy STC8 covered the loss of an asset such as a public house and such a loss would not be permitted which would result in a significant reduction in the level of such provision locally. Officers had assessed the availability of similar local provision and whether the pub could come forward as a viable option as well as the length of time it had been vacant when making their recommendation for approval.

Councillor P Boylan commented on the apparent lack

of conditions regarding the concerns raised by East Herts Environmental Services and access for refuse freighters to top and empty bins from the centralised collection point. He also commented on parking standards and the apparent lack of availability of any on-street parking on very narrow lanes.

The Head advised Members that the planning conditions and condition 21 in particular covered the point regarding refuse collections. The matter of parking was covered in paragraph 8.18 of the report submitted and Officers had made a balanced judgement that the provision was acceptable in this location. Members were further advised that Officers had made a judgement that the application was acceptable and further information was not required as to the viability of the unit.

In reply to a comment from Councillor M Allen, the Head confirmed that Highways Officers were content with the application in terms of highways safety.

Councillor M Allen proposed and Councillor D Andrews seconded, a motion that application 3/17/1491/FUL be refused on the grounds that the proposed development would result in a reduction in the size of the existing public house and insufficient information had been submitted to demonstrate the long term viability of the retained facility, contrary to policy STC8 of the East Herts Local Plan Second Review April 2007 and Section 3 of the National Planning Policy Framework. Inadequate provision had been made within the site for the parking of vehicles in accordance with the council's adopted standards for car parking

provision and therefore be contrary to policy TR7 of the East Herts Local Plan Second Review April 2007 and Supplementary Planning Document Vehicle Parking Provision 2008.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

Councillor M Allen proposed and Councillor D Andrews seconded, a motion that application 3/17/1492/LBC be refused on the grounds that the proposed development would result in a reduction in the size of the existing public house and would be harmful to the character, appearance and historic interest of the listed building, contrary to Section 12 of the National Planning Policy Framework.

After being put to the meeting and a vote taken, this motion was also declared CARRIED. The Committee rejected the recommendations of the Head of Planning and Building Control as now submitted.

RESOLVED – that (A) in respect of application 3/17/1491/FUL, planning permission be refused for the following reasons:

1. The proposed development would result in a reduction in the size of the existing public house. Insufficient information has been submitted in regards to demonstrating the long term viability of the retained facility, contrary to policy STC8 of the East Herts Local Plan Second Review April 2007 and Section 3 of the National Planning Policy

Framework.

2. Inadequate provision is made within the site for the parking of vehicles in accordance with the council's adopted standards for car parking provision. The proposal would be likely to result in on-street parking, causing obstruction to the free and safe flow of traffic, thereby exacerbating traffic congestion and safety on the nearby road network. The proposal would therefore be contrary to policy TR7 of the East Herts Local Plan Second Review April 2007 and Supplementary Planning Document Vehicle Parking Provision 2008.

(B) in respect of application 3/17/1492/LBC, listed building consent be refused for the following reason:

1. The proposed development would result in a reduction in the size of the existing public house and would be harmful to the character, appearance and historic interest of the listed building, contrary to Section 12 of the National Planning Policy Framework.

- 421 3/17/2220/FUL - DEVELOPMENT OF THE LAND TO PROVIDE 3NO. COMMERCIAL UNITS AT GROUND FLOOR ALONG WITH 10NO. RESIDENTIAL APARTMENTS (2NO. AT GROUND FLOOR, 5 NO. AT FIRST FLOOR AND 3NO. AT SECOND FLOOR AT 34 - 36 RYE STREET, BISHOPS STORTFORD FOR MR M GROSS
- 

The Head of Planning and Building Control recommended that in respect of application 3/17/2220/FUL, planning permission be refused for the reasons detailed in the report now submitted.

The Head summarised the application and detailed the relevant planning history. He referred to the design aspects of the proposed development and commented on the inappropriate design of the new dwellings. He also stated that policy tests in respect of this application had not been met and the proposed amenity space was not acceptable. He referred to the car parking objections as detailed in paragraph 8.10 of the report submitted.

After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/17/2220/FUL, planning permission be refused for the reasons detailed in the report.

- 422 3/17/2959/FUL - REMOVAL OF 4 GRAIN STORE SILOS. PROPOSED INSTALLATION OF AN ENERGY STORAGE DEVELOPMENT CONSISTING OF 4 NO. 2.5MW CONTAINERISED BATTERIES WITH ANCILLARY OPERATIONAL EQUIPMENT, FOR A TEMPORARY PERIOD OF 25 YEARS. SECURITY CLOSE BOARDED TIMBER FENCING 2.4 METRES IN HEIGHT INSTALLED AROUND PERIMETER OF THE PLANT AT LAND AT WICKHAM HALL, HADHAM ROAD, BISHOP'S STORTFORD, CM23 1JG FOR MR D HARVEY
- 

The Head of Planning and Building Control recommended that in respect of application 3/17/2959/FUL, planning permission be granted subject to the conditions detailed in the report now submitted.

The Head responded to a number of minor queries from the Chairman and Councillors D Andrews, T Stowe and P Ballam. After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/17/2959/FUL, planning permission be granted subject to the conditions detailed in the report submitted.

- 423     3/17/2865/REM - APPLICATION FOR RESERVED MATTERS IN RESPECT OF APPEARANCE, LANDSCAPE AND SCALE FOLLOWING OUTLINE PLANNING PERMISSION ALLOWED ON APPEAL REF. 3/15/0206/OP FOR THE DEMOLITION OF 30 WICKLANDS ROAD AND ERECTION OF 14 DWELLINGS - MINOR AMENDMENTS AT HUNSDON LODGE FARM, DRURY LANE, HUNSDON, SG12 8NU FOR MR L MCGRENAGHAN
- 

The Head of Planning and Building Control recommended that in respect of application 3/17/2865/REM, planning permission be granted subject to the conditions detailed in the report now submitted.

The Head summarised the application and detailed the relevant planning history. Members were referred to the information detailed in the additional representations summary. Officers were of the view that this reserved matters scheme was in accordance with the outline application.

The Head referred to paragraph 1.4 of the report for the main issues that Members should consider. Officers were of the view that this scheme was an improvement to previous applications that had been determined in this location. Members were advised that any outstanding matters could be addressed via the Section 106 process or by conditions.

Councillor R Brunton sought and was given some clarity on a number of points and concerns that had been raised by Hunsdon Parish Council. The Committee accepted the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/17/2865/REM, planning permission be granted subject to the conditions detailed in the report submitted.

- 424     3/17/0414/REM - APPROVAL OF RESERVED MATTERS FOR 3/14/0531/OP IN RESPECT OF APPEARANCE, LAYOUT, SCALE AND LANDSCAPING FOR THE ERECTION OF 81 NO. DWELLINGS, ASSOCIATED GARAGES, PARKING, OPEN SPACE AND LANDSCAPING AT AREA 3 SOUTH HARE STREET ROAD, BUNTINGFORD FOR WHEATLEY HOMES LTD
- 

The Head of Planning and Building Control recommended that in respect of application 3/17/0414/REM, planning permission be granted subject to the conditions detailed in the report now submitted.

The Head summarised the application and detailed the relevant planning history. Members were advised that the proposed parking provision was in conflict with the BCANP policy in respect of car parking and in particular with the proposed tandem parking in front of garages.

The Head also referred Members to paragraph 9.31 of the report submitted in respect of drainage. After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/17/0414/REM, planning permission be granted subject to the conditions detailed in the report.



- 425     3/17/0424/REM - APPROVAL OF RESERVED MATTERS FOR  
3/14/0531/OP IN RESPECT OF APPEARANCE, LAYOUT,  
SCALE AND LANDSCAPING FOR THE ERECTION OF 75 NO.  
DWELLINGS AND ASSOCIATED GARAGES, PARKING, OPEN  
SPACE AND LANDSCAPING AT AREA 3 SOUTH HARE STREET  
ROAD, BUNTINGFORD FOR WHEATLEY HOMES LTD
- 

The Head of Planning and Building Control recommended that in respect of application 3/17/0424/FUL, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/17/0424/REM, planning permission be granted subject to the conditions detailed in the report.

The meeting closed at 9.21 pm

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## EAST HERTS COUNCIL

### DEVELOPMENT MANAGEMENT COMMITTEE – 25 APRIL 2018

#### REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

#### PLANNING APPLICATIONS AND UNAUTHORISED DEVELOPMENT FOR CONSIDERATION BY THE COMMITTEE

WARD(S) AFFECTED: As identified separately for each application and unauthorised development matter.

---

#### **Purpose/Summary of Report:**

- To enable planning and related applications and unauthorised development matters to be considered and determined by the Committee, as appropriate, or as set out for each agenda item.

<b><u>RECOMMENDATION FOR DEVELOPMENT MANAGEMENT COMMITTEE</u></b>	
<b>That:</b>	
<b>(A)</b>	<b>A recommendation is detailed separately for each application and unauthorised development matter.</b>

#### 1.0 Background

- 1.1 The background in relation to each planning application and enforcement matter included in this agenda is set out in the individual reports.

#### 2.0 Report

#### 2.1 Display of Plans

- 2.2 Plans for consideration at this meeting will be displayed outside the Council Chamber from 5.00 pm on the day of the meeting. An Officer will be present from 6.30 pm to advise on

plans if required. A selection of plans will be displayed electronically at the meeting. Members are reminded that those displayed do not constitute the full range of plans submitted for each matter and they should ensure they inspect those displayed outside the room prior to the meeting.

2.3 All of the plans and associated documents on any of the planning applications included in the agenda can be viewed at: <http://online.eastherts.gov.uk/swiftlg/apas/run/wphappcriteria.display>

2.4 Members will need to input the planning lpa reference then click on that application reference. Members can then use the media items tab to view the associated documents, such as the plans and other documents relating to an application.

### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

The papers which comprise each application/ unauthorised development file. In addition, the East of England Plan, Hertfordshire County Council's Minerals and Waste documents, the East Hertfordshire Local Plan and, where appropriate, the saved policies from the Hertfordshire County Structure Plan, comprise background papers where the provisions of the Development Plan are material planning issues.

Contact Member: Councillor Suzanne Rutland-Barsby – Executive Member for Development Management and Councillor Support.

Contact Officer: Kevin Steptoe – Head of Planning and Building Control, Extn: 1407.  
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## **ESSENTIAL REFERENCE PAPER 'A'**

### **IMPLICATIONS/CONSULTATIONS**

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	Priority 1 – Improve the health and wellbeing of our communities.  Priority 2 – Enhance the quality of people's lives.  Priority 3 – Enable a flourishing local economy.
Consultation:	As detailed separately in relation to each matter if any are appropriate.
Legal:	As detailed separately in relation to each matter if any are appropriate.
Financial:	As detailed separately in relation to each matter if any are appropriate.
Human Resource:	As detailed separately in relation to each matter if any are appropriate.
Risk Management:	As detailed separately in relation to each matter if any are appropriate.
Health and wellbeing – issues and impacts:	As detailed separately in relation to each matter if any are appropriate.

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## DEVELOPMENT MANAGEMENT COMMITTEE – 25 APRIL 2018

<b>Application Number</b>	3/17/2216/OUT
<b>Proposal</b>	Outline application for 27 no. dwellings
<b>Location</b>	Land west of High Road, High Cross
<b>Applicant</b>	Caddick or c/o agent
<b>Parish</b>	Thundridge CP
<b>Ward</b>	Thundridge and Standon

<b>Date of Registration of Application</b>	27 September 2017
<b>Target Determination Date</b>	30 April 2018
<b>Reason for Committee Report</b>	Major Application
<b>Case Officer</b>	David Snell

### **RECOMMENDATION**

That outline planning permission be **REFUSED** for the reason set out at the end of this report.

#### **1.0 Summary of Proposal and Main Issues**

- 1.1 The application proposes a development of 27 dwellings on land to the west of High Road.
- 1.2 The site lies outside the designated village boundary of High Cross within the Rural Area beyond the Green Belt.
- 1.3 The main planning issues relate to the balance between the beneficial aspects of the provision of housing and affordable housing weighed against any negative aspects arising from the development.
- 1.4 In environmental terms the proposal would encroach into the rural landscape, however, the harmful impact is considered to be limited.

- 1.5 The site is well related to the village core. However, the services that are available in the village are limited and future residents would be reliant on private transport to a large extent notwithstanding High Cross is relatively close to the main settlements of Ware and Hertford and the primary highway network and there is a connecting local bus service.
- 1.6 Overall, the positive aspects of the proposal are that it would provide housing and affordable housing. Negatively, the site lies outside the village boundary and the development would encroach into the rural area with some limited impact on the landscape.

## **2.0 Site Description**

- 2.1 The site lies to the immediate west of High Road and comprises flat uncultivated agricultural land laid to grass.

## **3.0 Planning History**

There is no planning history relating to the application site. However, the following local planning history is of relevance to this proposal:

Application Number	Proposal	Decision	Date
3/17/0251/FUL	Erection of 20 dwellings with associated parking, landscaping and access – Land at North Drive, High Cross	Refused	June 2017
		Appeal allowed	March 2018
3/13/2223/FP	High Road and rear of North Drive, High Cross. Demolition of The Bungalow, The Stables and Hazelwood Farm	Granted	November 2014

	and the erection of 57 residential units together with access		
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#### 4.0 **Main Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the pre-submission East Herts District Plan 2016 (DP) and the adopted East Herts Local Plan 2007 (LP). The Thundridge Neighbourhood Plan has reached the stage area designation agreed in September 2017.

<b>Main Issue</b>	<b>NPPF</b>	<b>LP policy</b>	<b>DP policy</b>
The principle of the development	Paras 6-16	SD1 SD2 GBC2 GBC3 OSV1	INT1 GBR2 VILL2
Layout and design	Sections 6 and 7	ENV1 ENV2	HOU2 DES2 DES3
Landscape impact	Section 11	GBC14	DES1
Housing and affordable housing	Section 6	HSG1 HSG7 HSG3 HSG4	HOU1 HOU2 HOU3
Highways and parking	Section 4	TR2 TR7	TRA1 TRA2 TRA3
Flood risk	Section 10	ENV21	WAT5
Planning obligations and infrastructure delivery	Paras 203 to 206	IMP1	DPS4 DEL1 DEL2 CFLR1 CFLR3 CFLR7 CFLR9

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

## **5.0 Summary of Consultee Responses**

- 5.1 HCC Highway Authority do not wish to restrict the grant of planning permission, subject to conditions. They consider that the footpath on the west side of the High Road should be widened to 2.0m and that a pedestrian crossing point should be provided.
- 5.2 Lead Local Flood Authority comments that the drainage strategy is acceptable and that the proposed development is acceptable subject to conditions.
- 5.3 EHDC Conservation and Urban Design Advisor considers that a single point of access does not provide a permeable site layout and that multiple access points should be provided with buildings orientated towards the street. The application is submitted in outline and does not evidence that the site can support 27 dwellings in an acceptable layout.
- 5.4 EHDC Landscape Advisor considers that the proposed development gives rise to minor adverse landscape effects. The site is a logical extension of the existing settlement edge and mirrors the existing development along the opposite side of the highway. The site is well contained. The development results in the removal of some existing roadside hedgerow, however, its loss is compensated for with new hedgerow and tree planting that will benefit biodiversity. Overall the area from which there are actual public views of the proposed development is relatively well contained due to the screening effect of the existing settlement, and the screening effect of the intervening vegetation and sloping landform to the north and west. Views are fundamentally changed due to the introduction of a new housing development within a previously open field. However, providing that the proposed development is of a high quality design and materials, with robust integrated landscape measures, on balance this fundamental change is not deemed unacceptable in principle.

- 5.5 Herts Archaeology comments that the development is likely to impact on heritage assets with archaeological interest and recommend a condition requiring a programme of archaeological work.
- 5.6 Natural England do not wish to comment.
- 5.7 HCC Development Services request a financial planning obligation towards improvements to Ware Library.
- 5.8 EHDC Environmental Health Advisor comments that the site is close to a working farm and the application does not assess the impact of noise from the farm or land contamination.
- 5.9 EHDC Operational Services advise as to the refuse and recycling requirements for the proposed development.
- 5.10 Herts Police Crime Prevention Advisor does not wish to comment at this stage.

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

## **6.0 Town/Parish Council Representations**

- 6.1 Thundridge Parish Council objects to the proposal for the following reasons:
- Inappropriate development in the Rural Area Beyond The Green Belt – outside of the Parish Boundary.
  - Highway safety concerns, including the proximity of the proposed junction to the High Road chicanes and proximity of the proposed junction to the school.
  - The development is unsustainable in High Cross. High Cross is currently classified as a Category 1 (relatively sustainable village) under Policy OSV1 (2007 Local Plan). The subsequent

re-evaluation of the sustainability of the village, which has resulted in it being downgraded to a Group 2 village under Policy VILL2 (District Plan 2011-2033) implies that it is only suitable for limited infill development.

- Cumulative impact on a (pending) Group 2 village must be taken into account from a sustainability perspective. The village has already undergone a recent expansion of 62 houses (including Canterbury Park) with other applications under review for 20 further houses along with this further 27. Whether considered against current or emerging policy, that amounts to more than 100 additional proposed / built dwellings.
- The proposed development would result in ribbon development along High Road, with significant damage to the openness of the countryside and impact on the character of the village and the setting of St. John's Church.
- Not satisfied that sufficient work has been undertaken to ensure that the ditch improvements and additional hard standing will not result in potential flooding implication in the downstream (off site).
- The development as planned will produce an 'Estate Style' development which is inappropriate and not in keeping with the preferred development style arising from the emerging neighbourhood plan.

## **7.0 Summary of Other Representations**

7.1 9 responses have been received, including responses from The Campaign to Protect Rural England (CPRE) and the Herts and Middlesex Wildlife Trust (H&MWT) objecting to the proposals on the following grounds:

- Impact on traffic generation and highway safety
- Potential for flooding
- Noise and disturbance
- Layout and density is inappropriate and it would destroy an important gap in the village
- Unsustainable development - limited bus services and lack of amenities and service

7.2 The CPRE consider that the proposal is contrary to Local Plan Policy and that it represents inappropriate development in the Rural Area that would damage the countryside and views.

7.3 The H&MWT consider that the application needs to demonstrate no net loss to biodiversity and appropriate mitigation measures.

7.4 Two responses have been received supporting the proposals on the following grounds:

- If High Cross has to have more houses this the obvious place to put them
- The site has good access
- The proposal would not upset many residents
- A school governor supports the proposal for additional housing because there is a need for additional pupil numbers to support  
The continued viability of the school

- 7.5 One response was received stating that clearly new housing development needs to be approved and the proposal could be supported if the Glebe Field proposal is rejected.

## **8.0 Consideration of Issues**

### Principle

- 8.1 High Cross is designated as a Category 1 Village in the adopted Local Plan wherein limited small scale housing development would be permitted. The Plan indicates that whilst there is no absolute definition *limited small scale development* would typically comprise up to 15 dwellings, occasionally more, but rarely more than 30. In the emerging District Plan High Cross is designated as a Group 2 Village wherein Policy VILL2 would permit only limited infill development.
- 8.2 Notwithstanding the above, the site lies outside the settlement boundary of High Cross and within the Rural Area beyond the Green Belt wherein Policy GBC3 of the current Local Plan states that permission will not normally be granted for residential development. Therefore in respect of the 2007 Local Plan, the proposals represent inappropriate development as it would result the encroachment of significant scale of built form into the Rural Area. The application site is not allocated for residential development within the District Plan and the proposal does not fall within a category of development that is identified in Policy GBR2 as being capable of maintaining the Rural Area as a valued countryside resource.
- 8.3 The emerging District Plan has now reached an advanced stage of preparation. The current housing land supply position is set out in the Council's Authority Monitoring Report 2016-17, February 2018 wherein a housing land supply of 6.2 years is established. The application therefore falls to be assessed on the balance of considerations having regard to adopted Local Plan policy, emerging District Plan policy and the NPPF.



### Layout and design

- 8.4 The application is submitted in outline with all matters apart from access reserved for later consideration.
- 8.5 The density of the proposed development is reflective of the village setting and a substantive level of open space is proposed at the southern end of the site.
- 8.6 The comments of the Conservation and Urban Design Advisor are noted. However, the layout plan is indicative at this stage and it indicates that a good proportion of the frontage of the site would accommodate dwellings facing High Road. The remainder would accommodate open space in the form of a village green.
- 8.7 The indicative layout has been amended to provide improved pedestrian linkages with the High Road frontage.

### Landscape impact

- 8.8 The proposed development gives rise to minor adverse landscape effects. The Landscape Advisor considers that the site is a logical extension of the existing settlement edge and mirrors the existing development along the opposite side of the highway. The site is well contained. The development results in the removal of some existing roadside hedgerow, however, its loss can be compensated for with new hedgerow and tree planting that will benefit biodiversity.
- 8.9 Overall the area from which there are actual public views of the proposed development is relatively well contained due to the screening effect of the existing settlement, and the screening effect of the intervening vegetation and sloping landform to the north and west.
- 8.10 Views are fundamentally changed due to the introduction of a new housing development within a previously open field. However, providing that the proposed development is of a high quality design

and materials, with robust integrated landscape measures the harm to the rural landscape is not considered to be significant.

- 8.11 However, given the emerging policy position the resulting harm to the Rural Area must attract negative weight.

#### Housing and affordable housing

- 8.12 The application proposes 27 dwellings of which 40% would be affordable homes. Notwithstanding the Council's updated housing land supply position, this amounts to a positive aspect of the proposal which carries significant weight.

#### Highways and parking

- 8.13 The Highway Authority advise that the proposed access arrangements are satisfactory. The application is submitted in outline and the layout, including parking arrangements are reserved for later consideration, however, officers are satisfied that the proposal can accommodate parking to the level required by policy.
- 8.14 The Highway Authority seeks the widening of the substandard footway on the west side of High Road and the provision of a tactile crossing point as this will be the pedestrian route to the school and the shop at the petrol station.

#### Flood Risk

- 8.15 The site is situated within Flood Zone 1. The Lead Local Flood Risk Authority are satisfied that the submitted drainage strategy is satisfactory subject to a condition to address detailed design.

#### Archaeology

- 8.16 The southern part of the proposed development is located within an Area of Archaeological Significance. The site lies adjacent to the main Roman highway from London to York and in proximity to the core of the historic village. The site has significant archaeological

potential and a condition is recommended to require a programme of archaeological work.

