

3/14/2132/OP – Outline consent for the erection of a Low Carbon Continuing Care Retirement Community comprising of: 80 Bed Care Home and up to 96 c2 Flexi Care / Assisted Living Units. Shared Communal Facilities including Swimming Pool, Gymnasium, Day Centre, Therapy Rooms, Restaurant, Store/Post Office, Tennis Courts, Bowling Green, Allotments/Gardening Areas and Public Woodland Walking Areas at Former brickfields, off Cole Green Way, Hertford, SG14 2LF for Mr L J Elmermann

Date of Receipt: 22.01.2015

Type: Outline – Major
(All matters reserved)

Parish: HERTFORD

Ward: HERTFORD – CASTLE

RECOMMENDATION:

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

1. The proposals constitute inappropriate development within the Metropolitan Green Belt and are therefore, by definition, harmful to it. Other harm would also result from a loss of openness to the surrounding area; an adverse impact on the character and appearance of the area; the isolated and unsustainable location of the site and the adverse impact upon protected trees. Weight which can be attributed to the positive impacts of the development is not such that the identified harm to the Green belt and other harm is clearly outweighed. The development would thereby be contrary to policies GBC1, GBC14, SD1, ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007 and national policy set out in the National Planning Policy Framework.
2. The development is likely to result in the removal of a substantial number of trees subject of a Tree Preservation Order and would cause significant harm to the woodland character of the area, contrary to policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.
3. The application fails to demonstrate that a safe means of vehicular access can be provided to the application site when the access point onto Horns Mill Road is closed due to flooding. Access into and out of the site for residents and emergency vehicles would, during times of flood, be impeded to the detriment of the safety of residents. The proposal would thereby be contrary to policies ENV1 and ENV19 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

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1.0 Background

- 1.1 The application site (5.05 hectares) is shown on the attached OS extract. It comprises an area of heavily wooded land, covered by a blanket Tree Preservation Order (TPO) and an open agricultural field. The site includes some limited remains of the former Brickworks salt pits and the footprint of the kiln, pump house and other buildings. However, these have now blended into the landscape and the character of the site remains that of natural woodland.
- 1.2 The wider surroundings are of open countryside with occasional buildings. To the north and north-west, beyond Cole Green Way, lie residential properties. To the west lie further residential properties and commercial units based at Terrace Wood Nursery. The eastern boundary is adjacent to the railway line viaduct – beyond which lies Hertford Town Football Club. To the south lies Brickfields Farm and associated fields.
- 1.3 The application seeks outline permission for the use as specified within the description. The concept is to create a Continuing Care Retirement Community (CCRC). A range of accommodation is proposed, including self-contained flats or bungalows and apartments offering personal care and support for those with greater care needs. Activities such as swimming, walking and gardening would also be facilitated on the site. Other communal facilities may include restaurant(s), activity room(s), library, computer suite and consultation room. All matters (access, appearance, landscaping, layout and scale) are reserved. The application has been submitted with illustrative drawings of the layout and design, together with parameter plans indicating limits of scale.

2.0 Site History

- 2.1 In April 2014, an outline application (LPA 3/14/0060/OP), for a similar proposal (but on a very slightly amended site area) was refused on grounds of:
- Inappropriate development within the Metropolitan Green Belt
 - Removal of a substantial amount of trees subject of a Tree Preservation Order - harm to the woodland character of area
 - The application fails to demonstrate that a safe means of vehicular access, outside of the floodplain, can be provided. The access onto Horns Mill Road is at high risk of flooding, and access for residents and emergency vehicles would, during these times, be impeded.

