



MEETING : DEVELOPMENT MANAGEMENT COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 18 SEPTEMBER 2024
TIME : 7.00 PM

PLEASE NOTE TIME AND VENUE

This meeting will be live streamed on the Council's Youtube page:
<https://www.youtube.com/user/EastHertsDistrict>

MEMBERS OF THE COMMITTEE

Councillor S Watson (Chair)

Councillors R Buckmaster, V Burt, R Carter, S Copley, I Devonshire,
J Dunlop, Y Estop, G Hill, A Holt, S Marlow (Vice-Chairman) and T Stowe

Substitutes

Conservative Group: Councillors S Bull and T Deffley
Green: Councillors M Connolly and V Smith
Liberal Democrat: Councillor M Adams
Labour: Councillor C Redfern

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

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A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

- must not participate in any discussion of the matter at the meeting;
- must not participate in any vote taken on the matter at the meeting;
- must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
- if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
- must leave the room while any discussion or voting takes place.

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AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

To receive any Members' declarations of interest.

4. Minutes - 19 June 2024 (Pages 5 - 10)

To confirm the Minutes of the meeting of the Committee held on Wednesday 19 June 2024.

5. Planning Applications for Consideration by the Committee (Pages 11 - 13)

6. 3/23/1642/FUL - Erection of 118 dwellings, including access roads, cycle and pedestrian routes, cycle and car parking, public open space, landscaping, tree protection measures, sustainable urban drainage system (SuDS) and associated ancillary structures at Land West of Wadesmill Road (HERT4), Hertford (Pages 14 - 166)

Recommended for Approval.

7. Items for Reporting and Noting (Pages 167 - 331)

8. Urgent Business

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

MINUTES OF A MEETING OF THE
DEVELOPMENT MANAGEMENT COMMITTEE
HELD IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON WEDNESDAY
19 JUNE 2024, AT 7.00 PM

PRESENT: Councillor S Watson (Chair)
Councillors R Buckmaster, V Burt, S Copley,
I Devonshire, J Dunlop, G Hill and T Stowe

ALSO PRESENT:
Councillors V Glover-Ward and J Thomas

OFFICERS IN ATTENDANCE:

Jackie Bruce	- Section 106 Programme Manager
Neil Button	- Team Leader (Strategic Applications - Development Management)
Rani Ghattoura	- Planning Lawyer
Peter Mannings	- Committee Support Officer
Ellen Neumann	- Planning Officer
Elizabeth Oswick	- Planning Officer
Martin Plummer	- Service Manager (Development Management and Enforcement)
Amit Patel	- Principal Officer– Development Management
Sara Saunders	- Head of Planning and Building Control

Hannah Weston - Planning Officer

ALSO IN ATTENDANCE:

Matthew Armstrong - Hertfordshire Highways

56 APPOINTMENT OF VICE-CHAIR FOR 2024/25

It was proposed by Councillor Watson and seconded by Councillor Connolly, that Councillor Marlow be appointed Vice-Chair of the Development Management Committee for the 2024/25 civic year.

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

RESOLVED – that Councillor Marlow be appointed Vice-Chair of the Development Management Committee for the 2024/25 civic year.

57 APOLOGIES

Apologies for absence were submitted from Councillors R Carter, Y Estop, A Holt and S Marlow. It was noted that Councillors S Bull, M Connolly and C Redfern were substituting for Councillors A Holt, R Carter and Y Estop.

58 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed everyone present at the meeting and those that were watching online. He introduced the Officers and reminded everyone to use the microphones for the webcast.

The Chairman thanked Councillor Estop for her time as a very knowledgeable, dedicated, hardworking and supportive Chair of the Development Management Committee during the 2023/24 civic year.

59 DECLARATIONS OF INTEREST

There were no declarations of interest.

60 MINUTES - 10 APRIL 2024

Councillor Devonshire proposed and Councillor Stowe, a motion that the Minutes of the meeting held on 10 April 2024 be confirmed as a correct record and signed by the Chairman.

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

RESOLVED – that the Minutes of the meeting held on 10 April 2024, be confirmed as a correct record and signed by the Chairman.

61 3/23/2108/FUL - ERECTION OF 60 RESIDENTIAL UNITS (USE CLASS C3) WITH CREATION OF ACCESS, CAR PARKING, LANDSCAPING, AMENITY AND OPEN SPACE, SUBSTATION, PEDESTRIAN/CYCLE PATHS AND ASSOCIATED DEVELOPMENT. PROVISION OF FOOTBRIDGE ACROSS THE RIVER BEANE AT LAND AT WALKERN ROAD, WATTON-AT-STONE, HERTFORDSHIRE

The Head of Planning and Building Control recommended that in respect of application 3/23/2108/FUL, planning permission be granted subject to a Section 106 legal agreement and subject to the conditions set out at the end of the report.

The planning case officer summarised the application and set out in detail the key issues for Members to consider.

He detailed the heads of terms of the section 106 legal agreement and referred Members to the late representations summary and summarised the conditions.

Mr Mark Jackson addressed the Committee as the applicant's agent. Councillor Catherine Hammon addressed the Committee on behalf of Watton-at-Stone Parish Council. Councillor Thomas addressed the committee as the local ward Member.

The Committee debated the application and asked questions of the planning officers.

Councillor Stowe proposed and Councillor Buckmaster seconded, a motion that application 3/23/2108/FUL be granted planning permission, subject to a section 106 legal agreement and subject to the conditions set out at the end of the report and subject to the following additional conditions:

- A condition that covered the fencing of the attenuation basin
- Details in respect of bird and bat boxes

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

RESOLVED – that outline application 3/23/2108/FUL be granted planning permission, subject to a section 106 legal agreement and subject to the conditions set out at the end of the report and subject to the following additions to conditions:

- A condition that covered the fencing of the attenuation basin
- Details in respect of bird and bat boxes

62 3/24/0490/HH - EXTERNAL AIR SOURCE HEAT PUMP UNIT AT THE PROPERTY AT 18B BENGEO STREET, HERTFORD, HERTFORDSHIRE, SG14 3ES

The Head of Planning and Building Control recommended that in respect of outline application 3/24/0490/HH, planning permission be granted subject to the conditions set out at the end of the report.

The planning case officer summarised the application and set out in detail the key issues for Members to consider.

Councillor Redfern and Councillor Devonshire seconded, a motion that application 3/24/0490/HH be granted planning permission, subject to the conditions set out at the end of the report.

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

RESOLVED – that outline application 3/24/0490/HH be granted planning permission, subject to the conditions set out at the end of the report.

63 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

- (A) Appeals against refusal of planning permission / non-determination;
- (B) Planning Appeals lodged;
- (C) Planning Appeals: Inquiry and Informal Hearing Dates; and
- (D) Planning Statistics.

64 URGENT BUSINESS

There was no urgent business.

The meeting closed at 9.00 pm

Chairman

Date

East Herts Council Report

Development Management Committee

Date of Meeting: 18 September 2024

Report by: Sara Saunders, Head of Planning and Building Control

Report title: Planning Applications for Consideration by the Committee

Ward(s) affected: All

Summary

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

RECOMMENDATIONS FOR DEVELOPMENT MANAGEMENT COMMITTEE:

A recommendation is detailed separately for each application and determined by the Committee, as appropriate, or as set out for each agenda item.

1.0 Proposal(s)

1.1 The proposals are set out in detail in the individual reports.

2.0 Background

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

3.0 Reason(s)

3.1 No.

4.0 Options

4.1 As detailed separately in relation to each matter if any are appropriate.

5.0 Risks

5.1 As detailed separately in relation to each matter if any are appropriate.

6.0 Implications/Consultations

6.1 As detailed separately in relation to each matter if any are appropriate.

Community Safety

As detailed separately in relation to each matter if any are appropriate.

Data Protection

As detailed separately in relation to each matter if any are appropriate.

Equalities

As detailed separately in relation to each matter if any are appropriate.

Environmental Sustainability

As detailed separately in relation to each matter if any are appropriate.

Financial

As detailed separately in relation to each matter if any are appropriate.

Health and Safety

As detailed separately in relation to each matter if any are appropriate.

Human Resources

As detailed separately in relation to each matter if any are appropriate.

Human Rights

As detailed separately in relation to each matter if any are appropriate.

Legal

As detailed separately in relation to each matter if any are appropriate.

Specific Wards

As detailed separately in relation to each matter if any are appropriate.

7.0 Background papers, appendices and other relevant material

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

7.2 Display of Plans

7.3 Plans for consideration at this meeting are available online. An Officer will be present from 6.30 pm to advise on any plans relating to schemes on strategic sites. A selection of plans will be displayed electronically at the meeting. Members are reminded that those displayed do not constitute the full range of plans submitted for each matter and they should ensure they view the full range of plans online prior to the meeting.

7.4 All of the plans and associated documents on any of the planning applications included in the agenda can be viewed at:
<https://publicaccess.eastherts.gov.uk/online-applications/>

Contact Member Councillor Vicky Glover-Ward, Executive Member for Planning and Growth
vicky.glover-ward@eastherts.gov.uk

Contact Officer Sara Saunders, Head of Planning and Building Control, Tel: 01992 531656
sara.saunders@eastherts.gov.uk

Report Author Peter Mannings, Committee Support Officer,
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peter.mannings@eastherts.gov.uk

Agenda Item 5a

DEVELOPMENT MANAGEMENT COMMITTEE

Application Number	3/23/1642/FUL
Proposal	Erection of 118 dwellings, including access roads, cycle and pedestrian routes, cycle and car parking, public open space, landscaping, tree protection measures, sustainable urban drainage system (SuDS) and associated ancillary structures
Location	Land West Of Wadesmill Road (HERT4), Hertford
Parish	Hertford
Ward	Hertford Bengoe

Date of Registration of Application	5 September 2023
Reason for Committee Report	Major Application
Case Officer	Steve Fraser-Lim

RECOMMENDATION

That planning permission be **GRANTED**, subject to a Section 106 legal agreement and subject to the conditions set out at the end of this report.

1.0 Summary of Proposal and Main Issues

- 1.1** This application seeks full planning permission for a residential development, comprising the erection of 118 dwellings, together with a new vehicular access, internal access roads, parking areas, pedestrian/cycle routes, public open spaces, amenity spaces, play spaces, soft landscaping and sustainable drainage systems.
- 1.2** The site comprises part of an allocated site HERT4 which, alongside the other site allocations, form part of the development strategy in the East Herts District Plan 2018, as detailed in Policies DPS1, DPS2, DPS3 and HERT4. Policy HERT4 of the East Herts District Plan allocates the site and adjoining land for residential development of around 150 homes. As part of the site allocation process, the site was removed

from the Green Belt, with the exception of the northern landscaped buffer.