### Sustainability

- 8.17 In terms of economic sustainability the development would offer short term employment during the construction period and the support of future residents for local services which would carry some positive weight.
- 8.18 In social terms the provision of housing and affordable housing are beneficial aspects of the development that should be afforded positive weight.
- 8.19 In environmental terms the proposal would encroach into the rural landscape, however, the harmful impact is considered to be limited. Local services are limited and that residents would be reliant on private car to transport to access services, employment and main shopping, notwithstanding that the site is relatively close to the settlements of Ware and Hertford and there is good access to the primary highway network and the local bus service runs along High Road.

### **Planning Obligations**

- 8.20 HCC have requested a financial planning obligation towards improvements to Ware Library.
- 8.21 In this case the application is submitted in outline. The indicative layout shows provision of on-site open space that would meet the required standard and the Planning Obligations SPD and as such an open space contribution would not be required. However, the layout is indicative and Section 106 financial contributions in accordance with Table 8 of the SPD should be included in the Legal Agreement. This would be subject to variation dependent on open space provision forthcoming in the reserve matters application. Arrangements for ongoing maintenance of any open space would also need to be included in the agreement.

- 8.22 The widening of the footpath on the west side of High Road and provision of a crossing point requested by the Highway Authority could be the subject of a condition and would also be secured by a Section 278 Highways Act Agreement.

## **9.0 Planning Balance and Conclusion**

- 9.1 The current housing land supply position is set out in the Council's Authority Monitoring Report 2016-17, February 2018 wherein a housing land supply of 6.2 years is established. The application therefore falls to be assessed on the balance of considerations having regard to adopted Local Plan policy, emerging District Plan policy and the NPPF.
- 9.2 The site lies outside the village boundary of High Cross within the Rural Area and the proposal cannot therefore be regarded as small scale development having regard to Local Plan, or limited infill development having regard to emerging District Plan Policy. Policy GBC3 of the current Local Plan states that permission will not normally be granted for residential development in the Rural Area. The application site is not allocated for residential development within the District Plan and the proposal does not fall within a category of development that is identified in Policy GBR2 as being capable of maintaining the Rural Area. The proposal would encroach into the Rural Area which Local Plan and emerging District Plan policy seeks to protect as a valued countryside resource.
- 9.3 The provision of 27 dwellings of which 40% will be affordable homes remains a benefit of the proposal which carries positive weight. However, in terms of its sustainability although the site lies relatively close to larger settlements with relatively good connectivity the services available in the village are limited and future residents would be largely reliant on private transport to access services and employment in larger settlements. The development would also encroach into the rural landscape resulting in limited harm. The sustainability aspects of the development are therefore afforded limited negative weight.

- 9.4 Overall, the proposed development lies outside the village boundary of High Cross and it is not regarded as sustainable development that would maintain the Rural Area Beyond the Green Belt as a valued countryside resource. In that regard the proposal would be contrary to Local Plan and emerging District Plan policy. The adverse impacts of the development on the rural landscape and sustainability considerations would also attract limited negative weight. The positive benefits of providing 27 dwellings, including affordable homes are not considered to outweigh the policy considerations aimed at protecting the Rural Area and the harm to the rural landscape.

### **RECOMMENDATION**

That outline planning permission be **REFUSED**, for the reason set out below:

1. The proposed development would be sited outside the village boundary of High Cross within the Rural Area Beyond the Green Belt and would result in harm to the rural landscape contrary to Policies GBC3 and GBC14 of the East Herts Local Plan Second Review April 2007, Policies GBR2 and DES1 of the emerging East Herts District Plan and the National Planning Policy Framework.

### **Summary of Reasons for Decision**

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. East Herts Council has considered, in a positive and proactive manner, whether planning objections to this application could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in the decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Framework.

**KEY DATA****Residential Development**

<b>Residential density</b>	20.1 units/Ha	
	Bed spaces	Number of units
Number of existing units demolished		0
Number of new flat units	1	
	2	Mix unknown
	3	outline application
Number of new house units	1	
	2	
	3	
	4+	
Total		27

**Affordable Housing**

<b>Number of units</b>	<b>Percentage</b>
11	40%

**Residential Vehicle Parking Provision**

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	
2	1.50	
3	2.25	
4+	3.00	
Total required		
Proposed provision	Unknown outline application	Unknown outline application

## Emerging Parking Standards (endorsed at District Plan Panel 19 March 2015)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.50	
2	2.00	
3	2.50	
4+	3.00	
Total required		
Accessibility reduction		
Resulting requirement		
Proposed provision	Unknown outline application	Unknown outline application

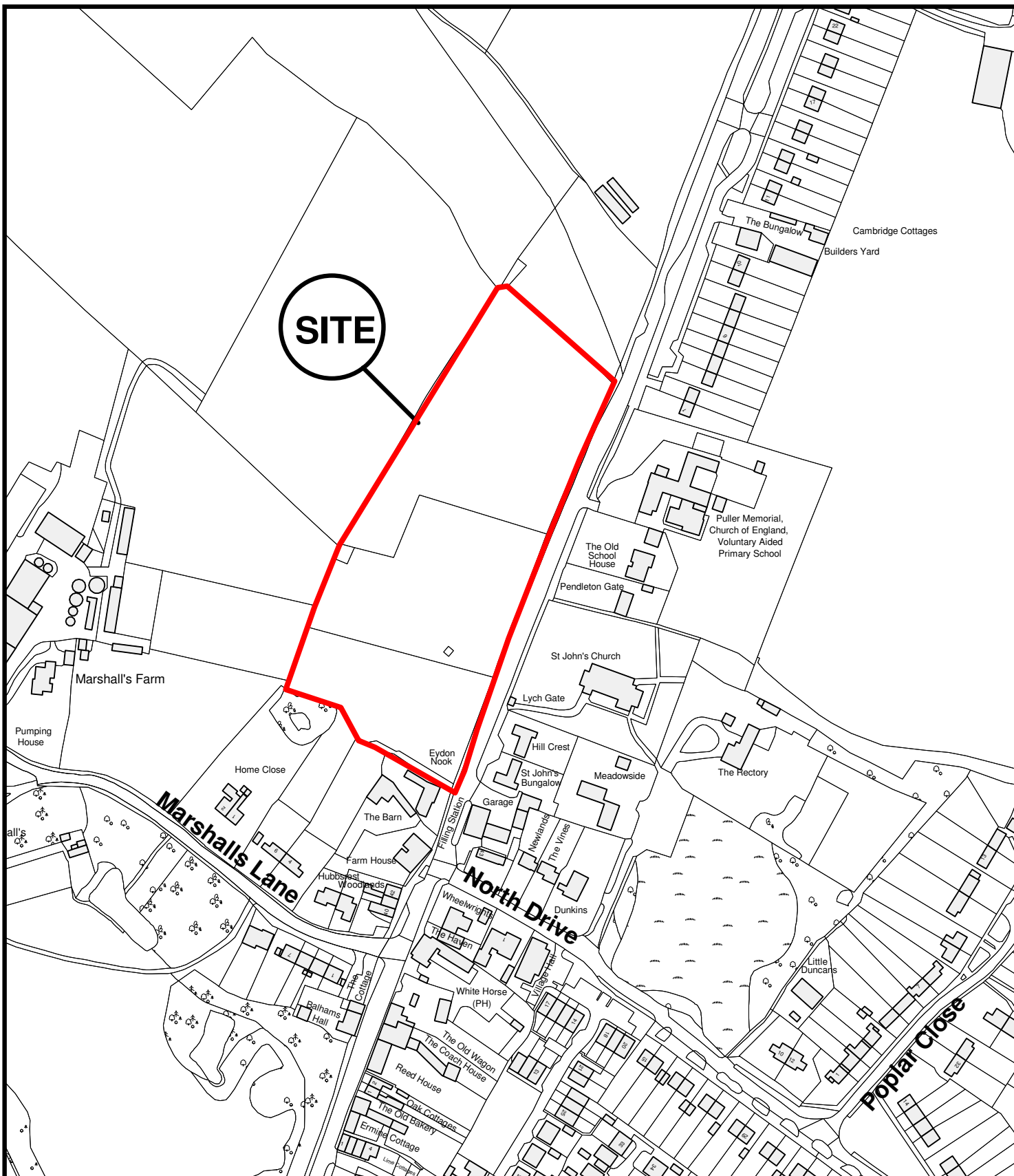
### **Legal Agreement – financial obligations**

The application is recommended for refusal. This table below sets out the financial obligations that could potentially be sought from the proposed development in accordance with the East Herts Planning Obligations SPD 2008; sets out what financial obligations have actually been recommended in this case, and explains the reasons for any deviation from the SPD standard.

<b>Obligation</b>	<b>Amount sought by EH Planning obligations SPD</b>	<b>Amount recommended in this case</b>	<b>Reason for difference (if any)</b>
Affordable Housing	40%	40%	
Parks and Public Gardens	In accordance with table 8 of SPD		
Outdoor Sports facilities	In accordance with table 8 of SPD		
Amenity Green Space	In accordance with table 8 of SPD		

Provision for children and young people	In accordance with table 8 of SPD		
Maintenance contribution - Parks and public gardens			
Maintenance contribution - Outdoor Sports facilities			
Maintenance contribution - Amenity Green Space			
Maintenance contribution - Provision for children and young people			
Community Centres and Village Halls	In accordance with table 11 of SPD		





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**Address: Land West Of High Road, High Cross, Hertfordshire**

**Reference: 3/17/2216/OUT**

**Scale: 1:2500**

**O.S Sheet: TL3618**

**Date of Print: 05 March 2018**

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Application Number	3/17/1726/FUL
Proposal	The construction of a new farmyard including 3 new agricultural buildings, associated yard area, cattle handling pens and silage storage area, landscaping and drainage.
Location	Tewin Water Farm, Churchfield Road, Tewin Water, Tewin AL6 0BW
Applicant	William Brothers Partnership
Parish	Tewin
Ward	Hertford Rural South

Date of Registration of Application	4 August 2017
Target Determination Date	26 April 2018 (Extension of Time)
Reason for Committee Report	Major
Case Officer	Fiona Dunning

### RECOMMENDATION

That planning permission be **REFUSED** for the reasons set out at the end of this report.

#### **1.0 Summary of the Proposal and Main Issues**

1.1 The proposal is to erect three agricultural buildings within a new hardstanding farmyard with a silage area and associated landscaping. The new farmyard is to diversify the existing farm holding and is proposed to be for 60 longhorn breeding cattle. The hardstanding area of the farmyard is approximately 7000m<sup>2</sup>. The new farmyard is located approximately 170m west of Churchfield Road, Tewin. The three buildings are to be used for a cattle shed (1,008m<sup>2</sup>), farm equipment building (300m<sup>2</sup>), a straw barn (328.8m<sup>2</sup>) and a silage storage area of 1056m<sup>2</sup>.

1.2 The farmyard area is to be levelled which will require significant earthworks with the cattle shed and straw barn being cut into the

natural ground level up to 3m and 3.4m respectively and filling of around 2m in the centre part of the farmyard so that the finish ground level of the farmyard is +68.00 AOD. The areas that are to be cut will have earth banks with a native hedge planted at the top. The additional soil left over from levelling the farmyard site is proposed to be spread around the northern part of the development site covering an area of approximately 2ha. The amount of soil is estimated to be 0.461m above the original ground level.

- 1.3 The proposal is to diversify the larger farm holding, which is mainly used for arable farming. The owners acquired Tewin Waters Park in 2010 with a view to diversifying their existing farming. The diversity strategy is to graze longhorn cattle, use the cattle to naturally graze the holding for approximately 7 months of the year and use the beef in the Tewinbury Farm Hotel.
- 1.4 A separate application has been submitted for a temporary worker's dwelling adjacent to the development site and will be determined under delegated authority.
- 1.5 The main issues of the proposal relate to the impact on the openness of the Green Belt, the impact on the character and appearance of the locality, the impact on the Grade II listed Historic Park, the extent of the ground works and hardstanding areas and the benefits of grazing cattle with regard to biodiversity.

## **2.0 Site and Surrounding Area**

- 2.1 The site is an open agricultural field located to the west of Churchfield Road within Tewin Water Parkland. This parkland has five distinct areas. These include Tewin Water Park (located to the south of River Mimram), Lodge Park, Home Wood (south), Home Wood (north) and Tewin Water House. All of these areas apart from Tewin Water House and its gardens are in the ownership of the applicants for the planning application being considered.

- 2.2 The application site is within Lodge Park and has an area of approximately 2.9ha with the land levels rising to the north of the site. The levels range from +66.28 AOD to +74.07 AOD. The access to the development site is through a set of gates leading from Churchfield Road. The gates are setback from Churchfield Road and are attached to fencing that surrounds the property. The access is included in the development site boundary.
- 2.3 To the south of this access is grassland leading to the River Mimram and Tewin Lodge, which is the closest building and residential dwelling to the proposed development.
- 2.4 To the west of the proposed development site is Home Wood, which is a mature woodland that bounds the River Mimram. Further west is Tewin Water House and gardens. To the north of the site is the remainder of Lodge Park, which is grassland. Beyond the grassland is an arable field.

### **3.0 Planning History**

- 3.1 The site doesn't have any related planning history apart from the application for the temporary agricultural worker's dwelling associated with this application.
- 3.2 A screening opinion was provided on 15 July 2016 advising that the proposal would not require an Environmental Impact Assessment.

### **4.0 Main Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the draft East Herts District Plan 2016 (DP), the adopted East Herts Local Plan 2007 (LP).

Main Issue	NPPF	LP policy	DP policy
Principle of Development	Section 9	GBC1 GBC7	GBR1 ED2
Grade II Listed Park	Section 12	BH16	HA1 HA8
Landscaping and open space	Section 9 Section 11	ENV2 GBC14	DES2 NE2 NE3
Design, layout and scale	Section 3 Section 7 Section 9	ENV1 ENV2 HSG6	DES1 DES2 DES3 CC1 CC2 WAT5
Biodiversity	Section 11	SD4	NE1 NE2 WAT5

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

## 5.0 **Summary of Consultee Responses**

- 5.1 HCC Highway Authority does not wish to restrict planning permission being granted and comments that Churchfield Road is C classified and is subject to the national speed limit and the access is via the existing gated access which is set back and provides excellent visibility. The Authority requests a condition for a construction traffic management plan.
- 5.2 Lead Local Flood Authority has reviewed the drainage strategy submitted and confirms that there is no objection in principle as the proposed development site can be adequately drained. Conditions relating to the final strategy and implementation are requested. A maintenance plan is recommended.

- 5.3 EHDC Engineering Advisor states that the site is in flood zone 1 and generally away from overland surface water flows. There are no historical incidents of flooding of the site. The SuDS is considered to be of medium to poor quality as attenuation tanks are difficult and expensive to maintain. Proposal is not considered as sustainable construction and does not provide any biodiversity or amenity benefits such as swales and ponds.
- 5.4 Thames Water raises no objection but expects that proper provision is made for surface water drainage. Requests an informative if planning permission is granted.
- 5.5 EHDC Conservation and Urban Design Advisor initially objected to the application due to the impact on Tewin Water Registered Park and Garden as it is largely unspoilt and undeveloped. The proposal would harm the openness and significance of the landscape and conflicts with Section 12 of the NPPF, specifically Paragraph 132.

Further comments after Heritage Assessment was submitted:

The Heritage Assessment document fails to assess whether developing the farmyard on nearby sites would provide the same benefits but without causing harm to the designated heritage asset. Large buildings within the designated boundary of Tewin Water Registered Park and Garden will be harmful to its character and special interest. The harm would be less than substantial but do not agree that the public benefits identified in the Heritage Assessment are sufficient to outweigh this harm.

- 5.6 Historic England advises that it does not wish to comment but suggest views of the specialist conservation and archaeological advisers be sought.
- 5.7 Herts Ecology advises that the site does not have any constraints in regard to ecology. The grazing with Longhorn cattle is supported in regard to a conservation grazing initiative as it will have beneficial impacts on soil biodiversity and restoration of natural drainage, which is consistent with para 118 of the NPPF. The proposal will

create a significant ecological benefit to local grasslands in the Mimram valley and beyond subject to Longhorn transport issues. The impact on the Registered Parkland needs to be considered. The original parkland boundaries should be restored. There are opportunities of recreating avenue planting along the access road and the road to the north and other appropriate parkland trees to help offset objections to the new farm buildings within the original parkland. A revised management plan incorporating more details of Lodge Park is requested as a condition.

- 5.8 Natural England welcomes the aim of conservation grazing but care must be taken in introducing cattle in areas close to sensitive habitats due to changes in air quality due to potential ammonia and methane emissions. Further details were provided to Natural England which addressed its concern regarding air quality. The visual impact on the landscape must also inform decision making along with protected species and habitats and environmental enhancements, with regard to conserving biodiversity being part of the decision making.
- 5.9 HCC Historic Environment advise that the site is within an Area of Archaeological Significance and is within a Grade II 18<sup>th</sup> Century landscaped park. Aerial photographic evidence suggests that there is likely to be the presence of archaeological features, which could be of high significance. It is likely that the proposal will have an impact which could represent a significant constraint of the development of the site. Conditions are proposed.
- 5.10 EHDC Landscape Advisor states that the site is part of the Mimram Valley Parklands Landscape Character Area. The Repton design provided considerable parkland and the site is part of the parkland that has survived. The proposal will result in the loss of an area of open grassland, which will cause harm to the essential character and the wider setting and will threaten the integrity of the historic landscape. In addition, the change to the parkland topography will result in an incongruous and disturbed landform at odds with the exiting rolling and undulating landform of the site and surrounding



area. The mitigation measures proposed do not overcome the permanent and irreversible impact of the proposal.

- 5.11 HCC Development Services advise that no contributions are sought.
- 5.12 EHDC Waste Service Advisor does not wish to comment on the application.

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

## **6.0 Summary of Other Representations**

- 6.1 The Gardens Trust objects to the planning application on the following grounds:
- Tewin Water is largely unspoilt;
  - Repton's design indicates the importance of the eastern parkland and views up to the summit of the hill from the water;
  - Proposal is contrary to Section 12 of NPPF as it would substantially harm the overall design and significance of the park;
  - Proposal will destroy the landscape with respect to Digswell and Panshanger parklands.

## **7.0 Consideration of Issues**

### Principle of Development

- 7.1 Policy GBC1 of the East Herts Local Plan identifies new buildings for agriculture as not being inappropriate. Policy GB7 provides further criteria that need to be met for new agricultural buildings. This includes siting the new building adjacent to existing building unless it is demonstrated a more isolated location is essential. If an isolated location is essential then the site should minimise the impact of the building on the character and appearance of the

countryside. In addition to this, GB7 requires a landscape scheme reflecting the landscape character of the area and the building to be designed for its intended use and sympathetic to its surroundings with regards scale, materials, colour and architectural details.

- 7.2 Paragraph 88 of the National Planning Policy Framework advises that local planning authorities should give substantial weight to any harm to the Green Belt. Paragraph 89 identifies agricultural buildings as not inappropriate development in the Green Belt.
- 7.3 The proposal is clearly for agricultural uses and therefore is not inappropriate in principle. However, it is not considered that the proposal meets the requirements of Policy GB7 with respect to reflecting the landscape character. The scale of the buildings and the engineering works, including the underground tank, are not in keeping with the local character and will have an impact on the openness of the Green Belt. It is acknowledged that new agricultural buildings in the Green Belt will have an impact on openness. However the impact of 3 new buildings having a height of around 9 metres in an elevated position within the Green Belt that has no existing buildings in the vicinity is not sympathetic in accordance with policy GB7.
- 7.4 The applicant has stated that there is no sequential test required but it is considered that Policy GB7 does require the applicant to demonstrate the essential need for an isolated location. However the agricultural appraisal does identify the existing Muspatts Farmyard, which is in the same ownership and located adjacent to village of Tewin, approximately ½ mile from the proposed new farmyard and this was not proposed as the only land within the curtilage of the farm buildings is elevated and would have an impact on the landscape. The reason for the siting of the agricultural buildings in the proposed location is to avoid the long horn cattle being transported by trailer and to have the cattle on grassland. It is noted that the grassland is within the Registered Park so the proposal has an impact on the Green Belt and the Registered Park.

- 7.5 It is considered that the proposed new farmyard with 3 buildings being approximately 9 metres in height would cause considerable harm to the character and appearance of the area within the Green Belt. It is noted that landscaping is proposed to help mitigate the impact of the buildings.

Grade II Listed Park and Garden

- 7.6 The relevant policies that apply to assessing the impact on the Registered Park fall under Policy BH16 of the East Herts Local Plan, Policy HA1 and HA8 of the Draft East Herts District Plan and Paragraphs 131, 132 and 134 of the NPPF. Both the applicant's heritage consultant and Council's heritage advisor state that the proposed development will lead to less than substantial harm to the significance of Tewin Water Park. However the difference lies in weighing this harm against the public benefit of the proposal.
- 7.7 Para 132 of the NPPF states that when considering the impact of the proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation and any harm should require clear and convincing justification.
- 7.8 The Heritage Assessment and other reports submitted in support of the application identify benefits of the management and restoration of the Park with the grazing of long horn cattle. The preparation of the 5-year Management Plan for the entire Tewin Water Park, excluding the former house and 20<sup>th</sup> century houses to the northeast, prepared by Maydencroft indicates that the owners of Tewin Water Park have made investments in the restoration of the Park and there are ecological and economic benefits to the wider Parkland set out in the 5-Year Plan. It is noted that most of these benefits sit outside the development boundary of the application site.
- 7.9 Policy HA8 of the draft District Plan states that development proposals that materially harm the special historic character,

appearance and setting of Historic Parks and Gardens will not be permitted.

- 7.10 It is considered that the most of the restoration of the Park recommended in the 5-year Management Plan is not reliant on the farmyard being located within the Historic Park. The ecological benefits of longhorn cattle grazing are welcomed. However, the benefits this brings needs to be weighed against the harm to the parkland which has not had built form on it since it became a designated heritage asset.

#### Lanscaping and Open Space

- 7.11 The application is supported by a landscaping scheme and a Landscape Visual Impact Assessment (LVIA). The proposed buildings are of a considerable height and scale and therefore require significant established planting to help reduce the impacts of the proposal on the surrounding landscape. Some of the viewpoints in the LVIA show that at 15 years the buildings will be visible with the proposed landscaping. The amount of cutting and filling proposed will permanently change the landscpae character of open grassland.
- 7.12 The landscaping plan does not propose any significant restoration of the original parkland design, which sits outside the development boundary.
- 7.13 The landscape officer has stated that the site is intrinsically sensitive to any development of the nature and scope proposed and the impacts are high due the the proposed development being permanent and being irresverisble.

#### Design, Layout and Scale

- 7.14 The proposal will require a significant amount of earthworks with the cutting and filling and the provision of the underground tank for surface water storage. The three buildings have a height of around 9 metres and will be located on land rising to the north

from the River Mimram. The size of the three buildings is 1,008m<sup>2</sup> for the cattle barn, 300m<sup>2</sup> for the machinery shed and 328m<sup>2</sup> for the straw storage shed. Each of the three buildings have different designs to accommodate the use.

