

# Public Document Pack



Chairman and Members of the  
Development Management  
Committee

Your contact: Peter Mannings  
Extn: 2174  
Date: 15 September 2014

cc. All other recipients of the  
Development Management  
Committee agenda

Dear Councillor,

## **DEVELOPMENT MANAGEMENT COMMITTEE – 17 SEPTEMBER 2014**

Please find attached the following report which was marked “to follow” on the agenda for the above meeting. Please also find attached the Planning Statistics and an appeal decision relating to Longcroft, Monks Green Farm, Mangrove Lane, Hertford.

5. Planning Applications and Unauthorised Development for Consideration by the Committee.
  - (A) 3/13/1925/OP – Outline permission for the demolition of former depot and development of mixed use scheme comprising 316 dwellings of mixed size and tenure (all matters reserved with the exception of access, layout and scale dwellings), 2ha. of land for employment purposes including development within B1(c) (light industry), B1(a) (offices) and/or D1 (non-residential institution) (all matters reserved with the exception of access) with ancillary parking, public open space and landscaping including new vehicular access from London Road; retention of sports club including club house and sports pitches.at the former Sainsbury's Distribution Depot, London Road, Buntingford, SG9 9JR for Fairview New Homes\_(Pages 3 – 56).

Recommended for Approval.

6. Items for Reporting and Noting (Pages 57 – 62).

(A) Appeals against refusal of Planning Permission/ non-determination.

(D) Planning Statistics.

Please bring these papers with you to the meeting next Wednesday

Yours faithfully,

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**MEETING** : DEVELOPMENT MANAGEMENT COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 17 SEPTEMBER 2014  
**TIME** : 7.00 PM

# Agenda Item 5a

**3/13/1925/OP – Outline permission for the demolition of former depot and development of mixed use scheme comprising 316 dwellings of mixed size and tenure (all matters reserved with the exception of access, layout and scale dwellings), 2ha. of land for employment purposes including development within B1(c) (light industry), B1(a) (offices) and/or D1 (non-residential institution) (all matters reserved with the exception of access) with ancillary parking, public open space and landscaping including new vehicular access from London Road; retention of sports club including club house and sports pitches.at the former Sainsbury’s Distribution Depot, London Road, Buntingford, SG9 9JR for Fairview New Homes**

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**Date of Receipt:** 31.10.2013

**Type:** Full – Major

**Parish:** BUNTINGFORD

**Ward:** BUNTINGFORD

## **RECOMMENDATION:**

That subject to the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990 the Director of Neighbourhood Services be authorised to **GRANT** planning permission subject to conditions.

Details of the Section 106 obligations and conditions will be provided to Members at the Committee Meeting.

## **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 (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the ‘saved’ policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies is that permission should be granted.

\_\_\_\_\_ (192513OP.EA)

## **1.0. Background**

- 1.1. The application site is shown on the attached OS extract, and is located on the southern edge of the settlement of Buntingford. The site is bounded to the south by sports pitches/facilities and open countryside, to the east and partly to the west by open countryside and to the north and north west by residential developments in Windmill Hill, London

Road and Olvega Drive. The previous use of the site required a number of buildings of varying sizes and heights and large areas of hardstanding. Some demolition works at the site have begun. The existing site has an authorised B8 use and has been used by Sainsbury's since the late 1960s/early 1970s as their distribution depot. The site has however been mainly vacant for a number of years now.

- 1.2. This application seeks outline planning permission (all matters reserved with the exception of access, layout and scale) for the demolition of former depot and development of mixed use scheme comprising 316 dwellings of mixed size and tenure, 2ha. of land for employment purposes including development within B1(c) (light industry), B1(a) (offices) and/or D1 (non-residential institution) (all matters reserved with the exception of access) with ancillary parking, public open space and landscaping including new vehicular access from London Road; retention of sports club including club house and sports pitches.
- 1.3. The application as originally submitted proposed residential development of 328 new homes. In addition there was to be a residential care home of 65 beds, the development of small business units totaling 2000 sqm of floorspace and the retention of the existing sports ground and pitches with parking and a coach drop off.
- 1.4. In February 2014 amendments were made to the application and the number of dwellings proposed was reduced to 327 and the employment floorspace was reduced to 1700 sqm.
- 1.5. The application was then amended again in July 2014 and now seeks permission for 316 new homes. The care home element of the proposals has been deleted and the employment provision expanded to 2ha in terms of land take. Further details of what this may comprise are set out in the report below where it refers to employment matters. The employment floorspace will be available for B1(c) light industry, B1(a) offices and D1, non residential institution uses. The retention of the existing sports ground remains an element of the proposals, including the club house and sports pitches, and the application now proposes a children's play space adjacent to The Bury. The development as shown on the submitted plans proposes 18 1-bed flats, 43 2-bed flats, 44 2-bed houses, 141 3-bed houses and 70 4-bed houses. As the application is in outline this mix could change, however as the detailed matters of scale and layout are being determined as part of this application, it is unlikely that this mix would change significantly.

**2.0 Site History**

- 2.1 The site has a long planning history. The site appears to have been undeveloped until the Second World War when a Munitions Depot was constructed. In 1959 planning permission was granted for the change of use of the site and its buildings to a storage and distribution depot. The site was purchased by Sainsbury's Supermarkets Ltd in the late 1960s and the site was totally redeveloped in the early 1970s, predominantly including the main warehouse building (the existing western most building). During Sainsbury's ownership of the site there have been many planning applications submitted for various works of varying scales. Of note however is the addition of what is known as the high bay warehouse in the 1980s, and in the 1990s the addition of the southern most warehouse currently on the site. The site has an extant B8 use, and there are no restrictions on the time during which activity can occur at the site.
- 2.2 Outline planning permission (all matters reserved with the exception of access, layout and scale) was granted in January 2013 for the demolition of existing buildings and structures on the site and the erection of a new storage and distribution centre (Use Class B8) with ancillary offices, gatehouse, vehicle maintenance unit, vehicle wash, fuel island, plant, HGV parking and surface car park, alteration of football club access and parking, engineering, landscaping and associated works for Prologis (ref. 3/12/1040/OP). Reserve matters approval has not been sought for this proposal.
- 2.3 An application was submitted to the Council in March 2014 for the consideration of whether prior approval was required for the method of demolition of all buildings on the site with the exception of the clubhouse occupied by the football club and any proposed restoration of the land (ref. 3/14/0542/PD). Based on the information submitted with the application, it was determined that in this case prior approval was not required for the demolition of the buildings on the site.

**3.0 Consultation Responses**

- 3.1 Thames Water commented on the application as originally submitted that the proposals for the management of surface water are noted and are in principle acceptable subject to the necessary discharge approvals. They commented that there was very little information provided as to the impact of the additional foul flows, including a part pumped discharge, on the existing foul sewer in London Road. They requested that the developer should fund an impact study to ensure no increase in the risk of flooding results to existing properties due to the

new discharge from the site. They stated that should the impact study identify that upgrade works are required, it would be expected that these be funded through the sewer requisition process.

- 3.2 In response to these comments, the applicant submitted some additional information. Following consideration of this information, Thames Water commented that it has been demonstrated that the peak wastewater flows from the developed area should be less than those from the former storage depot, and that in respect of sewerage infrastructure capacity they have no objection to the application.
- 3.3 Herts and Middlesex Wildlife Trust (HMWT) commented on the application as originally submitted that there are no statutory or non-statutory designated nature conservation sites impacted by the proposal. The submitted species surveys indicate no evidence of badgers or reptiles using the site, although adjacent habitats are suitable for these species and some habitats on the site fringes provides suitability, so there is possibility these species may use the site in the future. They comment however that no mitigation is required, but standard precautions and due care should be taken. They state that as recommended in the 2013 update report, badger and reptile checks should be regularly undertaken until the commencement of site works to monitor the status of the site in respect of badgers and reptiles. They commented that the bat survey revealed that part of the main building is currently used as a non-breeding summer roost by a small number of common pipistrelle bats, and evidence of past use by other species was noted. The demolition of the building would result in permanent loss of a bat roost, albeit of low nature conservation significance, therefore suitable mitigation and a European Protected Species licence from Natural England will be required to make the demolition lawful.
- 3.4 HMWT comment that the recommendations set out in the submitted ecological reports should be observed, incorporated into later designs and plans for the site (reserved matters stages) and implemented as part of the development, and they recommend that conditions and informatives be used to ensure adherence to these recommendations. They also recommend that conditions in respect of landscaping and biodiversity enhancement; tree protection; timing of removal of trees, scrub or hedges; bat mitigation scheme; a final check survey for badgers and updated ecological surveys if the development is delayed beyond 18 months should be included, and informatives relating to the grant of a European Protected Species Licence and that if any reptiles or bats are found during works, a suitably licensed ecologist should be consulted and mitigation measures proposed and followed.

- 3.5 Natural England commented on the application as originally submitted that they do not object to the proposed development. They commented that the proposed development is likely to affect bats through damage or destruction of a breeding site or resting place. However they are satisfied that the proposed mitigation is broadly in accordance with the requirements of bat mitigation guidelines and should maintain the population identified in the survey report. They recommended that a condition is appended to any consent requiring the submission of a detailed mitigation and monitoring strategy prior to the commencement of any works which may affect bats and or their habitats.
- 3.6 On the amended plans received in February and July 2014, Natural England commented that the advice provided in their initial response equally applies to these amendment and the amendments are unlikely to have significantly different impacts on the natural environment than the original proposal.
- 3.7 The Environment Agency commented on the application as originally submitted that they objected to the grant of planning permission in the absence of an acceptable surface water flood risk assessment. They commented that the applicant had not demonstrated that sustainable drainage systems (SuDS) will be maximised on site, in line with the National Planning Policy Framework para. 103, which requires development to give priority to the use of SuDS, and policy ENV21 of the Local Plan.
- 3.8 On the amended plans received in February 2014, the Environment Agency commented that they are now able to remove their objection, and comment that any planning permission granted should include conditions relating to requirement for a detailed surface water drainage scheme; site investigation scheme to deal with the risks associated with contamination of the site; submission of a verification report demonstrating completion of the approved remediation strategy; unsuspected contamination; scheme to dispose of foul and surface water and a scheme to treat and remove suspended solids from surface water run-off during construction works. They comment that such conditions are necessary to secure the surface water drainage principles agreed and to ensure contamination on site is dealt with and groundwater quality is protected.
- 3.9 On the amended plans received in July 2014, the Environment Agency commented that the updated SuDS plan is in line with what has been previously agreed and is acceptable. In respect of the design calculations, they comment that there is not sufficient detail to be able to tell if the scheme matches the calculations submitted, and whilst they

have no objection to this they would expect the detailed calculations to be submitted at the reserved matters/discharge of conditions stage.

- 3.10 Environmental Health commented on the application as originally submitted that they advise that any permission given shall include conditions relating to construction hours of working (plant and machinery); reclamation of the site should be carried out in accordance with the Geotechnical and Geoenvironmental Interpretive Report and Remediation Strategy dated October 2013; soil decontamination and piling works. They also recommended that directives be attached in respect of noise on construction/demolition sites; contaminated land, dust, asbestos and bonfires.
- 3.11 The Crime Prevention Design Advisor, Hertfordshire Constabulary commented on the application as originally submitted that they have discussed the proposal with the applicant and they have no issues with the proposal and will not be opposing this development.
- 3.12 Hertfordshire Ecology commented on the application as originally submitted that they agree with the species survey methodologies used and the conclusions made in the reports. They state they are happy with the Bat Mitigation Strategy and that a European Protected Species licence will be required from Natural England before building 1 can be demolished; that the site should be reassessed for badgers and reptiles before development commences; site clearance, particularly the removal of scrub, shrubs and trees should take place outside of the bird breeding season; all excavations must be covered over at night to prevent wild mammals from falling in and becoming trapped; new trees and shrubs should be predominantly native species, particularly those that bear blossom and fruit (berries) to support local wildlife and any wildflower seed mix/planting must reflect local species and be suitable for local soils and hydrological conditions.
- 3.13 Minerals and Waste, Herts County Council commented on the application as originally submitted that regard should be had to the policies of the Waste Core Strategy.
- 3.14 Sport England commented on the application as originally submitted that the proposed provision for car parking for The Bury would represent an improvement over the existing situation, and that the provision of a long lease (minimum 25 years) for The Bury is welcomed and supported in principle. Sport England therefore commented that the proposed development would appear to have a positive impact on Buntingford Town FC's facilities, and they do not wish to raise an objection to the application as a statutory consultee. As a non-statutory



consultee, Sport England have commented that it would be more appropriate in this case for the provision of outdoor and indoor sports facilities to be made through financial contributions rather than new provision being made within the residential development. If such financial contributions were not forthcoming they would object to the application. They also commented that mitigation measures are requested as part of the residential development to ensure that the continued use of the football ground does not have an adverse impact on the proposed development from balls from the football ground entering the new properties. It is therefore requested that a planning condition is imposed to ensure that details of such mitigation measures, including boundary treatments and/or ball resistant materials to be used in the proposed development are submitted to and approved by the Council.