- 1.3** The HERT4 strategic site allocation is split into two separate parcels of land. The southern part of the site allocation was designated for the delivery of around 50 homes by 2022. This land was formerly a garden nursery, containing a large glasshouse building, parking areas and other associated land. However, planning permission was granted in 2020 (reference number: 3/19/1826/FUL) for the erection of 52 dwellings on the site (including 40% affordable homes). This development has been built out and is now occupied. In the local area, this development is known as 'The Stiles'.
- 1.4** This current application site is to the north of The Stiles and is the second phase of the HERT4 site allocation. The site is made up of undeveloped agricultural land on the northern edge of Hertford. The site allocation identifies this land for the provision of around 100 homes, between 2022 and 2027. Policy HERT4 (I) indicates that the delivery of these 100 homes in the second phase would be subject to the satisfactory previous phased extraction of mineral deposits on neighbouring land to the north. To date, no extraction has occurred on the neighbouring land to enable the housing to be delivered by 2027 on this part of the site allocation. The Local Planning Authority understands that extraction of minerals on the neighbouring land (the southern fields) is no longer planned (as part of the emerging Hertfordshire County Council (HCC) Minerals and Waste Plan) and will not take place in the short to medium term following on from recently refused applications and appeals to extract minerals from this site.
- 1.5** In accordance with Policy HERT4, a Masterplan Framework for the site was formulated in consultation with relevant parties and informed by public consultation. This Masterplan Framework was agreed as a material consideration for Development Management purposes in 2022.
- 1.6** As already noted, the current application site consists of mainly undeveloped agricultural land. A restricted byway (Hertford 001) runs roughly through the centre of the site, splitting the site into two

parcels (the eastern parcel and the western parcel). The land levels of the site generally drop away from west to east. This is particularly noticeable on the eastern parcel, where the land levels drop away sharply. The site is located between two main roads with Sacombe Road to the west and Wadesmill Road to the east.

- 1.7** The scheme proposes to create a new vehicular access from Wadesmill Road. A second planning application solely for this new vehicular access is also before members (reference number: 3/23/1643/FUL). The primary internal access road would then run into the site, before diverting north and west. This would be the main east-west route within the site.
- 1.8** On the eastern parcel, it is proposed to deliver two apartment blocks close to the vehicular access from Wadesmill Road. Further into the site, four curved lines of houses are proposed, which would be accessed via secondary routes that run southwards off the primary internal access road. The development on the eastern parcel would generally follow the existing contours of the site, meaning that the dwellings on the eastern side of the site would sit at a reduced land level, when compared with houses to the west. Throughout the eastern parcel, a variety of semi-detached and detached houses are proposed to be provided.
- 1.9** In the central part of the site, an area of green space, adjacent to the byway, is intended to be created. Directly to the west of this green space and the byway, it is proposed to deliver a line of terraced houses and one apartment block. Beyond these dwellings, the western parcel would be made up houses predominantly arranged in lines along the primary internal access road and secondary roads. The development on this western parcel would be constructed on land of gentler gradient. Across the western parcel, a mixture of terraced, semi-detached and detached houses are proposed to be delivered.
- 1.10** The majority of the proposed houses within the site would be of two storey height, with a small number of houses being two storey, with second floor accommodation available in the roof space. The

apartment blocks, adjacent to Wadesmill Road, would sit at the lowest point of the site and would be of three storey height. Whereas, the block of flats in the central area of the site would be of two storey height. The density of the development across the whole site (excluding northern landscape buffer) would be relatively low at approximately 22.5 dwellings, per hectare.

- 1.11** The overall housing mix would include 100 houses and 18 flats, with a range of one-bedroom to five-bedroom dwellings delivered. The exact housing mix is shown below:

Dwelling Type	No. of Units	Percentage Split
1-bedroom flats	4	3%
2-bedroom flats	14	12%
2-bedroom houses	12	10%
3-bedroom houses	53	45%
4-bedroom houses	27	23%
5-bedroom houses	8	7%
Total	118	100%

- 1.12** The scheme would deliver 40% affordable housing, which equates to 47 affordable homes. 33 dwellings would be provided for affordable rent, while 14 dwellings would be shared ownership units. This represents a 70% and 30% tenure split, in favour of affordable rent. In terms of the type of affordable units provided, the proposal would supply 74% houses and 26% flats. The exact affordable housing mix is shown below:

Dwelling Type	Affordable Rent	Shared Ownership	Percentage Split
1-bedroom flats	4	0	9%
2-bedroom flats	8	0	17%
2-bedroom houses	2	4	13%
3-bedroom houses	17	10	57%
4-bedroom houses	2	0	4%
Total	33	14	100%

- 1.13** In regard to connectivity, the existing byway is intended to be the main pedestrian and cycle route into and out of the site. However, additional pedestrian linkages would also be provided onto Sacombe Road and into the adjacent Stiles development.
- 1.14** On the northern side of the site, a public open space is proposed to be created. A local equipped area for play (LEAP) would be provided within this open space, while a further local area of play (LAP) is also proposed close to the southern boundary of the site. SUDs features are intended to be constructed within the public open space in the form of attenuation ponds and a swale. Planting and soft landscaping is proposed across the site, including a native tree and shrub buffer along the northern site boundary to provide a visual barrier to the development.
- 1.15** The overall layout of the site is shown in the image below. This plan illustrates the eastern and western parcels of the proposed development, either side of the byway, as well as the access roads within the site and the area of public open space to the north.



1.16 The application documents submitted for approval include:

- 21/001/010 REV PL02
- 21/001/011 REV PL13
- 21/001/012 REV PL11
- 21/001/080 REV PL06
- 21/001/014 REV PL03
- 21/001/015 REV PL05
- 21/001/016 REV PL05
- 21/001/091 REV PL03
- 21-001 V001
- 21_001_V004
- 21/001/020 REV PL05
- 21/001/021 REV PL04
- 21/001/022 REV PL06
- 21/001/023 REV PL06
- 21/001/024 REV PL05
- 21/001/025 REV PL04
- 21/001/026 REV PL05
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- 21/001/045 REV PL05
- 21/001/046 REV PL03
- 21/001/047 REV PL02
- 21/001/048 REV PL01
- 21/001/049 REV PL04
- 21/001/050 REV PL05

- 21/001/051 REV PL02
- 21/001/052 REV PL01
- 21/001/053 REV PL01
- 21/001/060 REV PL05
- 21/001/061 REV PL05
- 21/001/063 REV PL04
- 21/001/070 REV PL02
- 21/001/071 REV PL02
- 21/001/072 REV PL02
- 21/001/073 REV PL01
- 21/001/074 REV PL03
- DUR1280-10 Rev C
- DUR1280-21
- 1870-KC-XX-YTREE-TPP01Rev H
- 1870-KC-XX-YTREE-TCP01Rev A
- 1126-05-101 Rev P08
- 1126-07-102 Rev P10
- 1126-07-104 Rev P08
- 1126-07-105 Rev P02
- 1126-07-106 Rev P05
- 1126-07-107 Rev P3
- 2023-16339-001
- 2023-16339-002
- 2023-16339-003
- 2023-16339-004
- 2023-16339-005
- 2023-16339-006
- 7083-MJA-SW-XX-DR-S-1000 Rev P2
- 7083-MJA-SW-XX-DR-S-1001 Rev P2
- 7083-MJA-SW-XX-DR-S-1002 Rev P1
- 7083-MJA-SW-XX-DR-S-1005 Rev P1
- SK02 Revision H
- SK05
- SK09.1 Revision E
- 21-0458 SK18 Revision A
- 21-0458 SK19 Revision A

- Design & Access Document (Dated: July 2023)
- Planning Statement (Prepared by PPML Consulting, Dated: August 2023)
- Affordable Housing Statement (Prepared by: Pioneer Property Services Limited, Dated: 20 July 2023)
- Air Quality Assessment – Revision C (Prepared by: Create Consulting Engineers LTD, Dated: February 2023)
- Archaeological Desk-Based Assessment (Prepared by: RPS, Dated: September 2023)
- Biodiversity Net Gain Assessment (Prepared by: Aspect Ecology, Dated: May 2024)
- Construction Traffic Management Plan (Prepared by: Durkan Homes, Dated: July 2023)
- Controlled Waters Risk Assessment (Prepared by: LEAP Environmental, Dated: 21 December 2023)
- Designer’s Response to Stage 1 Road Safety Audit (Prepared by: Rappor, Dated: July 2024)
- Drainage Strategy Report (Prepared by: ID LTD, Dated: July 2023)
- Drainage Strategy Report Rev A (Prepared by: ID LTD, Dated: 15 January 2024)
- Ecological Appraisal (Prepared by: Aspect Ecology, Dated: May 2023)
- Energy Strategy Statement (Prepared by: Briary Energy, Dated: July 2023)
- Flood Risk Assessment (Prepared by: Amazi, Dated: July 2023)
- Groundwater Summary (Prepared by: LEAP Environmental, Dated: 17 January 2024)
- Habitat Condition Assessment Survey and Biodiversity Net Gain Assessment (Prepared by: Aspect Ecology, Dated: January 2024)
- Health Impact Assessment (Prepared by: Planning Potential, Dated: December 2023)
- Hydrogeological Risk Assessment (Prepared by: LEAP Environmental, Dated: 30 November 2023)
- Landscape and Visual Impact Assessment (Prepared by: LVIA LTD, Dated: October 2022)
- Mineral Resource Assessment (Prepared by: LEAP Environmental, Dated: 5 January 2023)

- Noise Impact Assessment (Prepared by Cass Allen, Dated: 11 July 2023)
- Overheating Assessment (Prepared by: Briary Energy, Dated: July 2023)
- Phase 1 and Phase 2 – Site Investigation (Prepared by: Geosphere Environmental, Dated: 5 November 2019)
- Road Safety Audit Stage 1 (Prepared by: TMS, Dated: 25 July 2024)
- Statement of Community Involvement (Dated: December 2022)
- Surface Water Management Plan (Prepared by: ID LTD, Dated: January 2024)
- Sustainability Checklist (Prepared by: Durkan Homes)
- Technical Submission (Pumping Station) (Prepared by: PDAS, Dated: 31 August 2023)
- The Biodiversity Metric 4.0 (Prepared by: Aspect Ecology, Dated: 5 January 2024)
- Transport Statement (Prepared by: Rappor, Dated: July 2023)
- Travel Plan (Prepared by: Rappor, Dated: April 2024)
- Tree Survey and Impact Assessment (Prepared by: Keen Consultants, Dated: April 2024)

1.18 The main issues for consideration are:

- Principle of Development
- Affordable Housing and Housing Mix
- Design Quality and Landscape Character
- Impacts on Heritage Assets
- Access, Highways and Transport
- Sustainability and Water Management
- Trees, Ecology and Biodiversity
- Amenity and Pollution
- Healthy and Safe Communities

2.0 **Site Description**

2.1 The application site encompasses a parcel of agricultural land, measuring approximately 5.82 hectares in area. The site is located close to the Bengo area of Hertford, on the northern urban edge of this town. The land sits between two roads, with Sacombe Road to

the west and Wadesmill Road (B158) to the east. The junction of these two routes, with Bengo Street, is a short distance to the south.