- 7.15 The cattle shed is proposed to be partially open-fronted at both gable ends with concrete panels to a height of 2 metres with closed boarded timber verticle panels above. This building has been designed to meet animal welfare standards. The straw storage barn is open-sided at one gable end and one side and is proposed to be a steel-framed building with two profiled clad sides. The machinery building is to be a steel-framed building with profiled cladding. The proposed roof materials of all three buildings is to be recyclable fibre cement with rooflights.
- 7.16 The amount of excavation and hardstanding area and the lack of on-site sustainable drainage that provides landscape and wildlife benefits is not supported and is contrary to Policy WAT5 of the draft District Plan.

### Biodiversity

- 7.17 The proposal will involve the loss of approximately 7000m<sup>2</sup> of natural grassland with the proposed development of the hardstanding area of the farmyard. There will be an improvement to the biodiversity of the adjoining site with respect to the conservation grazing of cattle. There are other elements in the 5 Year Management Plan prepared by Maydencroft that will improve biodiversity and this has been welcomed by Herts Ecology. However the application is mainly for the provision of the farmyard and engineering works which have no ecological benefits.
- 7.18 It is considered that a farmyard could be provided on a more appropriate site with cattle grazing on Tewin Water Farm with the same biodiversity benefits. For this reason the biodiversity benefits are given some weight.

## Other Matters

- 7.19 Natural England were initially concerned about air quality, and the applicant provided details to demonstrate that they had addressed this matter in the design of the proposed cattle shed.
- 7.20 The site is likely to have some archaeology significance and therefore in accordance with paragraph 128 of the NPPF, further evaluation would have normally been required, but in this case due to pre-submission advice, the County Council Historic Unit did not pursue further details at application stage and requested a condition.
- 7.21 In response to the objections raised by Hertfordshire Gardens Trust, Tewin Water has a limited amount of development on it. In this context it is largely unspoilt. The Trust has stated that the harm is substantial. The district conservation officer also states that the parkland is largely unspoilt. It has been stated by Council's conservation officer and the conservation consultant that the harm to the listed park is "less than substantial" but there has been difference in whether the proposal is acceptable with this harm. Regards the impact on Digswell and Panshanger parklands, this has not been raised by Heritage England nor the conservation officer and the impacts of the proposal are therefore as widespread as suggested by Hertfordshire Gardens Trust.

## **8.0 Planning Balance and Conclusion**

- 8.1 Agricultural buildings in the Green Belt are not inappropriate development but new buildings need to be assessed in respect to the impact on the landscape character. It is considered that the impact on the landscape character has not been mitigated by the proposed landscape proposal and this is due to the scale of the proposed development and its location. This harm is given considerable weight.
- 8.2 The proposed development will be harmful to the character and special interest of the Registered Park and Garden. It is

acknowledged that the harm is less than substantial, however the benefits of the development is not considered to outweigh the harm.

- 8.3 The proposal will result in biodiversity improvements with respect to natural grazing of the grassland, but this is mainly outside the development boundary and could be achieved if the proposed farmyard was located in a less harmful location but with access to the Tewin Water grassland.
- 8.4 The drainage system proposed includes a large attenuation tank/soakaway and harvesting water tanks which are, in terms of Sustainable Urban Drainage Systems, medium to poor quality as this type of drainage does not contributed to landscape or wildlife. Due to the site being entirely greenfield, this is considered to carry some weight as it is contrary to Policy WAT5 of the draft District Plan.
- 8.5 The benefits of the proposal are not considered to outweigh the harm to the listed parkland. Policies BH16 of the Local Plan and HA8 of the draft District Plan state that the District Council will encourage proposals for the repair, restoration and management of historic parks and gardens. It is evident that the owners have invested in the parkland and have the intention to continue this. However the impact of the proposed farmyard with the earthworks and 9m high buildings is not considered a repair, restoration or appropriate management of the historic parkland.

## **RECOMMENDATION**

That planning permission be **REFUSED** for the following reasons.

- 1. Paragraph 88 of the National Planning Policy Framework states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The proposed development due to the siting, size and height of buildings and hardstanding area with associated engineering works would create a significant visual impact on the openness of the Green Belt and

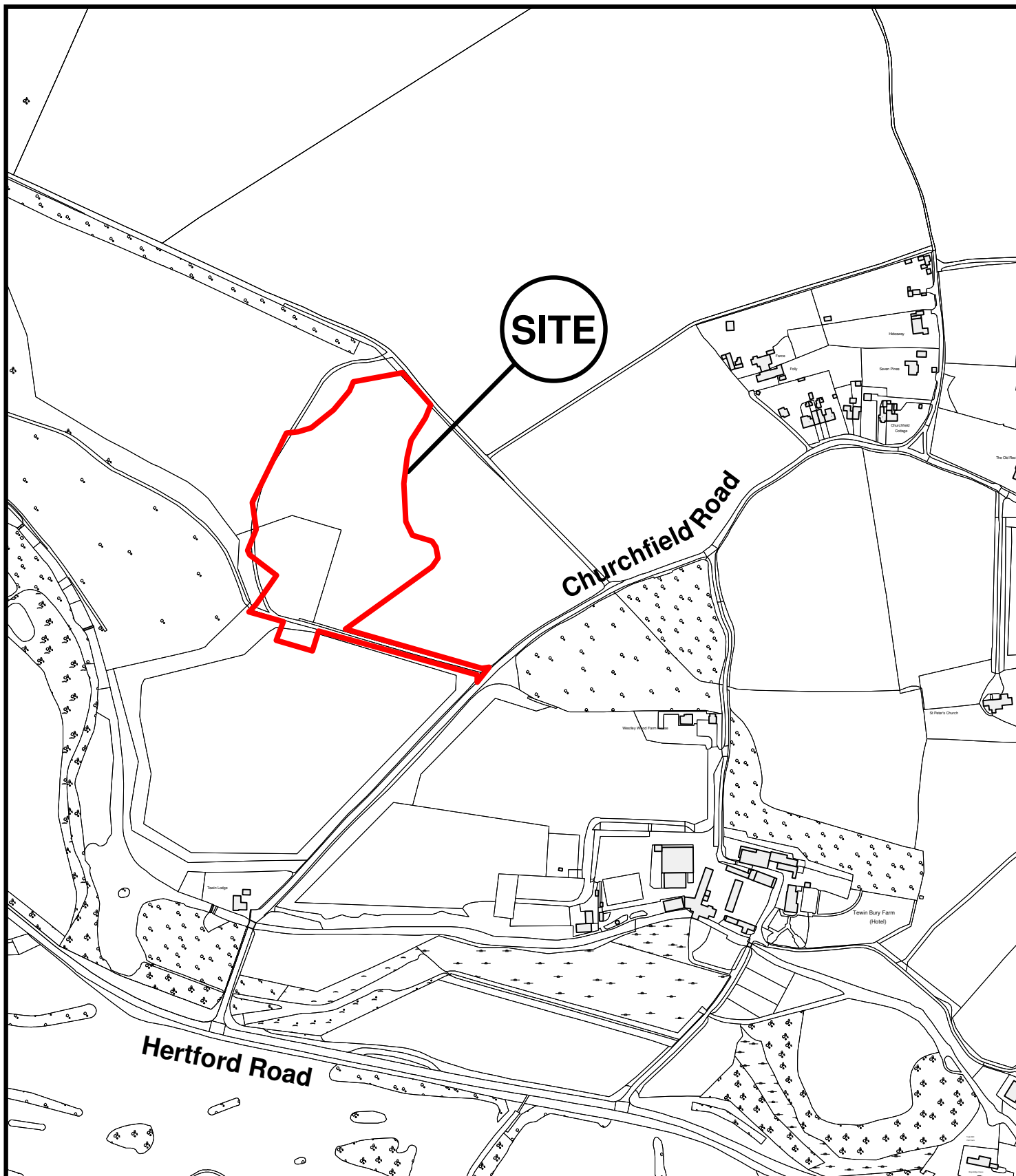
landscaped character, contrary to Policy GBC7 of the East Herts Local Plan 2007.

2. The proposed development does not preserve and enhance the designated heritage asset and would create less than substantial harm to the Registered Park and Garden that is not outweighed by the public benefits the grazing of cattle would provide, contrary to Policy BH16 of the East Herts Local Plan 2007, Policies HA1 and HA8 of the Draft East Herts District Plan 2016 and paragraph 131 of the National Planning Policy Framework.

### **Summary of Reasons for Decision**

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, East Herts Council has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Policy Framework.





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**O.S Sheet: TL2614**

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## DEVELOPMENT MANAGEMENT COMMITTEE – 25 APRIL 2018

<b>Application Number</b>	3/18/0290/FUL
<b>Proposal</b>	Construction of Two Storey Vehicle Storage Building in association with the Existing Car Sales Business
<b>Location</b>	295-297 Stansted Road, Bishops Stortford, CM23 2BT
<b>Applicant</b>	Mr Cottenden
<b>Parish</b>	Bishop's Stortford
<b>Ward</b>	Bishop's Stortford Meads

<b>Date of Registration of Application</b>	8 February 2018
<b>Target Determination Date</b>	11 May 2018
<b>Reason for Committee Report</b>	Major application
<b>Case Officer</b>	Rachael Collard

### **RECOMMENDATION**

That planning permission be **APPROVED** for the reasons set out at the end of this report.

#### **1.0 Summary of Proposal and Main Issues**

- 1.1 The application proposes the construction of a two storey vehicle storage building for the storage of vehicles in association with the car sales business.
- 1.2 The site lies within the designated settlement boundary of Bishop's Stortford and within a designated employment area.
- 1.3 The main planning issues relate to the impact of the proposed two storey building within the context of the site and its impact on the neighbouring residential dwellings.

## **Site Description**

- 2.1 The site is currently part of the wider site used by the Gates Group Ltd as a car dealership specialising in the sale of new and used Ford cars and the sale of commercial vehicles. The site lies on the western side of Stansted Road (B1383), Bishop's Stortford within a designated employment area. The Stansted Road forms the front (eastern boundary) of the site with the railway line immediately to the rear (western boundary) with a public open space beyond. Other commercial uses can be seen to the north whilst residential dwellings and an area of open space can be seen to the south.
- 2.2 The site consists of the Ford show room located to the front of the site with a shared surface access road leading to areas of external car display. A large workshop/servicing building associated with the dealership can be seen, along with a vehicle wash and valet area. It is also noted that the site gently slopes from east to west towards the rear of the site
- 2.3 The application seeks planning permission for the construction of a two storey car deck for vehicle storage to increase the vehicle storage capacity of the site. The applicant has stated that the new storage area is required to rationalise operations, where new vehicles awaiting delivery to customers are often being stored off site. The proposal is considered to decrease the overall vehicle movements and exhaust emissions to the local area as the need to park customer vehicles elsewhere and then moved them to site for customer collection would be reduced.
- 2.4 The existing car park at ground level would be retained accommodating approximately 115 vehicles, however the two new parking deck levels as part of the car park proposed would accommodate 88 spaces on the first floor and 87 spaces on the second floor resulting in a further 175 vehicles.

- 2.5 It should be noted that during the course of the planning application an amended site location plan was submitted showing access to the development site. It should be noted that a full consultation was undertaken as a result of the enlargement of the application site.

### 3.0 **Planning History**

The following local planning history is of relevance to this proposal:

Application Number	Proposal	Decision	Date
3/11/0988/FP	Demolition of bodyshop and outbuilding and construction of 6 no. offices and 5 no. light industrial units with trade counters	Granted	20 <sup>th</sup> April 2012
3/11/0987/FP	Demolition of existing main car dealership and construction of new main car dealership and adjacent car park with raised storage area	Granted	12 <sup>th</sup> October 2011
3/10/0906/FP	Demolition of an existing main car dealership, erection of a new car dealership at front of the site along with a car park with a raised storage area. Erection of 60no. flats within five new residential blocks at the rear of the site.	Withdrawn	November 2014
3/91/0653/FP	Change of Use from B1 TO 1) Car	Granted	17 <sup>th</sup> July 1991

	showroom/open sales – both new and old 2) Parts and servicing and counters 3) car rental 4) Accident/body shop		
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#### 4.0 **Main Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the pre-submission East Herts District Plan 2016 (DP) and the adopted East Herts Local Plan 2007 (LP). The Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards 2014-2031 also forms part of the development plan.

<b>Main Issue</b>	<b>NPPF</b>	<b>LP policy</b>	<b>DP policy</b>
The principle of the development	Paras 6-16	SD1 SD2 EDE1 EDE4	DPS6 ED1
Layout and design	Sections 6 and 7	ENV1 ENV2	DES2 DES3 EQ3
Landscape impact	Section 11	GBC14	DES1 DES2
Highways and parking	Section 4	TR2 TR7	TRA1 TRA3 TRA3
Flood risk	Section 10	ENV19 ENV21	WAT1 WAT5
Planning obligations and infrastructure delivery	Paras 203 to 206	IMP1	DEL2

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

## **5.0 Summary of Consultee Responses**

- 5.1 HCC Highways – No objection subject to conditions
- 5.2 Environment Agency – No objections
- 5.3 EHDC Environmental Health Advisor – no objection subject to conditions
- 5.4 HCC Lead Local Flood Authority – no objection subject to conditions
- 5.5 Herts Fire and Rescue – Seeks Fire Hydrant provision
- 5.6 Network Rail – No comments received
- 5.7 EHDC Landscape Officer – No objections

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

## **6.0 Town/Parish Council Representations**

- 6.1 Bishop's Stortford Council does not object to the proposal

## **7.0 Summary of Other Representations**

- 7.1 3 neighbour responses have been received objecting to the proposals on the following grounds:
  - Lack of soft landscaping providing screening for properties on Stansted Road.
  - Impact to those dwellings located on Denny Court.
  - Limited information indicating the potential impact of light and noise pollution or limits governing the hours of operation of the new development. Noise issue is surrounding the traffic movements and security.
  - Additionally there is limited information provided about possible disruption that would be caused through the

construction of the proposed site. There is no information relating to start or finishing time of any works or indeed the hours of operation once the site is built.

- Concerns over the increase in traffic movements. Traffic movements on the site and flows into and out of the site are likely to increase simply because a greater volume of cars will be stored there and flows into and out of these will be greater than with the current situation and will impact upon the already congested nature of Stansted Road caused by existing business use.
- Concern that the proposal and south elevation will be in keeping with the general local context.
- Eye-sore on the landscape and views from the rear garden of properties on Denny Court.
- Residents suffer considerable noise pollution from Gates. The proposed structure will make my home feel like it is in the middle of an urban commercial area rather than a residential area.

1 neighbour response has been received commenting on the proposal:

- In principle we have no objection to the proposals, The “Visual Amenity to the surrounding area’s” does not state that any assessment was made to 279-289 Stansted Road. We would also like to be considered for screening along the metal fenced area running along the perimeter of the rear of our gardens. We currently have a lovely skyline view of sky and trees in the distance from the rear of our property and garden. Our current view will be impacted as the structure will plainly obliterate the view.
- Issues regarding light pollution bounce back onto our house when the sun hits the current service building external metal cladding, since Gates removed the mature trees located at the front of the service building. These trees were originally landscaped to help screen the unsightly service building many years ago. The view of the proposed car parking storage area will exacerbate the unsightly view and alter our sky line view,



thus causing a negative impact to us and neighbouring residents.

## **8.0 Consideration of Issues**

### Principle of development

- 8.1 The application site is located within the built up area of Bishop's Stortford where there is no objection in principle to development. The site itself forms part of the established Gates Ford car garage and is located within a designated employment area. Therefore in accordance with policies EDE1 of the Local Plan which refer to acceptable uses in Employments areas. It is noted that policy EDE1 identifies that classes B1, B2 and B8 uses are considered to be acceptable. Policy EDE4 is also relevant and states that storage and distribution development will only be permitted a) on sites that are already in Storage and Distribution Use and which are well related to the transport network or b) within identified Employment areas.
- 8.2 Whilst the application from seeks planning permission for the storage of vehicles under a B8 use, a car sales garages would be a sui generis use. As the application requires a car park for the storage of vehicles associated within the car sales business, whilst not directly a B8 use, the development in association with an existing business within the employment area and is considered to be acceptable in principle and would accord with policies EDE1 and EDE4 of the East Herts Local Plan 2007.
- 8.3 The emerging District Plan has now reached an advanced stage of preparation. Policy ED1 would be relevant in this instance and is broadly consistent with the current adopted plan policy where land designated as employment is reserved for industry comprising of B1, B2 and B8 uses.

### Character and Appearance

- 8.4 The proposed car park would be located to the rear of the site behind the existing work shop/servicing building. It is noted that

buildings generally in this location are commercial in character constructed from a variety of materials. It is generally noted that buildings within the industrial area are set away from the western boundary with the exception of the substation immediately south of the application site.

- 8.5 The car park is considered to be large in size, filling the existing open hard standing area used for the storage of vehicles and staff parking. The structure would have dimensions of approximately 74m in length, 42m in depth and would be approximately 7.6m in height. A ramp would be seen providing access to the upper decks and an external staircase would be seen to the southern side of the development. The car park would be constructed from galvanised steel with mesh infill panels, cladding to the western elevation would be seen constructed from powder coated aluminium perforated cladding panels, providing interest to the structure as this elevation would be readily visible from the railway line and the public open space beyond.
- 8.6 It is noted that the car park would be sited approximately 3.5m from the boundary with the western boundary and would be located close to the boundary with the electricity substation. Whilst it is acknowledged that the structure would be readily visible from the public open space to the west and views would be possible from Stansted Road and Denny Court. Due to the changes in ground level towards the rear of the site the car park is not considered to be a prominent feature from Stansted Road. It is however acknowledged that the structure would be more visible from Denny Court and the public open space and the railway line. However due to the location in which the structure is proposed within an industrial area the overall appearance and character of the development is not considered to be out of character with the site location to result in a refusal of the application.

#### Neighbour Amenity

- 8.7 As noted above the application site is located within a designated employment area and is primarily surrounded by other industrial

buildings to the north and an electricity substation and vehicle wash and valet can be seen to the south. It is however noted that several residential properties can be seen on Stansted Road and Denny Court. Those nearest properties located on Stansted Road would be approximately 36m to the east of the application site, whilst the nearest properties located within Denny Court (No.11) would be approximately 10m south of the of the application site although it is noted that those closest dwellings on Denny Court do not have any side facing windows and there rear elevations are directed away from the application site.

- 8.8 Neighbour objections have been received in relation to the application and raise concerns regarding the appearance of the development within the context of the local area, lack of screening for properties on Stansted Road and the impact the development will have on residents in Denny Court. Furthermore objections are raised regarding the lack of information surrounding the potential impact of light and noise pollution, hours of operation and noise surrounding the traffic movements. Further concerns regarding the hours of construction have also been raised.
- 8.9 It is acknowledged that the proposed car park would be visible from neighbouring residential properties and whilst some planting has been proposed to the south with Denny Court no planting has been sought to the rear of properties on Stansted Road. Due to the distances achieved and existing structures on site obscuring views, the proposed development is not considered to have a detrimental impact on those residential dwellings seen on Stansted Road. With regards to those dwellings on Denny Close, views into the rear gardens of dwellings would be possible due to the open sides of the structure. However due to the existing valet buildings and levels of the land which is lower in this part of the site, this would provide some degree of screening. Furthermore the proposed use would not be a public car park and therefore there would be limited numbers of people moving vehicles.
- 8.10 With regards to lighting and noise pollution, the proposed development is likely to give rise to a degree of noise disturbance

from the arrival of the transporter and storing those vehicles within the car park, although it is noted that this is already an inherent part of the operations at the site. Environmental Health have not raised an issue regarding noise due to the increase in transporter movements to the site and the increase in the numbers of vehicles stored on site. The applicant has clarified that deliveries ordinarily take place during the opening hours of the car dealership but deliveries can take place 30 minutes prior to opening and 30 minutes after closing. It is considered reasonable to impose a condition ensuring that deliveries take place within reasonable hours and it is considered that the picking up of vehicles would cease when the dealership is closed, avoiding mass vehicle movements late into an evening. It is also considered reasonable to impose a condition ensuring that the car park is solely used for the parking and storage of vehicles associated with the car sales business and for no other use. With regards to lighting it is considered reasonable to impose a condition requiring details of this to be submitted to minimise impact on neighbours.

- 8.11 Whilst objections have been raised regarding the view that would result from neighbouring occupiers, loss of a view is not a material planning consideration.

### **Noise, Lighting, Contaminated Land**

- 8.12 As a result of the application there is the potential for there to be an increase in terms of vehicle movements and noise associated with the use. However the proposal is for a structure used for the storage of cars associated with the car sales garage. The proposed storage of vehicles is no different to the existing situation, where cars can be seen on site for customer collection, although it is noted that there would be more vehicles on the site and therefore there would be noise associated from this, however due to the nature of the use of the car park this is not expected to result in excessive movement of vehicles and no objections have been raised by the Council's Environmental Health officer regarding noise impacts. As noted elsewhere within the report it is considered reasonable to impose conditions limiting hours of delivery. The Environmental

Health officer has also requested conditions requiring details of any external lighting to be submitted and construction hours. It is considered that these conditions are reasonable and therefore would be added to any grant of permission. It is also considered reasonable to add an informative to any consent regarding unexpected contamination.

### **Flood Risk and Surface Water Drainage**

- 8.13 The site lies partially within Flood Risk Zone 2; policy ENV19 sets out that proposals in flood plains will not be permitted subject to a number of criteria and shall be submitted with a Flood Risk Assessment (FRA). Furthermore policy ENV21 requires surface water drainage to be incorporated into schemes. The application has is supported by a Flood Risk Assessment and Sustainable Drainage Strategy. The Lead Local Flood Authority and the Environment Agency have been notified of the application and do not raise any objections to the proposal. It is however noted that conditions have been recommended requiring the development is carried out in accordance with the submitted FRA and a final design of the drainage scheme is submitted. An informative would also be placed on any consent stating that a Flood Risk Activity permit is required, if any proposed works is within 8 Metres of the top of the bank of the Birchanger Brook.

### **Highways and parking**

- 8.14 The existing access would remain unaltered from present and access to the proposed storage deck would be via the existing internal road. The applicant has submitted a Transport statement alongside the application. The development in addition to the existing surface level storage will hold up to 175 vehicles in two new parking level decks. The development is expected to result in the number of car transporter movements to increase from 5 to approximately 7 per week.
- 8.15 The proposal is in association with an established use on the site and would not result in any increase in staff as the car park is purely

for the storage of vehicles awaiting customer collection and therefore no change is proposed to the existing staff parking arrangements.