- 3.15 Planning Obligations, Herts County Council commented on the application as originally submitted that financial contributions should be sought towards first education, middle and upper education, childcare, youth and library services, as set out in the 'Planning Obligations Guidance – Toolkit for Hertfordshire'. They also comment that fire hydrant provision should also be sought.
- 3.16 On the amended plans received in February 2014, Planning Obligations commented that they are concerns about the scale and number of developments currently being proposed within Buntingford and their cumulative impact on service provision, particularly in relation to education services. They also commented that in addition to the actual number of dwellings being proposed, another key element of consideration is the timing as this will affect the timing and level (as a result of the potential cumulative peak yields) of school place provision required to accommodate the new residents. They comment that planning for the cumulative need generated by the residential developments proposed within the Town in the absence of an overall master plan and housing trajectory will be difficult and complex. They conclude that in the absence of a town wide master plan, the obligations sought from the proposal remain the same as previously identified.
- 3.17 Following the comments above, in August 2014 and in their role as the authority responsible for Education, Herts County Council has submitted a Position Statement in relation to education forecasting and capacity. This is not submitted directly as a consultation response in relation to these proposals, but is clearly relevant. The Position Statement sets out the strategy of the County Council. No objection is raised to additional development coming forward in the town subject to

the provision of funding to enable future expansion capacity to be implemented. Details of the Position Statement and commentary on it are set out in the main body of the report.

- 3.18 Council Engineers commented on the application as originally submitted that the proposal showed insufficient above ground/green infrastructure SuDS, and that the SuDS shown would be difficult and expensive to maintain and will be unlikely to receive the necessary amount of preventative maintenance, which could result in additional flood risk for the site and surrounding areas. They also comment that the lack of above ground SuDS will additionally mean that opportunities to increase landscape/wildlife benefits and to improve water quality and reduce pollution at the site will be lost. They therefore conclude that the development as proposed would not be considered as sustainable construction.
- 3.19 On the amended plans received in February 2014, Engineers commented that the SuDS now proposed would provide good quality drainage infrastructure that would assist with flood reduction, pollution reduction and improve the landscape/biodiversity benefit for Buntingford. They also commented that they hoped the developer would also consider the provision of green roofs across the development.
- 3.20 The Council's Landscape Officer commented on the application as originally submitted that the proposed development represents an improvement (in landscape terms) to what is there at present. However, whilst there are some favourable elements to the proposed site plan and layout, the "initial layout" as illustrated on page 32 of the DAS contains a number of positive features which have not been carried through into the design layout currently submitted for approval, and based on the comments set out below the Officer recommended refusal of the application, based on NPPF paragraphs 56, 57, 58, 61, 64 - in the interests of delivering a higher quality outcome for the proposed development.
- 3.21 In respect of the impact of the development on existing landscaping, the Officer commented that the submitted Arboricultural Development Statement identifies 59 individual trees and 14 groups of trees and states that all peripheral trees will be retained except where the new access is to be created to London Road. The report notes that 10 trees and one small group of trees will be removed to facilitate the development and a further 5 removed for sound arboricultural reasons and that this is mitigated and compensated for by the significant proposed tree planting throughout the scheme, the long term benefit of

which will outweigh the short term loss in terms of future landscape and visual amenity.

3.22 The existing off site and roadside trees/vegetation along London Road are an important landscape feature of high amenity value i.e. category A/B in the BS5837: 2012 Cascade chart for tree quality assessment, being a tree group of particular importance in that it screens the site and provides a green corridor along London Road. However the Arboricultural Development Report has not investigated the required sightlines and visibility splays which may call for the removal of trees, and there is some confusion on the submitted plans which trees are to be retained.

3.23 Turning next to the impact of the proposed development on the landscape, the Officer commented that there are several positive features to the proposed development:

- The central green in the heart of the development;
- Retention of the sports ground and pitches;
- Residential development with back gardens of reasonably generous proportion for the sizes of plots;
- The main access as a tree lined avenue with adequate grass verges;
- A number of the residential roads have street trees as landscape features;
- Curvilinear approach to parking provision e.g. opposite plots 2-6 and 37-40.

3.24 However, they also commented that there are several negative features to the proposed development:

- Some residential roads with no street trees;
- The employment area and commercial units– visually obtrusive from the residential development;
- A number of residential streets with little or no front gardens or amenity soft landscape provision;
- Road junctions and courtyard layouts which fail to meet the minimum benchmark for landscape design:
  1. The square or rectangular area of concrete block paving opposite plots 45,46 and 34-36;
  2. The square of concrete block paving and over use of bollards opposite plots 14, 15;
  3. The square of concrete block paving opposite plots 174, 175;

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4. The functionless expanse of hard surface to front of the commercial units closest to the care home and south of block 5;
5. The block paved carriageway and parking in front of plots 289-292 and 299,300;
6. The parking and carriageway – vehicular dominated area between plots 242-247 and rear of block 6;
7. The area in front of plots 304, 305 and 313,314 - over use of bollards and mixed paving materials;
8. The expanse of carriageway in front of plots 325-328.

3.25 Most importantly, they comment that a number of positive design features/elements of the initial layout illustrated on page 32 of the DAS have not been carried through to the current submission. These are:

- The houses along the southern section of the eastern boundary have rear gardens facing out towards the adjoining countryside. An acceptable relationship with the adjoining countryside and more in keeping with the self contained character of the site;
- The tree screened buffer between the residential and commercial development;
- The residential care home being separated from the commercial units and included within the residential area;
- The Green being centrally located, but arranged instead as a focal point at the end of the vista or axis from the main access road into the site.

3.26 On the amended plans received in February 2014, the Landscape Officer commented that the plans have now clarified the existing trees which are to be retained and protected along London Road, and there are no objections to the proposal on arboricultural grounds therefore.

3.27 The Officer commented that the positive attributes of the development and the amendments are:

- The central green in the heart of the development (without play equipment) which provides good quality amenity open space – dual functionality as dry pond for one in 30 year storm event;
- Retention of the sports ground and pitches;
- Residential development with back gardens of reasonably generous proportion for the sizes of plots;
- The landscaped buffer strip and planting between the employment area and commercial units;
- The principal access road as a tree lined avenue;

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- A number of the residential roads having street trees as a landscape feature;
- Curvilinear approach to parking provision e.g. opposite plots 2-6 and 37-40;
- Fairly generous landscape provision between the proposed care home and the commercial units and car park;
- SUDS provision in the south eastern part of the site.

3.28 They comment that the negative attributes are:

- Some residential roads with no street trees or not enough space to accommodate medium or large trees;
- A number of residential streets with little or no front garden or amenity soft landscape provision;
- The principal access road albeit tree lined, is lacking in space for grass roadside verges or front gardens to dwellings;
- The tandem arrangement for private off street parking is problematic in practice for obvious reasons. This is exacerbated where shared spaces between dwellings have been provided. More generous standards need to be given against buildings in order to allow for the opening of car doors and to allow for larger saloon cars or 4x4's;
- The frontage to the Residential Care Home is dominated by car parking and hard surface area;
- The Play Area Draft Arrangement - Drawing FNH407 (dated 02-04-14) shows most of the central green given over to an equipped children's play area and Adventure Trail - put in as an afterthought. This entirely compromises the amenity value provided by the original central green concept and is poor in site planning and layout terms.

3.29 The Officer comments that the changes to the central green compromises much of the open space and visual amenity associated with the original proposal which along with other elements of the site plan/layout is symptomatic of a general overdevelopment of the site. The Officer maintains their recommendation of refusal.

3.30 The Landscape Officers comments and recommendation of refusal remained the same in their comments on the amendments received in July 2014. The only additional comments related to the proposed play area adjacent to The Bury which they comment is acceptable in site planning and layout terms, but its abuts the employment area car park with no soft landscape interface i.e. with a poor sense of enclosure and with no obvious route or connection to the housing development by way

of footpath or cycleway, etc.

- 3.31 Planning Policy commented on the application as originally submitted that the District Plan identifies this site as a suitable location for residential led development, with a mixture of uses, including employment. However, due to the early stage of the District Plan, the application must be considered in line with the current Local Plan which would not support such a change from employment land to a residential led scheme. They comment however that the site is a brownfield location which is within the identified town boundary, and it benefits from direct access from the A10 at the gateway to the south of the Town. If such a development were to occur around the Town, they comment that this location is preferred.
- 3.32 In respect of employment, the position of the NPPF on the matter is highlighted – ie that employment land should not necessarily be safeguarded, but that sustainable development should be the overall objective. The fact that the application contains a proportion of employment land is welcomed, but they comment that it is imperative that if this application is approved, the employment land element of the scheme is provided alongside the residential development and not left to the end of the build stage.
- 3.33 In terms of the care home, they commented that this would provide a greater range of residential choice in the town, plus it would provide employment opportunities in the service sector. In respect of the existing football club they commented that it is essential that this is retained and adequate access is provided which does not conflict with other uses on the site. Planning Policy also commented that the scheme should ensure sufficient open space with play equipment is provided on site, and they note that the proposal appears to be scant in this regard.
- 3.34 County Highways, Herts County Council initially commented that the level of financial contribution proposed by the applicant fell short of that set out in the HCC Planning Obligations Toolkit. Though it is recognised that this site had a previous traffic impact, the proposed transfer of the primary use of the site to residential does change the nature of the impact on the existing road network and in particular the needs of non car networks and sustainable modes of travel.
- 3.35 They considered that the traffic generation comparison presented by the applicant, which focuses solely on motorised trips and compares past commercial trips against residential, does not represent a fair and reasonable assessment of the planning obligations sum required to

support the mitigation of the full impact of the current application on the highway network. In addition to motorised traffic generation and car parking provision there is a need to reflect increased passenger transport, cycle and pedestrian demand from new residents. They comment that although the information submitted by the applicant recognises the needs of these users and the transport improvements that have been identified by HCC during discussions, the pro-rata reduction in the planning obligations toolkit presented does not provide sufficient funds to cover the cost of mitigating of the overall impact of the development on the highway network and does not ensure that the development is sustainable as required under the NPPF.

3.36 They therefore commented that they would expect the development to deliver each of the transport improvements that have been identified through their discussions as listed below, in line with the planning toolkit:

3.37 As a first strand obligation:

- a facility to support safe access for pedestrians to cross London Road to access the bus stop on the opposite side of the road.

3.38 As second strand obligations:

- the on carriageway cycle route on London Road
- improved bus service to and from the site to the town centre i.e. delivered either as an improvement to the existing 2 hourly bus service running along London Road to increase the frequency to a 1/2 hourly service or alternatively, the direct provision of a dedicated new half hourly bus service at an estimated cost of £120k per annum for a minimum period of 5 years. The bus service is particularly important considering the distance from the proposed development to the nearest rail station.

3.39 County Highways therefore commented that for this application, the full planning obligation calculation would equate to £427,875 (the sum of £130,000 being offered by the applicant).

3.40 Following further discussions on the required mitigation package between County Highways and the applicant, County Highways then commented that a planning obligation contribution of £213,000 and the provision of a splitter island on London Road either side of the site access would be acceptable.