- 2.2** The site itself is located at the southern end of a large open field, known locally as: Bengo Field. The land levels on the site drop away from west to east, providing an undulating and sloping character to the immediate setting. In the northern-eastern corner of the site there is a high-quality mature sweet chestnut tree, while the eastern and western boundaries are lined with mature trees, hedges and other vegetation. A restricted byway (Hertford 001) runs northwards from Wadesmill Road and through the centre of the site, enabling access to the countryside beyond. Directly to the north of the site there is a Local Green Space, which is designated in the Bengo Neighbourhood Area Plan (LGS1). The site is located within Landscape Character Area (LCA) 69 (Stonyhills), as identified in the Landscape Character Assessment SPD. This LCA extends over a vast area of countryside to the north of Hertford and is generally characterised by gentle undulating arable upland, between the River Rib and River Beane valleys, together with blocks of woodland and several mineral extraction sites.
- 2.3** A garden nursery, and the associated glasshouse building, formerly occupied the land directly to the south. However, this adjacent site has recently been redeveloped for 52 homes, under reference number: 3/19/1826/FUL. This new residential development is known in the locality as: The Stiles. A detached dwelling at Glenholm is also located to the south of the site and to the east of The Stiles. Further to the south, beyond The Stiles and Glenholm, are allotments that are designated as an Open Space. On the opposite side of Sacombe Road, and to the west of the site, there is a recreation ground, as well as residential properties at The Wick and The Orchard.
- 2.4** In the wider Bengo area there are several local amenities, including a co-op supermarket on Bengo Street, a parade of shops on The Avenue, a convenience store on Barley Croft and other community buildings. In addition, Bengo Primary School is a short distance to the south of the site and Duncombe School, a private primary school, is further to the south on Bengo Street. Bus stops are available along

Bengeo Street and to the south-west on Cowper Crescent, which provide access to services running into the Hertford Town Centre.

- 2.5** The site is not within a Conservation Area and there are no listed buildings in the vicinity. However, the Hertford Conservation Area (CA) is situated to the south, beyond The Stiles and Glenholm. The western half of the site is also within an Area of Archaeological Significance (AAS).
- 2.6** A small area of the site along the northern boundary remains within the Metropolitan Green Belt and the Local Green Space. However, the remainder of the land (which contains all of the development) within the application site was released from the Green Belt, through adoption of the East Herts District Plan (2018). Removing this land from the Green Belt enabled the whole site to be allocated for housing development, under District Plan Policy HERT4. This policy designated land within the application site, together with the site to the south, for the delivery of around 150 homes. As previously explained, 52 homes have already been constructed on the southern part of the site allocation (The Stiles) (Phase 1), with this current application forming the second part of the allocation (Phase 2).
- 2.7** The large area of land to the north of site, which comprises part of Ware Park and Rickney's Quarry, is designated in the adopted Minerals Local Plan Review (2007) as Preferred Area 2 for the extraction of sand and gravel. However, planning permission for mineral extraction on this site was previously refused (reference numbers: PL\0776\16 and PL\0870\17), with the first of these proposals also dismissed at appeal by the Secretary of State. The emerging Minerals and Waste Local Plan has, since 2017, excluded Preferred Area 2 as a site allocation for mineral extraction. A Scoping Request for extraction of sand and gravel on Land at Rickneys Quarry has recently been submitted to HCC for consideration (reference number: PL/0401/24). However, this application relates to land approximately 900 metres to the north and excludes the southern field, which neighbours the site. While this southern field did originally form part of the planned mineral extraction site, this land

is now not anticipated to come forward for extraction in the short to medium term.

3.0 Design Evolution

3.1 The National Design Guide (2021) advises in paragraph 16 thereof that an expressed 'story' for the design concept is akin to producing well designed places and buildings. This 'story' should inform and address all ten characteristics:

1. *Context – enhances the surroundings.*
2. *Identity – attractive and distinctive.*
3. *Built form – a coherent pattern of development.*
4. *Movement – accessible and easy to move around.*
5. *Nature – enhanced and optimised.*
6. *Public spaces – safe, social and inclusive.*
7. *Uses – mixed and integrated.*
8. *Homes and buildings – functional, healthy and sustainable.*
9. *Resources – efficient and resilient.*
10. *Lifespan*

3.2 The evolution of the design concept for Phase 2 of the HERT4 site allocation was progressed through pre-application discussions, following grant of planning permission for Phase 1 (reference number: 3/19/1826/FUL). The applicant and the Council entered into the masterplanning process in 2022. Throughout this process the applicant engaged with officers, including various discussions with urban design, landscape and planning policy advisors. In addition, two meetings were undertaken with the Shaping Hertford Steering Group, which included previous council members, officers and community representatives. A Statement of Community Involvement has been submitted with this current application and this explains how the applicant has engaged with the local community and other stakeholders.

3.3 A Hertfordshire Design Review Panel (DRP) was held on 12 September 2022 to consider the draft masterplan. The draft masterplan was generally positively received by the DRP, however the panel put

forward constructive comments and suggested various improvements including:

- Engagement with landscape, ecology, historic environment and surface water management expertise is required to ensure that the proposals deliver environmental objectives and a truly landscape-led approach is achieved.
- A Movement Strategy is required to provide a clearer understanding of how pedestrians and cyclists move between key destinations within the site and beyond.
- Phase 2 should not necessarily be a seamless extension of Phase 1, due to the differing topography, views and edge of settlement context. A softer semi-rural approach is required. A freer more sinuous layout may be more appropriate within the undulating slopes.
- How built form responds to the topography and articulation of the roofscape in views requires careful thought. The exploration of semi-detached or larger forms could result in a more sympathetic and interesting rural typologies, such as rural long barns.
- Thought should be given to the character and quality of the arrival sequence, along the primary access route and arriving at the heart of the scheme.
- Sensitive views towards the site from the wider valley to the east and from along the byway to the north require careful assessment to inform the delivery of effective mitigation measures.
- There needs to be greater certainty with regard to the treatment of the landscape buffer.
- Existing trees should be retained.
- The approach to SUDs is not clear.

3.4 Officers consider that the final Masterplan for Phase 2 of HERT4 site allocation appropriately responded to the views of the DRP. The Masterplan was considered to adopt a more landscape-led approach, with a green northern fringe included that incorporates soft landscape areas, play spaces and SUDs features. Within the 'heart' of the layout a 'pocket park' is shown, alongside the byway, while tree planting and informal green spaces are identified throughout the layout. Furthermore, a Movement Strategy was outlined in the Masterplan, which focused on the byway as the main pedestrian and cycle route.

However, connections to the Stiles and across Sacombe Road were also illustrated.

- 3.5** The Masterplan emphasises the importance of points of arrival within the layout, as locations for key buildings were identified. In addition, the document sets out an intention for the eastern part of the development to follow the existing contours of the site. The Masterplan encourages the development to form a semi-rural character, which transitions towards the countryside through positioning lower density housing on the fringes. Moreover, an illustrative landscape buffer is depicted on the northern side of the site, in order to create recognisable boundary to the Green Belt.
- 3.6** It is considered that the scheme has positively evolved since conception and this culminated in the submission of the final Masterplan for Phase 2 of the HERT4 site allocation. The Masterplanning Framework was endorsed at Executive Committee on 22 November 2022 and was then approved by Full Council on 14 December 2022. Therefore, the Council endorsed Masterplan is a material consideration for the assessment of this current application. A key image from the final Masterplan is provided below.



- 3.7** Through the lifetime of the current planning application, the proposed scheme has also evolved further, in response to consultee and consultation feedback received. Officers have secured various amendments and improvements to the scheme, which have further

elevated the design quality of the proposed development, secured appropriate on-site and off-site social and environmental infrastructure (through the planning process) and delivered other tangible benefits for the wider community, including improvements to the affordable housing provision and HCC endorsed highways/sustainable transport improvements. These improvements are listed below:

Topic Area	Improvement Secured
Affordable Housing	Officers have secured an improved affordable housing mix, as the scheme has been amended to include a greater number of family-sized units within the affordable rent tenure.
Design and Layout	Officers have secured amendments to the design and layout of the scheme, including: elevational improvements to the house types, alterations to apartment blocks, inclusion of a barn-style apartment block, inclusion of a row of terraced affordable housing units (to replace the flatted block), improved linkages to existing walking and cycling routes and re-positioning of parking areas. These changes have elevated the design quality of the scheme, through providing a higher standard of architecture, achieving an enhanced semi-rural character and delivering a development that can meet secure by design standards.
Transport	EHDC and HCC Officers have secured amendments relating to sustainable transport and highways matters. The applicant has committed to installing a new toucan crossing, together with a cycleway/footway, on Wadesmill Road. This will improve highways safety and provide greater opportunities for sustainable travel. Additional pedestrian links onto Sacombe Road have also been secured. Furthermore, speed limit reductions have been agreed along Wadesmill Road, in the interests of enhanced highways safety.

Drainage	Officers have secured an amended Drainage Strategy, with all surface water drainage proposed to be discharged on-site via infiltration, rather than relying on an off-site watercourse.
S106 Obligations	EHDC and HCC Officers have secured a comprehensive range of East Herts and HCC Section 106 provisions to ensure a policy compliant level of social, environmental and health/leisure/community infrastructure is provided as part of any planning permission to mitigate the impact of the development and enhance local infrastructure capacity and quality.

3.8 Given the design evolution of the proposed development, EHDC officers welcome the scheme as a matter of principle underpinned by the significant public benefits it would deliver in terms of housing and district-wide and county-level contributions to infrastructure.