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- 2.2 Prior to that, in February 2013, an outline planning application (LPA 3/12/1934/OP), for the same proposal as the above application was refused on grounds of:
- Inappropriate development within the Metropolitan Green Belt
 - Removal of a substantial amount of trees subject of a Tree Preservation Order - harm to the woodland character of area
 - Insufficient information to assess traffic generation and implications on the surrounding highway network and to demonstrate that a safe means of vehicle access onto the public highway at Horns Mill Road can be provided.
 - Insufficient information of the proposed access bridge across the River Lee, and any associated earthworks, to assess whether, in principle, a safe and appropriately designed means of access can be provided without causing an increase in flood risk in the area.
- 2.3 That application followed a previous outline application (3/12/1207/OP) for a similar proposal that was recommended for refusal but was withdrawn prior to the October 2012 committee meeting. Although no decision was made, the Officer's Report identified a number of concerns with the previous proposal and recommended five reasons for refusal relating to; Inappropriate development in the Green Belt; Removal of substantial amounts of protected trees; Insufficient information relating to ecological reports and surveys; Failure to provide a suitable assessment of the flood risk arising from the development and; Insufficient information submitted in relation to traffic generation and failure to demonstrate safe means of access onto the public highway.
- 2.4 The material changes to the development now being proposed (as compared to the most recent refused application – 3/14/0060/OP) are in respect of the enlarged site area, which could enable the buildings to be largely sited outside of the woodland area. There has also been the submission of additional information in terms of the access to the site and river crossing and flooding details. These details remain as reserved matters.

3.0 Consultation Responses

- 3.1 The Environment Agency have removed their earlier objection to the proposals. They comment that they are satisfied that the raised emergency access road can be implemented without increasing the level of flood risk elsewhere. (This has been achieved through the provision of compensatory flood storage and by raising the road and car

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park over clear voids).

- 3.2 Despite removing their objection they do state that although the technical requirements for this option have now been met they are still concerned that this route requires significant works in the flood plain and within close proximity to the River Lee and that their preference would be for an alternative route to be found that avoids crossing the flood plain. They advise that safe access is a matter for the LPA to assess. Their summary is however that they consider the proposed development will meet the National Planning Policy Framework (NPPF) policy to ensure flood risk is not increased elsewhere if the planning conditions are included on any planning permission granted
- 3.3 Hertfordshire Ecology recommend that a number of surveys need to be submitted prior to determination and these include an otter and water vole survey, reptile surveys, a badger survey, a great crested newt survey, a spring breeding bird survey and further surveys regarding trees with bat roost potential. They do however consider that approval should not be given until a satisfactory approach to biodiversity offsetting has been addressed.
- 3.4 The Herts and Middlesex Wildlife Trust object, commenting that further surveys are required to inform appropriate mitigation, habitat compensation and precautionary approaches.
- 3.5 Hertfordshire Highways comment that they do not wish to restrict the grant of permission, subject to a legal agreement to secure the following:
- A 'Shuttle Bus' service between the development and Hertford town centre, for residents and employees of the development
 - Upgrading to the surface of the Hertford 054 Byway Open to All Traffic, for a distance of approximately 65 metres, measured from the viaduct in an eastbound direction, and upgrading the surface of the Hertford 055 footpath, measured from the viaduct in a westbound direction, for a distance to be determined at the Development site layout reserved matters application stage. A minimum path width of 2 metres shall be treated along the identified stretches.
 - A Green Travel Plan
 - Bus stops outside the site on both sides of Hornsmill road to become DDA compliant through the provision of shelters and Kassel kerbing.

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They also then recommend the inclusion of conditions in respect of: details of the proposed access visibility splays and the width of the Hornsmill Road carriageway based on a full topographical survey; all highway works to be completed in accordance with the approved detailed plans (based on the topographical survey); closure of existing accesses; visibility splays; wheel washing; Construction Traffic Management Plan to be agreed; provision for storage of construction materials, on-site parking and turning spaces to be provided; the existing public right of way abutting the site to remain undisturbed and unobstructed at all times unless legally stopped up or diverted; all recreational facilities and residential services shall be for the exclusive and sole use of residents and their visitors only; and that the emergency route shall be constructed prior to commencement of the development.