- 8.16 The Highway Authority has been consulted on the application and do not seek to raise an objection to the application, however a number of conditions have been recommended to be imposed on any grant of permission. It is advised that an area within the site is formally marked out for car transporter movement and is kept clear for such an activity and a construction management plan is submitted to ensure that there will be no impact on the highway network.
- 8.17 Highway comments have also stated that due to the more intensive use of the site with respect to the storage of vehicles for customer collection, a contribution towards improving sustainable transport is justified and upgrading the northbound bus stop (Goodliffe Park) under a S278 would be requested.
- 8.18 The Highway Authority has also requested that due to the site being used for the delivery and storage of large numbers of vehicles a Travel Plan should be prepared establishing a protocol for regulation deliveries to the site, staff movements to the site and to promote sustainable travel modes. However due the proposal being an established use where there would be no increase in members of staff it is considered unreasonable to impose a condition requiring a Travel Plan to be submitted. It is however noted that a condition stating hours of delivery shall be imposed.

### **Landscape impact**

- 8.19 The application is accompanied by a Landscape and Visual Impact assessment, due to the nature of the site there is limited soft landscaping. The car park would be partially visible from Stansted Road and Denny Court and it is considered that further views would be possible from Red, White and Blue open space to the west of the railway line.

- 8.20 The plans submitted show limited space within the application site to provide additional landscaping particularly along the western boundary due to the proximity to the railway line. It is however noted that a section of trees/hedge planting would be seen on the south eastern boundary with Denny Court. This is considered to be acceptable and would be controlled through condition.
- 8.21 The Council's landscape officer has not raised any objections to the proposed development and therefore the proposal is considered to be acceptable in this regard.

### **Planning Obligations**

- 8.22 The Highway Authority has requested a financial obligation for upgrading the northbound bus stop (Goodliffe Park) and could be subject of a condition and would be secured by a S.278 Highway Act Agreement.

## **9.0 Conclusion**

- 9.1 Having regard to the representations made by consultees and residents, officers consider that the details submitted for the construction of a two storey car deck for the storage of vehicles is acceptable subject to conditions and would be in accordance with the relevant policies of the East Herts Local Plan 2007.

## **RECOMMENDATION**

That outline planning permission be **GRANTED**, subject to the conditions set out below:

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plans listed at the end of this Decision Notice.

Reason: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

3. Prior to any building works being commenced samples of the external materials of construction for the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.

Reason: In the interests of the appearance of the development, and in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

4. Details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and no external lighting shall be provided without such written consent. The development shall then be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area, and in accordance with policy ENV23 of the East Herts Local Plan Second Review April 2007.

5. The development hereby approved shall only be used for the storage of vehicles in association with the car sales business and for no other purpose.

Reason: In the interests of the appearance of the development, and in accordance with policy ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007.



6. Deliveries of vehicles shall only take place between the hours of 7:30 and 19:30 Monday to Friday, 7:30 and 18:30 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In the interests of the residential amenity and in accordance with policy ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007.

7. Notwithstanding the approved plan 770.17.2, prior to the commencement of the development, full details of both hard and soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, as appropriate:

- (a) Proposed finished levels or contours
- (b) Means of enclosure
- (c) Car parking layouts
- (d) Other vehicle and pedestrian access and circulation areas
- (e) Hard surfacing materials
- (f) Planting plans
- (g) Written specifications (including cultivation and other operations associated with plant and grass establishment)
- (h) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
- (i) Implementation timetables. Thereafter the development shall proceed in accordance with the approved details.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policies ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

8. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;

- b. Traffic management requirements;
- c. Construction and storage compounds (including areas designated for car parking);
- d. Siting and details of wheel washing facilities;
- e. Cleaning of site entrances, site tracks and the adjacent public highway;
- f. Timing of construction activities to avoid school pick up/drop off times;
- g. Provision of sufficient on-site parking prior to commencement of construction activities;
- h. Post construction restoration/reinstatement of the working areas and temporary access to the public highway.

Reason: To ensure that the development takes place in a comprehensive manner having due regard for highway safety and capacity and to ensure that the impact of construction traffic on the local road network is minimised.

9. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies ENV1 and ENV2 of the East Herts Local Plan Second Review April 2007 and national guidance in section 7 of the National Planning Policy Framework.

10. Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted), sufficient space shall be provided within the site to enable a car transporter vehicle to park, turn and re-enter the highway in a forward gear. This area shall be levelled, surfaced and drained in

accordance with a detailed scheme submitted to and approved in writing by the Local Planning Authority and retained thereafter available for that specific use.

Reason: In the interests of satisfactory development and highway safety.

11. In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

Reason: To safeguard the amenity of residents of nearby properties, in accordance with policies ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007.

12. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy carried out by MTC reference 2025 dated December 2017 submitted and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off rates to maximum of 5 l/s with discharge into existing wider site drainage system.
2. Provide attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

13. No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The scheme shall also include;
  1. Implementing the appropriate drainage strategy based on attenuation and discharge.

2. Detailed engineered drawings of the proposed SuDS features including their, location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
3. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Plan Numbers: HD17006/01 Rev A, HD17006/100, HD17006/02, HD17006/03, HD17006/04, HD17006/05, HD006/06, HD17006/08, HD15006/150, 770.17.2, Flood Risk Assessment and Sustainable Drainage Strategy (MTC Engineering) 2025-FRA&DS- Dec2017, Transport Statement dated January 2018.

### **Informatives:**

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water Interest) etc. Neither does this permission negate or override any private covenants which may affect the land.
2. The applicant is advised that any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Local Planning Authority and appropriate mitigation measures agreed.

3. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website:  
<https://beta.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highwaysdevelopment-management.aspx>
4. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website:  
<https://beta.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-developmentmanagement.aspx>
5. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website:  
<https://beta.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-developmentmanagement.aspx>

### **Summary of Reasons for Decision**

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The balance of the considerations having regard to those policies is that permission should be granted.

**KEY DATA****Non-Residential Development**

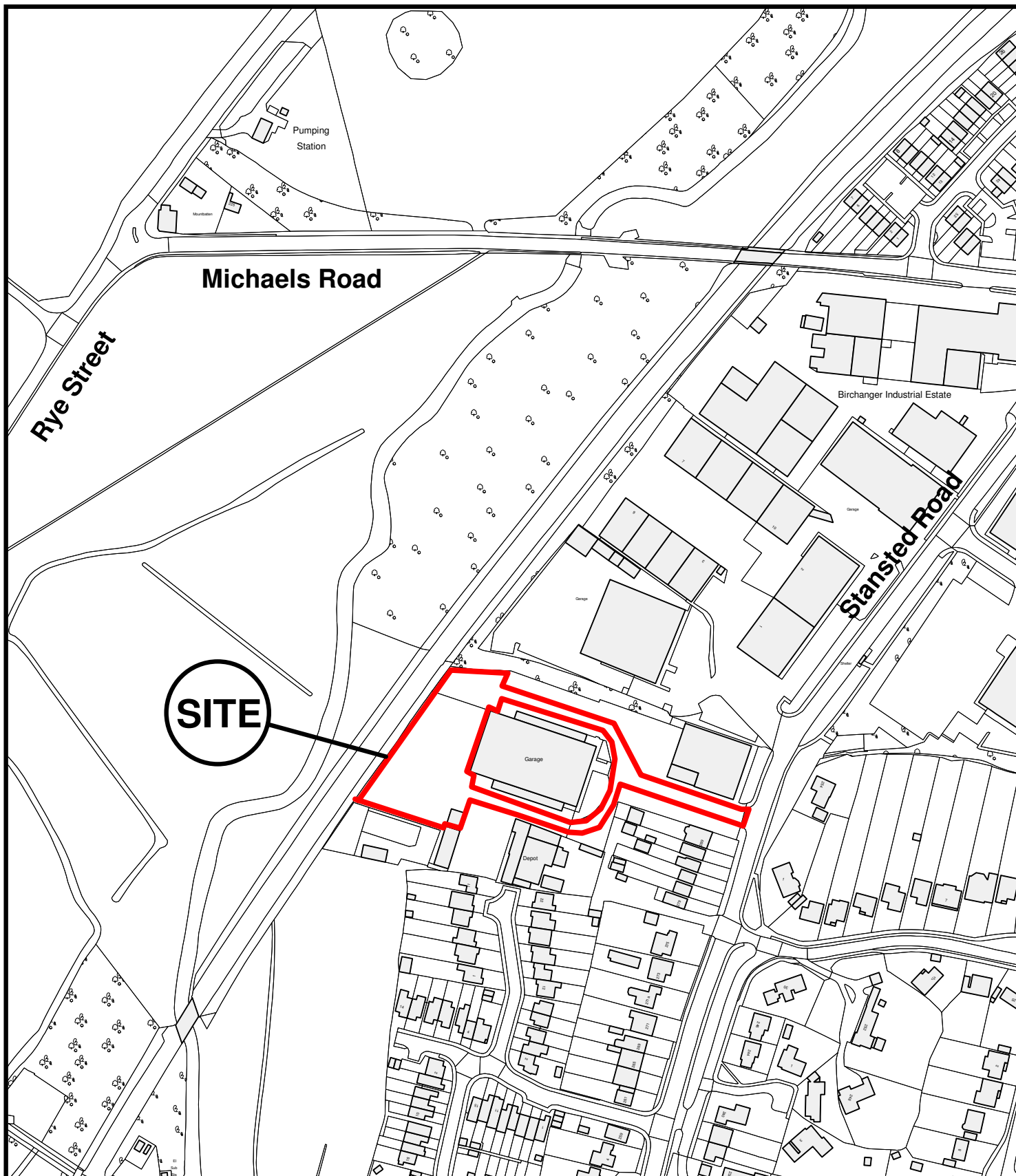
<b>Use Type</b>	<b>Floorspace (sqm)</b>
Storage of vehicles ancillary to the car sales business	5,197

**Non-Residential Vehicle Parking Provision**

Use type	Standard	Spaces required
Storage of vehicles ancillary to the car sales business	0	0
Total required	0	0
Accessibility reduction	N/A	N/A
Resulting requirement	N/A	N/A
Proposed provision	N/A	N/A

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 Tel: 01279 655261

**Address: 295-297 Stansted Road, Bishops Stortford, Hertfordshire, CM23 2BT**

**Reference: 3/18/0290/FUL**

**Scale: 1:2500**

**O.S Sheet: TL4922**

**Date of Print: 13 April 2018**

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EAST DISTRICT COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE - MARCH 2018  
ITEMS FOR REPORT AND NOTING

<b>Application Number</b>	3/17/0251/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Committee
<b>Address</b>	Land At North DriveHigh Cross
<b>Appellant</b>	Mr Sean Harries
<b>Proposal</b>	Erection of 20 dwellings with associated parking, landscaping and access
<b>Appeal Decision</b>	Allowed with Conditions

<b>Application Number</b>	3/17/0387/OUT
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Committee
<b>Address</b>	Land Adj To The Old RectoryBaldock RoadCotteredBuntingford SG9 9QP
<b>Appellant</b>	Mr And Mrs Robert Taussig
<b>Proposal</b>	Proposed residential development comprising 15 dwellings (including 6 Starter Homes) with associated access.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/17/0722/OUT
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land East Of Upper Green RoadTewinWelwyn AL6 0LE
<b>Appellant</b>	Robert and Cheryl Killingback and Cook
<b>Proposal</b>	Construction of 9no. dwellings consisting of 4no. 3 Bedrooms and 5no. 2 Bedrooms with two new vehicular accesses.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/17/0975/OUT
<b>Decsn</b>	Withdrawn
<b>Level of Decision</b>	Committee
<b>Address</b>	Land Adj To StanemedesAlbury RoadLittle HadhamWare SG11 2DN
<b>Appellant</b>	Mr John Ruane
<b>Proposal</b>	Outline planning for the erection of up to 18 dwellings, all matters reserved apart from access
<b>Appeal Decision</b>	Withdrawn

<b>Application Number</b>	3/17/1008/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Long Meadow Ware RoadWidford
<b>Appellant</b>	Mrs T Baxter
<b>Proposal</b>	Demolition of existing agricultural buildings and erection of 4no. detached four bedroom dwellings
<b>Appeal Decision</b>	Allowed with Conditions

<b>Application Number</b>	3/17/1216/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	5 Brookbridge LaneDatchworthKnebworth SG3 6SU
<b>Appellant</b>	Mr D. Remmingon
<b>Proposal</b>	Demolition of existing dwelling and erection of replacement dwelling.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/17/1556/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Die BottomRobins Nest HillLittle BerkhamstedHertford SG13 8LL
<b>Appellant</b>	Mr And Mrs W And B Marques
<b>Proposal</b>	Conversion of existing store to create additional ancillary residential accommodation and games room - revised scheme following refusal of 3/17/0934/HH
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/17/1811/OUT
<b>Decsn</b>	Refused

<b>Level of Decision</b>	Committee
<b>Address</b>	Land Off Luynes Rise(to The West Of Buntingford)Buntingford
<b>Appellant</b>	Fiona Milden
<b>Proposal</b>	Outline application for all matters reserved except for access comprising: i. Up to 400 dwellings (C3). ii. 2.0 hectares of land for Use Class B1 employment. iii. Formal and informal open spaces including children's playspaces. iv. Structural landscaping and internal roads. v. Formation of a new junction on the A10. vi. Surface and foul water drainage infrastructure.
<b>Appeal Decision</b>	Withdrawn

<b>Application Number</b>	3/17/1991/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	11 Cowpers WayTewin WoodTewinWelwyn AL6 0NU
<b>Appellant</b>	Mr And Mrs D Redlich
<b>Proposal</b>	Replacement dwelling
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/17/2235/LBC
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	102 Orchard RoadTewinWelwyn AL6 0LZ
<b>Appellant</b>	Mr And Mrs G And O Morrisroe
<b>Proposal</b>	Proposed internal alterations including: removal of existing ground floor walls to create kitchen/dining room with new island; construction of new wall and doorway to create smaller ground floor w.c.; addition of worktops/sink to existing ground floor study in order to create new utility room; addition of new doorway between proposed kitchen/diner and utility room; conversion of Bedroom 5 into family bathroom and en-suite to bedroom 4 involving the removal of existing walls, erection of new walls, creation of new opening and installation of new bathroom/shower suites; conversion of existing family bathroom into dressing room; installation of new shower suite into master en-suite; and enlarged opening and new door to master bedroom
<b>Appeal Decision</b>	Dismissed

Background Papers

Correspondence at Essential Reference Paper 'A'

Contact Officers

Kevin Steptoe, Head of Planning and Building Control – Extn: 1407



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## Appeal Decision

Hearing held on Tuesday 27 February 2018

Site visit made on Tuesday 27 February 2018

**by R Barrett BSc (Hons) MSc MRTPI IHBC DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22<sup>nd</sup> March 2018**

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**Appeal Ref: APP/J1915/W/17/3181608**

**Land at North Drive, High Cross, Hertfordshire SG11 1AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Sean Harries of Beechwood Homes Ltd, against the decision of East Herts Council.
  - The application Ref 3/17/0251/FUL, dated 1 February 2017, was refused by notice dated 21 June 2017.
  - The development proposed is described as 'erection of 20 dwellings with associated parking, landscaping and access'.
- 

### Decision

1. The appeal is allowed and planning permission is granted for 'erection of 20 dwellings with associated parking, landscaping and access' at Land at North Drive, High Cross, Hertfordshire SG11 1AR, in accordance with application Ref 3/17/0251/FUL, dated 1 February 2017, subject to the planning conditions set out in annex 3 to this Decision.

### Preliminary Matters

2. The description of development above is taken from the Council's decision notice as it more accurately describes the development sought. As there was not appeal site address on the application form and that on the Council's decision notice was incomplete, the full address, including postcode was agreed by both main parties at the Hearing and is reflected in the banner heading and my formal Decision above.
3. The Council's letter of notification of the appeal Hearing, dated 21 December 2017, does not indicate the time of the event. However, that letter noted the day and venue correctly and recipients could have contacted the Council for clarification if required. It was also confirmed that the Thudridge Parish Council communicated the time by letter to local residents and on their web site. Further, the event lasted most of the day. Therefore, taking all of this into account, I am confident that all those who wished to be present had an opportunity to be so. That all parties at the Hearing accepted that point gave me further assurance on this matter.
4. During the course of the appeal, the Council changed its position on its five year housing land supply (5YHLS). It now considers that it can demonstrate a 5YHLS. This has been taken into account in my Decision, along with the appellant's comments in this regard.

5. The examination into the Draft East Herts Local Plan (2016) (eLP) is underway and consultation on the Inspector's main modifications was taking place at the time of the Hearing. As that document is at an advanced stage of preparation, I attach significant weight to it in making my Decision.
6. I am aware that on 5 March 2018, the draft revised National Planning Policy Framework was published. This is a draft that is subject to consultation and does not change my conclusions on this appeal.

### **Main Issues**

- Whether it would preserve the special architectural or historic interest of St John the Evangelist Church (the Church) and the Rectory, both grade II listed buildings and designated heritage assets; and
- The effect of the appeal development on the character and appearance of the locality.

### **Reasons**

#### *Listed Buildings*

7. The Church and the Rectory are located close to the appeal site. The settings of those listed buildings include the intended visual and functional relationship between the two, the graveyard around the Church and the gardens around the Rectory and the wider countryside beyond. The latter serves as a reminder of their former more rural landscaped setting of which the Glebe, which is the appeal site, forms a part. The Glebe, having been in the same ownership as the Church and the Rectory was intended as land to support the minister. Whatever the design intent of those listed buildings, the appeal site has a historic and visual connection with the Church and the Rectory and today contributes to an understanding of their history. For these reasons, it contributes to the significance of those listed buildings.
8. As a result of development on the Glebe, the appeal scheme would somewhat erode the semi-rural setting of the listed buildings. However, that has already been diminished by existing development nearby and the impact of the appeal development in this context would be limited. The proposed development would marginally reduce an understanding of the historic connections between the Glebe, the Church and the Rectory. However, the primary relationship is that between the Church and the Rectory, which would not be affected. Further, the field boundary would be retained along with most of the boundary planting, with some reinforcement, and some open space would be included, such that the harm would be very limited. Whilst the proposed development would be closer than existing development, due to the separation distance, intervening planting, the height and layout of the proposed development, including some open space, views of the Church and the Rectory from North Drive would not be materially interrupted, in the day or night. That the Church was designed to be seen at some distance, adds weight to this conclusion. All in all, some limited harm to the setting of those listed buildings would result. However, for all the above reasons that limited harm would not adversely affect the significance of those designated heritage assets.
9. I consider that the appeal proposal would preserve the special architectural or historic interest of the Church and the Rectory, both grade II listed buildings and designated heritage assets. For this reason, it would generally accord with

East Hertfordshire Local Plan Second Review (April 2007) (LP), Policy DES3. That policy aims for a high standard of design and layout that reflects local distinctiveness. Whilst I note that emerging policies are not adopted and the wording may be subject to change, the appeal would also generally accord with the overall aims of East Herts Draft Plan (2016) (eLP) Policies HA1 and HA7. Those policies, together, aim for development to preserve and enhance the historic environment.

### *Character and Appearance*

10. The appeal site includes a mainly open meadow. It is generally grass with trees and planting. The trees sit predominantly around the edges and are protected by High Cross Vicarage Tree Preservation Order, dated January 1972. It has most recently been used as grazing. The appeal site is surrounded by dwellings and other development on all sides.
11. North Drive is set off the main road that runs through High Cross. It is an undedicated road and bridle way that runs from High Road through to Home Farm and the open fields beyond. It comprises mainly housing with some variety in their layout, style and age. However, generally there is some consistency in the scale, form and height of dwellings and their generally spacious layout, with large rear gardens, planting and hedges. As it is close to open countryside beyond and includes hedges and planting, it has a generally semi-rural character and appearance. The appeal site, which fronts onto North Drive, its openness, trees and planting, together with the Church and the Rectory in the background and the collection of historic buildings, including the village hall and school, within High Cross for which the land was gifted by a local benefactor, all contribute to that character and appearance.
12. The appeal site is set back from the main road that passes through High Cross along a secondary undedicated road and bridleway. It is surrounded by development on all sides and views into it are restricted by boundary planting including trees, even when they are not in leaf. It is not publically accessible and does not have a community use. Therefore, whilst it does provide a break in development, is an attractive space and provides foreground to some distant views of the Church and Rectory, it has a limited role in defining the form or setting of the village. This assessment generally accords with that of the Inspector in examining the LP to which I attach significant weight. I note that a different assessment was made within the Strategic Land Availability Assessment carried out as part of the eLP. However, the eLP is not yet adopted, which reduces the weight I accord its evidence base for the purposes of this appeal.
13. My attention is also drawn to a Council's previous planning decision (Ref 3/11/0427/FP). However, that considered the merits of dog training taking place at the appeal. That is a significantly different use to the one before me, which limits the weight I accord it in making my Decision.
14. The appeal scheme would result in development on the greater part of a green field site and would reduce the amount of open land in the locality. However, this is a consequence of any development on a green field site and as development already surrounds the appeal site, more dwellings would not appear out of place. Further, the appeal development would include a large area of open space, sited roughly centrally within the appeal site and the proposed layout would include large rear gardens and would generally be



spacious. As development already surrounds the appeal site and it is bordered by planted boundaries which restrict views from North Drive, it would not materially erode the sense of spaciousness in the locality. Further, the proposed landscaping has the potential to open up views from North Drive into the appeal site. As the appeal scheme would retain the majority of trees and boundary planting, would be set back from North Drive behind a green area and would include new landscaping and planting, it would not harmfully impact the semi-rural characteristics of the locality that I have identified. The layout, form and design of dwellings would pick up on characteristics that I observed in the locality. For all these reasons, it would not harmfully affect the locality's character and appearance.

15. It was suggested that the appeal site had a community character and function. However, at present it is a private field with no public access. The character and function of the appeal site would change from a private field with no public access, to dwellings with some publically accessible open space. For all the reasons previously stated, such a change in character and function would not be unacceptably harmful.
16. I conclude that, overall, the appeal proposal would preserve the character and appearance of the locality and would generally accord with LP Policies OV1, ENV1 and HSG7. Those policies, together, aim for small scale and infill housing development to be of a high standard of design and layout and reflect local distinctiveness. It would generally accord with eLP Policies VILL2 and DES3, which allow for limited infill in Group2 villages and seek a high standard of design and layout in development. As the Council explained that eLP Policy VILL2 does not provide a definition of 'limited infill', on the basis of the size of the proposed development, and the character and appearance of the locality, in the circumstances of this appeal, I find no conflict would result.