4.0 Planning History

4.1 The following planning history on the application site is of relevance to this proposed scheme:

Application Number	Proposal	Decision	Date
3/23/1643/FUL	Proposed vehicular access to Land West of Wadesmill Road to serve the residential development at HERT4.	Pending Consideration	N/A

4.2 The following planning history on the first phase of the HERT4 allocation is of relevance to this proposed scheme:

Application Number	Proposal	Decision	Date
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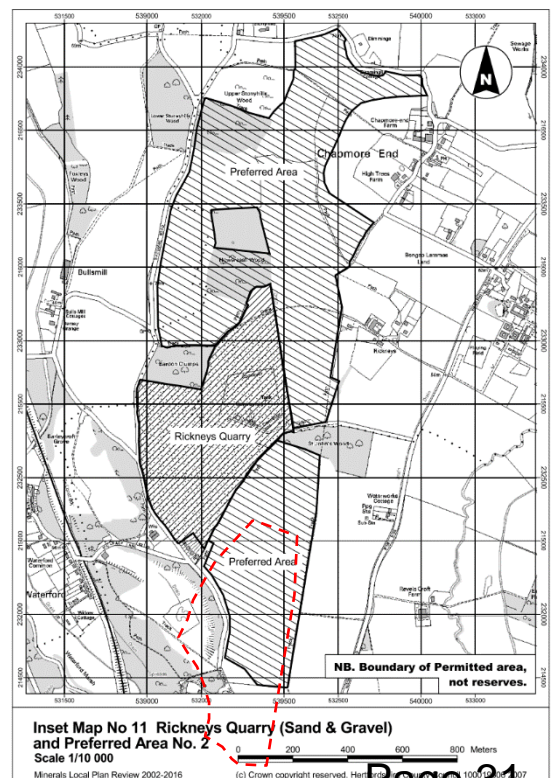
3/19/1826/FUL (Former Bengeo Nursery)	Demolition of garden nursery and the erection of 52 dwellings including access, parking, amenity, public open space and tree protection measures.	Granted planning permission, subject to conditions and S106.	17 July 2020
3/12/2138/FP (Former Bengeo Nursery)	Erection of 58no. dwellings with associated access, open space and landscaping.	Refused.	20 March 2013

4.3 The following minerals planning history on land to the north of the site is of relevance to this proposed scheme:

Application Number	Proposal	Decision	Date
PL/0401/24 (Land adjacent to Rickney's Quarry)	Scoping request for a proposal to extraction of 1.24 million tonnes of sand and gravel (This site excludes the southern field adjacent to the HERT4 Phase 2 development)	Pending Consideration	
PL\0870\17 (Land at Ware Park, including the southern field)	Application for the phased extraction of 1.25 million tonnes of sand and gravel, mobile dry screening plant, weighbridge, wheel cleaning facilities, ancillary site offices, construction of a new access onto	Refused.	26 April 2018

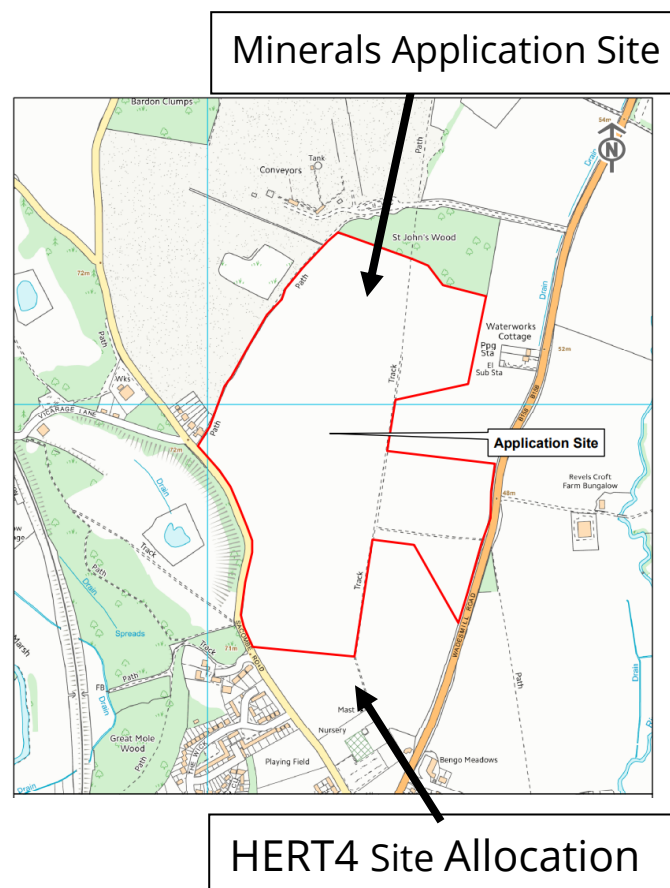
	Wadesmill Road with phased restoration to landscaped farmland at a lower level.		
PL\0776\16 (Land at Ware Park, including the southern field)	Application for the phased extraction of sand and gravel, use of mobile dry screening plant, stockpile area, weighbridge, wheel cleaning facilities, ancillary site offices, together with construction of a new access onto Wadesmill Road and phased restoration of landscaped farmland at a lower level.	Refused and Appeal Dismissed.	24 March 2017 4 April 2019

4.4 The mineral extraction planning history on land to the north of the site at Rickney's Quarry and Ware Park is of relevance to this proposed scheme, as DP Policy HERT4 refers to Phase 2 of the site allocation being 'subject to the satisfactory previous phased extraction of mineral deposits on the neighbouring site'. At the time when this policy was formulated, a large area of 'neighbouring' land to the north of the HERT4 site allocation was designated in the adopted Minerals Local Plan Review (2007) for mineral extraction. It should be noted that no part of the HERT4 site was included in the allocation in the Minerals Local Plan. Furthermore, the eastern part



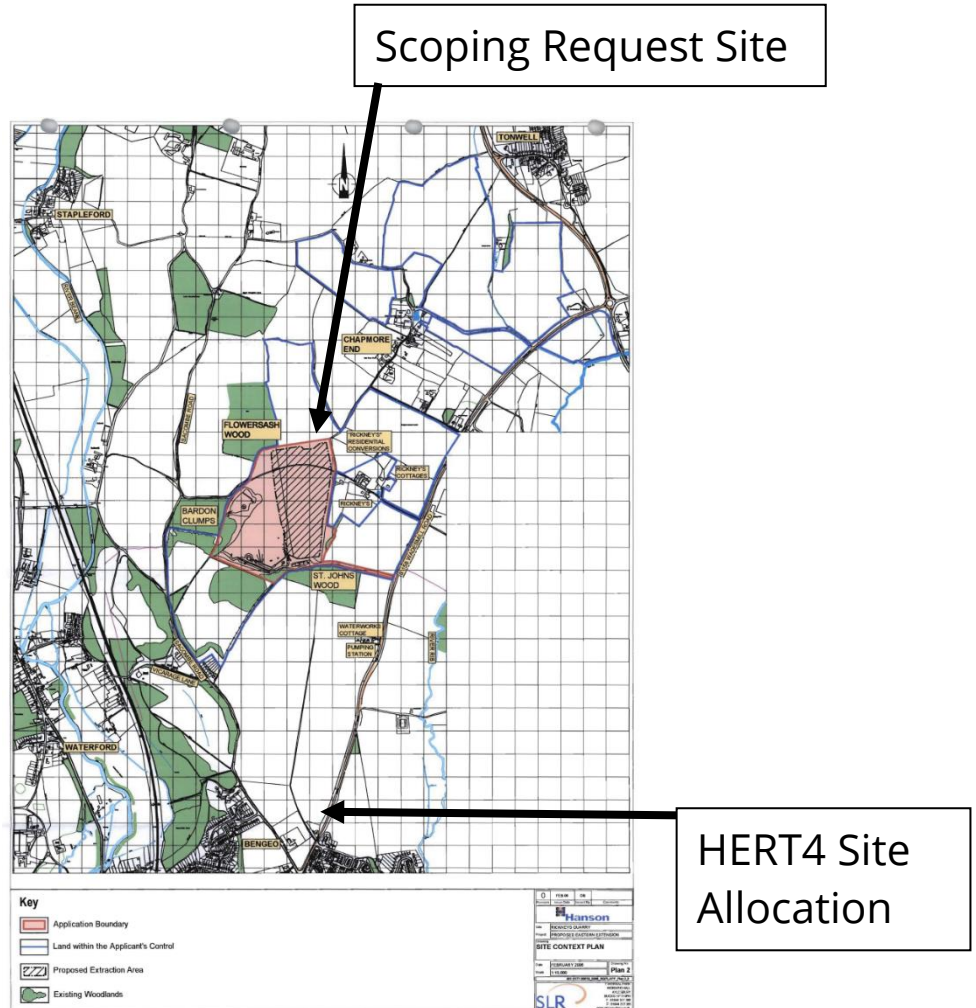
of Bengo Field (directly to the north of the site) was also excluded from the minerals site allocation. The minerals site allocation was known as: Preferred Area 2 with the whole allocated land shown in the adjacent image. It was expected that mineral extraction at Preferred Area 2 would occur prior to 2022. Following the anticipated mineral extraction and associated remediation, it was envisaged that Phase 2 of the HERT4 site allocation could then progress. The southern part of the Preferred Area (cross hatched) is no longer subject to extraction proposals.

- 4.5** Whilst the principle of minerals extraction was supported through the Minerals Local Plan, a planning application for the extraction of sand and gravel on the southern part of Preferred Area 2 was refused by HCC in 2017 (reference number: PL\0776\16). This proposal was subsequently appealed, with the Secretary of State dismissing that appeal in 2019. The Location Plan from that application is shown in this plan. A second application for the extraction of sand and gravel was also refused by HCC in 2018 (reference number: PL\0870\17) but was not appealed.



- 4.6** Entirely separate from the planning applications, HCC begun the process of reviewing the Minerals Local Plan, with a public consultation commencing in 2017. At that time, it was proposed to remove Preferred Area 2 from the Draft Minerals Local Plan. This stance was carried forward to 2019, however because of a change of approach, due to the cessation of the standalone Minerals Local Plan process, no further progress was made, and the Draft Minerals Local Plan was withdrawn.
- 4.7** HCC have begun to prepare a Joint Minerals and Waste Local Plan, which replaces the previous Draft Minerals Local Plan. A public consultation on the Draft Joint Minerals and Waste Local Plan commenced in 2022. This consultation version of the plan did not include Preferred Area 2 as a site allocation for mineral extraction. During this consultation, responses were received from parties with interest in the northern section of Preferred Area 2 and these comments seek to retain this area as part of the emerging plan's strategy for mineral extraction. However, the owners of the southern section of Preferred Area 2 (land directly to the north of application site) made representations confirming support for the deallocation of this part of the Preferred Area. This representation outlined that land within the southern section of Preferred Area 2 was not available for mineral extraction.
- 4.8** HCC is currently considering the comments received through consultation on the Draft Joint Minerals and Waste Local Plan. Until publication of the Submission Minerals and Waste Local Plan, the longer-term proposals for extraction adjacent to or near to Rickney's Quarry are uncertain. The recent refusals from HCC and the Secretary of State for extraction of minerals on the neighbouring land indicate that extraction on this land is not feasible currently. Furthermore, the representations from the owners of the southern section of Preferred Area 2 made during the most recent public consultation indicate that it is very unlikely that mineral extraction will come forward on the neighbouring land to HERT4, in the short to medium-term.
- 4.9** A scoping request has recently been submitted to HCC for sand and gravel extraction on part of Preferred Area 2 (reference number:

PL/0401/24). However, this scoping request relates to a northern part of Preferred Area 2, which is over 900 metres from the HERT4 application site. The significant distance between the site being considered under this scoping request and the HERT4 application site is shown as follows.