- 3.6 The County Planning Obligations Unit seek obligations towards library facilities and fire hydrants.
- 3.7 The Councils Environmental Health Section advise that any permission shall include the conditions for soil decontamination.
- 3.8 The Councils Landscape Section has commented there are several mature oaks along the line of the proposed access road and that substantial regrading works are likely to be required to construct the access and unless heavily engineered retaining walls are constructed, embankments will need to be cut back into the protected woodland resulting in the loss of at least some vegetation / trees. They comment that the nature, scale and proximity of the proposed units will cause increased demand for access to the woodland for walking and other outdoor pursuits.

They note that although there are remains of the site's former use, it would now be described as a secondary woodland. Even if supposing the remnant brick kiln were to delimit the site as "existing development" the proposed development will have a greater landscape impact on the green belt. They note that the NPPF (Paragraph 111) advises that re-using land that has been previously developed (Brownfield land) should only be encouraged provided that it is not of high environmental value - the site is largely covered by protected woodland conferring upon it the status of high environmental value.

In summary the development site incorporates the area covered by a woodland TPO. The indicative footprints for the development are just outside the TPO and the footprint for the proposed access road runs along the edge of the TPO boundary. The application includes

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associated facilities which will result in significant loss of woodland, since there appears to be nowhere else, other than within the woodland, to locate these activities/structures.

They conclude that this is a site with high landscape sensitivity and low landscape capacity for the type of development proposed without it losing its essential character. This site, in other words is not capable of 'absorbing' the proposed development while retaining its landscape (woodland) character and because the woodland unit is not compatible with, or able to adapt to the change of use proposed, which will have significant adverse impact on the landscape character of the site and surrounding area refusal is recommended on landscape grounds. The proposal amounts to expansion of the urban fringe of Hertford into the open countryside with major adverse impact on the character of the site and its rural setting.

- 3.9 Historic Environment Unit have not commented on this application, but previously commented that the site should be regarded as likely to have an impact on heritage assets of historic archaeological interest and that any planning consent granted should include a condition to secure a programme of archaeological work in accordance with a written scheme of implementation to be submitted to and approved by the LPA.
- 3.10 National Health Services (NHS) England have not commented on this application, but previously commented that they do not have the capacity to absorb the additional requirement for general medical services (GMS). They outline that out of the existing 5 GP surgeries in the locality, 1 is approaching constrained, 2 are constrained and 2 are severely constrained. A Practice in this situation would usually need to be extended or even relocated to absorb a significant number of new registrations. They confirm that Hertfordshire and South Midlands Area Team of NHS England will not be commissioning a GP service from Woodlands Retirement Village and will be expecting its local GP practices with open list and in the catchment area of the home to register patients. Patients in the home will be treated equitably to patients in the wider community.

The specialist cohort of patient registrations for a home offering dementia care will be put pressure on the practices. The GP practices are commissioned to provide primary medical services for all patients. If the home wants to enter into a private contract with a GP practice to provide services outside the practices' core contract that would be a private arrangement between the home and the practice. However the home will still have to ensure they are offering their residents choice of GP. For all the above reasons a Section 106 contribution is requested

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to support those practices most impacted and to make this scheme favourable to NHS England.

- 3.11 National Grid comment that they have apparatus in the vicinity of the application site that may be affected by the proposal and that there is an obligation that they are contacted prior to any works being carried out.
- 3.12 The Hertfordshire Constabulary Crime Prevention Design Advisor have commented with substantive concerns regarding the safety and security of the development and with its sustainability stating that although there is an intention to achieve Level 4 of the code for Sustainable Homes, there has been no approach by the applicant to engage with them.
- 3.13 The Minerals and Waste Team encourage re-use of unavoidable waste where possible and the use of recycled facilities where appropriate for construction.
- 3.14 The Ramblers Association comment that a public footpath crosses this woodland site and that they would oppose any attempt to close or divert it.
- 3.15 No comments have been received from The Council's Housing Unit; The Councils Policy Section; The Councils Engineers Section; Affinity Water; Natural England, The Woodland Trust; Hertfordshire Health and Wellbeing Board; the Plant Protection Team; EDF Energy Networks; the Passenger Transport Unit; or The Campaign to Protect Rural England (CPRE). Any further responses received will be reported to Members at the meeting.