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- 3.41 In respect of the more detailed considerations, the County Council as the Highway Authority have considered the impact of the development on the local highways network in Buntingford. This has been based on a detailed review of the applicant's Transport Assessment, which includes analysis of the traffic impact of the proposals. They have considered the impact of the proposals on highway capacity, highway safety and accessibility.
- 3.42 They also comment that regard has been had to The National Planning Policy Framework (March 2012) which places significant weight on the need to support economic growth through the planning system and the statement within the policy that "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe".
- 3.43 The Highway Authority have commented that they are satisfied that the analysis of the traffic impact of the development will not have a severe adverse effect on the local highway or primary route network and that the future performance of key routes will be maintained. The NPPF places significant emphasis on the need for development to be sustainable and the importance of promoting sustainable modes of travel. Through a proposed Section 106 agreement, they comment that the development includes provision for improvements to the frequency of the local bus service aimed at encouraging travel by sustainable modes and to help reduce resident's reliance on the private car.
- 3.44 They state that this will by no means be suitable for all journeys but a more frequent service will provide a wider choice for residents travelling into the town centre or to other key amenities located along the bus route. Measures aimed at providing improved routes for cyclist and pedestrians are also included in the proposals or are supported by appropriate financial contributions, and these are aimed at encouraging and promoting the use of more sustainable modes of travel by ensuring that the routes have good standards of safety and wherever possible are continuous. They comment that this is in line with both National and County transport policies.
- 3.45 In summary, they comment that the impact of the development on the local highway network has been assessed and has been shown to be acceptable subject to planning conditions and the agreed mitigation proposals. The applicant will be required to enter into an appropriate S278 agreement to deliver the agreed improvements to transport infrastructure as follows:



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- New priority access junction and associated splitter islands on London Road including a proposed new uncontrolled pedestrian crossing refuge island with dropped kerbs and tactile paving;
- Provision of appropriate junction protection in form of parking restrictions for the new priority junction to secure visibility splays. This will need to take into account the impact of the existing lay-by to the south of the new access;
- Improvements to the existing London Rd/A10 roundabout exit lane into site aimed at improving safety for pedestrians.

3.46 In view of the above, the Highway Authority does not wish to restrict the grant of consent subject to the following conditions and the applicant entering into an appropriate Section 106 agreement.

3.47 NHS England have commented on the amended plans received in February 2014 that the current situation in the area is that they have two surgeries that will be affected by the proposed development that, in the opinion of NHS England, do not have the capacity to absorb the additional requirement for general medical services (GMS) should this application be successful. They commented that the development would result in around 916 new registrations and 65 care home registrations. A financial contribution is sought to go toward the reconfiguration, extension or relocation of practices to accommodate the demand generated by the proposals.

3.48 Following further discussions with the NHS on how this funding would be allocated, they have carried out survey work at the Buntingford Health Centre and indicate that an additional 140sqm floorspace could be provided on site, subject of course to planning permission. The service also anticipates the receipt of funding from the Wheatley Home proposals on land to the south of Hare Street Road.

3.49 On the amended plans received in July 2014, NHS England have commented that their previous comments remain relevant, and they remain of the opinion that the two surgeries that will be affected by the proposed developments do not have the capacity to absorb the additional requirement for general medical services, without expansion, should this application be successful. They therefore continue to request that a financial contribution of £196,198 (this is based on a calculation of the space required per general practitioner and the likely additional demand) to support the provision of general medical services.

3.50 The Council's Housing Manager commented on the application as

originally submitted that the development proposed 15% affordable housing which consists of 24% rent and 76% shared ownership. They commented that the Council's policy position is to seek up to 40% affordable housing of which 75% rent and 25% shared ownership. They also comment that they would prefer to see smaller units for rent and that as the scheme is proposed to be developed in phases, they would expect to see affordable housing developed in each phase.

- 3.51 The Housing Manager initially raised concerns with the amended plans received in July 2014 in relation to the mix of the unit sizes; the location of one rental unit and the siting of the affordable housing in relation to the phasing of the development. Some further amendments have been made to the scheme to address these concerns, and the Housing Manager has now commented that the scheme seeks to deliver 22% affordable housing. They comment that this is disappointing as it is below the Council's 40% policy affordable housing policy but the details have been subject to viability testing which has confirmed that this is the appropriate level. They would however expect a Viability Review to be included in the accompanying legal agreement.
- 3.52 They state that the scheme sets out the following breakdown of units: 52 for rent and 18 shared ownership. They comment that the scheme provides a good mix of unit sizes which will meet the needs of applicants on the Housing Needs Register, and that the scheme is well balanced with a steady delivery of both rental and shared ownership units through the 4 phases of the scheme proposed.
- 3.53 They also comment that they are disappointed that there appears to be a clustering of affordable units with the Phase 3 and Phase 4 affordable units adjoining. The Affordable Housing and Lifetime Homes SPD states that peppercotting should occur and that there should be no more than 25 affordable units together. If Phase 3 and 4 are seen together there are 33 units but as standalone phases they are at acceptable cluster levels.

#### **4.0 Town Council Representations**

- 4.1 The Buntingford Town Council commented on the plans as originally submitted that they were disappointed that a valuable employment site will be lost, but note that small business units are planned. They also noted that this is a brownfield site and that development of this site is sequentially preferable to other sites under consideration which potentially harm the town by expanding in inappropriate locations prior to the publication of the District Plan. The Town Council's document 'A consideration of housing development in Buntingford to the year 2031'

notes that this site offers one of the best prospects for future housing development with fewer adverse impacts on those already living within the Town than those presented by other sites under consideration, and for this reason and taking into account policy BUN5 which allows for the possible change of use of the site, the Town Council comment that they do not consider this application represents prematurity in the same context as other sites that have come forward for development in the Rural Area Beyond the Green Belt. They do state however that they would prefer that all development proposals be considered after the District Plan has been published.

- 4.2 Notwithstanding the above comments, they do state that the proposed access to London Road should be at least a similar distance from Olvega Drive to that proposed in the application to redevelop the site for a new storage and distribution centre (ref. 3/12/1040/OP). They also raise extreme concern with the proposed car parking provision, state that consideration should be given to the evidence from the 2011 census and increase the maximum parking space allowance in the town. They comment that the density of the site is considered to be extremely high, and that such a high density will further exacerbate the parking issues.
- 4.3 The Town Council also comment that the developer should give serious consideration to the provision of bungalows within the development; that assurances should be given by the developer that every effort will be made to use the local workforce during the construction period and that a Section 106 agreement is secured for a Work Training Scheme and that a condition should be attached to any permission requiring the proposed B1 use to remain for a minimum period of 20 years. Finally the Town Council commented that they have significant concerns that the cumulative effect of all applications for development in Buntingford would have a serious impact on the town's infrastructure and ability to cope with simultaneous development.
- 4.4 On the amended plans received in February 2014, Buntingford Town Council commented that their previous concerns (set out above) have not been addressed, and they now have further concerns as a result of the amendments. They commented that following the Inspector's comments in the appeal decisions on land to the north and south of Hare Street Road, they are disappointed that the amended plans show a decrease of commercial space. They commented that every possible opportunity to create employment must be taken. The Town Council also raised concerns that more three storey dwellings are now proposed, and they commented that Buntingford is not characterised by three storey dwellings. They also comment that there would appear to

be no provision for any equipped play areas within the development, and serious consideration should be given to this issue. Finally, in addition to the reinforcement of the comments made in their earlier letter, they also comment that the Town Council would welcome any assistance the developer offers to the Football Club as it is a valuable community asset, and they would wish to see such assistance clearly defined within planning conditions.

- 4.5 On the amended plans received in July 2014, Buntingford Town Council has commented that their comments set out in their earlier letters remain relevant. In respect of the recent amendments they comment that the increase in employment land is welcomed but should not come at the expense of the proposed care home. They comment that if the proposal is to site employment space in place of a care home, then additional screening should be provided to protect the visual impact of this site at the gateway to the Town.
- 4.6 The Town Council has also commented that the density remains high. They consider that a lower density could be achieved by building less houses to cater for the increased employment land and therefore leaving the care home as part of the development. They have also commented that they are disappointed that the dedicated parking spaces for The Bury have now been replaced with parking for the commercial buildings, and they request that there is a planning condition included to ensure that the Football Club has the benefit of dedicated parking spaces. The Town Council has commented that their remains a lack of detail of the developer's proposals for the refurbishment of The Bury club house, and that this should be clarified to avoid any misunderstanding and disappointment at a later stage.

## **5.0 Other Representations**

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 20 representations were received on the proposal as originally submitted, and they made the following comments:
- Do not object in principle to the redevelopment of the site, but object to the proposed vehicle access point off London Road. Concerned about noise created by the volume of traffic accessing the development and that the location of the access will be unsafe and cause congestion when residents of Olvega Drive and the proposed new development are accessing London Road in peak traffic times, and does not understand why the traffic cannot utilise

the existing access directly from the A10 roundabout. If an additional access is required it should be located further south on London Road;

- Concerned about the location of the affordable housing within the site and the negative impact on the value of existing properties and any potential disturbance from it;
- Support the proposal which are consistent with the town plan and does not require the destruction of countryside and is visually an improvement on the existing depot as seen from south of the town;
- This is the most sensible and proper use of this former commercial brownfield site;
- Giving permission for this development should enable the Council to refuse or defer all other sites as premature;
- The site could provide road access to other potential sites to the north, parallel to London Road and Station Road, and this would obviate the necessity of providing difficult accesses to these other sites;
- The application is premature as the District Plan has not been agreed or published and it should await the conclusions of this evidenced based assessment of other sites around Buntingford;
- The proposed development is over stocked with houses and has very little open spaces for children to play and enjoy a rural location;
- The density of houses is worse than the Barratt development on London Road;
- The housing stock is standard stock that is not required in Buntingford, and the housing mix is poorly though through in terms of aging population, home workers and employment opportunity;
- Concern that the proposed employment development will not come forward;
- Concern about the length of the lease for the Buntingford Sports Ground and that this part of the site may be used for housing in the future;
- Concern about links to the town centre – no bus service, no cycle lane, narrow pavements in places;
- During the construction phase, all access to the site should be from the main A10 roundabout;
- Adequate safeguards are made for the long term safety of traffic and pedestrians on London Road;
- Question whether something more creative could be considered for elderly people rather than the proposed care home;
- The proposal is contrary to policy EDE1 of the Local Plan, and should the current proposal be approved, and a significant

employment use lost, wider economic and employment potential will be lost;

- The proposal percentage of affordable units falls well below the expectations of policy HSG3, and given the scale of development proposed and the site's location within the defined settlement boundary it should be considered essential to meet the Council's required proportion of affordable homes, so as to provide a properly balanced form of development and mix of tenures;
- The submitted Assessment of Future Employment Potential is not sufficiently robust to warrant the loss of one of East Herts most extensive employment sites;
- The level of future residential growth anticipated in Buntingford should be supported by a sufficient range of employment opportunities, and this proposal would reduce the potential to provide a range of employment opportunities for the existing and prospective population, such that the proposal is not sustainable development;
- The proposal offer employment opportunities and some affordable housing;
- There are insufficient footpaths within the site;
- The application would retain the football facility and offer a long term lease;
- The developer should give a lot back to the people of Buntingford;
- An adequate period of time for the marketing of the new distribution depot (ref. 3/12/1040/FP) has not elapsed as a test of demonstrating the site is no longer suitable or viable for any alternative employment generating use;
- There seems to be no evidence that the use of the site B1 or B2 uses has been thoroughly tested;
- The appeal inspector in determining the appeals for development on land to the north and south of the Hare Street Road, commented in the appeal decision that the loss of this employment site requires careful consideration;
- The site is the most sustainable for employment in the area, but over half of it is more than 800 metres from the Town Centre, thus not really sustainable for residential use;
- If the site is changed to residential then 10.5 hectares of replacement employment land needs to be found and that can only be on current green fields.

5.3 4 representations were received on amended plans and documents received in February 2014, and they made the following comments:

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- The density of the development remains a urban design set in a rural location and does nothing for making Buntingford a nice place to live;
- Concerns remain in respect of density, housing stock, housing mix, employment, links to the Town Centre;
- This proposal should be considered in relation to the Wheatley Homes and Taylor Wimpey proposals in terms of easterly connecting route, cycle lanes, landscaping, hopper bus, employment, education, etc;
- Proposals for the mixed use of this site is the most viable;
- Concern about sustainable transport to the town centre and suggest funding is set aside for a safe cycle way such as along the former rail track;
- Continued concerns about the access onto London Road and the lack of parking proposed;
- Concern in relation to the proximity of some of the dwellings to the football pitch and the impact on the amenities of the future residents from noise and disturbance from users of the football pitch.

5.4 At the time of writing, 2 representations have been received on the amended plans and documents received in July 2014, and they made the following comments:

- The employment proposed barely meets the need for employment identified in the Wessex Economics Report, and Fairview should be told to provide 3 hectares of employment land;
- The density of the development should better reflect a rural location and the development should provide significantly more open spaces for children to play and amenities like youth and leisure facilities;
- The proposal should deliver B1 use as this was the need identified in the Buntingford Employment Study;
- If permission is granted, Fairview should be obliged to construct employment floorspace on a phased basis linked to the occupation of dwellings, for example no occupation of more than 100 dwellings until 50% of the employment floorspace is built, and this should be enforced by Section 106 agreement and conditions.