5.0 Main Policy Issues

5.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the adopted East Herts District Plan 2018 (DP) and the Bengeo Neighbourhood Area Plan (2021) (NP).

Main Issue	NPPF	DP Policy	NP Policy
Principle of Development	Chapters 5 and 11	INT1, DPS1, DPS2, DPS3, DPS4, HERT1, HERT4, DES1	HBN1

Delivery of Housing	Chapter 5	DPS3, HERT4, HOU1, HOU3	HBH1
Scale and Design Quality	Chapters 8, 11 and 12	HERT4, HOU2, HOU7, DES1, DES2, DES3, DES4, DES5, HA1, HA4	HBN2, HBH2, HBH3
Transport	Chapter 9	HERT4, TRA1, TRA2, TRA3, CFLR3	HBN4, HBT1, HBT2, HBT3, HBT4, HBT5, HBH3
Heritage Assets	Chapter 16	HA1, HA2, HA3, HA4	HBC2
Sustainability and Climate Change	Chapters 2 and 14	CC1, CC2, WAT4, EQ4	HBN4
Trees, Ecology and Biodiversity	Chapter 15	DES2, DES3, NE1, NE2, NE3, NE4	HBN3, HBH3
Flood Risk and Drainage	Chapter 14	NE4, WAT1, WAT2, WAT3, WAT5, WAT6	HBH3
Land Contamination	Chapter 15	EQ1	
Neighbour Amenity	Chapter 12	DES4, EQ2, EQ3	
Viability and Delivery of Infrastructure	Chapters 2, 4 and 9	TRA1, CFLR1, CFLR7, CFLR9, CFLR10, DEL1, DEL2	HBN4, HBC1, HBT2, HBT3, HBT4, HBT5

5.2 The adopted Minerals Local Plan (Review 2002 – 2016) and emerging Minerals and Waste Local Plan 2040 also have some relevance to this current application. The most relevant policies within these documents are those associated with the strategic supply of minerals and are listed below.

Main Issue	Adopted Minerals Local Plan	Emerging Minerals and Waste Local Plan
Strategic Supply of Minerals	Policy 1 Policy 3 Policy 5	Policy 2 Policy 4 Policy 5

5.3 The recent Written Ministerial Statement (WMS) accompanying the consultation version of the Draft NPPF comprises a material consideration, which officers consider needs to be taken into account in the assessment of this planning application. The WMS outlines an aim of building 1.5 million homes over the next five years. To deliver this target the Ministerial Statement sets objectives such as ‘restoring and raising housing targets’ and ‘delivering more affordable homes’. A revised NPPF is currently at public consultation, which includes a new standard method for assessing housing needs. This standard method would increase the overall housing need for the District. Officers acknowledge that the revised NPPF has only recently been published for consultation, and therefore it is not national policy at present. This means that only very limited weight can be given to this consultation document. However, nonetheless, members should be aware of the direction of travel suggested in the consultation version of the NPPF, which seeks to support increased housing delivery and supports economic growth.

6.0 Statement of Community Involvement

6.1 The applicant has submitted a Statement of Community Involvement with this application, dated December 2022. This Statement of Community Involvement sets out how the applicant has engaged with key stakeholders and local residents. This engagement is summarised below:

- Meetings with Shaping Hertford Steering Group
- Meetings with Bengeo Neighbourhood Area Plan Group
- Meetings with EHDC Officers
- Meetings with HCC Officers

- Public Consultation Event – 31 August 2022
- Public Consultation Event – 19 October 2022
- Letters/Emails to Stakeholders (Members, Bengeo Parish Rural Council and Hertford Town Council)
- Postcard Distribution to Local Residents – August 2022
- Postcard Distribution to Local Residents – October 2022
- Advert in Local Newspaper
- Consultation Website
- Feedback Forms for Local Residents

7.0 Summary of Consultee Responses

EHDC Planning Policy

- 7.1** The Planning Policy Officer provides extensive background information on the site allocation, including commentary on the relevant planning policies, the principle of development, the Minerals Plan, the previous mineral applications, the phased approach to the allocation and the masterplan. The Policy Officer also explains some of the changing circumstances that have arisen since adoption of the East Herts District Plan.
- 7.2** The Planning Policy Officer concludes that the headline principle of development of this strategic allocation is established through the adoption of the District Plan, with Phase 1 having already been developed and Phase 2 having been removed from the Green Belt.
- 7.3** It is noted that the landowners of the southern parcel of Preferred Area No.2 (adjacent land allocated in the adopted Minerals Local Plan Review 2002 – 2016) have indicated that they are not willing to make the land available for mineral extraction. Unless a change of position were to occur, which currently appears unlikely, it will not be possible to secure extraction of minerals in the short-medium term.
- 7.4** This Officer advises that another change in circumstance since the adoption of the District Plan involves the ‘making’ of the Bengeo Area

Neighbourhood Plan. Policy HBN1 of this Neighbourhood Plan allocates the neighbouring Bengeo Field as local green space meaning that development in that area should only be allowed in 'exceptional circumstances'. Therefore, consideration of peripheral landscaping included on an element of that land as part of the application comes into play in this respect.

- 7.5** The Planning Policy Officers notes that these changes in circumstances bring additional policy considerations, which will now also need to be balanced alongside the application of Policy HERT4, while bearing in mind that the site allocation has already been removed from the Green Belt and is shown as developable land within the settlement boundaries on the policies map.
- 7.6** It is advised that there is uncertainty over mineral extraction policy going forward, and associated land availability issues for such purposes in the southern element of Preferred Area No.2. The Planning Policy Officer notes that the weighting given to the phased aspect of the allocation policy will need to be carefully considered. Further consideration should also be given to the landscape mitigations proposed through the submitted scheme and whether these would be sufficient to overcome any harm that the impact of the proposed development would have on the adjoining landscape character of the area and the setting of the Green Belt.

HCC Highway Authority

- 7.7** The Highway Authority advises the proposals are acceptable in a highways context, subject to further assessment of some detailed design matters and additional discussions to reach agreement on a suitable sustainable transport contribution. The advice provided by the Highways Authority is referenced in detail as part of the assessment in this report.

Lead Local Flood Authority (LLFA)

- 7.8** The LLFA advises that it has no objections, subject to the imposition conditions, securing further details of the surface water drainage system and requiring implementation of the drainage scheme.
- 7.9** This consultee outlines that the applicant has taken into account the LLFA's previous comments and has removed the proposed surface water runoff connection to the ditch on the eastern boundary of the site. It is now proposed for all surface water drainage to be discharged via infiltration only. The applicant is required to ensure that the access road to the development is not at risk from flooding. This is due to the access road being the only route for emergency services to provide aid.

Environment Agency (EA)

- 7.10** The EA advises that it has no objections, subject to the imposition of conditions, relating to: details of sewage pipes, previously unidentified contamination, piling/intrusive groundworks and decommission of boreholes.
- 7.11** This consultee outlines that the proposed development involves drainage elements that present a risk to groundwater, which is particularly sensitive in this location, as the site is within Source Protection Zone 1 and within a principal aquifer. The EA considers that the submitted information provides confidence that it will be possible to suitably manage risks to groundwater.

Affinity Water

- 7.12** Affinity Water has not raised an objection.
- 7.13** This consultee advises that the site is located within a Source Protection Zone, which is a public water supply. Several measures are recommended, which should reduce risks to groundwater pollution, avoid any contamination and limit carbon emissions associated with treating water. There are also expectations that the development will include water efficient fixtures and fittings.

Thames Water

- 7.14** Thames Water has not raised an objection, with regard to foul sewerage network infrastructure capacity or surface water drainage.
- 7.15** This consultee outlines that groundwater discharges to a public sewer should be minimised. An informative is recommended advising that a Groundwater Risk Management Permit will be required for discharging groundwater to a public sewer. There could be public sewers crossing or close to the development. The development is located within 15 metres of underground assets, and therefore an informative is recommended advising the applicant to review Thames Water's guidance on working near assets.

Historic England

- 7.16** Historic England offers no advice.

EHDC Housing Development Officer

- 7.17** The Housing Officer advises that scheme would deliver 40% affordable housing, which is policy compliant. However, concerns are raised regarding the tenure split, affordable housing property types, pepper potting and the design of the affordable dwellings.
- 7.18** This consultee explains that the Housing Team normally require 75% rented and 25% affordable home ownership. Through this development, this equates to 35 homes for affordable rent and 12 homes for low-cost home ownership. The applicant is proposing 33 homes (70%) for affordable rent and 14 (30%) for shared ownership. The Housing Officer is not supportive of the tenure split due to the slight deviation from the recommended policy mix.
- 7.19** The Housing Officer initially objected to the development, as their view was that too many one-bedroom flats were proposed in the affordable rent tenure. The Housing Officer considered that there was a clear need for two-bedroom houses, three-bedroom houses and family-sized dwellings. It was also noted that there was an under-

provision of four-bedroom houses in the affordable rent tenure. Since these initial comments, the scheme has been amended, with the number of three-bedroom houses increased. The Housing Officer welcomes this increase in family-sized dwellings. However, notes that it is disappointing that the number of two-bedroom flats has been increased.

- 7.20** In terms of the design and layout of the affordable homes, it is advised that the floor plans for house type D should be updated to show space for two single beds in the double bedroom. The Housing Officer notes that they are unable to judge whether the dwellings would meet the Nationally Described Space Standards. The layout of the two-bedroom flats and three-bedroom houses are inadequate. These dwellings do not have separate kitchen and living rooms, while the living areas are not of sufficient size for the household. There is nowhere within these dwellings for children to play safely and no outside spaces for the flats. In the three-bedroom houses the children's bedrooms are on a different floor to those to be occupied by the parents.
- 7.21** The evidence is for 15% of affordable homes to meet M4(3) 'Wheelchair User Dwellings'. Through this development, this equates to seven homes. The application proposes six wheelchair adaptable homes.
- 7.22** The Housing Officer notes that the integration of the affordable housing is inadequate. There is a cluster of 25 units, which constitutes 53% of the affordable dwellings. Furthermore, the 12 affordable flats are segregated.
- 7.23** This consultee advises that that the new homes should be owned and managed by a registered provider. The registered provider will be required to enter into a nomination agreement with the Council and this should be secured in the legal agreement.