4.0 Town Council Representations

- 4.1 Hertford Town Council has the following comments to make on the application:

'The Council was again appalled that this application had been resubmitted and did not feel that the changes in the new application sufficiently, addressed the fundamental concerns over road access and safety. The isolated nature of the development from the town centre is also considered both unsustainable and inappropriate given the proposed use of the land. Walking into Hertford in terms of ecology and the railway banks have become corridors for both flora and fauna. The site is one of the designated Green Fingers surrounding Hertford and separates the Town and Village of Hertford and Hertingfordbury. To

build on this land would have a detrimental effect on the ability to maintain the separate identities of the town and village. The land abuts Cole Green Way which many people use as a rural, peaceful place to walk and cycle and the application seeks to replace this area of woodland and open space with a large residential development’.

5.0 Other Representations

5.1 The application has been advertised by way of press notice, site notices and neighbour notification.

5.2 75 letters of objection have been received, including from the Hertford Civic Society. The comments raised can be summarised as follows:

- Site is within the Green Belt. Inappropriate development. No very special circumstances demonstrated. Not a brownfield site. Development more impacting on openness.
- No need for this type of accommodation
- Unsustainable development and location for this use. Site not suitable for retirement home.
- Highway safety concerns with increased traffic generation, new junction is unsafe, poor visibility.
- Loss of wildlife habitats, biodiversity could be irreparably degraded.
- Removal of trees subject to Tree Preservation Order unacceptable. Harm to character of the woodland.
- Insufficient information relating to disposal of sewage. Could result in use of the River Lea for discharging sewage.
- Flood risk. Access road would be built on a flood plain.
- Could put a strain on other local services.
- Noise and light pollution.
- Development will ruin a tranquil location.
- Loss of visual amenity. Will look out of place in a rural location.

5.3 30 letters of support have been received, summarised as follows:-

- There is a need for this type of development. Will improve and support lives of elderly population
- Will bring economic benefits
- Would tidy up the unattractive area
- Would not impact adversely upon adjacent communities
- The other facilities would lead to further opportunities for the community
- Is a sustainable site
- Will reduce risk of flood

6.0 Policy

6.1 The relevant 'saved' Local Plan policies in this application include the following:

- SD1 Making Development More Sustainable
- HSG1 Assessment of Sites not Allocated in this Plan
- GBC1 Appropriate Development in the Green Belt
- GBC14 Landscape Character
- ENV1 Design and Environmental Quality
- ENV2 Landscaping
- ENV3 Planning Out Crime – New Development
- ENV11 Protection of Existing Hedgerows and Trees
- ENV14 Local Sites
- ENV16 Protected Species
- ENV17 Wildlife Habitats
- ENV21 Surface Water Drainage
- LRC9 Public Rights of Way
- TR1 Traffic Reduction in New Developments
- TR2 Access to New Developments
- TR7 Car Parking – Standards
- TR20 Development Generating Traffic on Rural Roads
- IMP1 Planning Conditions and Obligations

6.2 In addition, the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (NPPG) are relevant to the determination of this application.

7.0 Considerations

7.1 The main planning issues for consideration in the determination of this application are as follows:

- Principle of development
- Impact upon the character and appearance of the Green Belt
- Impact upon designated sites and protected species
- Impact upon landscaping and protected trees
- Impact on neighbour amenities
- Highway matters
- Flooding and drainage issues

Principle of development

7.2 The site lies within the Metropolitan Green Belt, wherein permission will

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not be given for inappropriate development unless there are other material planning considerations to which such weight can be attached that they would clearly outweigh any harm caused to the Green Belt by inappropriateness or any other identified harm, thereby constituting 'very special circumstances' for permitting the inappropriate development in the Green Belt.