## **Other Matters**

### *Legal Agreement*

17. A legal agreement is before me, in the form of a Unilateral Undertaking. That sets out a number of provisions aimed to mitigate the impact of the proposed development. The provisions provide for affordable housing, improvements to North Drive, amenity green space, improvements to a village hall, library services and the provision of fire hydrants. For each, a development plan policy has been identified, the means by which the contribution has been calculated is before me and, where on-site provision is not proposed, a project in the locality has been identified, to which the proposed provisions would contribute. Where appropriate, it has been confirmed that none would exceed five contributions. On this basis, I consider that appropriate evidence is before me to demonstrate that such contributions would meet the tests set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). All of the above provisions therefore are benefits of the proposed development and weigh in its favour.

### *Other Third Party Concerns*

18. There is concern from local residents regarding the traffic that would be generated, access arrangements, parking provision and proposed works to North Drive and High Road. I appreciate that more traffic would be using North Drive and the junction with High Road. However, I am satisfied, on the basis



of the proposed traffic generation, road and traffic conditions in the locality, proposed alterations to North Drive and High Road, along with the proposed access with visibility splays, that, subject to detail that could be controlled through planning conditions, a harmful impact on highway safety would not result. Whilst I note concerns regarding parking and access particularly for emergency vehicles along North Drive, the proposed parking arrangements would comply with the Council's adopted parking standards. I am therefore satisfied that the situation would not be worsened by this development. Overall, I have noted that the Highway Authority does not object to the proposed development and in the absence of substantive evidence to the contrary, I have no reason to take an alternative view on this matter.

19. It was confirmed at the Hearing that a Neighbourhood Plan for Thudridge (NP) was being prepared. Public engagement had taken place and it was expected that consultation would begin at the end of March 2018 on a draft document. However, no document is before me. I am therefore unable to attach weight to it in making my Decision. However, I have taken into account the results of public engagement carried out as part of the preparation of the NP brought to my attention and its intention to allocate the appeal site as an 'Open Green Space' and Asset of Community Value.
20. A Flood Risk Assessment has been carried out. That indicates that the appeal development would be at a low risk of fluvial and surface water flooding as it would include a drainage system that would protect neighbouring development and water quality. The implementation of the drainage measures could be dealt with by appropriately worded planning conditions.
21. The appeal site, consisting of rough grassland with some trees, has limited ecological and biodiversity value and therefore, on the basis of the evidence before me, this does not present a constraint to development. Whilst some trees would be removed, the proposed landscaping would include tree planting which would compensate for any loss.
22. The proposed development would be within an established settlement with some facilities, services and some public transport. Whilst realistically some reliance on private vehicles would be expected for some higher order shopping and employment opportunities, its location would offer some potential for future occupiers to use methods of travel other than the private vehicle.
23. As the proposed dwellings would be some distance from neighbouring properties and noting the existing and proposed planting, no harmful impact on the living conditions of neighbouring occupiers, with regard to outlook, daylight or sunlight would be a likely consequence. I accept that private views from surrounding properties, including the Rectory, would be changed by the proposed development. However, for the above reasons, that would not constitute harm. Further, I have limited substantive evidence before me to suggest that existing services and facilities would be inadequate to serve the future occupiers or that the proposed development or that it would be out of scale with the size of High Cross.
24. The presence of other listed buildings nearby and Youngsbury Grade II\* Register Park and Garden are brought to my attention. However, due to the separation distance, no impact on those heritage assets would be a consequence of this appeal.

25. The Council has submitted evidence to indicate that it can now demonstrate a 5YHLS. No substantive evidence to the contrary is before me. However, on the basis of my conclusions on the main issues of this appeal, as this matter would not affect its outcome, I have no reason to consider it further.

### **Planning Balance**

26. The appeal development would deliver additional dwellings, plus affordable homes close to existing facilities and services, near to some public transport. It would provide some open space including a play space which would be publically accessible and some drainage measures that would be of benefit to the wider area. It would include improvements to North Drive which would be a benefit to all those using it, even though I acknowledge that it would not be adopted by Hertfordshire County Council. It would provide jobs during the build period and future residents would provide additional support for local services and facilities. There would also be some planting and landscaping, which would have biodiversity benefits. These public benefits, as a package, would be substantial.
27. In respect of adverse impacts, there would be some limited harm to the character and appearance of the locality through the loss of a green field site and open land within the locality. There would be some limited harm to the setting of listed buildings, but overall that would not affect their significance as designated heritage assets. Although some facilities and services would be within walking and cycling distance of the appeal site, future residents would be likely to have some reliance on private motor transport to access employment and higher order shops. However, taken together, the adverse impacts would be limited.
28. Weighing this all up, generally the appeal development would provide substantial public benefits and the adverse impacts would be limited. I found no conflict with the adopted development plan. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be allowed.

### **Planning Conditions**

29. A list of suggested planning conditions was agreed between the two main parties at the Hearing. I have agreed with the imposition of most of these, subject to refinement to improve clarity and ensure consistency with national policy and guidance.<sup>1</sup> A list of planning conditions to be imposed is set out in Annex 3.
30. Standard time and plans conditions are required to provide certainty in the planning process. Conditions to secure external materials and hard and soft landscaping are necessary to ensure that the development blends into the locality. A condition to ensure that archaeology is protected is necessary as the appeal site lies within an Area of Archaeological Significance relating to the medieval settlement of High Cross. Conditions to secure adequate visibility splays and ensure garages are retained to park vehicles are required to ensure highway safety and on the basis of the existing vehicle conditions in North Drive. Conditions to control water runoff, avoid flooding and deal with any contamination are required in the interests of public health and safety. To

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<sup>1</sup> Paragraphs 203 and 206 of the Framework and PPG paragraphs 21a-001-034

ensure development does not unduly disturb local residents, I have conditioned a construction method statement. I have also secured the provision of the play area to ensure it serves the needs of the proposed development.

### **Conclusion**

31. For the above reasons, and taking all other matters raised into consideration, having noted all the comments from third parties, I conclude that the appeal should be allowed subject to the conditions listed in Annex 3 to my decision.

*R Barrett*

INSPECTOR

## **Annex 1**

### **APPEARANCES**

#### **FOR THE APPELLANT:**

Mr S Harries

Beechwood Homes Ltd

Ms M Owen

Boyer Planning

Mr M Strawbridge

Museum of London Archaeology

#### **FOR THE COUNCIL**

Mr D Snell

Principal Planning Officer

Mr G Pavey

Senior Planning Policy Officer

#### **OTHER PARTIES:**

Mr A Cheadle

Local Resident

Mr D Finn

Local Resident

Mr D Hagland

Local Resident

Ms K Rust

Local Resident

Ms J Veater

Planning Advisor to Thudridge Parish  
Council and TNP

Mr R Hallman

Chair TNP Steering Group

Ms C Archer

Parochial Church Council

Cllr S Bosson

Parish Councilor

Cllr D Andrews

Ward Councilor

## **Annex 2**

### **DOCUMENTS SUBMITTED AT THE HEARING**

1. Council's justification for planning obligations sought
2. Extract from Statement of Common Ground and missing plans
3. List of agreed conditions plus parking standards bundle
4. Copy of emerging eLP Policy HA7

## **Annex 3**

### **LIST OF PLANNING CONDITIONS**

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
- 2) The development hereby approved shall be carried out in accordance with approved plans: 22429A-01rev D; 02 rev C; 03 rev B; 04 rev B; 07 rev D; 08 rev D; 09 rev C; 10 rev B; 11 rev C; 12 rev C; 13 rev C; 14 rev C; 15 rev C; 16 rev C; 17 rev A; 18 rev B; 19 rev C; 20 rev C; 21 rev B; 22 rev C; 25 rev D; 26 rev E; 27 rev A; 28 rev C; 002 rev S; 101 rev C; 100 rev C; 122-PL-002 001 rev C; 122-PL-002 rev C; Tree retentions and removals plan; Tree survey and root constraints plan.
- 3) Prior to the commencement of development a written scheme of archaeological investigation shall be submitted to and approved in writing by the local planning authority and implemented in full accordance with those details. The development shall thereafter be carried out in accordance with the approved scheme. The resultant archaeological reports shall be submitted to and approved in writing by the local planning authority prior to first occupation of the development hereby approved.
- 4) No development shall commence until a schedule and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with approved details.
- 5) The hard and soft landscaping works shall be carried out in full in accordance with the approved details before any part of the development is first occupied. Any tree or shrub planted in accordance with the approved details which is removed, dies or becomes diseased within a period of five years from first being planted shall be replaced by one of a similar size and the same species in the first available planting season.
- 6) The garages, hereby approved, shall be retained for parking private vehicles of the occupants and their visitors of the dwelling of which it forms a part.
- 7) Before first occupation of the proposed development, visibility splays of 2.4 metres X 25 metres shall be provided in each direction, within which there shall be no obstruction to visibility between 600mm and 2 metres above the carriageway. The visibility splays shall be implemented and permanently retained in accordance with those details.
- 8) The development shall be carried out in accordance with SDP Consulting Engineers Flood Risk Assessment, dated 10 January 2017. The mitigation measures itemised within that report shall be fully implemented prior to the first occupation of the development and in accordance with phasing arrangements embodied within that Assessment. Measures shall be permanently retained as constructed to include:

- attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year plus climate change events;
  - limiting surface water run-off generated by the 1 in 100 year plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
  - the SUDS measures set out in proposed layout E15-043-101-P1.
- 9) Prior to first occupation of the development a management and maintenance plan for the sustainable drainage features hereby approved shall be submitted to and approved in writing by the local planning authority. The drainage features shall be thereafter maintained in accordance with the approved details.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
  - ii) the routing of delivery vehicles;
  - iii) loading and unloading of plant and materials;
  - iv) storage of plant and materials used in constructing the development;
  - v) wheel washing facilities;
  - vi) delivery, demolition and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 11) Prior to commencement of development, a Phase 2 investigation report, as recommended by Southern Testing Environmental and Geotechnical, dated 13 September 2016, shall be submitted to and approved in writing by the local planning authority. Where found to be necessary, a remediation strategy shall be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first occupied.
- 12) Prior to the commencement of development above ground, detailed plans of the play area as shown on approved plan 22429A/002 Rev S, shall be submitted to and approved in writing by the local planning authority. The play area shall be constructed in accordance with those approved details

prior to first occupation of the development. The play area shall be permanently retained as a play area.



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## Appeal Decision

Hearing Held on 21 February 2018

Site visit made on 21 February 2018

**by Graham Chamberlain BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> March 2018**

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**Appeal Ref: APP/J1915/W/17/3181774**

**Land adjacent to The Old Rectory, Baldock Road, Cottered, Hertfordshire SG9 9QP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Robert Taussig against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/0387/OUT, dated 15 February 2017, was refused by notice dated 24 May 2017.
  - The development proposed is 15 dwellings with associated access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration save for the appearance of the dwellings and the landscaping of the site<sup>1</sup>. I have taken the section drawing as confirming the maximum ridge and eaves heights of the buildings and the site layout plan as showing their maximum depths and widths. The appellants have substituted the originally proposed starter homes for affordable housing and therefore the description of development has been amended to reflect this change.
3. The Council submitted a copy of its Annual Monitoring Report (AMR) for the period April 2016 – March 2017 before the hearing opened but after the deadline for cases to have been submitted. This was not unreasonable as the AMR has only recently been adopted by the Council and is important to my deliberations. All of the parties have had an opportunity to review the AMR and therefore it has been accepted as late evidence as no party would be prejudiced by me doing so.
4. A planning obligation was submitted at the hearing by the appellants but the Council had not previously seen it. Therefore, the Council were afforded an opportunity to consider the document and the appellant to make any subsequent changes that may have been necessary following the Council's review. I received the final planning obligation on the 2 March 2018.

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<sup>1</sup> See the Interpretation section of *The Town and Country Planning (Development Management Procedure) (England) Order 2015* for the full definition of each of the five reserved matters

## Main Issues

5. The main issues in this appeal are:

- Whether the proposed dwellings would be in a suitable location with particular reference to local policies concerned with housing in rural areas;
- The effect of the appeal scheme on the character and appearance of the area; and
- Whether the appeal scheme would make adequate provision for infrastructure (education and community facilities<sup>2</sup>) and affordable housing.

## Reasons

### *Rural housing policy*

6. The extant development plan includes the East Herts Local Plan Second Review 2007 (LP) and the Buntingford Community Area Neighbourhood Plan 2014 – 2031 (NP). Policy SD2 of the LP outlines the spatial strategy for development in the district in the form of a settlement hierarchy. The strategy in the LP is, in part, to concentrate development in the larger main settlements where services can be reached and supported through sustainable modes of transport. The strategy also includes opportunities for limited development in smaller settlements to support and address the local needs and services within them.
7. The spatial strategy is further developed through Policies OSV1, OSV2 and OSV3 of the LP. These policies divide the district's settlements into three categories. The level of services and facilities available in each settlement informs which category it is placed within. Within the confines of Category 1 villages, which have the greatest range of services and facilities, Policy OSV1 permits limited small scale and infill development. Within Category 2 villages only infill housing development is permitted. Guidance in the LP defines limited small scale development as typically comprising schemes of up to 15 dwellings (but rarely more than 30 homes) and infill housing is defined as proposals of up to 5 small dwellings.
8. Cottered has a handful of local services including a village hall, public house, church and recreation ground. These are, or can be made, reasonably accessible to the appeal site by a short, safe and comfortable walk. Nevertheless, the village is devoid of most everyday services such as schooling and shops and employment opportunities are very limited.
9. The services and facilities in neighbouring settlements are beyond a comfortable walk and due to the busy nature of the A507, its winding alignment, and the undulating topography, cycling would require a level of confidence, fitness and proficiency that residents may not possess. A bus route serves the village but the frequency of buses is limited to a handful of trips a day. Consequently, villagers are largely car reliant. Cottered is only a short car journey from everyday services but daily journeys to work and school would soon add up to a high number of miles travelled with the associated carbon emissions. As such, Cottered is not defined in the LP as either a Category 1 or Category 2 village.

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<sup>2</sup> The Council confirmed at the hearing that it no longer considers it necessary to provide fire hydrants through a planning obligation and consequently this is no longer a point in dispute.

10. Although not well served by everyday services and facilities Cottered has a settlement boundary in order to facilitate some limited forms of development. It is a Category 3 village and thus subject to Policy OSV3, which does not permit development other than that listed in Policy GBC3 of the LP, including affordable housing required to meet the identified needs of the village or parish. The appeal scheme, which is for the erection of 15 houses, would be well beyond the size of development envisaged in the LP at a Category 3 village. Moreover, the appeal site is positioned outside the defined boundary of the settlement and would fail to adhere to any of the stated exceptions in Policy GBC3 that may otherwise justify this. Thus, the proposal, due to its size and location, would be at odds with the spatial strategy in the LP.
11. The LP pre dates the National Planning Policy Framework, which seeks to locate housing in rural areas to enhance or maintain the vitality of rural communities, recognise the intrinsic character and beauty of the countryside and seeks to facilitate sustainable transport and travel choices, mindful of the fact that opportunities to maximise sustainable transport solutions will vary from rural to urban locations. The rural housing policies in the LP are not wholly at odds with these aims but they lack flexibility. As such, the conflict with Policies SD2, OSV3 and GBC3 carries only moderate weight.
12. The NP postdates the Framework and has therefore developed the spatial strategy outlined in the LP. Policy HD1 of the NP takes a more flexible approach than the rural housing policies in the LP. It directs housing development to sites within the settlement boundaries of Buntingford and Cottered. Nevertheless, Policy HD1 states that outside these defined settlements small scale infill development within or immediately adjoining existing clusters of development will be permitted. Policy HD1 is not wholly consistent with Policies OSV3 and GBC3 but it is more up to date. As such, and within the NP area, Policy HD1 supersedes aspects of Policies OSV3 and GBC3<sup>3</sup>.
13. The NP is consistent with the Planning Practice Guide which states that all settlements can play a role in delivering sustainable development and that blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. In this instance the evidence before me suggests Cottered is not well served by services and facilities and therefore a policy that restricts the size of housing proposals outside the settlement boundaries to a 'small scale' are justified.
14. The appeal site immediately adjoins the settlement boundary of Cottered, which is a significant cluster of development in the NP area. Consequently, the key issue in this instance is whether the appeal scheme would be 'small scale infill development'. This term is not defined in the NP and therefore the appellants have suggested that the appeal scheme, which would amount to the village growing by around 6%, would be 'small scale'. However, Policy HD1 does not advocate a strategy based on housing growth as a percentage and therefore I have not defined small scale infill development in this way.
15. It is apparent that the NP expects Cottered to accommodate some development being one of only two settlements specifically identified in Policy

<sup>3</sup> It is acknowledged within Policy HD1 of the NP that more recently adopted policies can supersede older one. This is embodied in Policy HD1, which indicates that it may need to be updated following the adoption of the emerging District Plan (DP).

HD1. Therefore, the NP appears to elevate the status of Cottered above that of a Category 3 village. However, it is a stretch to suggest the NP intends to treat Cottered as the equivalent of a Category 1 village, within which limited small scale development of up to 15 homes is generally permitted. The reference to small scale *infill development* in Policy HD1 would suggest to me that the NP has altered the status of Cottered to the equivalent of a Category 2 settlement. It is therefore logical to apply the definition of 'infill development' in the LP in so far as it relates to Category 2 villages. This being a scheme comprising up to 5 small dwellings. In this respect the NP has been future proofed, having been prepared with one eye on the emerging District Plan (DP).

16. The emerging DP includes draft Policy VILL2. This policy has been examined and modifications are currently being consulted upon. If adopted in its modified form then Cottered would retain a settlement boundary, which would be expanded, and the village would be elevated to a Category 2 settlement within which limited infill development will be permitted, as will small scale development identified in an adopted neighbourhood plan. The appeal scheme is not specifically identified or allocated in the NP. The emerging DP is still being prepared and therefore it cannot be afforded full weight. However, the intention to upgrade Cottered to a Category 2 village can be afforded significant weight as, arguably, this upgrade has already occurred through the NP.
17. Therefore, in applying Policy HD1, I have interpreted small scale infill development to be development of a similar scale to the definition of 'infill development' in the LP, that being up to five homes. This more limited definition is reasonable when considering the emerging DP no longer sets a target to provide 500 homes in the Category 2 villages. As such, the appeal scheme would be of a scale beyond that envisaged in the NP and therefore too many houses would be proposed in a location with limited travel choices and everyday services and facilities. The proposal would provide facilities for homeworking but it cannot be guaranteed that future occupants would work from home or use electric vehicles.
18. I therefore conclude that the appeal scheme would not amount to a small scale infill development and thus housing in a suitable location when applying the local policies concerned with rural housing. More houses than that permitted in the development plan would be provided at a settlement with few facilities and services. As such, the proposal would not adhere to Policies SD2, OSV3 and GBC3 of the LP or Policy HD1 of the NP. As such, the proposal would be at odds with, and thus undermine, the strategy for the location of housing set out in the development plan.

*The effect on the character and appearance of the area*

19. The appeal site is approximately 0.9 hectares in size and broadly encompasses the southern half of a larger field. The field is surrounded on all sides by hedgerows, some of which are gappy, and has a frontage onto the busy A507.
20. The historic core of Cottered is located to the west of the appeal site and this is broadly characterised by period properties of different ages and styles set within plots of differing shapes and sizes. The dwellings are not set in discernible building lines but they are generally orientated with the principle, front elevation facing and framing the main thoroughfares. These active edges give a pleasing grain to the development in the village. The central green, mature trees and wide grass verges afford the village a verdant character. The

extensive landscaping and the orientation of the properties bind the built form together. Consequently, and rather paradoxically, the historic core of the village is characterised by its variety and its harmony.

21. The more immediate context of the appeal site is dominated by the contrast between the regular layout, scale and orientation of the semi-detached properties on the southern side of the A507 and the open rural landscape to the north, which the appeal site, as an undeveloped meadow, is viewed as being part of. Thus, the appeal site is a finger of open countryside that provides a break in the built form of the village and thus a visual bridge with the rural landscape beyond. In this respect the undeveloped appearance of the appeal site contributes to the rural character and appearance of the area and the bucolic setting of the village.
22. The introduction of fifteen dwellings, the associated domestic paraphernalia, a formal highway access and internal roads would inherently urbanise the appeal site and harm its open appearance and rural character when viewed from surrounding vantage points. Moreover, by spanning the entire width of the appeal site the development would inhibit the visual connection between the village and the rural landscape beyond.
23. However, some form of incursion into land beyond the settlement boundary may be necessary to enable the village to grow in the way suggested in the development plan as there appears to be limited opportunities within the settlement boundary, much of which is a Conservation Area. Moreover, the presence of a continuous row of houses across the road, and housing either side, provides a built context and an opportunity to bridge the village centre with the pocket of development east of Magpie Farm. As such, the inherent urbanisation of the appeal site would only result in moderate harm to the character and appearance of the area.
24. More significantly, the harm that would arise from the urbanisation of the appeal site would be compounded by the layout of the development, which has not been arranged with active edges. Instead, the detached houses would have an inward looking insular arrangement with rear elevations and boundary treatment presented to the edges of the site. This would significantly harm the street scene along the A507.
25. The Old Rectory and the dwelling to its immediate west do not face the A507 but these are isolated examples that do not justify the proposed layout. The southerly aspect of some of the proposed gardens would not be a determinative benefit as the arrangement would expose those gardens to road noise and the other detached properties would have shallow north facing gardens. The density of the proposal would not be high but this alone is not a useful indicator of whether the development would respond to local character as it does not consider the layout or size of the buildings.
26. The roadside hedge would not successfully screen the development due to the scale of the houses, the presence of large gaps between groups of plants, the largely deciduous nature of the foliage, which would be less successful as a screen when not in leaf, and because the hedge could die or be removed in the future. Thus it should not be relied upon to hide a development that would be injurious to the street scene. Moreover, an alternative, outward looking arrangement need not result in the frontage hedge being removed.