Officer Comment: The planning assessment of the affordable housing provisions is set out in the report in Part 9. Officers note the comments of the Housing Officer and the concerns raised. It is considered that the

overall affordable housing provision is broadly in accordance with the policy requirements despite the marginal shortfall in tenure split. The comments made with regards to the pepper-potting of affordable dwellings and avoidance of large clusters is duly noted. However, the applicant has submitted various iterations of the layout and has sought to address the major concerns about delivering greater numbers of larger affordable houses (opposed to flats). It is considered through the amendments, it has inevitably led to reasonable sized clusters of affordable homes. However, overall, the design of the accommodation is sufficiently tenure blind to avoid the clustering of affordable home together detracting from the quality of development. Such clustering would not in the officer's view give rise to a reason for refusal, noting the application of the tilted balance applies.

EHDC Conservation and Urban Design Officer

- 7.24** The Conservation and Urban Design Officer advises that they have no objections, subject to conditions securing details of boundary walls/fences, materials of construction, hard surfacing materials and soft landscaping proposals.
- 7.25** Concerns were initially raised on several grounds. Firstly, the Conservation and Urban Design Officer considered there was a lack of information regarding the land levels adjacent to the site access. In addition, there were concerns regarding the architectural expression of the apartment blocks, the detailing of numerous house types, the absence of surveillance over driveways and the lack of planting in car parking areas. Following the submission of revised drawings, the Conservation and Urban Design Officer notes that the concerns raised have been addressed.

HCC Historic Environment Unit

- 7.26** HCC Historic Environment Unit recommends the inclusion of a condition securing a programme of archaeological work and a written scheme of investigation.

7.27 This consultee advises that approximately half of the proposed development site is within an Area of Archaeological Significance, which defines an area known to contain prehistoric and Roman activity. Investigations from 2015 identified three undated pits, one of which contained a sherd of prehistoric pottery and a ditch. The site is close to Buckwells Field, where significant archaeological remains were excavated in 2011. This included 13 deep late Bronze Age pits and ditches that may be part of a field system, with a possible round house and a shallow later Saxon pit. It is considered that the development should be regarded as likely to impact on heritage assets of archaeological interest.

EHDC Landscape Officer

7.28 The Landscape Officer notes that further information is required, as no planting plan has been provided and the street frontages do not appear to allow for enough planting. Details of sensitive hard landscape detailing and high-quality materials should be sought. Contours are also missing from the sustainable urban drainage locations. Details of each of the individual sustainable urban drainage systems should be provided.

7.29 This consultee advises that the native and shrub buffer planting is satisfactory. Furthermore, the green infrastructure and public amenity provision are appropriate. The Landscape Officer also considers that the byway has been successfully integrated into the development. The Landscape and Visual Impact Assessment is acceptable.

Herts Ecology

7.30 Herts Ecology advises that they have no objections, subject to a condition securing a Biodiversity Gain Plan.

7.31 This consultee notes that the site is of little or negligible ecological interest, other than boundary hedgerows, some trees and a prominent sweet chestnut tree. None of the hedgerows are considered to be important under the Hedgerow Regulations, but are

a priority habitat. These will be retained, other than for access, for which there will be compensation. The site is of limited value to protected species, such as: bats, mammals, reptiles, amphibians and invertebrates. Habitats used by nesting birds are likely to be lost, however other enhancements will be provided, where possible. Herts Ecology recommends an informative, which advises a precautionary approach to any clearing, in the interests of avoiding impacts on birds. Mitigation measures are proposed to address any impacts on the nearby Mole Wood Local Wildlife Site and the Waterford Heath Nature Reserve.

- 7.32** This consultee notes the biodiversity net gains outlined in the Ecological Appraisal, including: tree planting, shrub planting, wildflower grassland, wetlands and various wildlife features. Whilst the gains are supported, the claims that species rich grassland will genuinely contribute to a lowland meadow resource are excessive, given that no meadow will be created. However, measurable biodiversity net gain has been demonstrated within the submitted metric, which outlines a 11.12% net gain in habitat units and an 84.19% gain in hedgerow units.

Herts and Middlesex Wildlife Trust

- 7.33** The Trust recommends a condition securing bat boxes and swift boxes, as part of the development.
- 7.34** This body advises that a full biodiversity metric should be supplied before a decision can be made. Species lists are also required to justify the habitats selected.

HCC Minerals and Waste

- 7.35** The Minerals and Waste Officer raises no objection to the proposals and recommends a condition securing a Site Waste Management Plan.
- 7.36** This consultee notes the submission of a Minerals Resource Assessment and broadly agrees with its conclusions. Having

considered the findings of the Minerals Resource Assessment, together with the situation regarding adopted Preferred Area 2 and the presence of phase 1 of HERT4, prior extraction of mineral on this site is not viable. However, the best use should be made of opportunistic extraction.

HCC Public Health

7.37 HCC Public Health agrees with the approach taken in the Health Impact Assessment. The updated Health Impact Assessment provides a proportional assessment of the health impacts of the proposed development.

Active Travel England

7.38 Active Travel England advises that their Standing Advice should be considered.

Sport England

7.39 Sport England advises that this proposal does not fall within their statutory remit. However, it will generate additional demand for sports. New or improved sports facilities should be secured and delivered in accordance with local policy for social infrastructure.

EHDC Environmental Health Officer (Contamination and Air Quality)

7.40 The Environmental Health Officer recommends conditions relating to: boilers, electric vehicle charging points and a Construction Environmental Management Plan.

EHDC Environmental Health Officer (Noise and Nuisance)

7.41 The Environmental Health Officer recommends conditions relating to: adherence to the Noise Assessment, hours of working, notification of neighbours, management of waste, lighting and control of dust.

EHDC Waste and Recycling

7.42 The Waste and Recycling Team provides advice on the design of bin stores, on best practice for refuse storage, on refuse collection arrangements and on the process for ordering bins.

Herts Police Crime Prevention Advisor

7.43 Herts Police are able to support the application. The applicant should contact Hertfordshire's Constabulary's Crime Prevention Design Service with a view to achieving Secured by Design.

NHS Hertfordshire and West Essex

7.44 The NHS outlines that a financial contribution should be secured through a Section 106 planning obligation.

7.45 The NHS estimates that this development would give rise to 382.3 new patient registrations. It is advised that this development will have an impact on primary health care provision in the area, and its implications, if unmitigated, would be unsustainable for the NHS. On this basis, a financial contribution of £205,792 is requested. The NHS intends to use this contribution on the relocation of Wallace House Surgery and the extension, reconfiguration and refurbishment of Hanscombe House.

HCC Growth and Infrastructure

7.46 The Growth and Infrastructure Officer outlines that the below financial contributions should be secured through a Section 106 planning obligation.

- Primary Education: £1,273,520 (towards the expansion of Simon Balle Primary School, including nursery provision and/or provision serving the development).
- Secondary Education: £1,492,588 (towards delivery of new secondary school at WARE2 and/or provision serving the development).

- Childcare 0 – 2 years: £9,853 (towards increasing capacity of 0 – 2 year childcare facilities at Bengo playgroup and/or provision serving the development).
- Childcare Contribution 5 – 11 years: £1,651 (towards increasing capacity of 5 – 11 years old childcare facilities at Bengo Primary School and/or provision serving the development).
- Special Education Needs and Disabilities (SEND): £145,262 (towards new severe learning difficulty special school places and/or provision serving the development).
- Library Service: £40,960 (towards the reprovision of Ware Library and/or provision serving the development).
- Youth Service: £32,993 (towards increasing the capacity of Ware Young People’s Centre and/or provision serving the development).
- Waste Service Recycling Centres: £28,648 (towards the new Ware Recycling Centre and/or provision serving the development).
- Waste Service Transfer Station Contribution: £12,440 (towards the new Eastern Transfer Station and/or provision serving the development).
- Fire and Rescue Service: £44,910 (towards the new fire station at Hertford and/or provision serving the development).
- Monitoring Fees: £340 per trigger point within legal agreement.

EHDC Section 106 Officer

7.47 The Section 106 Officer outlines that the below financial contributions should be secured through a Section 106 planning obligation.

- Monitoring Fee: £3600 (towards the Council's costs of monitoring the development over the lifetime of the obligations).
- Recycling: £8496 (towards the provision of refuse and recycling containers for the new dwellings).
- Allotments: £20,869 (towards the cost of improvements to the allotment site at Bengoe and/or other allotments and community growing spaces in Hertford).
- Bowls: £28,421 (towards maintenance and improvements to the clubhouse and/or upgrading and maintenance of the green at Sele Bowls Club and/or other bowls clubs).
- Community Centres: £81,758 (towards the cost of Hertford Theatre Growth and Legal Project to support the provision of a destination community facility and/or support any other community centre provision).
- Outdoor Tennis: £19,470 (towards improvements, including relining and new nets at Hartham Common).
- Sports Hall: £67,544 (towards improvements to the sports halls at Wodson Park).
- Swimming Pools: £69,071 (towards capital refurbishment programme for the provision of new and/or improvements to the existing swimming pool at Hartham Leisure Centre).
- Fitness Gyms: £30,018 (towards capital refurbishment programme to include the provision of new fitness gym equipment and/or improvements to existing fitness gym area and equipment at Hartham Leisure Centre).
- Studio Space: £12,400 (towards capital refurbishment to include the provision of new studio equipment and/or improvements to the existing studio equipment and space at Hartham Leisure Centre).

- Children’s Play and Provision for Young People: £253,365 – if on-site provision is not sufficient (towards provision, improvement and maintenance of children’s play and young people’s facilities at The Ridgeway Local Park and/or Hartham Common Play Area and/or other local play areas).
- Parks and Gardens and Amenity Green Space: £116,321 – if on-site provision is not sufficient (towards improvements works at Hartham Common).
- Natural Green Space Contribution: £48,970 - if on-site provision is not sufficient (towards improvements works at Hartham Common).

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

8.0 Town/Parish Council Representations

- 8.1** Hertford Town Council objected to the application in September 2023 and also in May 2024.
- 8.2** In September 2023, the Town Council objected on the basis of concerns regarding: non-compliance with Policy HERT4, lack of affordable housing, unsustainable location, local service provision and potential risk to drinking water aquifer. The May 2024 comments are summarised below.
- 8.3** The Town Council consider that this application contravenes Policy HERT4, as this states that the proposed development is ‘subject to satisfactory previous phased extraction of mineral deposits on the neighbouring site’. That mineral extraction has not taken place and both the developer and the Council continue to underestimate the negative impact on the landscape, if the development were to proceed.