- 7.3 Any proposal for new residential development and other associated buildings in the Green Belt is contrary to Local Plan policy GBC1. The National Planning Policy Framework at Paragraph 89 states that the construction of new buildings in the Green Belt is inappropriate, with one set exception being, 'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development'.
- 7.4 Officers have consistently considered that this site cannot be classed as previously developed land (as will be discussed later in this report), and even if it were, the proposed development would clearly have a greater impact on the openness of the surrounding area than any existing development. In either case then, the development would constitute inappropriate development, and the proposal would therefore, by definition, be harmful to the Green Belt. In addition, Officers consider that other harm would result from the development (which is set out below).
- 7.5 The main issue to consider in the determination of this application is therefore whether, taking all the material issues into account, weight can be assigned to the positive impacts of the development such that the harm in Green Belt terms and any other harm, is clearly outweighed. If that is the case then very special circumstances are demonstrated and planning permission could be granted.
- 7.6 The Planning Statement and 'Review of Land Status as it Pertains to Previously Developed Land Designation', submitted by the applicant, considers that the site is a brownfield site being previously developed land. The Report includes references to legal interpretations as to what constitutes brownfield land. The Report outlines that the structures on site and embankments are clearly visible and have not 'blended into the landscape'. They further make a point that the site, in addition to the brick works, has been used for mineral extraction (clay) and for waste disposal by landfill but that restoration has not been made.
- 7.7 The National Planning Policy Framework (NPPF), within Annex 2, in

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defining 'previously developed land', excludes 'land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures'. The supporting documents state that the site has been used for mineral extractions and waste disposal by landfill – stating that no restoration has been made. However no detailed submission has been made in respect of this use. Furthermore, the Hertfordshire County Council, Minerals and Waste Policy Spatial Planning and Economy Section have commented in relation to the historic use of the site, stating that there is no record of the historic minerals extraction or waste management practices.

- 7.8 In any event Annex 2, in defining 'previously developed land' excludes that where 'the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time'. The site was once occupied as a Brickworks with associated buildings. However, this use was ceased a long time ago and there is now no obvious outward appearance of the site being anything but established and protected woodland.
- 7.9 There are a number of semi derelict and modest structures associated with the former use, but these are limited in size and are not a prominent feature from within or outside of the site. The embankments formed from the former use can be seen from within the site as obvious changes in land levels but their character still reflects that of a woodland. The site therefore, in the view of Officers, cannot be considered brownfield or previously developed land.
- 7.10 Even if the site were considered as previously developed then the NPPF, at Para 89 and 111, states that redevelopment of previously developed land would only be permitted where the land is not of a high environmental value and where any new development would not have a greater impact on the openness of the Green Belt and the purposes of including land within it. The proposal is not considered to comply with these criteria and clearly has a harmful impact in relation to the identified purposes of green belt land.

Other harm

- 7.11 Openness; character and appearance: The proposal would, in Officers view, result in a significant material loss of openness to the Metropolitan Green Belt and would be detrimental to the established woodland character and appearance of the area. Whilst the site has established landscaping, a development of this scale would nevertheless materially

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erode openness and would be harmful to the landscape character of the area.