5.5 Buntingford Civic Society commented on the proposal as originally submitted that they would prefer to see development on such a brownfield site rather than on greenfield sites outside of the Town. They considered that the proposed density was too high for a town gateway development, and that the design and layout appears too

cramped and does not reflect one important characteristic or other post war developments in the Town.

- 5.6 They commented that the number of car parking places proposed is significantly too low for a development in a place such as Buntingford and the result of too few parking spaces will be a high level of on street parking restricting traffic flow and endangering safety. The Civic Society also commented that the type and mix of housing proposed does not come close to meeting the profile shown as being required by the strategic market housing assessment carried out by East Herts, and there is local interest in seeing more bungalows built in the new developments around the Town – this application does not propose any.
- 5.7 They also comment that little consideration appears to have been given to the question of good access to the Town Centre and encouraging walking or cycling for this purpose, and that with the distance to current children’s play areas being quite considerable, they would wish to see greater provision for such facilities on site. They concluded that whilst they do not object to the principle of mixed housing and employment development on this site and regard it as one of the most suitable sites for development, they do not wish to see the current proposal approved for the reasons outlined above.
- 5.8 On the amended plans received in February 2014, Buntingford Civic Society commented that the changes made do not significantly address any of the concerns that they expressed in their original letter on the application (comments set out above). They also comment that if this application were to go ahead, it would mean more than 760 houses being built in the next five years, in addition to the 271 that have already been built or granted planning permission since 2011. They consider that this rate of building would be unsustainable, and that the education and other services needed to support such growth will not be in place.
- 5.9 The Chairman of the Buntingford Cougars Youth Football Club commented on the plans as originally submitted that the application offers long term security to The Bury football facility.
- 5.10 Buntingford Sports Club commented on the plans as originally submitted that they support the application as the site is now an eyesore and a waste of good land that could be put to very good use in providing homes and businesses for the town.
- 5.11 Buntingford Action for Responsible Development (BARD) commented on the amended plans received in February 2014 that they have



serious concerns on the wider planning issues that the Town is now faced with and the cumulative effect on infrastructure and sustainability of the Town. They also raise concerns in relation to the density of the development; the mix and type of housing; the proposed number of parking spaces; the siting of the access onto London Road; the lack of equipped play area and the reduction in employment space. BARD conclude that under the current circumstances they believe the application should be refused on the grounds of conflict with the adopted Local Plan policy for the site and with the emerging District Plan housing strategy.

## **6.0 Policy**

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

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
HSG1	Assessment of sites not allocated in this Plan
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR4	Travel Plan
TR7	Car Parking – Standards
TR8	Car Parking – Accessibility Contributions
TR12	Cycle Routes – New Developments
TR13	Cycling – Facilities Provision (Non-Residential)
TR14	Cycling – Facilities Provision (Residential)
EDE1	Employment Areas
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV11	Protection of Existing Hedgerows and Trees
ENV16	Protected Species
ENV18	Water Environment
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV24	Noise Generating Development
ENV25	Noise Sensitive Development
ENV27	Air Quality
LRC1	Sport and Recreation Facilities

LRC3	Recreational Requirements in New Residential Developments
BUN5	The Former Sainsbury Distribution Depot
IMP1	Planning Conditions and Obligations

6.2 The National Planning Policy Framework and National Planning Policy Guidance (NPPG) are also a consideration in determining this application. Members will be aware that, due to the draft nature of the District Plan, limited weight can currently be applied to its policies.

## **7.0 Considerations**

7.1 The determining issues in relation to this application are as follows:

- Principle of development, sustainability and loss of employment;
- Provision of housing;
- Impact on infrastructure – education, highways and health;
- Scale, layout and visual impact;
- Impact on neighbour amenity;
- Water environment and sustainable drainage;
- Ecology;
- Other matters.

### **Principle of development, sustainability and loss of allocated employment site in total**

7.2 The application site lies, in the main, within the built up area of Buntingford as set out in the East Herts Local Plan 2007, wherein there is no objection in principle to development. The southern most part of the application site which includes the existing football pitch and associated land; a proposed terrace of four dwellings with associated car parking and turning and a proposed pond, all lie outside of the settlement boundary of Buntingford and are within the designated Rural Area Beyond the Green Belt. The existing football pitch is also designated in the Local Plan as LRC1 land (existing playing fields/open space/recreation areas).

7.3 The application site (excluding the southern most part as described above) is designated as an Employment Site in the Local Plan, wherein policy EDE1 states that such sites are reserved for industry, comprising Use Classes B1 (Business), B2 (General Industrial) and, where well related to the transport network, Class B8 (Storage or Distribution). Policy BUN5 of the Local Plan relates specifically to the application site and states that:

*In accordance with Policy EDE1, the Former Sainsbury Distribution Depot is primarily reserved for B8 Storage and Distribution Uses.*

*Proposals for the alternative use and/or development of the site will be considered against the recommendation of the latest Employment Land Study for East Hertfordshire.*

*In the event that the retention of the whole or part of the site for B8 Storage and Distribution Use has been explored fully without success evidence must be supplied to the satisfaction of the District Council to demonstrate this.*

*Any proposed alternative use and/or development of the site will be expected to be subject to a Development Brief prepared or approved by the District Council.*

- 7.4 The NPPF sets out that there are three dimensions to sustainable development and that the economic role gives rise to the need for the planning system to contribute to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation. Pursuing sustainable development involves making it easier for jobs to be created in cities, towns and villages.
- 7.5 At the heart of the NPPF is the presumption in favour of sustainable development and, for decision taking, that means, where the development plan is absent, silent or out of date, granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. At para 22, the NPPF sets out that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. In relation to this site, that prospect has been tested through the assessments of both the applicant and the Council as set out below.
- 7.6 In the case of these proposals then, the Councils policies are not absent or silent. Its Local Plan has policies that specifically relate to this site. The proposals can be judged against them. However, to ensure that appropriate weight is assigned to them, the Council has also sought recent advice in relation to the employment potential of the site and this is referred to below.
- 7.7 When judged against the Local Plan then, whilst this application does propose that some 2ha of land would be provided for employment purposes (in the south western corner of the site, to the north of the

existing football pitch and clubhouse), the majority of the site is proposed to be developed for residential purposes. This does not accord with policy EDE1. However, assessment is required also against the further policy position set out in policy BUN5. Details in relation to the employment potential of the site are set out in the following paragraphs.

- 7.8 The applicant has submitted with the application an Assessment of Future Employment Potential from Jones Lang LaSalle (October 2013) and at the request of the Council further work has been undertaken by the applicant and some additional correspondence from Jones Lang LaSalle and a commercial viability report from Coke Gearing (January 2014) has been submitted.
- 7.9 In summary these documents indicated that the site is not a suitable site for major industrial/distribution development; the site has been on the market since 2003 with negligible interest; the take up of space in East Herts has been and continues to be dominated by smaller sized units (between 2008 and 2013 37.1% of deals were units less than 3,000 sqft (approx. 278 sqm)); there is an imbalance of supply and demand with a shortage of smaller units; the provision of some employment space on the Sainsbury's Depot site (based on 1,700 sqm) would be commercially viable and would provide much needed additional stock serving a largely local market demand and address a particular need for higher quality premises.
- 7.10 The Council has commissioned an independent consultant, Wessex Economics, to examine the scale and scope for employment related development in the town of Buntingford. Specifically they were asked to consider:
- the extent of employment growth required in Buntingford in association with the growth in population generated by the recent grant of planning permissions and the future development required through the District Plan;
  - how and where employment growth can be delivered in the town;
  - In relation to the former Sainsbury's depot site (which is an allocated employment site in the current adopted Local Plan) to inform the Council with regard to: the likelihood of the site being used by a single employer; the adequacy of employment generating development proposed as part of the application in terms of location and quality; and, the likelihood that the proposed scale of development will be taken up.

7.11 The final report of the Buntingford Employment Study was submitted to the Council in June 2014, and at the District Plan Executive Panel on 17 July 2014 it was agreed as part of the evidence base to inform and support the East Herts District Plan and for development management purposes in the determination of planning application.

7.12 This Study has concluded that:

- The majority of residents who live in Buntingford and who are in work travel out of Buntingford to their place of employment;
- The employment base of Buntingford has fallen significantly in the last decade, from in excess of 2,00 people in the period 2008-2004, to its current level of around 1,300 jobs;
- While the population of Buntingford grew very little between 2001 and 2011, the population of the town will grow substantially in the next decade, and depending on the scale of new housing, it can be expected that the total number of residents in employment will grow by between 690 and 1,625 people;
- A single business user is unlikely to be found for the site, and there is no realistic prospect of the entirety of the site being required for employment purposes, given the essentially local character of demand for employment floorspace in Buntingford;
- It is recommended that 2 to 3 ha of the former Sainsbury's Depot site should be retained for employment uses to take into account pattern of take up of employment floorspace in East Herts District, evidence presented by Fairview Homes on the viability of development, and the desirability of achieving a better balance between resident population and local employment opportunities;
- The former Sainsbury's Depot site is the best location for further development of employment floorspace in Buntingford in terms of location, existing access arrangements and the availability of essential infrastructure;
- A 2 ha retention of employment land on the Sainsbury's Depot site, incorporating Fairview's initial proposal of 1,700 sqm of development on 1.2 ha, could deliver 5,560 sqm of mixed B1 business space and could lead to the creation of around 300 jobs (full and part time). A 3 ha retention of employment land could deliver 10,380 sqm of mixed B1 business space, and could lead to the creation of around 515 jobs (full and part time);
- It is envisaged that the site could also attract a number of businesses that would create jobs but would not be deemed to be B class uses; for example vets and doctors surgeries, gyms and alternative therapy centres and nurseries;
- EHDC will need to work with the developers of the former

Sainsbury's Depot site to develop an attractive environment for businesses that is well integrated within the overall mixed use development;

- If Fairview Homes are willing to commit to the construction of new employment space as part of the overall development scheme (as distinct from simply promoting or marketing retained allocations) EHDC needs to ensure that there are enforceable conditions that determine the timing and quality of the employment development to be delivered;
- If Fairview Homes are not committing to the construction of new employment floorspace, conditions should be placed on any developer of the site that they ensure that the employment site is effectively promoted and marketed.

7.13 Turning firstly therefore to the issue of the retention of the whole site for B8 purposes as required by policies BUN5 and EDE1 of the Local Plan, it is clear from the submissions by the applicant's consultants and the findings of the Buntingford Employment Study that there are no realistic prospects of securing a single large business occupier for the site. The Employment Study states that B1 office floorspace accounts for most of the anticipated growth in employment floorspace in East Herts District, and no office developers would be interested in a 12 ha development site. The Study also states that there is clear evidence why large distribution operations will look to locate in the A1(M) or M11 corridors, and that proximity to a motorway junction is a key factor in location of distribution centres as well as access to a large labour force.

7.14 It is noted that some third party representations received have raised concerns with the loss of this employment site, and question such a loss so recently after the planning application by Prologis for a distribution depot on the site (ref. 3/12/1040/OP). The information from Jones Lang LaSalle submitted as part of the application states that in 2010 Sainsbury's appointed a number of Development Managers to review and potentially undertake redevelopment of various JS distribution facilities. Prologis was appointed in relation to the Buntingford site with the brief to secure planning permission in order to establish a base value for the site as an employment site.

7.15 Prologis obtained planning permission for the redevelopment of the site in January 2013, and during the planning process both Prologis and Cushman and Wakefield continued to market the site. The only potential interest in the site in the last 3 years has been from Poundland, however Poundland ultimately rejected this site and decided to relocate in Harlow. Jones Lang LaSalle state that the principal factor for the rejection of this site was a very grave concern

over potential noise levels which would emanate from a distribution facility operating 24/7 365 days a year. There was a concern this would create serious operational issues and problems. This was heightened by the fact that the site has remained vacant and underused for over 10 years and therefore the local community have become used to a very quiet or even silent site.