27. The northern edge of the appeal site would be defined by boundary treatment and the gable end of a property. This could be softened by landscaping outside of the appeal site but this would take time to mature and would not obscure the rear elevations of the properties, which would be visible from the area planned for allotments and the parking area for the 'village day'.
28. The houses to the east of the affordable homes would present a discordant suburban layout being detached, similar in style, laid out with large garages and driveways, set in broadly similar sized plots and arranged around a central spine road that creates a conventional cul-de-sac layout. This would not reflect the varied historic grain of development in the centre of the village and would present an unseemly juxtaposition with the properties across the road. As such, the appeal scheme would appear as a stark and discordant departure from the local pattern of development.
29. The appeal scheme has attempted to echo the layout and character of the rural lanes in the village that branch off the A507. The lane immediately to the south west of the appeal site is a pleasing example of this street typology, with a verdant entrance loosely framed by housing that tapers off towards Brook End. This provides a gentle transition from the A507 to the countryside beyond the village. However, the appeal scheme, in its current form, would not successfully achieve this as the development would appear to run parallel with the A507 rather than branch off it and the large houses would be located too close together to give a loose verdant character.
30. The affordable housing would frame the approach to the area that has been suggested as a possible location for parish allotments but a run of six terrace houses would not create the sense of a lane. Overall, the proposed development would not reflect the character or appearance of the rural lanes found elsewhere in the village. As such, the appeal scheme would not be a natural extension of the village but would instead appear as a small housing estate bolted onto it. In this respect it would not reflect local distinctiveness.
31. The appellants have suggested that the appeal site is not an important undeveloped space in the village because it is not identified as being so in the emerging Cottered Conservation Area Appraisal and Management Plan. However, this document is still at a formative stage and thus subject to change. As such, I afford its findings limited weight.
32. I acknowledge that there is a possible contradiction between the Council's conclusion that the appeal scheme would harm the eastern approach into the historic core of the village but would not harm the setting of the Conservation Area (CA). However, it transpired at the hearing that the Council's Conservation Officer had not been consulted on the planning application and therefore this conclusion was formed without specialist input. I consider the appeal scheme would harm the eastern approach into the village for the reasons already given and the Council's assessment in respect of the impact on the setting of the CA does not alter my findings on this point.
33. I therefore conclude that the appeal scheme would result in some inherent but moderate harm to the rural character of the site. Notably, this would be compounded by a very poor layout. Overall, the proposal would significantly harm the character and appearance of the area. This would place it in conflict with Policy ENV1 of the LP, which is consistent with Paragraphs 58 of the



Framework, and Policy HD2 of the NP, which seek to secure development of a high standard of design and layout that reflects local distinctiveness.

*Whether the appeal scheme would make adequate provisions for infrastructure (education and community facilities) and affordable housing*

34. The submitted Unilateral Undertaking (UU) aims to secure financial contributions towards meeting the need for additional facilities and services that would arise from the development. The contributions towards education and youth facilities would mitigate the pressures the development would place on local infrastructure, would be proportionate to the size of the development and would be spent on specific projects, the funding of which has not exceeded five pooled contributions.
35. I consider the various sums have been justified through evidence provided by the County Council, which the appellants have not challenged. The requirements are also supported by Policy IMP1 of the LP. Thus, the contributions would be necessary, directly related to the development and fair in scale and kind. As such the obligations would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.
36. The UU would also secure the provision of 40% affordable housing for general needs. This would be consistent with the requirements of Policies HSG3 and HSG4 of the LP and therefore it is necessary to make the development acceptable. There is nothing before me to suggest this level of affordable housing would be unviable and therefore it would be fair in scale and kind. The requirement also arises out of the development so it is directly related to it. As such the obligations would accord with the tests set out in the National Planning Policy Framework.

### **Other Matters**

37. A planning application should be determined in accordance with the development plan unless material considerations indicate otherwise. The appellants have advanced a number of potential benefits of the appeal scheme as material considerations to be considered.
38. The appeal scheme would deliver 15 homes, including six affordable homes, and this would benefit the district's housing supply. However, the benefit is moderate as I have seen nothing of substance to suggest the market houses proposed would be addressing a local need, such as that envisaged in Policy HD7 of the NP. Moreover, the affordable housing would be for general needs. There is a shortage of this type of affordable housing in the district but it, as opposed to local needs housing, can be located anywhere in the district. As such, there is no pressing need to locate the proposed houses at Cottered when doing so would conflict with the development plan.
39. The provision of housing would support the local economy and the vibrancy of the local community. However, I have seen nothing of substance to suggest the existing village facilities, organisations and clubs are struggling for a lack of local residents. Thus, the boost to the local population from the appeal scheme would not be a notable benefit. The proposal may support facilities in villages and towns nearby but I have seen nothing to suggest the proposed housing could not be located in or around these settlements where the benefits could

- be realised without the harm I have identified to the character and appearance of the area and from a general reliance on private motorised transport.
40. The provision of allotments to the immediate north of the appeal site is advanced as a benefit of the appeal scheme. The NP identifies a need for allotments and therefore their provision could be a material benefit that needs to be weighed against any harm. If the provision of the allotments is a determinative matter in favour of the proposal then they would need to be secured. This is best achieved through a planning obligation as the allotments are not shown on the application drawings, would be outside the appeal site and their delivery may require some form of land transfer. Consequently, securing them through a planning condition would be unreasonable.
  41. The appellants have not suggested that they would operate the allotments so the land earmarked for them would need to be leased or transferred to an organisation that would, such as the Parish Council. This organisation would need to be party to the planning obligation to ensure the allotments are delivered and retained. The obligation would also need to identify the specification of the allotments, including the number. A financial sum may also be necessary to set up the allotments and provide facilities such as parking, water and fencing. The planning obligation as drafted does not address any of these points. It merely requires land to be 'provided' for the allotments but there is nothing that would secure the delivery or retention of them. As such, the planning obligation in its current form would be ineffective in delivering allotments and consequently their potential provision cannot be given anything more than very limited weight as a benefit. It is also unclear why fifteen houses need to be built to secure this benefit.
  42. The provision of an 'honesty shop' has also been advanced as a benefit as it could, in a very modest way, offset the lack of a village shop. The planning obligation seeks to secure the honesty shop by stating that it must be provided prior to the occupation of the development. However, the size and precise position of the shop is not defined and it is unclear who would own and operate it. Moreover, the obligation does not state that the shop must be retained once provided. As such, the obligation is vague and imprecise and is not drafted in a way that would allow the provision of an honesty shop to be given anything more than very limited weight as a benefit.
  43. There has been significant local support for the proposal, much of which was due to the potential to deliver the allotments and community shop. However, given the uncertainty over the delivery and ongoing management of these facilities the public support is not determinative.
  44. The houses could be constructed to ensure a high environmental performance but the detailed design of the properties is a reserved matter and therefore this is best described as an aspiration rather than a notable benefit. The appeal scheme has the potential to provide biodiversity enhancements but this has not been quantified and therefore the extent of the benefit is unclear.
  45. A footpath would be provided through the development linking the properties to the east of the site with the centre of the village. It would present a poor pedestrian experience due to a sense of enclosure from being sandwiched between garden fences and the hedge along the A507. Moreover, the link would be incomplete as it would not stretch across the frontage of Magpie Farm. In any event there is already a footpath on the southern side of the



A507. For these reasons I do not find the potential for a pedestrian route through the site, in the way designed, to be a benefit.

46. The proposal would upgrade the bus stops but I have seen nothing to suggest the use of the bus stops is inhibited by their current configuration and condition. The development may also provide some over spill parking for existing residents of the village but it was clarified at the hearing that this would amount to only around four unallocated spaces. This would only be a modest benefit in the absence of substantive evidence to suggest on street parking is currently a significant problem.
47. When the Council issued its formal decision it was unable to demonstrate a five year housing land supply. It has since stated in its submissions that it is now able to demonstrate an adequate housing supply over 6 years. The appellant has not challenged this. I am therefore content to rely on the Council's conclusions. Thus, the Council's policies for the supply of housing are not out of date and the tilted balance in Paragraph 14 of the Framework is not engaged. It is therefore unnecessary for the Council to demonstrate that the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. Instead, the totality of the harm I have identified would be outweighed by other material considerations, namely the benefits of the scheme, which individually and cumulatively carry only moderate weight.

## **Conclusion**

48. The appeal scheme would mitigate its impacts on local infrastructure and make adequate provision for affordable housing. However, these matters do not outweigh the impact upon the character and appearance of the area and the conflict with the spatial strategy for housing in the development plan, which is to direct only small scale infill development to settlements with limited services. Consequently, the proposal would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, I conclude that the appeal should be dismissed.

*Graham Chamberlain*  
INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT**

Robert Taussig	Appellant
Debbie Taussig	Appellant
Alan Gunne-Jones	Planning and Development Associates
Tom Routh	Gatti Routh Rhodes
Stefanie Rhodes	Gatti Routh Rhodes
Richard Gatti	Gatti Routh Rhodes

### **FOR THE LOCAL PLANNING AUTHORITY**

David Snell Dip TP DMS	Principal Planning Officer
George Pavey	Senior Planning Officer
Mike Slimmon	

### **INTERESTED PARTIES**

John Harwood-Bee	Local Resident
Jeffery Lawton	Local Resident
Carol Lawton	Local Resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Planning obligation submitted by the appellant
2. The Council's vehicle parking standards
3. Main modifications for emerging Policy VILL2 of the District Plan

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## Appeal Decision

Site visit made on 29 January 2018

**by Graham Wyatt BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1<sup>st</sup> March 2018**

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**Appeal Ref: APP/J1915/W/17/3189363**

**Land East of Upper Green Road, Upper Green Road, Tewin, Welwyn  
AL6 0LE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Robert and Cheryl Killingback and Cook against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/0722/OUT, dated 23 March 2017, was refused by notice dated 22 May 2017.
  - The development proposed is the construction of 9 no. dwellings consisting of 4 no. 3 bedrooms and 5 no. 2 bedrooms with two new vehicular accesses.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The planning application was outline with appearance and scale as reserved matters. I have had regard to all the plans and documents submitted with the appeal.

### Main Issues

3. The main issues are:
  - Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - The effect of the proposal on the openness of the Green Belt;
  - The effect of the development on the character and appearance of the area; and,
  - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

### Reasons

4. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings should be regarded as inappropriate in the Green Belt, with the exception of those set out in paragraphs 89 and 90 of the Framework.

5. Bullet point 5 of paragraph 89 allows the limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan. Policy OVS1 of the East Herts Local Plan Second Review 2007 (the Local Plan) identifies Tewin as a category 1 village and within the confines of the village, limited small scale-scale and infill housing development may be permitted. The appeal site lies beyond the confines of the village and within the Green Belt.
6. Thus, the proposed development does not fall with the exceptions listed within paragraphs 89 or 90 of the Framework. The proposal would therefore be inappropriate development within the Green Belt and in conflict with Policy GBC1 of the Local Plan. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

### *Openness*

7. Paragraph 79 of the Framework states that the essential characteristics of the Green Belt are their openness and their permanence. The site is currently laid to grass with stacks of various timber items such as fence panels, fencing frames and chicken coops scattered around the site. On the northern boundary of the site is a row of established fir trees that separate the site from the footpath to the other side of the trees.
8. The development proposes nine dwellings arranged in a linear manner fronting Upper Green Road. Two access points would be created into the site with parking areas and an access road to the front of the site. Private garden areas and garages would be provided to the rear of the development.
9. The effect of the development would be to extend a substantial built form across a site where development does not exist. This would result in a substantial level of urban sprawl that in turn would significantly erode the openness of the Green Belt in this locality.

### *Character and Appearance*

10. The site is a roughly rectangular parcel of land that sits to the north of Godfries Close. The appellant's Planning Statement<sup>1</sup> states that the site is currently used for the keeping of poultry and the storage of caravans and a trailer. However, the site retains a rural appearance which extends to the adjoining field and agricultural land to the east of the site.
11. The proposal would result in a large development of dwellings that would extend across the entire width of the site. Coupled with the associated garages, driveways, parking areas and private rear gardens surrounded by fencing, the overall scheme would have a distinctly suburban appearance that would be out of keeping with the rural qualities of the area. I therefore conclude that the proposed development would unacceptably harm the character and appearance of the area.

### *Other Considerations*

12. In 2005 the appeal site was put forward by the Council as an area<sup>2</sup> that should be removed from the Green Belt. However, this was rejected by the Inspector

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<sup>1</sup> Planning Statement by M. J. Cook RIBA dated March 2017

<sup>2</sup> Site 8: Land off Upper Green Road

- who examined the Local Plan who reasoned that the site should be considered as part of the next District Plan, if appropriate houses did not come forward.
13. The East Herts Draft Plan 2016 (the Draft Plan) is currently being examined. The Council has produced a topic paper<sup>3</sup> (the topic paper) which concluded that there was a need to release a proportion of the District's Green Belt land in order to deliver identified housing needs. Notwithstanding the submission from Peter Brett Associates<sup>4</sup>, the Council confirm that the appeal site is not one of the sites identified within the Draft Plan to be released from the Green Belt.
  14. The appellant argues that as the site was considered by the Council to be sustainable location that could be released from the Green Belt as part of the 2007 Local Plan, it still offers the opportunity to provide market houses. In addition, the Council cannot demonstrate a 5 year supply of deliverable housing sites and has misdirected itself regarding paragraph 14 and footnote 9 of the Framework.
  15. I acknowledge that the officer's delegated report states that the site is well related to the existing settlement. However, the report continues by stating that the site is considered to be unsuitable due to its location within the Green Belt. I accept that the Council cannot demonstrate a 5 year supply of deliverable housing sites and paragraph 14 is engaged and that the policies for the supply of housing should not be considered up-to-date. However, land designated as Green Belt is specifically mentioned in footnote 9 of the Framework as a specific policy indicating that development should be restricted. Furthermore, this is reinforced by the Planning Practice Guidance which states that, "Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt"<sup>5</sup>.
  16. In addition, I have carefully considered the appellant's argument that, "If the Local Authority use NPPF para 14 to over-ride plan-making and decision-making in areas within the Green Belt then the NPPF para 84, referred to above, which refers to Local Authorities reviewing Green Belt boundaries, becomes a nonsense, which is not the intention of the NPPF [the Framework]". However, paragraph 83 of the Framework states that once the Green Belt has been established, it should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. Thus, an appeal under section 78 of the Town and Country Planning Act 1990 is not an appropriate procedure to seek a review of the Green Belt boundary at the appeal site.
  17. Moreover, despite the request from the Inspector examining the Draft Plan for further information from the Council<sup>6</sup> regarding the progress made to adopt Neighbourhood Plans, it remains that the site is currently within the Green Belt. Furthermore, the topic paper acknowledges paragraph 85 of the Framework which requires the Council to satisfy themselves that further Green Belt alterations will not be needed for the development plan period and concludes that the release of land identified will deliver identified housing needs.

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<sup>3</sup> TPA/003 East Herts District Plan: Topic Papers Green Belt March 2017

<sup>4</sup> Peter Brett Associates: \\BRI-PMFS-001\projects\30589 East Herts Green Belt Review\Technical\Planning\Reporting\Final report 18.09.15\EHGB Final Report 18.09.15 FINAL.docx

<sup>5</sup> Paragraph: 034 Reference ID: 3-034-20141006 Revision Date 06 10 2014

<sup>6</sup> Christine Thorby (Inspector) dated 7 August 2017

Accordingly, I only attach limited weight to the arguments put forward by the appellant.

18. The appellant also makes reference to policies within the Draft Plan. Although at a later stage of examination, the Inspector's timetable for consultation on main modifications has not been completed. Furthermore, the appellant confirms that the proposed modifications do not seek to alter the Green Belt boundary at the appeal site. As such, I can only give the policies within the emerging plan limited weight.
19. During my site visit the appellant also drew my attention to a new dwelling currently being erected north of the appeal site, which is also identified on the location plan<sup>7</sup>. However, I have very limited information relating to the circumstances that led to this development being accepted by the Council. As such, I cannot be sure that the development is so similar to that before me. In any case, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.

### **Green Belt Balance**

20. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness to the Green Belt resulting from the proposed development. I also attach considerable weight to the harm caused by the proposed development to the character and appearance of the area.
21. Against this, I attach limited weight to the appellant's arguments put forward regarding the Council's failure to demonstrate a 5 year supply of deliverable housing sites or the policies within the emerging draft plan.
22. Overall, the weight I have given to the other considerations put forward do not clearly outweigh the substantial harm to the Green Belt the development would cause. I therefore conclude that the very special circumstances necessary to justify the development do not exist. Thus, the appeal should be dismissed.

*Graham Wyatt*

**INSPECTOR**

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<sup>7</sup> Drawing 101 Rev A dated March 17

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## Appeal Decision

Site visit made on 24 January 2018

**by J Gilbert MA (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Wednesday 14<sup>th</sup> March 2018.**

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**Appeal Ref: APP/J1915/W/17/3185288**

**Long Meadow, Ware Road, Widford SG12 8RQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs T Baxter against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/1008/FUL, dated 26 April 2017, was refused by notice dated 20 July 2017.
  - The development proposed is demolition of existing agricultural buildings and erection of 4no. detached four bedroom dwellings
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing agricultural buildings and erection of 4no. detached four bedroom dwellings at Long Meadow, Ware Road, Widford SG12 8RQ in accordance with the terms of the application, Ref 3/17/1008/FUL, dated 26 April 2017, subject to the attached schedule of 11 conditions.

### Main Issues

2. The main issues in this appeal are:
  - whether the proposed development would accord with the development strategy of the East Herts Local Plan Second Review (2007) (the Local Plan);
  - whether the proposed development would preserve or enhance the character or appearance of Widford Conservation Area, the setting of the nearby listed buildings at St John the Baptist Church, The Old Rectory, The Coach House, Ashview Nursing Home, and Walnut Tree Lodge to the eastern side of Ashview Nursing Home, and trees;
  - the effect of the proposed development on protected species; and
  - the effect of the proposed development on highway safety.

### Reasons

#### *Development Strategy*

3. As the appeal site lies outside the village boundary of the Category 2 Village of Widford as defined by the Local Plan, the appeal site falls within the Rural Area beyond the Green Belt where inappropriate development is restricted other than for purposes set out in policy GBC3 of the Local Plan, none of which would



apply to the proposed development. There is therefore a conflict with the settlement strategy aims of policy GBC3. I will return to this issue, and the implications of the Council not having a 5 year supply of housing land, under the Planning Balance section below.

### *Character and Appearance*

4. The appeal site lies within the Widford Conservation Area and consists of an area of unmanaged grassland surrounded by trees and native hedging, which adjoins Ware Road to the north and arable farmland to the south. The road runs in an easterly direction from Widfordbury to the junction of Abbott's Lane, where it is possible to look down towards the River Ash valley and countryside beyond. This northward view is described as the most important view within the Conservation Area<sup>1</sup>. A cemetery, a bungalow, and an adjoining piece of land where 2 houses are currently being built<sup>2</sup> lie on the southern side of the road. The eastern end of the appeal site adjoins Abbott's Lane.
5. Widford Conservation Area covers much of the village and extends as far as Widfordbury to the west, where development is dispersed. The settlement pattern appears to have existed largely since the 19<sup>th</sup> century, although there are more recent housing developments along Ware Road. The significance of the Widford Conservation Area is derived from the village's rural character and appearance, with a mixture of historic buildings interspersed with more modern residential development. It is also characterised by clusters of buildings with views between the buildings out into the surrounding countryside.
6. Situated at Widfordbury, the grade II\* listed St John the Baptist Church and its grade II listed former rectory (The Old Rectory) are visible to the west of the appeal site and form part of a small group of buildings along Ware Road. At the junction of Ware Road and Abbott's Lane, there is a small group of listed buildings including The Coach House (Grade II); Ashview Nursing Home (Grade II); and Walnut Tree Lodge to the eastern side of Ashview Nursing Home (Grade II). All these listed buildings form part of a pleasant approach into Widford, with the church and its former rectory providing an attractive introduction to the Conservation Area. The church and its former rectory's significance derive much from their architectural interest as fine examples of buildings dating from the medieval period through to the Victorian era, as well as their historic interest, while the eastern group of listed buildings derives much of its importance from the grouping it forms and its architectural and historic interest.
7. The significance of the Conservation Area is strongly informed by its pattern of development along and behind the main roads through the village with key views in gaps between developments. While the WCAAMP identifies that views into the appeal site are limited by vegetation, glimpsed views are presently of a number of outbuildings, which are in poor condition, and some storage containers. Moreover, as the appeal site is neither open agricultural land nor expansive pasture land and is well-screened by established trees and hedging, the gap currently formed by the appeal site does not play a key part in the view across the valley. While the proposed development would elongate the ribbon of development running along Ware Road, the appeal site's screening

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<sup>1</sup> Paragraph 4.10, Widford Conservation Area Appraisal and Management Plan (WCAAMP)(2013).

<sup>2</sup> APP/J1915/W/15/3140702: Greenacres, Ware Road, Widford, Hertfordshire SG12 8RL. Decision issued 6 June 2016.



- would diminish the effect of further buildings and the proposed development would improve the site's overall condition.
8. The proposed development would be intermittently visible within the surrounding area dependent on the time of year. At close range, the proposed houses would be visible from Ware Road itself. However, intervisibility between the appeal site and surrounding land is limited by the presence of trees and other vegetation on the appeal site's boundaries. This forms a generally effective screen from the majority of public viewpoints and reduces the appeal site's openness in relation to the surrounding area. Moreover, with a detailed programme of replacement native planting and active management of proposed soft landscaping, the proposed development would provide vegetation which would maintain this limited presence in the streetscene and the wider area. This would, in my view, respect the character of the wider area and would not cause harm to either views or the setting of the aforementioned listed buildings to the east and west of the appeal site.
  9. In referencing the concerns about suburbanisation of the site, the Council has noted the Inspector's findings at neighbouring Greenacres with regard to the area's open, green, and spacious rural character. The Inspector found in that instance that the character of this part of Ware Road was rural, green and spacious. I concur with this view and consider that the proposed development would not fundamentally alter any of those characteristics of the Conservation Area. However, the references to openness in the appeal decision for Greenacres appear to relate to its nature as an open grassed site, which provides an open setting to the heritage assets of the Conservation Area and listed buildings. The appeal before me differs significantly from the adjacent site in terms of the level of openness.
  10. Although I note that the Council's Conservation Officer would prefer individual accesses to the houses along a more uniform alignment facing the road, I concur with the Council's officer report that the tree and hedgerow screen is of importance and should be retained, wherever possible. Given the vegetation along the site frontage and the long and narrow nature of the appeal site, this would result in the proposed development taking a cul-de-sac form. This would require an access road, which would be screened from the road by planting. While I am mindful of the amount of hard surfacing to be introduced on the site, the layout of the vehicular and pedestrian access would not render it any more suburban in nature than the recent development of 6 houses at Wilmoor to the north-east.
  11. The proposed development would provide reasonable gaps between the proposed houses on relatively spacious plots. Units 1 and 4 would be positioned at an angle to Ware Road, with unit 4 at a right angle to the road. Most of the nearby houses face the road. However, the existing bungalow at Greenacres is angled towards the road in much the same way as unit 1 would be. Unit 4 would be largely screened from the road by planting at the eastern end of the site, and would not be highly visible. Given the intervening vegetation adjacent to both units 1 and 4, I do not consider this would detract from the Conservation Area's character and appearance or detrimentally affect the setting of nearby listed buildings.
  12. While the proposed development does not seek to replicate the design of the surrounding buildings, the proposed houses would be generally respectful of

the scale of buildings within the wider Conservation Area and would not appear unduly prominent. Although there are a number of architectural features employed differently on units 1 and 4, and units 2 and 3, particularly with regard to the proposed houses' roofs, I do not consider that the aforementioned architectural features would be incongruous with their surroundings, particularly given the presence of other recent housing development of varying design at Greenacres and at Wilmoor.