- 8.4** There is no justification given as to why the Council should be positively considering that the site can accommodate an 18% increase in the number of homes, without the provision of the proposed mineral extraction.
- 8.5** The Town Council does not agree with the Planning Policy Officer's comments. The change in circumstances post adoption of the District Plan is not a reason to now be considering the development of Phase 2, without the opportunity to achieve landscape mitigation on the adjoining site following mineral extraction. The wording in the Inspector's Report is only a consideration in as much as the landscape mitigation the mineral extraction would have afforded is proposed to be achieved within the red line boundary of the development site. This has not been achieved in the Landscape Masterplan.
- 8.6** The Landscape Officer advice only considers the development site itself and not the impact on the wider landscape. The Town Council would welcome a wider consideration of the visual landscape impact of developing the site.
- 8.7** The Landscape and Visual Impact Assessment starts from the premise that the baseline used for the assessment is a 'suburban fringe/marginal agricultural context'. It refers to the context of the site being industrial and commercial buildings. As no such buildings exist, the baseline of the assessment is seriously flawed. It admits that key landscape elements will be lost, but outlines that after 15 years, with a successful mitigation strategy, the magnitude of the impact on the landscape will be reduced. Such a mitigation strategy is not evident in the Landscape and Visual Impact Assessment. The assessment concludes that the proposal is acceptable on landscape and visual grounds, but puts forward no mitigation strategy. The Town Council questions this conclusion, based on the inaccuracies and inadequacies in the report.
- 8.8** The applicant, in their covering letter submitted with recent amendments, confirms that the Landscape Masterplan has been updated only to reflect changes in internal layout and that no further landscape details have been provided, despite such details being

requested. The current landscaping proposals are not sufficient to overcome the likelihood that the policy requirement for extraction on the adjoining site and integral re-profiling of the adjacent land are highly unlikely to occur.

- 8.9** The Town Council notes that the designation of Bengo Field immediately adjacent to HERT4 Phase 2 as a Local Green Space would impact on any further consideration of the area for mineral extraction. If the Council decide to grant this application, then the Town Council asks that they include the remainder of Bengo Field as a strategic Hertford Green Finger in the updated District Plan. This provision would be beneficial to protecting the two important views across Bengo Field identified in the Neighbourhood Plan.
- 8.10** The Town Council continues to object to the non-compliance with East Herts Council's affordable housing requirements. The Housing Officer has provided flexibility to the applicant, reducing a requirement for 84% rented accommodation to 75%. This would equate to 35, rather than the offered 33 affordable homes.
- 8.11** The Town Council emphasises the leisure value of Bengo Field and outlines the community's opinion on 'special' and 'very special' views across the field. The impact of this proposal on leisure users will be to urbanise the countryside experience. East Herts Council is asked to seriously consider how it can best serve the interests of the local community, when making its decision on this application.
- 8.12** In terms of other matters, no attempt has been made to correct the underestimated walking times from homes within the site to bus stops. There is also concern regarding adequate places at primary schools and other school provision.

9.0 Summary of Other Representations

- 9.1** The application has been advertised by neighbour consultation with 355 letters sent to residents and businesses. Press notices and site notices were also posted.

- 9.2** During the first round of consultation 1,148 responses were received, broadly objecting to the proposal on grounds summarised below:
- Phased extraction of minerals has not occurred, and therefore the development would be contrary to Policy HERT4 of the DP.
 - Phased extraction of minerals has not occurred, and therefore re-profiling of the land to the north is not possible.
 - Pressure on healthcare, doctors and dentists.
 - Pressure on education at nursery, primary and secondary level.
 - Lack of infrastructure and utilities.
 - Lack of affordable housing.
 - Loss of Green Belt land.
 - The site should be returned to Green Belt.
 - Loss of agricultural land and impact on food security.
 - Adverse landscape and visual impacts on the countryside setting.
 - The Landscape and Visual Impact Assessment is flawed.
 - Inspector considered this land to be of substantial landscape value.
 - Loss of countryside views.
 - Loss of open space and green space, which is used for recreation purposes.
 - Loss of public footpaths and bridleways.
 - Excessively high density of development.
 - Overcrowding in Bengo.
 - Erosion of the sense of place and character in Bengo.
 - Poor quality design of housing.
 - Sustainable design not adopted (e.g. solar panels, air source heat pumps) and lack of carbon offsetting.
 - Transport Statement and Travel Plan are inadequate.
 - Lack of access to sustainable modes of transport and over-reliance on car travel.
 - Increased traffic.
 - Increased carbon emissions and air pollution.
 - Highway safety concerns on Sacombe Road.
 - Highway safety concerns with new access onto Wadesmill Road.
 - Damage to roads.
 - Lack of pavements does not prioritise pedestrian safety.
 - Lack of cycleways/footways.
 - Lack of parking.
 - Loss of trees.

- Lack of clarity regarding tree and vegetation removal.
- Lack of new tree planting.
- Reduction in biodiversity.
- Adverse impacts on wildlife and protected species.
- Adverse impacts on Local Wildlife Sites.
- Ecology Report is out of date.
- To meet Habitat Regulations an 'appropriate assessment' is required.
- Flood Risk Assessment and Drainage Strategy are inadequate.
- Increased flood risk.
- Lack of drainage.
- Risk of pollution to chalk aquifer and public water supply.
- Lack of geophysical and geological surveys.
- Insufficient water supply.
- Insufficient and out-dated foul drainage in the area.
- Risk of contamination.
- Presence of archaeological remains.
- Increased noise pollution.
- Increased light pollution. A lighting scheme is required.
- Adverse impacts on neighbour amenity.
- Adverse impacts during construction phase (e.g. traffic, parking, air quality, disruption and noise).
- Insufficient capacity for waste collections.
- Increased crime.
- Lack of Section 106 contributions.
- Section 106 contributions do not benefit local residents.
- Residents should be able to rely on previous commitments made by the Council in policy, in the masterplan and in public meetings.
- Housing numbers have increased from 100 to 118.
- Dwellings will be unaffordable for first-time buyers.
- The remainder of Bengo Field will eventually be lost.
- Brownfield land should be used instead of greenfield sites.
- Bengo, Hertford and East Herts has delivered its housing requirement, and therefore new homes are not needed.
- Adverse impact on quality of life and mental health.
- Reduced property values in the area.
- Lack of engagement with community.

9.3 During the second round of consultation 134 responses were received. A number of the matters identified above were raised again during this second consultation. In addition to these, further objections were received on the grounds summarised below:

- Lack of play space.
- The Road Safety Audit is flawed.
- Speed limit should be further reduced.
- Toucan crossing and footway/cycleway would be unsafe for pedestrians and cyclists.
- Footway/cycleway would not connect to other routes and would not be used by residents.
- Toucan crossing and footway/cycleway would not allow trees to be cutback.
- Trees adjacent to toucan crossing and footway/cycleway could be impacted and should not be removed.
- Toucan crossing and footway/cycleway would create noise disturbance.
- Section 106 contributions for education have been changed.
- Section 106 contribution for nurseries has been removed.
- Lack of Section 106 contribution for secondary schools.
- Section 106 contributions will go towards new schools in Ware and not in Hertford.
- Tonwell Primary School is being closed.
- Lack of Section 106 contributions towards the NHS.
- Other doctors surgeries require funding from Section 106 contributions.
- Issues of social cohesion between existing residents and new residents.
- Lack of a Steering Group for the Health Impact Assessment.

9.4 Responses are broadly made by residents from the following addresses. Residents living further afield have also provided responses. However, these addresses are not included in the below table.

Archers Close	Nelson Street
The Avenue	New Road
Balfour Street	North Road

Barley Croft	Nursery Way
Bartletts Mead	Oldhall Street
Bengeo Street	The Orchard
Beetham Court	Owens View
Bengeo Mews	Palmer Road
Boundary Drive	Palmer Close
Buckwells Field	Parker Avenue
Butterfield Drive	Parkhurst Road
Byde Street	Peel Crescent
Chapmore End	Port Hill
Church Road	Port Vale
Courtyard Mews	Redwoods
Cowbridge	Revels Close
Cowper Crescent	Revels Road
Crouchfield	Rib Vale
Crouchfield Lane	River Court
Cumberland Close	Riverside
Danesbury Park	Russell Street
Desborough Close	Sacombe Road
The Drive	Shepherds Court
Duncombe Close	St Leonards Close
Duncombe Road	St Leonards Road
Eleanor Road	Sturla Close
Elton Road	Temple Court
Fanshawe Street	Temple Fields
Farquhar Street	Thornton Street
Garratts Close	Trinity Court
George Street	Trinity Grove
Glebe Close	Wadesmill Road
Glebe Road	Ware Park Road
Gosselin Road	Warren Park Road
Grange Close	Warren Terrace
High Road, Stapleford	Waterford Common, Waterford
High Road, Waterford	Watermill Lane
Hornbeam Close	Watermill Lane North
Ives Road	Wellington Street
Lodge Close	Westfield Road

Lys Hill Gardens	The Wick
Manor Close	Woodhall Close
Mansfield Gardens	Woodhouse Lane
Millmead Way	Woodland Grove
Molewood Road	Vicarage Lane, Waterford

9.5 Comments have been received from other individuals and groups, as summarised below.

9.6 Councillor Alexandra Daar objects to the application on the grounds summarised below:

First Consultation Response:

- The field is very special to local residents and its not the right place for housing.
- The basis on which this land was allocated no longer exists, as the beautiful landscape still exists, following refusal of the mineral extraction.
- The loss of views is most regrettable. Due to the contour of the land, it will not be possible to disguise the houses behind planting.
- There is concern about the risk to drinking water.
- There have been contradictory statements from the Council.
- The roads cannot cope with additional traffic.
- There would be increased air pollution.
- There is a lack of services and facilities available within walking distance.
- The bus stop is too far away from the site.
- Pavements need repairing and roads are too congested meaning walking or cycling would not be encouraged.
- There is concern that the housing mix does not meet local need.
- There are no solar panels.

Second Consultation Response:

- The risk of flooding has not been addressed.
- Issues with the foul water sewage system have not been addressed.
- The cycleways and footpaths are not linked to other cycle paths, so are unlikely to encourage active travel.

- It is questioned what obligations have been given up to create the cycle path.
- Sufficient consideration has not been given to the slowing of vehicles around the site access.
- There are concerns about parking and impacts on roads during construction.

9.7 Councillor Vicky Smith objects to the application on the grounds summarised below:

- There is a risk of pollution to groundwater.
- The negative health impacts of removing this green space are numerous.
- The proposal would not comply with Policy HERT4 of the DP. Given that the appeal for mineral extraction has been dismissed, the proposal would be contrary to the DP.