- 7.16 Fairview acquired the site in June 2013 and Officers do not have any evidence that the marketing of the site for employment purposes has been continued following that acquisition. This is obviously unfortunate in light of the recent permission for the distribution depot. However, taking into account the submissions on behalf of the applicant and the findings of the Buntingford Employment Study, Officers consider that it very unlikely that a single occupier for the site would be found or that the whole of the site could be retained for employment purposes.
- 7.17 Policy BUN5 does state that proposals for the alternative use and/or development of the site will be considered against the recommendations of the latest Employment Land Study for East Hertfordshire, and taking into account the findings and conclusions of the Buntingford Employment Study.
- 7.18 In that respect the application as originally submitted proposed some 2,000 sqm of small business units in Class B1 and a residential care home of up to 65 beds. The applicant revised the application in February 2014 and reduced the extent of the proposed business units to 1,700 sqm (this amendment was undertaken by the applicant to seek to address the requirements for a sustainable drainage scheme for the site and concerns raised by Officers in respect of the proposed site layout).
- 7.19 As indicated, a subsequent amendment to the application (July 2014) has now increased the employment element to 2ha in area. This is at the expense of the initially proposed care home element. The application overall is in outline form. However, sufficient information has been submitted to indicate that a 2ha area of land for employment uses can potentially offer up to 8,550sqm of floorspace. Using employee ratios that are compatible with those of the Councils consultant, this could realise between 288 and 400 jobs in total (full and part time).
- 7.20 Members will note above that the Councils consultant recommended that between 2ha and 3ha of land be safeguarded for employment purposes, with the potential to create between 300 and 515 jobs in total (full and part time). The recommendation with regard to the

safeguarding of land is not met in full, but it is considered that there is significant potential to implement here employment generating development which will impact beneficially on the sustainability of the town.

- 7.21 The applicant has submitted a viability assessment report in relation to the proposals. This is referred to with regard to the extent of affordable housing provision, but is also relevant here. The development of this site requires significant costs to be met with regard to the demolition and removal of the current buildings, site remediation and decontamination. There has been commentary that, given the current policy status, the site should be prevented from being developed for other uses, notwithstanding the policy either of the NPPF of the Local or emerging District Plan. However, if that were the approach to be adopted there would still be very significant costs to be met with either bringing up the current buildings to modern standard to make them attractive to commercial occupiers, or demolishing them and replacing solely with new commercial buildings. The employment provision being put forward by these proposals needs to be judged bearing in mind these significant and specific costs.
- 7.22 The commitment of the applicant currently is to safeguard this land and to market it for employment uses sought. It is not to be constructed speculatively in anticipation of potential occupiers. This is a reasonable approach, and one that the Council has accepted elsewhere, given both the longer term nature of the market for these uses and the potential for bespoke design and build requirements of future occupiers. Any legal agreement however will include the requirement for a promotion and marketing strategy to be agreed with regard to this element of the site and an agreed time period.
- 7.23 Members may note, from a later report on this agenda, that Officers are recommending that applicants in relation to other development sites in the town also support the provision of employment uses on this site. A feasible way in which that support could be directed is to assist with the preparation and implementation of the marketing strategy in relation to this site. In addition, in the Employment Study, the Council's consultants set out a range of other interventions that can be taken up by the Council and other organisations, such as the LEP (Local Economic Partnership), to support delivery. Any support provided by other developer parties could be directed in this way.
- 7.24 It is probably also useful to consider wider sustainability issues here. These were subject to consideration by the Inspector who dealt with the appeals relating to land north and south of Hare Street Road in Dec



2013. The Inspectors views are relevant here as the use of this site for employment purposes formed part of the basis to his decision making on sustainability matters.

- 7.25 The Inspector noted that development contributes to a strong and competitive economy, particularly important in times of economic austerity. Since the appeals were dealt with in late 2013, economic activity has improved generally and the requirement for development to support the economy would not appear to be as pressing.
- 7.26 Buntingford has a range of services and facilities and development would assist in supporting them. The Inspector noted however that the town already shows all the signs of a vital and viable centre. Since that time, in addition to the 160 units permitted through the appeals, the Council has resolved to grant a further 180 on land to the north, providing further support to the town
- 7.27 He noted that, despite their quality, the facilities in the town are not sufficient to sustain the local population. Residents travel elsewhere for some main food shopping and comparison shopping. It is unlikely that this travel will be other than by private car. When considering employment, the Inspector noted that there is insufficient to sustain the local working population. Unless new employment can be attracted to the town, a significant amount of new residential development is unlikely to be environmentally sustainable. Whilst these proposals do enable the potential for employment related development, it is acknowledged that many will continue to travel outside the town to seek work.
- 7.28 When summing up on sustainable matters, the Inspector noted that the emerging District Plan suggests a requirement for at least 500 new homes in the town. Because at the time of the appeals there would still have been a shortfall in relation to this threshold he reduced the negative weight he assigned to the proposals on the basis of access to jobs and higher order services. If these proposals are permitted, then over 600 units will have been supported and this notional threshold reached.
- 7.29 He assigned positive weight because of the provision of affordable housing. On this site, 22% provision for affordable housing is being made. At the time the Inspector set out that the appeal sites would contribute to housing need at a time when the means to create affordable housing on a large scale is limited. Since that time of course, in addition to the sites at Buntingford, the Council has resolved to support development at Bishop's Stortford north – which will also

generate significant affordable housing provision.

- 7.30 As set out above, a small part of the application site lies outside of the development boundary of Buntingford and is therefore within the Rural Area Beyond the Green Belt. Members will be aware that the erection of new dwellings within the Rural Area is inappropriate development and the application proposes 4 dwellings and a new pumping station within the Rural Area. There is a commentary set out below in relation to the provision of housing and the weight that is assigned to the requirements set out in the NPPF in the absence of adequate land supply. In its own right, this matter weighs significantly against seeking to impose the restrictive policies set out in the Councils current Local Plan. In addition, in this case and in visual terms, this part of the site is currently hardsurfaced and forms part of the existing use of the site as a storage and distribution depot.

Conclusion on principle, sustainability and loss of employment site in total

- 7.31 In concluding previously in relation to Hare Street Road, the Inspector set out that, despite the likelihood of a high use of the private car for journeys outside the town, in the round he considered the proposals there to be better than neutral. It is considered that circumstances are now changed from the time when the Inspector made his decision previously. The requirement for support to the economy has diminished, albeit that these proposals have the potential to provide direct support. Development has already been permitted which will support the town and deliver affordable housing both here and elsewhere. Education and highways matters are dealt with separately in more detail below. It is considered that, in relation to each of these matters a position can be reached where the impact of the proposals will be acceptable in policy terms.
- 7.32 The site is identified for employment purposes in the current Local Plan and, with regard to the NPPF the Councils policies are considered to be relevant. However, the Council has also acknowledged the need to ensure that the consideration of these proposals is informed by updated advice in relation to employment matters. With regard to the Employment Study, the proposals are considered to perform well, with the potential for the creation of between 288 and 400 jobs in total, albeit that the land is reserved for that potential development, rather than it being brought forward now. In the light of the direction of the policies in the Local Plan, including BUN5, and the NPPF, this aspect of the proposals is to be assigned significant positive weight. Notwithstanding the comments of the Councils planning policy officers, it is considered

that the site can be brought forward for development in the form proposed now, without having an unacceptably harmful impact.

Provision of housing

- 7.33 This application proposes the development of 316 new homes. The most recent Annual Monitoring Report (AMR, released in Feb 2014) predicts land supply for the 2014/15 to 2018/19 five year period. With an annual requirement of 660 new homes (the figure remaining in use prior to the introduction of updated District Plan figures) 3.4 years of supply are identified. This takes into account the requirement for a 5% buffer, brought forward from later in the forthcoming plan period.
- 7.34 The NPPF sets out the requirement for the Council to identify the supply of land for five years worth of housing against its identified needs. As indicated, the AMR is based on the requirement figures that remain in place from the previous East of England Regional Plan. That Plan is now revoked and the Council has consulted on a draft District Plan with an annual requirement of 750 dwellings. Little weight should be assigned to this higher figure at this stage. However some further calculations are set out below using both the previous 660 and potential 750 figures to ensure that a range of circumstances are considered and for the purposes of robustness.
- 7.35 On the supply side, the AMR takes into account permissions known at the time of its preparation. Members will be aware that, since that a number of significant permissions have been granted. Details of these are as follows:

	Number of dwellings
Land at Mill Road, Hertford	107
Former Police Station site, Ware Road, Hertford	85
Land north of Buntingford	180
Land south of Hare Street Road, Buntingford, Area 1	100
Land north of Hare Street Road, Buntingford	160
Sovereign House, Hertford	84
TOTAL	716

Not all of these units will be implemented within a 5 year timescale but, based on information supplied by developers and an assessment of possible delivery over a 5 year period, a reasonable assumption is that a further 600 units may be delivered. In addition, Members will also know that the authority has resolved to support development at Bishop's

Stortford north. This is a significant development site of up to 2600 new homes. In relation to that site, the development consortium is working to a delivery timescale more ambitious than that included in the AMR. To reflect this, an additional supply of 300 units from that site within the 5 year period is considered reasonable.

7.36 With this additional delivery possibility, review of supply against need can be undertaken against the following requirements:

- Requirement of 660 per year with 5% buffer:  $(5 \times 693) = 3465$
- Requirement at 660 per year with 20% buffer:  $(5 \times 792) = 3960$
- Requirement at 750 per year with 5% buffer;  $(5 \times 788) = 3940$
- Requirement at 750 per year with 20% buffer:  $(5 \times 900) = 4500$

	Predicted supply	Number of years of supply			
		At 660 per year + 5%	At 660 per year + 20%	At 750 per year + 5%	At 750 per year + 20%
Current AMR projections	2340	3.4	3.0	3.0	2.6
AMR projections plus further permissions and reassessment in relation to BSN	3240	4.7	4.1	4.1	3.6

7.37 The Councils view is that there has not been persistent under delivery of housing in the district in the past and therefore the application of a 5% buffer is appropriate when considering the figures above. Basing the projection on the lowest housing requirement figures and applying a 5% buffer, when further housing permissions are factored in over and above those currently identified in the AMR, then the Council remains unable to demonstrate a 5 year supply of housing land.

7.38 Assessments that are based on higher housing requirements and with a greater buffer requirement result in more limited land supply projections. In addition, testing of these assessments indicates that under supply in the past will need to be factored in. During the last five years delivery in the district has been affected by national economic conditions. Judged against the annual 660 figure there has been an undersupply across that period of around 960 dwellings. When this is included the inability to demonstrate a 5 year supply position is

exacerbated.

7.39 In addition to the presumption in favour of sustainable development, the ability to afford weight to the emerging District Plan is also addressed in the NPPF at paragraph 216, which states that:

“From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”

7.40 Whilst a draft version of the Council’s District Plan has now been published and subject to consultation, is not at an advanced stage of preparation. The feedback to that consultation has not been considered formally, but the level of housing development overall and the allocation of land for development in the plan have been the subject of considerable response. At this stage then, little weight can be given to policies that relate to these matters in the emerging District Plan.

7.41 Further guidance in respect of prematurity is provided in paragraphs 17-19 of The Planning System: General Principles (2005). This states that:

“In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A proposal for development which has an impact on only a small area would rarely come into this category.”

7.42 Officers have considered this advice carefully. The DPD (development plan document) against which this advice must be considered is the District Plan – which relates to the whole of East Herts of course. Whilst the scale of development being brought forward in Buntingford is acknowledged, it is considered to remain un-prejudicial in relation to the

scale, extent and location of development overall in the District Plan. In that respect it is considered that the proposals are not so significant that they could be considered premature.

- 7.43 The application proposes 18 1-bed flats (5.7%), 43 2-bed flats (13.6%), 44 2-bed houses (14%), 141 3-bed houses (44.6%) and 70 4-bed houses (22.1%). In comparison to the requirements of policy HOU1 in the Draft District Plan, the number of 1-bed units is somewhat on the low side, and the number of 4-bed units on the high side. However, Members will be aware that limited weight can be attached to that policy at this stage. Taking into account the mix of dwelling sizes proposed by this application, and in particular the number of 2 and 3-bed units proposed, Officers do not raise any concerns in relation to the mix of dwelling sizes in this case.
- 7.44 The application proposes some 22% affordable housing. Members will be aware that this is less than the 40% which policy HSG3 seeks. The application as originally submitted proposed 15% affordable housing based on viability grounds. The application was accompanied by a viability assessment which the Council have had independently assessed. This independent assessment concluded that if a policy compliant scheme was proposed the development would not be viable, however they did consider that up to 22% could be provided and the development remain viable.
- 7.45 The Council's Housing Manager has been involved in discussions throughout the consideration of the application, particularly in relation to the mix of housing tenure and size. Whilst the development proposes less affordable housing than the maximum 40% aspiration of the Council's policy, they acknowledge that the details have been subject to viability testing which has confirmed that this is the appropriate level. They do however comment that they would expect a Viability Review to be included in the accompanying legal agreement to ensure that if any changes in financial circumstances do occur, the provision of affordable housing can be reassessed.
- 7.46 In respect of the breakdown of units, both in terms of the tenure and size mix, the Housing Manager has confirmed that they are acceptable.
- 7.47 Whilst the Housing Manager has commented that there appears to be a clustering of affordable units due to the Phase 3 and Phase 4 affordable units adjoining each other. The Affordable Housing and Lifetime Homes SPD states that peppercotting should occur and that there should be no more than 25 affordable units together. If Phase 3 and 4 are seen together there are 33 units, however as standalone phases

they are at acceptable cluster levels. In relation to the location of the affordable units in Phases 3 and 4, it is considered that the siting will have a limited overall impact, and that the location in relation to the phasing of the development does mean that affordable housing would be provided as part of each phase of the development (allowing for a steady delivery of both rental and shared ownership units through the 4 phases of the scheme). Given this, Officers do not raise any objection to its location.