13. Trees on the appeal site's northern and southern boundaries are subject to a Tree Preservation Order<sup>3</sup> (TPO) and lie within the Conservation Area. The proposed development would involve the removal of 2 areas of trees and hedging. Given the siting of the proposed vehicular access, this would necessitate the removal of a dead elm and some scrub, and a further area of blackthorn<sup>4</sup>. A small portion of the root protection zones of 2 trees<sup>5</sup> on the appeal site's southern boundary would potentially be affected by the proposed development.
14. From what I observed on my site visit, the large mature trees on the appeal site and the native hedging create an important cohesive element within the Conservation Area, which will remain prominent throughout the year. As such they are a significant aspect of the rural and green character and appearance of this part of the Conservation Area. The existing trees soften and screen the appeal site from the road and the farmland beyond the appeal site to the south. I note that the WCAAMP<sup>6</sup> suggests that near total screening of the appeal site would be achieved by additional roadside planting and that the appellant is supportive of this approach.
15. I consider that the appellant's Arboricultural Report addresses the risks to trees T8 and T9 appropriately. The appellant's Arboricultural Report also deals with the issue of the trees on the southern boundary satisfactorily by means of regular maintenance. On that basis, I find that there would not be pressure for removal of those trees. However, the appellant's Arboricultural Report does not address the likely clearance of trees and hedging to allow for the visibility splays required by the Highway Authority. While it may be technically possible to deliver the visibility splays without removing trees, it is not entirely clear that this is achievable. It seems to me that the potential loss of a limited number of trees and hedging along the site's northern frontage would reduce the substantial green boundary and would have a negative effect on this section of the road. Thus, there would be some minor harm to the character and appearance of the Conservation Area and to its significance.
16. Concluding on this main issue, although I consider that the proposed development would preserve the setting of the aforementioned listed buildings, I find that the proposed development would not preserve the character and appearance of the area and would result in less than substantial harm to the significance of the Widford Conservation Area. This is due to the potential loss of a limited number of trees on the appeal site's frontage in order to provide visibility splays. Therefore, the development would not accord with policies ENV1, ENV2, ENV11 and BH6 of the Local Plan.

<sup>3</sup> TPO 420 dated 13 March 1996.

<sup>4</sup> Marked as G2 on Tree Protection Plan dated 11 April 2017.

<sup>5</sup> Common Oak (T8) and an Ash (T9) marked on Tree Protection Plan dated 11 April 2017.

<sup>6</sup> Paragraphs 6.19 and 6.20.

17. Policy ENV1, amongst other things, seeks to minimise the loss or damage of any important landscape features. Policy ENV2 states that existing landscape features should be retained and enhanced, and confirms that proposals on prominent sites will be required to give special consideration to landscape treatment. Policy ENV11 seeks maximum retention of existing hedgerows and trees. Policy BH6, amongst other things, states that development in conservation areas should not affect trees which materially contribute to the character of the area.
18. Paragraph 134 of the National Planning Policy Framework (the Framework) requires less than substantial harm to the significance of designated heritage assets to be weighed against public benefits. I address this matter in the Planning Balance section below.

### *Protected Species*

19. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. Paragraph 118 of the Framework confirms that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. Policy ENV16 of the Local Plan only allows development which may have an adverse effect on protected species where harm to those species can be avoided.
20. Hertfordshire Ecology confirmed in their response to the planning application that they held no biological records for the appeal site. However, the absence of data does not necessarily indicate that no protected species are present on site.
21. Concerning bats in particular, the appellant submitted a bat survey<sup>7</sup> with the original application. This indicated that no evidence of bats was discovered and that no potential roosting places were found. It was recognised, however, that it was probable that bats from nearby roosts would forage across the site and in the gardens of nearby properties. The proposed development would not, in my view, prevent bats from foraging across the site in the future.
22. During the application process, Hertfordshire Ecology recommended that a preliminary ecological appraisal be carried out on the appeal site, given its potential suitability for breeding birds, reptiles, amphibians, badgers, dormice, and other protected and priority species. The appeal is accompanied by a protected species survey<sup>8</sup>, which indicates that no evidence of any protected or priority species was found on the appeal site. Given the findings of both surveys, I therefore consider that there is not a reasonable likelihood of protected species being present and being affected by the development. As such, in accordance with Circular 06/2005<sup>9</sup>, I do not consider that further ecological surveys should be required by means of condition.

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<sup>7</sup> Bat Survey of Long Meadow Outbuildings London Road Widford, Essex Mammal Surveys, dated August 2016.

<sup>8</sup> Protected Species Survey of Long Meadow London Road Widford, Essex Mammal Surveys, September 2017.

<sup>9</sup> Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system.

23. In terms of general biodiversity gain, Hertfordshire Ecology has suggested that the landscaping plans should be augmented with features that would benefit biodiversity. While I note the enhanced planting suggested in the appellant's Arboricultural Report, I am satisfied that a condition requiring a scheme for landscaping should include a requirement for features which would benefit biodiversity. No specific conditions relating to biodiversity have been put forward by the Council in this instance.
24. Concluding on this main issue, I consider that on balance that the proposed development would not cause material harm to protected species. There would, in my view, be no conflict with policy ENV16 of the Local Plan and paragraphs 109 and 118 of the Framework as referred to above.

#### *Highway Safety*

25. The appeal site lies on the edge of Widford adjacent to Ware Road, which is at the national speed limit entering Widfordbury. The speed limit then drops to 40mph outside Greenacres and then drops again to 30mph at the eastern end of the appeal site. The proposed development would involve the stopping up of the existing vehicular access and the creation of a new vehicular access slightly further to the east. There is an existing pavement on the northern side of Ware Road between the village and the buildings at Widfordbury.
26. Although the Council raised concerns about whether it would be possible to achieve appropriate visibility splays required to secure safe vehicular access and egress to and from the site, as part of the appeal documentation the appellant has provided a plan entitled Long Meadow Ware Road Widford (dated 28/07/2017). This indicates that the remaining land required to form the 66m visibility splay to the west would involve County Council highway land. As the splays would cross land in the control of the highway authority, it would be possible to impose a negatively worded planning condition that seeks to secure those splays and ensure they are kept clear of obstructions to visibility. Therefore, despite concerns raised by the Parish Council, I am satisfied that the proposal would not harm highway safety and thus accord with paragraph 35 of the Framework which requires the creation of safe and secure layouts which minimise conflict between traffic and cyclists or pedestrians.

#### *Planning Balance*

27. Balanced against the less than substantial harm to the significance of the Widford Conservation Area, caused by the limited potential loss of roadside vegetation, are the overall improvements to the appearance of the site by the removal of dilapidated buildings and containers. Moreover, the proposed development would provide 4 houses with the social benefits of introducing more family housing to Widford, and economic benefits of work for the local construction industry and greater demand for local services and facilities in the longer term. Therefore, even accounting for the considerable importance and weight to the need to have special regard to the desirability of preserving the character or appearance of the Conservation Area, I find that the public benefits would outweigh the less than substantial harm. The development should not therefore be restricted on heritage grounds.
28. The appellant and the Council have both confirmed that the Council is unable to demonstrate 5 year Housing Land Supply (HLS). As such, paragraph 49 of the Framework applies. This sets out that relevant policies for the supply of

housing should not be considered up to date where HLS cannot be demonstrated. Paragraph 14 of the Framework indicates that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole.

29. There would be minor harm to the character and appearance of the Conservation Area by reason of the potential loss of a limited number of trees. Because the harm would be minor I attach only limited weight to the conflicts with policies ENV1, ENV2, ENV11 and BH6 of the Local Plan. The proposed development would also conflict with policy GBC3 as it lies outside the settlement boundary defined in the Local Plan. However, it would be located adjacent to 2 new houses (currently under construction) and close to the existing house at Greenacres to the west, and the Ashview Nursing Home to the east, and within easy walking distance of the services and facilities of Widford. I therefore consider that the harm arising from this conflict would be also be very limited.
30. Reference has been made to the pre-submission East Herts District Plan, which has been submitted for examination and has not yet been adopted. I consequently give this plan very limited weight in this instance.
31. Whilst the 4 houses proposed would make only a modest contribution to the supply of housing, they would nonetheless provide positive benefits in a district where there is a shortfall in housing land supply. I consider the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The scheme would thus represent sustainable development. This is a material consideration which outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it.

### **Conditions**

32. It is necessary to specify conditions confirming the time limit for development and approved plans to ensure certainty and require approval of the external materials, and hard and soft landscaping for the proposed development in the interests of visual amenity and biodiversity. The Council's suggested conditions for hard and soft landscaping have been amalgamated. Conditions are necessary to ensure that appropriate vehicular access, visibility splays, and parking and turning areas are provided and that the existing vehicular access is stopped up in the interests of highway safety. However, I have separated the Council's proposed condition on the access, parking and turning areas as they do not need to be addressed prior to the commencement of development, while a separate condition for the off-site highway works in terms of visibility splays is necessary, relevant and reasonable to ensure highway safety. It is necessary to require details of these works to be agreed before commencement of development to ensure their delivery is secured. However, it is reasonable to only require the works to be implemented before the development is first occupied, so that development on site can commence.
33. It is also necessary to impose a condition relating to contamination of land and/or groundwater as there is potential for contaminants to be present. Given the site's constrained highway access, I consider it necessary to require the submission of a Construction Management Plan to ensure that the demolition



and construction stage of development does not affect highway safety. Hours of demolition and construction are conditioned to ensure that any detrimental impact in terms of noise and disturbance for nearby residential occupiers is minimised. I have also imposed a condition to ensure that retained trees are safeguarded during construction.

34. Materials details do not need to be submitted prior to commencement of development as they are not necessary to prevent ground preparation works from taking place. However, the Construction Management Plan, trees, and contamination conditions, and details of visibility splays are pre-commencement conditions as they involve elements that need to be addressed before construction works begin.

### **Conclusion**

35. I conclude that the appeal should be allowed.

*J Gilbert*

INSPECTOR

### **Schedule of 11 Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans 12658-P001-A House type B; 12658-P002-B Proposals House type A; and Tree Protection Plan dated 11 April 2017.
- 3) No development shall commence, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Management Plan shall provide for:
  - i) phasing of the development of the site, including all highway works;
  - ii) methods of accessing the site including construction vehicle numbers and routing;
  - iii) location and details of wheel washing facilities; and
  - iv) associated areas for parking and storage of materials clear of the public highway; and
  - v) measures to deal with dust and noise through demolition and construction, and any asbestos that may be present on site.

The approved Construction Management Plan shall be adhered to throughout the demolition and construction period for the development.

- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with BS10175:2011, shall have been submitted to and approved in writing by the local planning authority. The assessment shall include all of the following measures:
  - i) A desktop study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the local planning authority shall be fully established before the desktop study is commenced and it shall conform to any such requirements. Copies of the desktop study shall be submitted to the local planning authority without delay upon completion.

- ii) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until (a) a desktop study has been completed which addresses the requirements of paragraph (i) above; (b) the requirements of the local planning authority for site investigations have been fully established; and (c) the extent and methodology have been agreed in writing with the local planning authority. Copies of a report on the completed site investigation shall be submitted to the local planning authority without delay on completion.
  - iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the local planning authority prior to commencement and all requirements shall be implemented and completed by a competent person.
- 5) No development shall commence until all the trees and hedges shown in the Andrew Day Arboricultural Report dated 11 April 2017 as "to be retained" shall have been protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 6) No development shall commence until details of off-site works comprising visibility splays on both sides of the vehicular access between a point 2.4m along the centre line of the access measured from the edge of the carriageway and a point 66m along the edge of the carriageway measured from the intersection of the centre line of the access have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the works have been completed in accordance with the approved details. The area contained within the visibility splays shall be kept free of obstruction between 0.6 – 2.0m in height above the nearside channel level of the carriageway.
- 7) Prior to construction above slab level, samples of the external materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
- 8) Prior to the occupation of the dwellings, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - i) boundary treatments;
  - ii) hard surfacing materials, including the vehicular access, pedestrian link, access road, driveways and car parking and turning areas; and
  - iii) soft landscaping, including planting plans with schedules of plant species, plant sizes and proposed planting numbers/densities; written specifications (including cultivation and other operations associated with plant and grass establishment) and a programme of implementation; and

iv) biodiversity features.

The hard and soft landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. The hard and soft landscaping shall be retained on site thereafter. Any trees or plants which die, become seriously damaged or diseased, or are removed, within a period of 5 years from planting, shall be replaced in the next planting season with others of similar size and species.

- 9) Prior to the occupation of the dwellings, the vehicular access, pedestrian link, access road, driveways and car parking and turning areas shall be completed in accordance with the approved plans.
- 10) Prior to occupation of the dwellings, the existing vehicular access shall be closed, and the kerbs reinstated.
- 11) Demolition or construction works shall only take place between 0730 and 1830 Monday to Fridays, between 0730 and 1300 on Saturdays, and not at any time on Sundays or on Bank or Public Holidays.



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## Appeal Decision

Site visit made on 29 January 2018

**by Graham Wyatt BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> March 2018

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**Appeal Ref: APP/J1915/W/17/3188031**  
**5 Brookbridge Lane, Datchworth SG3 6SU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D Remmingon against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/1216/FUL, dated 18 May 2017, was refused by notice dated 10 July 2017
  - The development proposed is the demolition of existing dwelling and erection of a replacement dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The spelling of the appellant's name is 'Remmington' on the appeal form. I have used the spelling 'Remmingon' which is taken from the application form.

### Application for costs

3. An application for costs was made by Mr D Remmingon against East Hertfordshire District Council. This application is the subject of a separate Decision.

### Main Issues

4. The main issues are:
  - Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - The effect of the proposal on the openness of the Green Belt; and,
  - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

### Reasons

#### *Whether Inappropriate Development*

5. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings should be regarded as inappropriate in the Green

Belt, with the exception of those set out in paragraphs 89 and 90 of the Framework.

6. Paragraph 89 of the Framework sets out those categories of new buildings which may be regarded as not inappropriate in the Green Belt, including the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing dwelling has a footprint of some 68.7 sq. m and a volume of some 284.5 cu. m. The proposed replacement dwelling would have a footprint of some 153.2 sq. m and a volume of some 695.5 cu. m.
7. The existing dwelling is a modest single storey bungalow. In contrast the proposed dwelling would have a greater width and depth than the existing bungalow and its roof would have a greater massing, including dormer windows that would reflect a significant element of first floor accommodation. The end result would be a building that was materially larger in volume, bulk and mass than that which presently exists on the site. The development would therefore be inappropriate development in the Green Belt as it is not within one of the exceptions in the closed list in paragraph 89 or 90 of the Framework.
8. Thus, the development would be in conflict with Policy GBC1 of the Local Plan which seeks to ensure, amongst other things, that planning permission is not given for inappropriate development within the Green Belt unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.
9. The appellant has drawn comparisons of the existing property as extended under Permitted Development rights (PD rights) and in compliance with development plan policies. However, these do not directly affect the existing building which the Framework and development plan policy refers to. They are more properly considered in the context of other considerations and I will return to these matters below. In addition, the Council's emerging District Plan is still being examined and as such I only afford it limited weight.

#### *Openness*

10. The concept of openness is not related to visual appearance or the extent to which development can be seen but is an intrinsic quality which along with its permanence is an essential characteristic of the Green Belt. While there is no definition of openness in the Framework, in the Green Belt context, it is generally held to refer to the freedom of or absence of development. The fundamental aim of the Green Belt is to keep land permanently open.
11. The proposed dwelling would have a greater volume than the existing building and would therefore enclose a greater amount of space. The proposed dwelling would also have a greater depth, width, footprint and massing than the existing bungalow, the effect of which would be a dwelling that is materially larger than the one it replaces, resulting in a significant reduction in openness to the Green Belt.

#### *Other Considerations*

12. Policy GBC1 of the East Herts Local Plan Second Review 2007 (the Local Plan) allows the replacement of dwellings in accordance with Policy HSG8, which allows replacement dwellings taking into account unexpended PD rights. The appellant has provided detailed information relating to the unexpended PD

rights afforded to the existing dwelling and evidence in the form of prior notification applications and certificates of lawfulness for various extensions and alterations that could be erected under these rights. The appellant has also provided several court cases which support his view that the unexpended PD rights are a legitimate fall-back position and should be taken into account when assessing whether the proposal is materially larger than the building it seeks to replace.

13. Policy GBC1 and HSG8 of the Local Plan predate the Framework. I find that Policy GBC1 has clear similarities and is broadly consistent with the Framework. However, Policy HSG8 differs from the Framework in that it takes into account unexpended PD rights, whereas the Framework refers solely to the "replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces".
14. Section 38(6) of the Town and Country Planning Act 1990 (as amended) tells us that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". The Framework is a material consideration of significant weight and, in accordance with paragraph 215, I do not therefore find Policy HSG8 of the Local Plan to be consistent with the Framework in its entirety. Thus, my considerations can only take into account the building that the proposal seeks to replace.
15. Moreover, in acknowledging the court cases the appellant has referred to, and most notably the *Mansell* case<sup>1</sup> which considered a development proposed under Class Q of the General Permitted Development Order<sup>2</sup>, I am mindful of the case at *Athlone House*<sup>3</sup> where the judge stated at paragraph 42 of his judgement when considering paragraph 89 of the Framework that,  
  
*"... it would not affect the baseline which was the basis of comparison set out in paragraph 89 [of the Framework]. Paragraph 89, as I have already observed, is clear; an unbuilt permitted development which a developer may be keen to implement could not, on the basis of the interpretation of the plain words of the policy, be included in such an assessment. That is not to say that such a material fallback would be irrelevant. It would probably be relevant at the stage of considering the question of very special circumstances, taking account of the weight to be attached to it bearing in mind the likelihood of its implementation and the extent of its impact on openness if it were developed".*
16. Thus, the unexpended PD rights are not irrelevant to the appeal before me. I refer to paragraphs 1.7 and 5.17 of the appellant's statement which states that the, "condition of the property is poor and substantial investment would be required to not only secure structural integrity for future-proofing but to ensure that there was adequate thermal efficiency for sustainable modern-day living" and that the, "long-term value of the property and its fit-for-purpose status is questionable". It is clear therefore, that it is highly unlikely that the appellant would go to the expense of carrying out extensions and alterations under PD

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<sup>1</sup> *Mansell v Tonbridge and Malling BC* [2107] EWCA Civ 1314

<sup>2</sup> Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).

<sup>3</sup> *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)

rights to then demolish the building and erect the replacement sought. As such, I only give the unexpended PD rights limited weight.

17. Moreover, even if the PD rights were utilised, the resultant roof of the dwelling would not have the same massing as the proposed dwelling. Furthermore, the side and rear extensions would be single storey and while greater in width, would have a lesser bulk than the proposed dwelling. This would result in less impact on the openness of the Green Belt.
18. The appellant has also drawn my attention to other developments that have taken place in the district. However, full details of the circumstances that led to these developments being accepted, have not been provided, so I cannot be certain that they represent a direct parallel to this appeal proposal. Moreover, these are very much in the minority and do not set an irresistible precedent to find in favour of the appeal before me. As such, I only attach limited weight to these decisions.
19. I also acknowledge that there is support for the principle of a replacement dwelling at the site, which is close to services and amenities within Datchworth. I also note the energy efficiency credentials of the proposed dwelling. However, in the context of the other harms identified above, these would be very limited benefits of the proposal. Consequently, I attach them only limited weight.
20. I note the appellant's offer to accept a condition restricting further PD rights for alterations and extensions to the proposed dwelling and that such a condition could be imposed. However, this would not reduce the overall impact of the proposed dwelling and if the existing dwelling was extended using PD rights, much of these rights would be used up. As such, I only afford this limited weight.

### **Green Belt Balance**

21. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness to the Green Belt resulting from the proposed development. Against this, I attach little weight to the appellant's arguments put forward regarding the unexpended PD rights afforded to the appellant.
22. Overall, the weight I have given to the other considerations put forward do not clearly outweigh the substantial harm to the Green Belt the development would cause. I therefore conclude that the very special circumstances necessary to justify the development do not exist.

### **Conclusion**

23. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

*Graham Wyatt*

**INSPECTOR**



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## Appeal Decision

Site visit made on 12 February 2018

**by Graham Wyatt BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> March 2018**

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**Appeal Ref: APP/J1915/W/17/3189885**

**Dye Bottom Cottage, Robins Nest Hill, Little Berkhamsted SG13 8LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs W & B Marques against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/1556/FUL, dated 19 April 2017, was refused by notice dated 29 August 2017.
  - The development proposed is the "Conversion of existing store to create additional ancillary residential accommodation and games room – revised scheme following refusal of 3/17/0934/HH".
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The spelling of the property on the Council's decision notice is 'Die Bottom Cottage' which differs from 'Dye Bottom Cottage' on the application form. I have used the spelling from the application form.

### Main Issues

3. The main issues are:

- Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- The effect of the proposal on the openness and the purposes of the Green Belt,
- On the character and appearance of the area; and
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

### Reasons

#### *Inappropriate Development*

4. Dye Bottom Cottage is a detached dwelling within an isolated and rural location. To the rear of the property are two substantial outbuildings, one of which is the subject of this appeal. Part of the outbuilding is currently in residential use, with

the proposal seeking to convert the remaining part of the outbuilding into ancillary residential accommodation with a games room.

5. Policy GBC1 of the East Herts Local plan Second Review 2007 (the Local Plan) seeks to protect the Green Belt from inappropriate development. Paragraph 90 of the Framework states that certain forms of development are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. This includes the re-use of buildings, provided that they are of a permanent and substantial construction.
6. From my visit the building appears to be of a permanent and substantial construction and I have not been provided with any evidence to suggest otherwise. Therefore, it follows that, provided the proposal preserves openness and does not conflict with the purposes of including land within the Green Belt, it may not be inappropriate development.