- 7.12 The site falls within Area 66 of the Landscape Character Assessment SPD – it states that the area is remote and tranquil, whilst the scale of the landscape is small and confined, although the strong impact from the railway viaduct is noted. The strength of the Cole Green Way is also highlighted. Overall, the area is classed as strong in strength of character and moderate in condition, where proposals should ‘conserve and restore’. A proposal of this scale would inevitably result in a change in the character and the appearance of the site, resulting in a more urban character which would be detrimental to the rural surroundings.
- 7.13 Isolated location: Additional harm is identified due to the isolated location of the site, being relatively inaccessible to nearby settlements (except by private vehicle) and to their services and amenities. On the contrary, the applicant considers the site is well located on the edge of Hertford. Officers consider the site too remote in terms of distance with a poor quality of footpaths, to genuinely enable residents of the retirement centre to walk to Hertford town centre or to enable the use of other sustainable transport measures and as such, the site is an unsustainable location. This is contrary, of course, to the general thrust of national planning policy in the NPPF.
- 7.14 Impact on Protected Trees: The site is covered by a woodland Tree Preservation Order (TPO) and the development and the resulting impact of the subsequent change in land use would cause damage to existing trees and/or prevent regeneration of the woodland unit as a whole. Although the plans have indicated that the majority of the buildings and access *could* be sited outside of the TPO area (although of course this would raise significant issues with the buildings being on open land), not all of the development would fall outside of it and in any event, any required levelling works for the access and buildings are likely to adversely impact upon protected trees. Overall, this site does not have the landscape capacity to accommodate the proposed development without losing protected trees and its essential woodland character. Significant harm is therefore attributed to this element of the scheme.
- 7.15 Means of safe vehicular access: The previous planning application was partly refused as the application failed to demonstrate that a safe means of vehicular access, outside of the floodplain, can be provided to the application site. (The access point onto Horns Mill Road is at high risk of flooding to the extent that has required the road to be closed at times).

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- 7.16 This application has been submitted with a raised emergency access road to be used when Hornsmill Road is closed due to flooding – exiting across the Horns Mill Public House land. The Environment Agency have assessed this and conclude that the technical requirements for this option have been met. Although they raise some concern that this route requires significant works in the flood plain and within close proximity to the River Lee, the LPA are the competent authority on matters of evacuation or rescue.
- 7.17 The information submitted does not demonstrate that the Horns Mill Public House carpark is within the ownership of the applicant, nor is there a legal agreement to demonstrate that access can be achieved across the frontage. Without such an agreement, the proposal cannot demonstrate that access into and out of the site for residents and emergency vehicles during times of flood would not be impeded to the detriment of the safety of residents. The proposal would thereby be contrary to policies ENV1 and ENV19 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework. Harm is therefore attributed to this element of the scheme.

Benefits of the proposal

- 7.18 Given that the development, by definition, is harmful and that other harm has been identified as set out above, it is necessary to consider whether these matters are clearly outweighed by other issues. The appellant considers that there are other issues that do weigh in favour of the application, and this is in relation to:
- The need for the proposal, with an ageing population and the rapid growth of the "oldest old" who have the highest health and social care needs / government support for this type of proposal;
 - The proposal would provide a form of accommodation not widely available in the area / deficiency in the area;
 - The existence of wider benefits including freeing up larger family houses;
 - The provision of new employment (up to 90 jobs once completed and 70 during construction)
 - The creation of new public spaces
 - Would help to meet the 5 year housing supply
- 7.19 The application has been submitted with a document entitled Care Needs Assessment. The document discusses the increasing need for care accommodation in the United Kingdom, and then outlines existing care provision within East Herts and specifically within 5 miles of the

proposed development site. The Report then outlines care accommodation needs within the District and again within a 5 mile radius. This Report concludes that there is an unmet need for both care home beds (879) and extra care beds (289) within 5 miles of the site. Officers have reviewed this information and have no reason to dispute the figures. This unmet need is a factor which weighs in favour of the proposal.