- 7.48 Members will have noted that the 65 bed care home element of the scheme initially proposed has been deleted when further amendments were submitted in July 2014. The land take for the proposed care home has been given over to potential employment uses. All of these elements have a role to play in the sustainability of the development and the town overall. Whilst there is evidence in the general sense with regard to the need to ensure that the needs of the increasing elderly population are met, there is no specific evidence available to the Council on current or future demand in Buntingford.
- 7.49 Proposals have already been accepted by the Council for the provision of a facility of this nature through the development of the land to the north of the town (50 – 60 bed care home, outline permission 3/13/1375/OP). Existing facilities are also available in the town. In the absence of specific evidence with regard to the current and future need, it is not considered that the loss of this element of the proposals will render them unsustainable.

Impact on infrastructure – highways, education and health services

Highways

- 7.50 The development of an additional 316 dwellings in this part of Buntingford is likely to have some impact on the local highway network. A detailed Transport Assessment (TA) has therefore been undertaken and submitted, and together with those submitted in relation to other sites, these assess the cumulative effect of development traffic on the town, taking into account future growth. The reports conclude that the increase in traffic will not have a significant adverse effect on the operation of local junctions, and they will continue to operate within capacity. No objection has been raised by the Highway Authority in response to the submitted Transport Assessment – it recommends approval subject to a number of conditions and a Sustainable Transport funding contribution, which is agreed by the applicant (County Highways have commented that such a contribution is to be used to improve the accessibility of the site, including the provision of a

cycleway on London Road and improvements to local bus services).

- 7.51 Officers are aware of the considerable strength of local concerns in relation to the cumulative impact of development proposals in the town on the highway network. It is also appropriate to weigh in the balance in this matter that, when commenting on the proposals set out in the draft District Plan, the Highway Authority referred to the DIAMOND transport modeling that had been undertaken. This indicated that at some point between the development of 500 units and 2000 units in the town, there would be a point where the impact on local roads would be significant.
- 7.52 To assess the impact of individual development proposals and possible cumulative impacts, an independent highway consultant has been commissioned by the Council to review all the recent significant planning proposals that have been put forward. The consultant, JMP, confirms that the work undertaken in support of these planning applications is largely robust and can be relied upon in terms of their conclusions. However they advise that whilst these proposals have demonstrated that their highway impacts are not severe, some of the highway network is showing the effects of cumulative impact from recent developments, and they recommend further modeling work to provide a more precise indication of the tipping point at which housing growth will exceed the highway's capacity. This supports and provides a 'sense check' of the position adopted by the Highway Authority.
- 7.53 The TAs in relation to each site are largely robust. Each takes into account a range of future potential development scenarios, factoring in the potential range of development around the town. Whilst the TAs are considered lacking in some respects, the advice from the Councils consultant is that further work is unlikely to result in a change to their conclusions.
- 7.54 Members will be aware that the NPPF test in relation to the impact of development on highways and transport matters is 'severe' after all mitigating measures have been employed (para 32). In this case, despite the potential cumulative impacts being described as 'significant' the potential to deploy mitigating measures has not been fully explored.
- 7.55 To ensure that all uncertainty in relation to impact and the measures that can be implemented to mitigate this can be avoided, further modelling work is required. It will enable a fully informed decision to be reached as to the scale of the impact of the cumulative proposals on the highway network and whether, following the consideration of appropriate mitigation measures, that impact can be considered severe.



- 7.56 Officers have asked the appellants in this case, and other developer interests, to engage with it and the Highway Authority to undertake this additional work. The applicant has recognised the value of doing so and has offered to provide funds to enable modeling work of this nature to be undertaken. Officers do consider that the risk that it will demonstrate severe conditions, after mitigation measures have been employed, is low. However, the applicant has also offered phasing constraints to further address this. These are that no more than 100 new homes would be occupied prior to the completion of modeling work and that any funding required to implement additional mitigation measures identified by the modeling, proportionate to the development at the site, shall be sought by the Council through reserved matters applications for phases beyond the first 100 units.
- 7.57 The independent advice the Council has received in relation to highway matters indicates that, whilst there remains a unknown in relation to the ultimate impact of all the development proposals that may come forward, the potential for a severe impact is limited and in relation to the key junctions – the London Road and Baldock Road junctions with the A10, mitigation measures are possible. The approach being proposed in this case therefore, to manage the quantum of development coming forward in advance of clear and agreed steps to ensure the final investigation and resolution of this matter, is an acceptable one.
- 7.58 This application proposes a new vehicular access onto London Road with refuge islands being provided within London Road. This will provide access to the residential element of the development. County Highways has not raised any objections to this new access, and Members will be aware that a new access onto London Road was agreed as part of the Prologis application in 2012. Taking into account the comments of County Highways, Officers raise no objection to the proposed access subject to the conditions requested by Highways i.e. provision of visibility splays.
- 7.59 The application proposes 682 car parking spaces of which 103 spaces are proposed to be provided within garages. Having regard to the Council's parking standards, a maximum of 680.25 spaces should be provided within the site, based on the mix of dwellings shown on the submitted plans. The application therefore proposes an overall parking provision which is very slightly greater than the maximum standards require. Whilst the concerns of third parties and Buntingford Town Council have been noted in relation to parking, having regard to the level of parking proposed, Officer do not have any evidence that the level of parking provision proposed would result in harm to highway safety in this case.

7.60 It is noted that reference has been made to the Barratt development on London Road and concerns within on street parking within that development. In that case the application proposed only 84% of the maximum policy requirement. Furthermore, in relation to the development proposed, the street layout has been designed with laybys within the street for parking and street trees which will limited on street parking in other locations. Taking into account therefore the number of parking spaces proposed for this development and the design of the street layouts, it is considered that the level of parking proposed is acceptable in this case.

### Education

7.61 As indicated, HCC as the body responsible for ensuring adequate education provision has provided a Position Statement in relation to education in the town. This follows comments submitted during the draft District Plan consultation. The position statement sets out the current demand for places and includes a forecast with regard to places required in the future.

7.62 When considering this issue, HCC has indicated that forecasts are likely to underestimate demand. This is because forecasting models are currently based on data from the 2001 census. However, experience in the intervening 10 years has shown that demand levels are generally higher than forecast due to increasing pupil yield. HCC will be able to recalibrate forecasting models when appropriate data from the 2011 census is available.

7.63 HCC also state that, for larger developments, demand also tends to be greater than forecast. This is because such developments have a greater degree of attractiveness to young families. Whilst the developments around Buntingford individually are not of that scale, cumulatively they may result in the same impact.

7.64 With those caveats, the forecast, which was produced in the summer term of 2014, includes the demand generated by a pupil yield from new housing growth of 267 dwellings in Buntingford and area. This comprises development at Gravelly Lane, Braughing and the following sites all in Buntingford: Station House, the Allotment Gardens, London Road, Tylers Close and Longmead

### First schools – current forecast

7.65 The forecast at first school level does not include the permission that has been granted at Park Farm, Buntingford or those granted on appeal

at Hare Street Road. Neither does it include any other sites in the school planning area that have been proposed or put forward as possible development sites either through the pre-application process or consultation on the District Plan.

- 7.66 HCC indicates that first schools in Buntingford are full at reception and key stage 1. The forecast, taking into account the above information, is that there will be unsatisfied demand equivalent to 10 pupils in the 2014/15 year but thereafter demand will be satisfied.

Forecast with additional known and possible developments

- 7.67 An additional 453 dwellings have either been granted planning permission or the Council has resolved to grant planning permission. (These are: Park Farm: 13, north and south of Hare Street Road 160 and 100, north of Buntingford 180). In addition to these, the proposals at Areas 2 and 3 south of Hare Street Road (Wheatley) and at this site (Sainsbury's depot) will result in a further 496 dwellings coming forward.
- 7.68 The owners of land at Aspenden Road have indicated that a refused planning permission is to be subject to appeal – now submitted (56 dwellings) and Members will recall that the reserved matters application (Ref: 3/14/0970/RP) in relation to Area 1 south of Hare Street Road now proposes an increase in dwelling numbers of 5 to a total of 105. In total then a further 1010 dwellings are proposed which are not included in the currently forecast demand.
- 7.69 The position statement indicates that, as a general rule of thumb, 1FE of school entry is generated by the pupil demand from 500 dwellings. In the absence of forecast information to the contrary, using the HCC 'rule of thumb' results in a likely further demand for 2FE of entry at first school level.

Expansion capacity – First Schools

- 7.70 Alongside this, consideration has to be given to possible expansion of the existing provision. HCC has undertaken a high level assessment of the possibility for expansion at the sites. This indicates that some expansion appears possible. At Layston School, HCC indicate an ability to expand the school by 1FE to 2FE total. At Millfield there is potential to expand by 0.5FE to 2FE. However, this is noted to require land not in the control of HCC. Other first and primary school sites and their expansion ability are not referred to here. This is because it is highly desirable for pupils at this level of education to attend a school local to their home. Transporting pupils of this age group is considered

undesirable in sustainability terms.

Outcome at First School level

- 7.71 There is the ability therefore, if expansion can be implemented at both first schools, for 1.5FE of the additional demand to be accommodated. However, that must be subject to some caution given the issue in relation to land availability at Millfield School. Even if that expansion can be implemented in full, current forecasts indicate there will be a point where there is a minimum of 0.5FE excess demand at first school level. On the basis of the current provision and generation of demand, HCC sets out that it is prudent to plan for a new first school site of 2FE to ensure that the needs of the local community is met for the longer term. Provision is sought through the ongoing formulation of the current District Plan.

Demand at Middle and Upper School level

- 7.72 At middle and upper level the forecast extends further into the future than that at first level, assuming a further growth of 60 dwellings per annum from 2021 onwards
- 7.73 With regard to middle and upper school provision, a deficit is experienced now and peaks at around 1 FE in 2019/20 for middle schooling and at 2FE for upper schooling in 2024/25.
- 7.74 As noted above, at middle and upper level, the HCC forecasts include the confirmed development of 273 dwellings and then an additional 60 dwellings pa from 2021. The current forecasts extend to 2024/25 and therefore can be concluded to take account of a further  $4 \times 60 = 240$  dwellings over and above the confirmed 273. On that basis there is forecast to be an unsatisfied demand of 23 pupils in the 2019/20 year at middle level and 50 pupils in the 2024/25 year at upper level
- 7.75 Also as indicated above, 1010 dwellings may come forward in addition to the confirmed 273. If 240 are deducted as being taken into account in the forecast at these levels of education, then a possible additional 770 are not factored in. In addition to the identified unsatisfied demand then these may generate a further 1.5FE of unsatisfied demand in the peak years.

Expansion Capacity and outcome at Middle and Upper

- 7.76 At middle school level, 3.3FE of additional capacity has been identified by HCC, 1.3 at Edwinstree and 2FE at Ralph Sadler. At upper level a

potential 3FE expansion at Freman College (and using land to the north) has been identified. Ralph Sadler and Freman College are academies, and HCC therefore does not have the ability to direct expansion or control admission policies.

- 7.77 At present the stated position of HCC is to continue to monitor development and demand. It seeks funding to enable appropriate capacity to be secured when it is required.