#### *Openness and Purposes of Including Land within the Green Belt*

7. Paragraph 79 of the Framework states that openness is an essential characteristic of the Green Belt. The proposal does not involve any enlargement of the building and thus, the openness of the Green Belt would be preserved.
8. Turning to the effect on Green Belt purposes, paragraph 80 of the Framework sets out the 5 purposes of the Green Belt, one of which is to check unrestricted urban sprawl. The submitted plans show a games room, kitchen and dining room to be installed in the building. A set of double doors would allow access to the existing accommodation which will provide two bedrooms with en-suite bathrooms. It would appear therefore, the entire building would be used as a single unit of accommodation which would have all the facilities to make it capable of occupation as a separate dwelling.
9. Moreover, the outbuilding is physically some distance from the main dwelling and future occupiers could potentially lead lives substantially separate from the existing house. These factors lead me to the conclusion that in planning terms, the proposed accommodation could not be reasonably be described as being ancillary to the main dwelling. It is more akin to a new dwelling that would be separate and unrelated to the existing house. I accept that this is not the view of the appellant's. However, my conclusion is based on the planning consequences of the proposed development. The development would contribute towards the urbanisation of the countryside, and while small scale, would nevertheless conflict with the purposes of the Green Belt in seeking to check unrestricted urban sprawl and encroachment into the countryside, to which I afford considerable weight.
10. I acknowledge that the appellant's would accept a condition to secure the removal of the building adjacent to the appeal building. While this would increase openness at the site and indeed the Green Belt, it would not overcome the harm to the Green Belt as a result of urban sprawl.
11. The proposal would therefore be inappropriate development in the Green Belt. It is in conflict with Policy GBC1 of the Local plan which seeks, amongst other things, to ensure that inappropriate development in the Green Belt is not approved unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.

#### *Character and Appearance*

12. The site lies within a rural location that is surrounded by open countryside and wooded areas. The main dwelling occupies an isolated position with the appeal

building sited some 20m to the west of the dwelling. While I accept that the appeal building lies within the formal garden area of the main dwelling, the use of the building as a separate dwelling would have quite a different impact on the character and appearance of the area than its use as an outbuilding, ancillary to the main dwelling.

13. The physical appearance of the building would remain unaltered, save for a replacement roof. However, given the separation distance from the main dwelling and its parking areas, this would result in the regular presence of parked vehicles and the potential for other domestic paraphernalia to be placed at the site, such as washing lines and garden equipment like the table and chairs that were outside the building at the time of my visit. Moreover, there would be increased activity at the site with additional comings and goings from the building which would all be visible from the public footpath which passes the site. The proposal would therefore result in the urbanisation of the site to the detriment of its rural setting.
14. Thus, the proposal would be in conflict with Policies ENV1 and GBC9 of the Local Plan which seek, amongst other things, to ensure that developments are sympathetic to its surroundings.

#### *Other Considerations*

15. The appellant argues that the site represents previously developed land. However, bullet point 6 to paragraph 89 of the Framework states that, development is not inappropriate within the Green Belt when it relates to the partial or complete redevelopment of a previously developed site. As this is not the case before me I only attach limited weight to this argument.
16. With regard to the fallback position afforded to the appellant's use of the building as ancillary accommodation, I have found that the use as a separate dwelling would be materially harmful to the character and appearance of the area and in conflict with the purpose of including land within the Green Belt. Moreover, the historic use of the building as accommodation for the appellant's children is not a matter that is before me as part of this appeal, as other mechanisms exist to resolve such issues. Thus, I only attach limited weight to these arguments.

#### **Green Belt Balance**

17. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and to the character and appearance of the area. Although the openness of the Green Belt would be preserved, that, along with the totality of the other considerations does not, for the reasons given above, clearly outweigh the Green Belt and character and appearance harms. I therefore conclude that the very special circumstances necessary to justify the development do not exist.
18. Therefore, for the reasons given above, and having regard to the development when read as a whole, the appeal is dismissed.

*Graham Wyatt*

**INSPECTOR**

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## Appeal Decision

Site visit made on 12 February 2018

**by Graham Wyatt BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> March 2018**

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**Appeal Ref: APP/J1915/W/17/3189852**

**11 Cowpers Way, Tewin Wood, Tewin AL6 0NU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs D Redlich against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/1991/FUL, dated 24 August 2017, was refused by notice dated 18 October 2017.
  - The development proposed is a replacement dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
  - The effect of the proposal on the openness of the Green Belt; and
  - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

### Reasons

3. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings should be regarded as inappropriate in the Green Belt, with the exception of those set out in paragraphs 89 and 90 of the Framework.
4. Paragraph 89 of the Framework sets out those categories of new buildings which may be regarded as not inappropriate in the Green Belt, including the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing dwelling has a floor area of some 268 sq. m and a volume of some 903 cu. m. The proposed replacement dwelling would have a floor area of some 281 sq. m and a volume of some 1351 cu. m. The appellant calculates the increase in floor area and volume as some 48% and 49% respectively.



5. Policy GBC1 of the East Herts Local Plan Second Review 2007 (the Local Plan) allows the replacement of dwellings in accordance with Policy HSG8, providing, amongst other things, they are not materially larger than the dwelling to be replaced. Neither the Framework nor the Local Plan provides a definition of what is meant by 'materially larger'. While the volume and floor area calculations are an indication of the size of the replacement dwelling, the scale, massing and design of the proposal must also be considered.
6. The existing dwelling is largely a single storey building with a single bedroom and terrace at first floor level and low ridge levels. In contrast the proposed dwelling would have a central two storey element with single storey wings attached to it. The two storey element represents a significant bulk of the central core of the building and extends to the entire depth of the proposed development and represents a significant element of first floor accommodation. Although the proposed dwelling would have a similar depth as a result of the existing single storey projection to the rear of the building, it would extend to almost the entire width of the site and would result in a building that was significantly greater in volume, bulk and mass than that which presently exists on the site. In my opinion, the proposed development would be materially larger than the building it seeks to replace and would therefore be inappropriate development in the Green Belt.
7. As a result, the proposal would be in conflict with Policy GBC1 and HSG8 of the Local Plan which seeks to ensure, amongst other things, that planning permission is not given for inappropriate development within the Green Belt unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.
8. The appellant has drawn comparisons of the existing property as extended under Permitted Development rights (PD rights). However, this matter is more properly considered in the context of other considerations and I will return to these matters below.

### *Openness*

9. The appellant refers to the *Turner* decision<sup>1</sup> which considered the approach to openness and visual impact. The appellant argues that visually the site is a narrow corner plot and set back from its neighbouring properties. Consequently, the proposed development would not be prominent in the street scene and would have minimal visual impact. However, the concept of openness is not just related to visual appearance or the extent to which development can be seen. Paragraph 25 of the *Turner* judgement states that there is a spatial as well as a visual aspect to openness and the absence of a visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of a new or materially larger building.
10. Therefore, openness is an intrinsic quality which along with its permanence is an essential characteristic of the Green Belt. The proposed dwelling would have a greater volume than the existing building and would therefore enclose a greater amount of space. Moreover, the proposed dwelling would also have a greater width, especially at first floor level, and massing than the existing building, the effect of which would be a dwelling that is materially larger than the one it replaces, resulting in a reduction in openness to the Green Belt.

<sup>1</sup> *Turner v SSLG* [2016] EWCA Civ 466

### *Other Considerations*

11. Policy HSG8 of the Local Plan allows replacement dwellings taking into account unexpended PD rights. The appellant has sought confirmation from the Council that extensions and alterations to the dwelling under PD rights are lawful and refers to several court cases which support the view that unexpended PD rights are a material fall-back position which should be taken into account when assessing whether the proposal is materially larger than the building it seeks to replace.
12. Policy HSG8 of the Local Plan predates and differs from the Framework in that it takes into account unexpended PD rights that a dwelling may have available, whereas the Framework refers solely to the "replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces". Section 38(6) of the Town and Country Planning Act 1990 (as amended) states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". The Framework is a material consideration of significant weight and, in accordance with paragraph 215, I do not find Policy HSG8 of the Local Plan to be consistent with the Framework in its entirety. The officer's delegated report indicates that this is also the position of the Council.
13. The appellant refers to the *Mansell* case<sup>2</sup> which considered the fall-back position of PD rights for a development proposed under Class Q of the General Permitted Development Order<sup>3</sup>. While I am in no doubt that such rights are a material fall-back position, paragraph 42 of the *Athlone House*<sup>4</sup> judgement which considered paragraph 89 of the Framework and stated that the unbuilt PD rights which a developer may be keen to implement could not, on the basis of the plain words of the policy, be included in such an assessment of whether the building was materially larger than the one it replaces. Moreover, these matters are probably relevant at the stage of considering very special circumstances, taking account of the weight to be attached to it bearing in mind the likelihood of its implementation and the extent of its impact on openness if it were developed.
14. As part of the planning application the appellant submitted a structural report<sup>5</sup> which concluded that, "it was not economic to refurbish and upgrade the property" and that the, "appropriate recommendation for the property is to undertake demolition and rebuilding". Therefore, notwithstanding the appellant's assertion that it is their intention to extend the dwelling by utilising unexpended PD rights should this appeal fail, it seems to me that this would not only be a very costly option, but it would also fail to provide the level of accommodation they desire. As such, I only give the unexpended PD rights limited weight.
15. However, if the PD rights were utilised, the resultant roof of the dwelling would not have the same massing as the proposed dwelling. Furthermore, the side and rear extensions would be single storey and while greater in width and

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<sup>2</sup> *Mansell v Tonbridge and Malling BC* [2107] EWCA Civ 1314

<sup>3</sup> Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).

<sup>4</sup> *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)

<sup>5</sup> *Morton and Hall Consulting Limited* Ref: H4422/RAM/rg/a

footprint, would have a lesser bulk than the proposed dwelling, resulting in less impact on the openness of the Green Belt.

16. The appellant has also drawn my attention to other developments that have taken place in the district which are considered to demonstrate that the Council have approved replacement dwellings in the Green Belt, taking into account any unexpended PD rights the dwelling may have. However, it is clear that the Council has shifted its position in relation to unexpended PD rights in recent months and no longer takes them into account in the same way when considering replacement dwellings, as it has come to the view that the current adopted Policy is not consistent with the Framework. Thus, the examples provided are not a compelling reason to find in favour of this appeal and as such, I only attach limited weight to these decisions.
17. I also acknowledge that the design of the proposal would be acceptable and would not impact on the living conditions of adjoining occupiers. The development would be also acceptable in terms of highway safety, parking, impact on trees and biodiversity. However, neither this nor any other material consideration that has been advanced outweighs the harm I have identified.
18. Finally, I note that the appellant's sought advice from the Council before purchasing the appeal property. However, this is not a matter that is before me as part of this appeal, as other mechanisms exist to resolve such issues. Consequently, I have determined this appeal on its merits and in light of all representations made.

### **Green Belt Balance**

19. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness to the Green Belt resulting from the proposed development. Against this, I attach limited weight to the appellant's arguments put forward regarding the unexpended PD rights afforded to the appellant.
20. Overall, the weight I have given to the other considerations put forward do not clearly outweigh the substantial harm to the Green Belt the development would cause. I therefore conclude that the very special circumstances necessary to justify the development do not exist.

### **Conclusion**

21. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

*Graham Wyatt*

**INSPECTOR**



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## Appeal Decision

Site visit made on 27 February 2018

**by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> March 2018**

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**Appeal Ref: APP/J1915/Y/17/3190646**

**102 Orchard Road, Tewin, AL6 0LZ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr and Mrs G & O Morrisroe against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/2235/LBC, dated 15 September 2017, was refused by notice dated 20 November 2017.
  - The works proposed are described as *"Proposed internal alterations including: removal of existing ground floor walls to create kitchen/dining room with new island; construction of new wall and doorway to create smaller ground floor w.c.; addition of worktops/sink to existing ground floor study in order to create new utility room; addition of new doorway between proposed kitchen/diner and utility room; conversion of Bedroom 5 into family bathroom and en-suite to bedroom 4 involving the removal of existing walls, erection of new walls, creation of new opening and installation of new bathroom/shower suites; conversion of existing family bathroom into dressing room; installation of new shower suite into master en-suite; and enlarged opening and new door to master bedroom."*
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposed works would preserve the grade II listed building or any features of special architectural or historic interest that it possesses.

### Reasons

3. No 102 Orchard Road is a grade II listed building which forms part of a group separately listed buildings at 102-106. These were all designed by Mary Crowley for her family, in collaboration with Cecil Kemp. Dating from 1936, the building is 2-storey in height and rectangular in form, with an unusual mono-pitched roof. The property, along with Nos 102 and 104, represents a fine example of the international modernist movement, but with local adaptations, including use of local buff brick and Staffordshire blue pantile roof covering as well as neutral colour paint to the windows and eaves, in order to blend the dwellings with their rural setting.
4. The internal layout of the building exploits the rear southern aspect of the dwelling, with habitable rooms positioned to the rear and circulation spaces and

service rooms located to the front. To the ground floor there are large open-plan spaces to the rear, with long kitchen and hallway to the front of the dwelling. Upstairs has a more traditional arrangement following an arts and craft model with four rear bedrooms of different sizes accessed via a long corridor to the front. The positioning of the Crittall windows reflect the internal arrangements.

5. The property has been extended and altered to the south-eastern side creating a kitchen (with the original kitchen becoming a utility room), a study in the original garage, and a fifth bedroom and two bathrooms above. It would appear that this work was undertaken relatively soon after the original dwelling was built, as evidenced by the 1937 map within the submitted Historic Building Appraisal undertaken by BEAMS.
6. Other extensions to the north and western sides were granted consent in 1973, although these are not referenced in the 1982 listed building description. Internal alterations have also occurred at ground floor level, including the insertion of a bathroom adjacent to the hallway, removal of the division of the sitting room and bed sitting room and the partitioning of the dining recess.
7. In my assessment, its striking adapted international Modernism design as well as its association with revered architect Mary Crowley contribute to the special architectural and historic interest of the listed building. While some alteration has occurred to the ground floor, its significance is also derived from the internal plan form and the hierarchy of spaces within the building and the combination of modern and traditional plan forms.
8. A number of alterations to the internal layout of the property are proposed and would provide improvements to the bathroom, kitchen and dining facilities as part of contemporary living. To the ground floor, the works include the removal of the wall and cupboards between the existing dining room and utility. In addition, the original external wall between the dining room and kitchen would also be partially removed in order to create an open plan, kitchen, dining and seating area.
9. It is asserted by the appellants that the creation of a more open-plan house is sympathetic to the ideals of the original design. However, I consider that the removal of the wall as well as the original in-built cupboards between the dining room and utility would extinguish any sense of the legibility of the historic layout and the division of the service rooms to the front of the building and the living accommodation to the rear.
10. I consider that the south-eastern extension which houses the current kitchen was successful in retaining this sense of separation between the service rooms. As such, the opening up of the original external wall to the extent proposed would diminish this further. While the appellants have sought to reduce the width of this opening, based on feedback given at pre-application stage, this would not overcome my concern.
11. Restoration of the through linkage from the hall is welcomed, however this would not offset the harm I have identified to the surviving plan form and fixtures.

12. The first floor would also be altered to create a master bedroom suite. This would necessitate the creation of a bathroom and en-suite within bedroom 5 and the loss of two in-built cupboards in bedrooms 3 and 5.
13. As evidenced by the BEAMS report, careful attention was given to practical and functional internal design including the inclusion of large built in cupboards. These were specifically referenced as per the quote reported within the BEAMS report from *Architect and Building News* and are also noted within the submitted extract from *Modern Hertfordshire*.
14. The Council consider that the loss of these is not harmful to the significance of the heritage asset and are resolved to their loss. However, in light of the statutory duties upon me as per section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in respect of the significance of the layout, again I consider that the loss of part of the traditional and original cellular plan form to the upper floors of the building to be harmful.
15. Cumulatively, the works would substantially reduce the legibility of the historic layout and the integrity of the design at both levels would be lost.
16. My attention has been drawn to approved alterations to No 104 Orchard Road whereby internal alterations were permitted in 2002 and 2013, including the removal of an original wall. These decisions were reached in light of the particular circumstances found for No 104 and I do not consider that the works here would set an obvious precedent to assist in this appeal. While Nos 102-106 were designed and built at the same time, they were planned to meet the requirements of individual families and as such each dwelling has a slightly different character. Accordingly, I have assessed this proposal on its own merits and in the light of the way the layouts of this building was designed, the evolution of the building and the special interest of the plan form.
17. The works would affect only part of the listed building and therefore in terms of the National Planning Policy Framework (the Framework) the harm caused to the significance of the asset would be less than substantial. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
18. I give great weight to the conservation of the asset and no such public benefits are advanced. Any such benefits arising from the works would largely be private, relating to the occupants of the premises. I therefore find that there would be insufficient public benefit to offset the identified harm or outweigh the special regard to be had to its preservation under the statute.
19. Overall, taking into account the particular circumstances and having carefully considered all the evidence, I conclude that the works would fail to preserve the special architectural and historic interest of the grade II listed building.

### **Other Matters**

20. The appellant has raised concerns over the handling of the application by the Council in respect assertions made by the Conservation Officer in respect of the lack of approval for the existing extensions and the reliance of the Case Officer upon the advice of the Conservation Team. However, this is a matter between

parties and is not relevant to my determination of this appeal, which is based upon the evidence before me.

**Conclusion**

21. For the reasons above, taking into account all other matters raised, I dismiss both of the appeals.

*C Searson*

INSPECTOR

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PLANNING APPEALS LODGED MARCH 2018  
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/17/0777/FUL	Demolition of no's 1 and 3 Kingsmead Road, Bishops Stortford, the construction of 4 no 3 storey houses, with parking and landscaping	1 And 3 Kingsmead Road Bishops Stortford CM23 2AG	Refused Delegated	27/03/2018	Written Representation
3/17/1510/FUL	Erection of a detached four bedroom dwelling and detached single storey garage with associated hard surfacing.	Land Adjacent To 42 Zambesi Road And Rear Of 9 Havers Lane Bishops Stortford	Refused Delegated	06/03/2018	Written Representation
3/17/1614/FUL	Demolition of a group of former pig farm buildings. Construction of two detached dwellings.	Land Adjacent To: GeldersConduit Lane Great Hornead Buntingford SG9 0NU	Refused Delegated	28/03/2018	Written Representation
3/17/1995/CLP	Enclose porch by brickwork to two sides, relocating existing entrance door to front of porch and adding new side window.	97 Datchworth Green Datchworth Knebworth SG3 6TL	Refused Delegated	09/03/2018	Written Representation
3/17/2055/HH	External work to sunken garden area and erection of retaining walls (Retrospective).	Myrtlebank CottageCautherly LaneGreat AmwellWare SG12 9SN	Refused Delegated	07/03/2018	Fast Track
3/17/2155/FUL	Proposed new detached dwelling	Land Rear Of 138 Hertingfordbury Road Hertford SG14 2AL	Refused Delegated	28/03/2018	Written Representation

Background Papers

None

Contact Officers

Kevin Steptoe, Head of Planning and Building Control - Ext 1407

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**Public Inquiry and Hearing Dates**  
**All Hertford Council Chamber unless specified**

Application	Case Officer	Address	Proposal	Procedure Type
3/16/0530/OUT	Stephen Tapper	Land At Bishops Stortford Railway Station Station Road Bishops Stortford CM23 3BL	A hybrid planning application for the comprehensive redevelopment of the 5.82 ha Goods Yard site for mixed use purposes comprising: up to 680 residential units (Use Class C3), 938 sqm of retail floorspace (Use Class A1 / A3), 3,045 sqm of hotel floorspace (Use Class C1), two multi-storey car parks, car parking spaces for the residential development; and, associated highways and landscaping works. All as amended by plans and documents received on 22 September 2016 and 31 March 2017. The full application for Phase 1 (1.62ha) comprises: 122 residential units (Use Class C3), 938 sqm of retail floorspace (Use Class A1 / A3), 3,045 sqm of hotel floorspace (80 bedrooms and a restaurant) (Class C1); and a multi-storey car park (477 spaces) All in buildings of between four and six storeys in height; and a re-configured transport interchange (including bus stops, taxi rank and drop-off), provision of a new public square, cycle parking facilities, surface car parking, service yard, vehicular and pedestrian access arrangements from Anchor Street, Station Road and London Road; and associated landscaping, plant and servicing. The outline planning application for Phases 2-4 (4.2ha including 2.02ha at the southern end of the Goods Yard currently in operational use) comprises: up to 558 residential units (Use Class C3); and a multi-storey car park (489 spaces). All in buildings of between three and seven storeys in height; provision of open space, new vehicular and pedestrian access arrangements, cycle parking facilities, surface car parking; and associated landscaping, plant and servicing.	Public Inquiry 11/09/2018
3/17/0781/FUL	Lisa Page	Wheelwrights Farm Rowney Lane Dane Ware SG12 0JY	Change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one Gypsy family, including stationing of one mobile home, one touring caravan, laying of hardstanding, improvements of existing access and installation of septic tank - Retrospective application	Public Inquiry 15/05/2018
3/17/1104/HH	Antoine Commenville	1 Bromley Hall Cottages Bromley Lane Standon Ware SG11 1NX	First floor rear extension	Informal Hearing 11/04/2018
3/17/1105/LBC	Antoine Commenville	1 Bromley Hall Cottages Bromley Lane Standon Ware SG11 1NX	First floor rear extension and alterations to fenestration.	Informal Hearing 11/04/2018

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# DEVELOPMENT CONTROL

## Major, Minor and Other Planning Applications

**Cumulative Performance**  
(calculated from April 2017)

	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17
<i>Total Applications Received</i>	202	436	689	938	1145	1390	1634	1828	2022	2232	2447	2719

	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17		Targets for Local Performance (set by East Herts)	National Targets (set by Government)
<i>Percentage achieved against Local and National Targets</i>															
<b>Major %</b>	100%	100%	100%	93%	80%	85%	87%	89%	84%	85%	85%	83%	<b>Major %</b>	<b>60%</b>	<b>60%</b>
<b>Minor %</b>	97%	90%	86%	84%	84%	83%	82%	82%	83%	83%	83%	83%	<b>Minor %</b>	<b>80%</b>	<b>65%</b>
<b>Other %</b>	93%	91%	88%	89%	89%	89%	90%	90%	91%	91%	91%	91%	<b>Other %</b>	<b>90%</b>	<b>80%</b>

	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17
<b>Appeals</b>												
Total number of appeal decisions (Monthly)	4	12	17	11	8	6	4	5	7	3	9	7
Number Allowed against our refusal (Monthly)	2	3	4	5	4	2	1	2	3	1	3	2

Total number of appeal decisions (Cumulative)	4	16	33	44	52	58	62	67	74	77	86	94
Number Allowed against our refusal (Cumulative)	2	5	9	14	18	20	21	23	26	27	29	31

AGENDA ITEM NO. 6D

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