- 7.20 Within the Planning Statement, it is stated that the Council should give weight to the proposal as it cannot be demonstrated that a five year supply of deliverable housing sites can be met. (The NPPG makes it clear that 'local planning authorities should count housing provided for older people, including residential institutions in Use Class C2, against their housing requirement'). It is accepted that the proposal would be a benefit in terms of meeting a contribution to the 5 year land supply.
- 7.21 Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered to be up to date in such situations and that the presumption in favour of sustainable development should apply. In such circumstances paragraph 14 of the Framework advises that planning permission should be granted unless either of the following circumstances apply. Firstly, the adverse impacts of doing so clearly outweigh the benefits when assessed against the policies in the Framework as a whole. Secondly, specific policies in the Framework indicate development should be restricted.
- 7.22 In relation to sustainability, the site is considered an unsustainable location, as outlined above, and furthermore the proposal is inappropriate development within the Green Belt; would cause removal to trees subject of a TPO and harm to the woodland character and cannot demonstrate safe access. This is contrary to specific policies of the Framework and as a consequence, the scheme does not constitute sustainable development within the meaning of the Framework, and this clearly weighs against the proposal.
- 7.23 In addition to the conflict with Paragraph 14 of the Framework, the NPPG, when discussing unmet housing need in the Green Belt, states that 'Unmet housing need 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'.
- 7.24 On balance, having considered all the relevant issues put forward by the applicants, Officers have strong reservations that the considerations put forward in this case are of such weight that they 'clearly outweigh' the harm caused to the Green Belt by this development and any other

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identified harm. Whilst there may be evidence of a need for this type of accommodation and whilst the Local Planning Authority cannot demonstrate a 5 year housing supply, having regard to the other associated benefits, Officers cannot agree that those considerations outweigh the significant harm caused in this case such as to amount to 'very special circumstances' for permitting this inappropriate development. As indicated above the guidance in the NPPG is that unmet housing need is unlikely to outweigh identified harm to the Green Belt.

Other material considerations

- 7.25 Highway matters: It is clear from the red edge application site and the transport submissions, that the proposed vehicular access for the development is at Horns Mill Road and the response from Hertfordshire Highways is based on this. Highways are content that, subject to a legal agreement and conditions, the proposal would provide for adequate junction arrangements and visibility onto Horns Mill Road and that all other highway capacity and safety matters would be acceptable. This would be a neutral impact in weighing up the proposal.
- 7.26 Impact on Designated Sites and Protected Species: An Ecology Report accompanies the application, the findings of which indicate the following protected species and/or habitats that would support them: Badgers, Hedgehogs, Bats, Invertebrates, Breeding Birds, Otters, Water Voles, Great Crested Newts and Reptiles. The report also notes that the Cole Green Way and Terrace Wood are County Wildlife Sites. In light of the findings, the report recommends that further presence or absence surveys are undertaken to inform appropriate and proportionate mitigation, compensation of habitats or precautionary principles to prevent harm to identified species.
- 7.27 By carrying out additional surveys to identify appropriate mitigation and protection, it is considered that subject to appropriate conditions being imposed on any permission to grant, the development could proceed with a low risk of significant impact to species, habitats and local ecological value. Hertfordshire Ecology and Herts and Middlesex Wildlife Trust endorse this assessment. In Officer's view, the proposal is compliant with policies ENV14 and ENV16 of the East Herts Local Plan Second Review April 2007 in respect of this issue it would be considered a neutral factor on the application.
- 7.28 Flooding and drainage issues: Policy ENV19 of the East Herts Local Plan requires proposals for development in flood plains not to, inter alia, increase the risk of flooding elsewhere or reduce the capacity of

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floodplains. The indicative building works and all communal facilities proposed would be located within flood zone 1, an area of low probability of flooding. The NPPF and the East Herts Local Plan seek to direct new development towards zone 1 areas. However, the indicative access road as, mentioned previously, would be located within flood zone 3, an area of high probability. In line with technical guidance within the NPPF and Policy ENV19 of the Local Plan, all development proposals within flood zone 3 should be accompanied by a Flood Risk Assessment (FRA).