Conclusion on Education

- 7.78 The greatest potential for lack of adequate capacity appears to be at first school level. If all of the potential development sites are allowed to progress in order to meet land supply objectives, it is most likely that there will be a shortfall in provision because of the requirement for 2FE additional capacity. This potential is exacerbated because there must be some question over the potential availability of expansion land required to meet the expansion potential at Millfield School.
- 7.79 All of the potential additional development sites are being promoted now. The information from developers is that the market for new homes is strong and that developments are likely to proceed quickly if permissions are granted. The information from developers is that each anticipates their supply at between 30 and 50 units per year. If the greatest scale of development is anticipated, there may be up to 5 sites (this one, Taylor Wimpey, Wheatley, north Buntingford and Aspenden Road) which all delivered 50 units a year, potentially 250 units per year. This level overall is considered unlikely, indeed, the Aspenden Road site only permits 56 units in total. However, it is used here as a very robust yardstick. The reliable expansion capacity is 1FE at Layston School. This could accommodate the demand from 500 homes in accordance with the HCC rule of thumb and therefore two years worth of development could take place before supply and reliable expansion is exhausted.
- 7.80 Beyond that time, a range of options to accommodate demand are likely to present themselves. These would include the potential to expand at the Millfield School site and, by then, the certainty with regard to delivery levels and therefore the timing of the additional demand.
- 7.81 Of course, the long term need for an additional first school site remains an issue – and the call for prudent planning by HCC is recognized. Responding to that call will require a site assessment and availability exercise to be undertaken, on the basis of a specification provided by

HCC. Whilst no certainty can be provided at this stage, it is anticipated that the identification of a site in a location convenient to the town and new development will not be an insurmountable long term block to development.

- 7.82 Given this, and the lack of an objection from HCC on this matter, but recognizing the need to take into account the cumulative potential of development in the town, a reasonable approach would be phased release of development pending the exercise to identify a site for a future additional first school – if it becomes necessary. The applicant has indicated a willingness to engage with this matter and has offered to support financially the school site search exercise. In addition, the applicant has indicated that it is willing to accept a phasing restriction on development coming forward (of approx. 50% of the overall site, or 174 units) related to the identification of a deliverable first school site. This approach to the management of development coming forward is considered commensurate to the scale of the issue that is being addressed and risk that it may pose to longer term sustainability.
- 7.83 At middle and upper level there is also a requirement for additional capacity to be created. Current circumstances are that demand will outstrip supply if steps are not taken to secure this. Two of the three schools have academy status and there is no information available at present which indicates the views of these schools to expansion. Therefore whilst the high bar of land on which to expand is not a significant matter in relation to provision at this level, a different barrier may exist in relation to the appetite of the schools to expand. At present, in advance of positive indications of views in relation to this matter, further exploration of the matter is a reasonable way forward.

#### Health Services

- 7.84 NHS have identified deficiencies in existing surgeries and request financial contributions. Officers have explored this further with representatives of local services. When dealing with the previous appeal the Inspector noted that there was no evidence to suggest that long waiting times for appointments was as a result of accommodation. Its resolution lies in the hands of the medical practices and their recruitment policies.
- 7.85 On this occasion, the medical practice has taken further steps to seek to demonstrate that expansion to the current practice can be achieved which will enable additional accommodation to be provided. Funding will be required for this and the appellants have agreed to provide a reasonable contribution.

Scale, layout and visual impact

- 7.86 As already stated in this report, this application is in outline form and seeks agreement for the layout and scale of the proposed development (apart from the employment element which only seeks detailed approval for access). It is therefore necessary to consider the impact of the proposed layout and scale of the development on the character and appearance of the surrounding area, and in particular having regard to its edge of settlement location.
- 7.87 The existing site is fairly well enclosed by the existing landscaping along its boundaries, and views into the site are mostly achieved from the south and east due to changes in land levels. Furthermore, the existing buildings on the site are of a scale which is greater than an average dwellinghouse. Taking into account the existing landscaping around the site which is predominantly proposed to be retained and also the differences in levels between the application site and the surrounding land (the northern part of the site is at a lower level than surrounding land and developments - up to 4-5 metres lower in places), Officers do not consider that the proposed development would result in significant harm to the character and appearance of the surrounding area.
- 7.88 Concerns have been raised by third parties in respect of the density of the site and the number of three storey properties proposed, however for the above reasons and the somewhat self-contained nature of the site, its impacts will not be significantly visible from outside of the application site. The density of the residential element of the development is 37 dwellings per hectare. Whilst this density is higher than the requirements of policy HOU2 in the Draft District Plan, Members will be aware that limited weight can be given to this policy at this stage. Whilst Officers note the concerns in respect of the density of the development, taking into account the limited visual impact that the proposed development would have on the character and appearance of the surrounding area, Officers do not consider that such a density of development would be unacceptable in this case and limited weight should be attached to them in the decision making process.
- 7.89 The concerns raised by Buntingford Town Council in relation to the visual impact of the proposed employment units have been noted, and Officers do acknowledge those concerns. However, as previously stated in this report, this element of the application is in outline with the only detailed matter to be considered being access. We are not therefore considering siting or scale of these employment buildings as

part of this application. These concerns however will need to be addressed through any subsequent reserved matters applications and when considering any application the visual impact of this part of the development from London Road and further to the south will be an important consideration. Furthermore, the density of this part of the development may be reduced following the required testing of the market and dependent on the demand for employment space when this part of the development comes forward.

- 7.90 The NPPF states that the Government attaches great importance to the design of the built environment, and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The concerns of the Council's Landscape Officer in relation to specific aspects of the proposal have been noted, and Officers acknowledge the concerns raised. Further work can be undertaken to address the concerns raised and improve the quality and character of the proposed development.

Impact on neighbour amenity

- 7.91 As already set out in this report, the site is predominantly bounded by open countryside, however there are a number of dwellings adjacent to the northern boundary of the site and to the north west on the opposite side of London Road are the recently constructed properties in Olvega Drive.
- 7.92 Approximately 30 metres would be retained between the properties closest to the application site on London Road and Windmill Hill. Furthermore, there are significant levels differences between the existing dwellings and the application site, and the dwellings proposed to be sited closest to the northern boundary will be on ground level which is approximately 4.5 metres lower than London Road and Windmill Hill. Having regard to these relationships, Officers consider that the proposed development will not result in any significant harm to the amenities of the occupiers of these neighbouring properties.
- 7.93 At the closest point, some 43 metres would be retained between the properties in Olvega Drive and those proposed to be fronting London Road, and also at this point the application site is at a lower level than London Road and the properties in Olvega Drive. Officers therefore consider in relation to these dwellings that the proposed development would also not result in any significant harm to the amenities of the occupiers of these neighbouring properties.



- 7.94 It is noted that third party representations have raised concerns in respect of noise and disturbance from the proposed vehicular access to London Road which would be approximately 45-50 metres to the south of the existing access to Olvega Drive, and approximately 15-20 metres to the south of the rear elevation of the closest dwelling in Olvega Drive. It is acknowledged that this access will result in additional traffic movements in this location which do not presently occur. When considering this regard must also be had to the existing permitted use of the site (a storage and distribution centre) and the levels of noise and disturbance associated with such a use.

Water environment and sustainable drainage

- 7.95 The application site is located within Flood Zone 1 which is land which has been assessed as having a less than 1 in 1000 annual probability of flooding. Given therefore that the site is wholly outside of the floodplain, there would be no loss of floodplain storage associated with the development.
- 7.96 The application does however propose a sustainable urban drainage system to deal with surface water management on the site. This comprises permeable paving, surface water attenuation ponds and swales. Both the Environment Agency and the Council's Engineers have been consulted on the application and have commented that the SuDS now proposed is acceptable and assists in reducing flood risk at the site by reducing runoff rates, reduce water pollution and provide additional landscape and wildlife benefit. It is therefore considered that in this respect the proposal would accord with policy ENV21 of the Local Plan and the NPPF.

Ecology

- 7.97 Ecological studies submitted with the application have considered the impact of the development on bats, badgers, reptiles and birds and concluded that the development would not have a harmful impact. The studies concluded that the site has no interest for badgers and reptiles, but one bat roost was known to exist within the main warehouse building.
- 7.98 Natural England, Herts Ecology and Herts and Middlesex Wildlife Trust were all consulted on the application, and have not raised any objections to the proposal. They recommend that the mitigation measures and recommendations outlined in the submitted ecological reports are followed, and it is recommended that this can be controlled via conditions. It is therefore considered that the proposal accords with

policy ENV16 of the Local Plan. The applicant has confirmed to the Council that a European Protected Species Licence has been obtained.

Other matters

- 7.99 Policy IMP1 of the Local Plan requires developers to contribute towards the infrastructure required to serve a development and to make appropriate provision to mitigate any possible environmental impacts. In this case, to mitigate the impact of the development financial contributions will be sought towards first education, middle and upper education, childcare, youth and library services, outdoor sports facilities and sustainable transport facilities. Further details of the obligations, including others referred to in this report, will be provided to Members at the Committee meeting.
- 7.100 The need for improvements to the existing club house at The Bury has been identified by both the Town Council and Sport England, and it is likely that some of the financial contributions for outdoor sports facilities could be used for this purpose. At this stage however, no details have been provided to the Council as to the extent of the works required to the clubhouse building or the costs associated with this. Furthermore, the requirements of The Bury must also be balanced against the need for improvements to other facilities in the Town. For example, the Town Council have identified the need for the provision of additional tennis courts and a multi games facility within the Town, and the possibility of an outdoor gym.
- 7.101 Concern has been raised that insufficient space is to be provided within the site to provide adequate open space for children and young people. The application as amended now proposes to provide facilities on the central green open space and on land adjacent to The Bury. The Landscape Officer has raised concerns with the impact of the proposed play equipment on the character and role of this central green area. Whilst the extent of equipment shown on the indicative drawings is not considered to be acceptable, Officers do consider that a limited amount of equipment could be provided within this space without compromising its character and appearance. Such details can be agreed through a condition.
- 7.102 The application also proposes an equipped area of play adjacent to The Bury. Officers have no objection to the provision of equipment in this location, and the detailed matter of ensuring suitable pedestrian access to this area will be agreed through any subsequent reserved matters applications. Having regard to the extent of equipped play space proposed and the role of the central green area as more informal play

space, Officers consider that appropriate space would be provided within the site for open space for children and young people.

- 7.103 Landscaping is a reserved matter and will therefore be considered in detail if outline permission is granted. However, whilst the ability of the site to accommodate new landscaping has already been considered, it is necessary to consider whether the proposed development would result in the loss of any significant existing landscaping features.
- 7.104 The application proposes to retain much of the existing landscaping on the site, and it is recommended that any grant of permission should be subject to a condition requiring existing landscaping to be retained and protected. As with many developments however, the application does propose to remove a limited amount of the existing landscaping within the site, however the Council's Landscape Officer has raised no objection to this. The proposed development would retain a significant proportion of the existing landscaping on the site which is predominantly around its boundaries. This landscaping is important not only to the existing character and appearance of the surrounding area, but also in respect of screening the site, and Officers consider that its retention is beneficial. Officers therefore consider that the application would accord with policy ENV11 of the Local Plan.
- 7.105 The description of the application also includes the demolition of the existing buildings within the site. As set out earlier in this report however, an application was submitted to the Council in March 2014 for the consideration of whether prior approval was required for the method of demolition of all buildings on the site with the exception of the clubhouse occupied by the football club and any proposed restoration of the land (ref. 3/14/0542/PD). Prior approval was not required in this case, and therefore demolition of the buildings could begin at any time, although Officers understand from the applicant that no demolition has yet taken place on the site. Having regard to the determination of this prior approval application and the visual impact of the existing buildings on the site, Officers have no objection to the demolition of the existing buildings.