- 7.29 The application is accompanied by an updated FRA and a Drainage Strategy. The sustainable drainage strategy proposes to utilise a series of linked drainage features which are maintained in either a wet or dry state. The wet features, or balancing ponds, would have the capacity to collect and temporarily store water during heavy rainfall. The water is then released at a controlled rate into the wider drainage system. The dry features, or swales, would retain no permanent water and instead would carry stormwater to balancing ponds or other watercourses. The approach taken could also employ appropriate landscaping principles and utilise sustainable drainage techniques to help to reduce flood risk, improve water quality and improve the environment.
- 7.30 The proposal is therefore considered acceptable in terms of flood risk on the site itself and its sustainable drainage strategy, and this is therefore a neutral factor in the application.
- 7.31 I turn now to the indicative access road, bridge and emergency access road. As mentioned previously, the Environment Agency has expressed some concern in regards to the alternative emergency access as a means of safe vehicular access. That is a matter for this Council to consider. The Environment Agency are, however, content that the FRA otherwise provides for adequate compensatory storage from the access and bridge and comment that it would not increase the risk of flooding elsewhere, and as such they raise no objections to the proposal subject to the imposition of conditions on any approval.
- 7.32 It is noted that concern has been raised with regard to possible contamination of the site resulting from its former use as waste activity. The submitted 'Sitecheck' report has identified likely contamination from former uses and the potential for significant contamination of groundwater. The use of swales will, to some extent, improve water quality by providing the first level of natural filtration close to the source before discharging into the local watercourses. Groundwater contamination can be addressed through remediation measures.

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- 7.33 The Environment Agency require a series of measures to be carried out, including a full preliminary risk assessment of the site, remediation strategy and scheme of long term monitoring and maintenance to be agreed with the LPA. Should outline consent be granted, it is Officers view that appropriate conditions would be necessary and reasonable and these could be added to ensure that these measures are put in place.
- 7.34 Provided the conditions as recommended by the Environment Agency are imposed on any outline permission granted, Officers are content that the proposal is acceptable in relation to flood risk and drainage issues (with exception of an achievable safe access during times of flood) and these therefore form a neutral impact.
- 7.35 Impact on neighbour amenities: In respect of the impact of the development on neighbouring properties, it is considered that the layout, design and access arrangements could be planned in such a way as to prevent the development having any unacceptable impact upon neighbours amenity. With regard to the levels of amenity that the development could provide for future occupiers, I am satisfied that this would be acceptable and in compliance with Policy ENV1 of the East Herts Local Plan. No further harm results from this issue and therefore in terms of balancing the harm caused by the proposal with the benefits of the development; Officers consider that this would have a neutral impact on that balancing exercise.
- 7.36 In summary therefore, the additional harm that has been identified by Officers in this case relates to a loss of openness; impact on the character and appearance of the area; the isolated and unsustainable location of the site; the impact upon protected trees; and inadequate means of safe vehicular access. In order to support this proposal the Council would need to be satisfied that the benefits of the scheme clearly outweigh the harm caused by inappropriateness and any other identified harm.
- 7.37 That is a balancing exercise therefore between the harm caused and the positive impacts of the scheme. Officers have undertaken that exercise and, for the reasons set out above, consider that the matters put forward in support of the proposal are not of sufficient weight to clearly outweigh the significant harm that would be caused by this development. Officers do not accept that there are very special circumstances in this case to justify this inappropriate development in the Green Belt.

8.0 Conclusion

- 8.1 The proposed development is a significant departure from adopted national and local planning policy being inappropriate development within the Metropolitan Green Belt. It would therefore be harmful to the Green Belt by definition and other harm has also been identified by virtue of loss of openness; impact on the character and appearance of the area; the isolated and unsustainable location of the site; the impact upon protected trees and landscape character; and inadequate means of safe vehicular access. Against this harm, the benefits of this development appear insubstantial for the reasons set out in this report.
- 8.2 It is therefore recommended that planning permission be refused for the reasons set out at the head of this report.