## **8.0 Conclusion**

- 8.1 These proposals relate to a site which, in the main, falls within the identified development boundary for the town as set out in the current Local Plan. The land policy allocation assigned to site however is for employment purposes, rather than for mixed use or residential development. A further aspect of the policy background which remains relevant is Local Plan policy BUN5 which indicates that latest

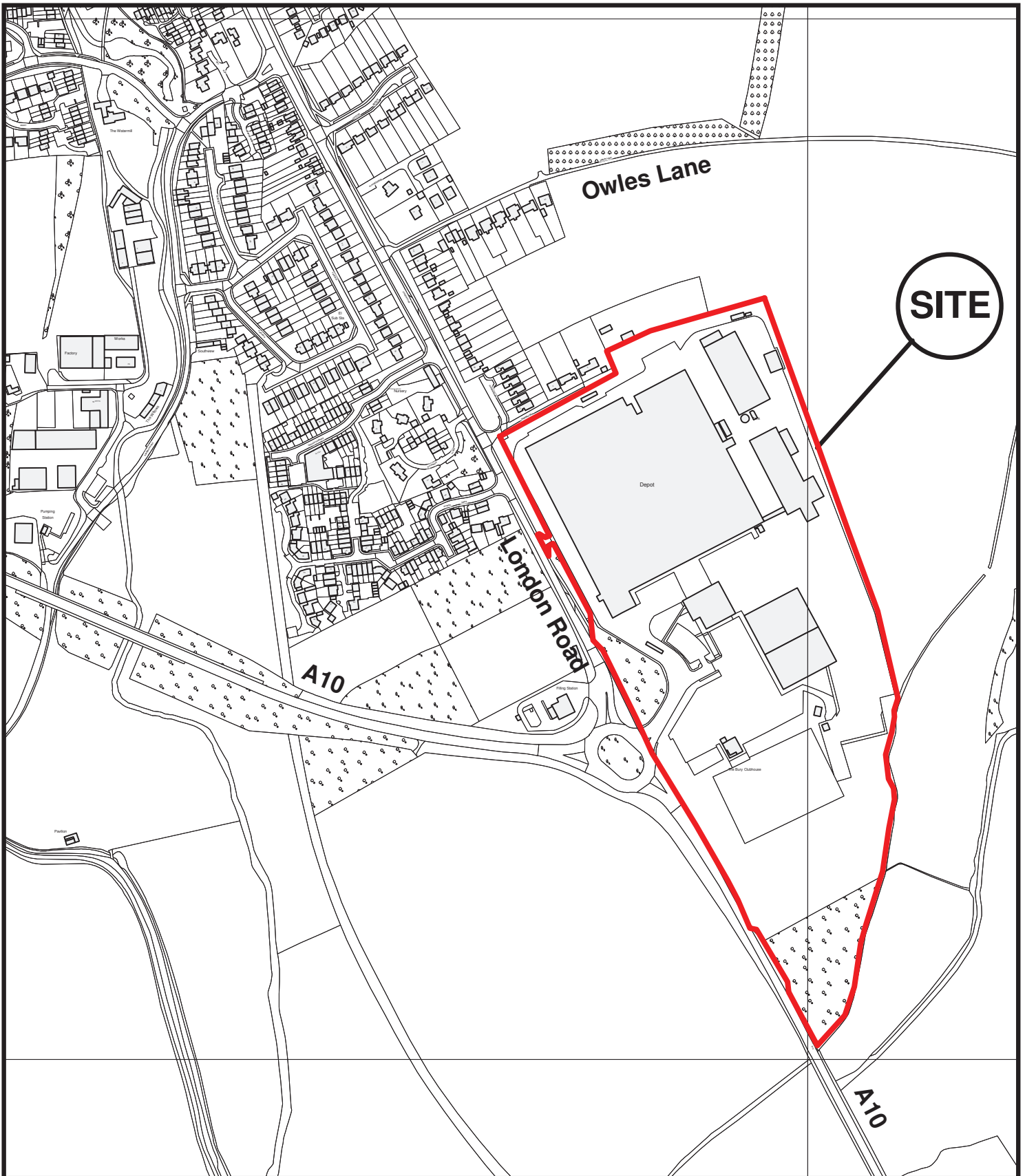
employment advice is to be sought in considering proposals for this site.

- 8.2 In this case then the Councils existing Local Plan policies remain relevant. Consideration must also be given to the NPPF of course. That sets out the government's policies on the achievement of sustainable development, the approach to retaining land for employment purposes and the requirements in relation to the supply of land for housing.
- 8.3 Limited weight can be assigned to the Councils emerging policy in the District Plan, which currently identifies this site as one to be allocated for residential led mixed use development (policy BUNT2).
- 8.4 Whilst the position in relation to housing land supply has improved, given the permissions that the Council has released, previous under delivery and the potential requirement for greater levels of supply in the future means that the Councils position in relation to this matter continues to remain unable to satisfy the requirements of national policy set out in the NPPF.
- 8.5 The test then against which the proposals are to be judged are that there is a presumption in favour of sustainable development and proposals should be approved unless the impact of doing so would significantly and demonstrably outweigh the benefits of development.
- 8.6 Considering the sustainability of the development proposals, the commentary of the Inspector that dealt with the previous appeal proposals at Hare Street Road has been considered carefully. He noted that the lack of transport options, sufficient local employment and access to higher order services made development in the town unsustainable in general terms. That remains the case although now, of course, these proposals bring forward development which has the potential to impact beneficially with regard to employment provision.
- 8.7 The Inspector assigned favourable weight to development which would support the economy and the provision of affordable housing. These remain relevant matters, but less favourable weight could possibly now be assigned to them.
- 8.8 There appear to be infrastructure matters which are currently unresolved in their entirety – certainty with regard to the ability to provide education capacity and the impact of development on roads. With regard to these, steps are either being taken already or the potential for an unacceptably harmful degree of impact is not

considered to be so great a risk that phased development could not be permitted in advance of their total resolution. It is considered important however that further steps are taken to reach a greater degree of certainty in relation to these matters and the funding support to be made available through legal agreement provisions will enable this.

- 8.9 With regard to employment provision then, the proposals are considered to represent a scheme with significant potential to bring forward some employment benefit as part of the redevelopment of the site. This is assigned significant weight. A significant element of residential development, including an element of affordable housing, would also take place as part of the proposals. In the current position regarding land supply, this must also be assigned significant weight. The redevelopment of the site in its own right, removing the current dilapidated and unsightly buildings must be assigned some positive weight.
- 8.10 Whilst it is acknowledged that Buntingford is not an inherently sustainable location for significant development. It has the potential to be improved in this respect by the potential expanded provision of local employment. There is clear prospect that uncertainties in relation to highway impact and education provision can be addressed.
- 8.11 With regard to all other matters, it is considered that these are either impacted on neutrally, or only limited weight can be assigned because any element of harm is limited. Given the degree of continued relevance of Local Plan policies, which have been further tested, and their element of policy support for the proposals, then it is considered that the NPPF test of any harm significantly and demonstrably outweighing benefits is not the only benchmark against which these proposals are to be judged. However, they can be considered favourably with regard to that benchmark and, when assessed against the policies remaining of relevance in the Local Plan, they should also be considered favourably. There is no harmful impact to which such weight can be assigned that these positive impacts of the development are outweighed. It is recommended that planning permission should be granted in this case.

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**Scale: 1:5000**

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## Appeal Decision

Site visit made on 21 July 2014

**by M A Champion BSc CEng FICE FIMStructE FCIHT FHKIE**

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

**Decision date: 30 July 2014**

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**Appeal ref: APP/J1915/C/14/2214867**

**The garage at Longcroft, Monks Green Farm, Mangrove Lane, Hertford, SG13 8QL.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by East Hertfordshire District Council.
- The appeal is made by Mr William Ashley.
- The Council's reference is E/14/0009/B.
- The notice was issued on 27 February 2014.
- The breach of planning control as alleged in the notice is failure to comply with condition No 3 of a planning permission, ref: 3/06/0604/FP, granted on 28 June 2006.
- The development to which the permission relates is a combined garage/car port/lock up storage for garden equipment including lawn mowers. The condition in question is No 3 which states that: "The building hereby permitted shall only be used for the housing of private vehicles and for purposes incidental to the enjoyment of the dwelling house and not for any living accommodation or commercial activity without the prior written consent of the local planning authority." The notice alleges that the condition has not been complied with in that the upper floor of the garage building is currently being used as commercial office accommodation.
- The requirements of the notice are to cease the use of the garage for commercial purposes.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

**Summary of decision: The appeal is dismissed and the enforcement notice is upheld.**

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### **The appeal on ground (a) and the deemed application**

#### ***Main Issues***

1. I consider that the main issues in this appeal are:
  - (i) whether the development is inappropriate in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
  - (ii) the effect of the development on the rural character of the area; and
  - (iii) if the proposed 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 the very special circumstances necessary to justify the development.

## ***Policies***

2. Policies GBC1, GBC9, TR2, TR7 and ENV1 of the East Hertfordshire Local Plan Second Review 2007 deal with the Green Belt, re-use of rural buildings, access, car parking, and design. I have also been referred to Policy ENV16 which addresses protected species, but this does not appear to be directly relevant in the current appeal.
3. Paragraphs 79-92 of the National Planning Policy Framework (NPPF) address development in the Green Belt.
4. The content of the planning guidance launched nationally by the Government on 6 March 2014 has been considered, but in the light of the facts in this case the guidance does not alter my conclusions.

## ***Reasons***

### *Green Belt*

5. The appeal site lies in the Metropolitan Green Belt towards the western edge of a complex of buildings centred on Monks Green Farm to the south of Mangrove Lane. It comprises the garage/storage building associated with the dwelling known as Longcroft.
6. National policy, supported by local policy, seeks to protect Green Belts by prohibiting development except in a few defined cases. The exceptions are set out in NPPF paras 89 and 90. These include (para 89) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and (para 90) the re-use of buildings provided that the buildings are of permanent and substantial construction, and provided that the development preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.
7. There have been no physical alterations to the building, but only a change of use. The development thus falls to be considered against NPPF para 90. At the time of my site visit the use had ceased, but I must consider the breach alleged in the notice.
8. The building is of timber framed construction on a brick plinth with a tiled roof. I consider this to be permanent and substantial construction. As there have been no alterations to the building the development preserves the openness of the Green Belt. In both these respects, therefore, the development complies with NPPF para 90.
9. However, the change of use has resulted in the establishment of a new commercial enterprise in the countryside. As such it fails to safeguard the countryside from encroachment, which is one of the five purposes served by Green Belts.
10. While the local highway authority does not object to the traffic generated, the development attracts business and traffic to the site away from the urban area, thus potentially failing to assist in urban regeneration by encouraging the recycling of urban land, which is also one of the five purposes.

11. The development thus fails to satisfy the exceptions allowed by NPPF para 90. It is therefore inappropriate in the Green Belt, and, by definition, harmful to it. I attach substantial weight to this harm.

*Effect on rural character*

12. The introduction of a commercial use leads to an increase in activity on the site. Such use results in increased traffic to and from the site and also additional parking nearby (the appeal site comprises the building only, not any adjoining land).
13. Such uses are unsympathetic to rural surroundings and harmful to their character. However, in view of the existing businesses at Monks Green Farm and the size of the appeal building, I attach only moderate weight to this harm.

*Very special circumstances*

14. Much of the appellant's evidence relates to a different appeal (subsequently withdrawn in May 2014), his legal proceedings against the former tenant of the site, or to the conduct of the Council. While I acknowledge that these matters are of importance to the appellant, they are not material planning considerations in the appeal before me.
15. The appellant presents no evidence in support of very special circumstances.
16. I therefore consider that there are no other considerations that clearly outweigh the harm by reason of inappropriateness and harm to the character of the rural area so as to amount to the very special circumstances necessary to justify the development.

*Conclusion*

17. I conclude that the unauthorised development is inappropriate in the Green Belt, contrary to the policies cited above. No considerations have been presented that are sufficient to amount to very special circumstances.
18. The appeal on ground (a) and the deemed application fail.

**The appeal on ground (g)**

19. This ground of appeal is that the period specified in the notice falls short of what should reasonably be allowed. The appellant does not suggest an alternative period for compliance.
20. In my opinion three months is adequate for the unauthorised use to cease.
21. The appeal on ground (g) fails.

**Conclusions**

22. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

**Formal Decision**

***Appeal ref: APP/J1915/C/14/2214867***

23. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*M A Champion*

INSPECTOR

DEVELOPMENT CONTROL

Major, Minor and Other Planning Applications

Cumulative Performance for

August 2014

(calculated from April 2014)

	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15
Total Applications Received	216	406	603	831	1016							

Percentage achieved against Local and National Targets	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14
Major %	67%	86%	80%	72%	69%							
Minor %	95%	89%	89%	89%	83%							
Other %	94%	93%	94%	93%	94%							

Targets for Local Performance (set by East Herts)	National Targets (set by Government)
Major %	60%
Minor %	80%
Other %	90%

Appeals	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15
Total number of appeal decisions (Monthly)	3	9	7	2	5							
Number Allowed against our refusal (Monthly)	1	3	1	0	2							

Total number of appeal decisions (Cumulative)	3	12	19	21	26							
Number Allowed against our refusal (Cumulative)	1	4	5	5	7							

AGENDA ITEM NO. 6D

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