9.8 Hertford Civic Society comments on the application raising the matters summarised below:

First and Second Consultation Response:

- It is queried whether there is a need for this development, given the number of houses built or approved in the District to date.
- The foul water pumping station should be located outside Source Protection Zone 1.
- Detailed design recommendations are suggested for the foul water pumping station and SUDs.
- The number of affordable rent units should be increased to 75% of the total of affordable homes.
- The affordable homes should be more widely spread across the development.
- The need for flats in this development is questioned.
- Pedestrian and cycle access to the town should be improved by provision of a shared use path on the western side of Wadesmill Road.
- The developer should consult with the local bus operator regarding provision of necessary access to the site.
- A TRO to reduce speed along Wadesmill Road is required.
- Flooding on Sacombe Road needs to be addressed.

9.9 CPRE Hertfordshire: comments on the application raising the matters summarised below:

- An opportunity has been lost to provide an exemplar development. The loss of Green Belt should be mitigated by the expectation of more than a repetition of standard units.
- Many of the proposed houses would not be affordable for average income households.

9.10 The Bengeo Neighbourhood Area Plan Group objects to the application on the grounds summarised below:

First Consultation Response:

- Gravel extraction, which would have allowed for reprofiling of land, has not occurred. The proposal is not in line with the development plan, as phased extraction of gravel has not taken place.
- Views mentioned in the Neighbourhood Plan would not be available or would be negatively impacted.
- The Neighbourhood Plan suggests that the land may be included as Local Green Space, as the lower field is more used by local people due to its proximity to housing and ease of access.
- There would be a negative impact on health and wellbeing of the community, as the land is much used for recreation by local people, as demonstrated in surveys.
- The risk to groundwater is a significant threat.
- The Landscape and Visual Impact Assessment is flawed.
- Blocks of flats greater than the two storey in height would be difficult to mask with trees and would be incongruous to the local built form.
- The development would add pressure to local roads. Without improvements to pavements, it is unlikely residents would walk or cycle.
- There would be increased pressure on local infrastructure, including: schools, GP services, sewage system and power supply.
- The developer is urged to include solar panels on houses.
- The design should be amended so that the road does not cross the byway.

- A path should be included linking byway 001 to footpath 024 and restricted byway 009.
- Skylarks nest in the field. A study is required to assess the risk to this species.
- The developer should take measures to deliver the appropriate balance of affordable housing and these should be peppered throughout the site.
- Byway 001 should be useable throughout the build.

Second Consultation Response:

- The Health Impact Assessment is disappointing, as it is very minimalistic. The assessment does not explain how stakeholder engagement has taken place. There has been no attempt to scope health impacts on the local community.
- The developer should show how impacts on local infrastructure and poor parking during construction would be avoided.
- Health walks through the field will be disrupted. The developer should explain how this would be avoided.
- There would be health impacts resulting from residents being further away from accessible open green space.
- The developer should show how risks to the foul drain network would be mitigated.
- A lighting scheme is required.

9.11 Save Bengo Field objects to the application on the grounds summarised below:

First Consultation Response:

- Bengo Field is very special to residents because of its unique views, easy access for leisure, its openness and its rolling nature.
- The current application is effectively an addition of 20% more homes than the developer previously consulted on.
- The Landscape and Visual Impact Assessment is flawed. Once the houses are built, it will be impossible to hide them despite the promised mitigation and views would be lost forever. The landscape value is very high and would be destroyed by the development.

- Loss of views would be further impacted by the building of blocks of flats of above two storeys. This does not match the style of housing in Bengoe and would change the appearance of Bengoe when viewed from a distance.
- Views identified in the Neighbourhood Plan would no longer be available or would be negatively impacted.
- The development would have a negative impact on the health and wellbeing of the community, with the loss and disturbance of an important local resource (the byway) used for recreation.
- Use of the byway would be disrupted during construction.
- The developer has not proved that they can feasibility avoid contaminating the public water supply.
- Residents expect that because the quarry has been rejected the housing development would not go ahead. To go against this would undermine democracy.
- There would be an impact on the overburdened and out-dated foul water sewage system.
- There is concern about surface water drainage arrangements.
- The access off Wadesmill Road would have highways safety implications.
- Concerns regarding additional strain on overstretched traffic/highway system.
- There is little evidence of active travel. There are not a range of local amenities, services and shops within walking distances.
- There are no new doctors, dentists or other amenities planned.
- The development would have a detrimental effect on school places for local families.
- There has been a lack of transparency and genuine engagement with local residents.
- The site should be returned to the Green Belt.
- The developer should take measures to provide the correct balance of affordable housing and this should be peppered throughout the site.
- It is disappointing not to see solar panels on the houses.

Second Consultation Response:

- The proposed development contravenes Policy HERT4 of the DP, as the mineral extraction has not taken place.

- The Health Impact Assessment does not address the objections about the impact on resident's health and wellbeing.
- Increased traffic would cause air pollution.
- There are risks of flooding on Sacombe Road.
- Concern that Section 106 Contributions would go towards the planned schools in Ware.

9.12 Watermill Estate Residents Association objects to the application on the grounds summarised below:

First and Second Consultation Responses:

- Bengo Field is of amenity and landscape value.
- The site was only considered suitable for development after gravel extraction. Gravel extraction was rejected, which means that the land should not be built on.
- There are insufficient school places.
- There are insufficient health services.
- The highway system would struggle to cope with the volume of traffic.
- The idea of encouraging buses is commendable, but there are not enough services to make this convenient.
- The flood and drainage systems are inadequate.

9.13 Kingsmead Residents Association objects to the application on the grounds summarised below:

- The field is of high amenity value to the community.
- The field is no longer likely to be used for mineral extraction, and therefore should be returned to Green Belt.
- Further strain would be placed on schools.
- Further strain would be placed on health services.
- There is concern regarding possibly contamination of drinking water.
- The sewage system is at capacity and there could be further environmental damage.
- Increased traffic and highway safety concerns.

9.14 North East Herts Swift Group comments on the application raising the matters summarised below:

- Swift bricks and bat bricks should be secured via condition.

9.15 Hertford Swift Group comments on the application raising the matters summarised below:

- Swift bricks should be secured via condition.

10.0 Consideration of Issues

Principle of Development

Development Strategy

10.1 The overall development strategy in the East Herts District Plan 2018 is summarised in DP Policy DPS1, which identifies the need to deliver new housing growth, with 18,458 new homes required over the plan period 2011 – 2033 (839 new homes per year) to meet identified needs. DP Policy DPS2 sets out the Council’s approach to delivering the development strategy across the District. Sites that are considered urban extensions form part of the development hierarchy for delivering the needs of the District.

10.2 In order to achieve the housing targets, referenced at DP Policy DPS1. The District Plan removed a number of strategic sites from the Green Belt, so to enable them to be allocated for residential development. Included as one of these strategic sites is Land North of Hertford, which is allocated, under DP Policy HERT4, to accommodate a minimum of 150 homes. The full site allocation is show in the hatching on below. The site allocation is split into two (Phase 1 and Phase 2).



10.3 Phase 1 relates to the southern part of the site allocation and DP Policy HERT4 required around 50 homes to be provided on this site.

This part of the site allocation has already been granted planning permission for 52 units, under reference number: 3/19/1826/FUL. This development has been completed and the homes are understood to be occupied. Phase 2 concerns the northern part of the site allocation, with DP Policy HERT4 outlining that around 100 homes should be provided on this land.

- 10.4** Land within this current application site forms Phase 2 of the site allocation. The allocation of this land for residential development, as set out in the DP, means that the principle of housing development has been established on the site. Therefore, the proposed development of the site for 118 dwellings would be acceptable in-principle and would align with the Council's overarching strategy for meeting identified housing needs, in accordance with DP Policies DPS1, DPS2 and HERT4.
- 10.5** Significant responses have been received from the public, local stakeholders, Ward Councillors and local amenity groups raising concern about the principle of the development and suitability of the site to provide housing citing concerns about loss of part of the field (alongside other matters). These concerns were comprehensively addressed at the allocation phase in determining the suitability of the site (to establish the principle of development) which formed a part of the adoption of the District Plan. The site now forms a part of the Spatial Strategy for development in the District. As such, the principle of development of the site to deliver housing has been established in the policy and the current application under assessment is being considered on the basis of whether it complies with the site specific DP Policy HERT4 and other detailed policies in the District Plan, Neighbourhood Plan and supplementary planning guidance, including the NPPF.
- 10.6** Whilst the principle of development is established through the site allocation and District Plan process, the proposals subject to this planning application are still required to comply with the criteria set out in DP Policy HERT4, alongside a raft of other relevant policies and planning guidance set out in this report. Assessment against these

criteria will be undertaken throughout this report. The full wording of DP Policy HERT4 is provided below:

- I. Land to the north of Hertford is allocated as a residential development site to accommodate a minimum of 150 homes, with around 50 dwellings being provided to the north of Sacombe Road by 2022; and, subject to the satisfactory previous phased extraction of mineral deposits on the neighbouring site, around 100 homes to the west of B158 Wadesmill Road between 2022 and 2027.
- II. A Masterplan will be collaboratively prepared, involving site promoters, landowners, East Herts Council, Hertfordshire County Council, Hertford Town Council, and other key stakeholders. This document will further be informed by public participation in the process.
- III. The development is expected to address the following provisions and issues:
 - (a) a range of dwelling type and mix, in accordance with the provisions of Policy HOU1 (Type and Mix of Housing);
 - (b) Affordable Housing in accordance with Policy HOU3 (Affordable Housing);
 - (c) demonstration of the extent of the mineral that may be present and the likelihood of prior extraction in an environmentally acceptable way has been fully considered. As a minimum, an assessment of the depth and quality of mineral, together with an appraisal of the consequential viability for prior extraction without prejudicing the delivery of housing within the plan period should be provided;
 - (d) necessary new utilities, including, inter alia: integrated communications infrastructure to facilitate home working;

- (e) necessary upgrades to the sewerage system;
- (f) sustainable drainage and provision for flood mitigation;
- (g) access arrangements and appropriate local (with contributions towards wider, strategic) highways mitigation measures;
- (h) encouragement of sustainable transport measures, both through improvements to the existing walking, cycling and bridleway networks in the locality and through new provision, which should also provide links with the adjoining area and the town centre and enhanced passenger transport services;
- (i) protection of all public rights of way (including, inter alia, the protection of the restricted byway) and other public access routes running through or on the boundaries of the site;
- (j) landscaping and planting, both within the site and peripheral, which responds to the existing landscape and complements development, as appropriate and provides a defined, recognisable boundary to the Green Belt;
- (k) public open spaces across the site, including the provision of play areas and opportunities for outdoor health and fitness activities, as well as space for wildlife;
- (l) quality local green infrastructure through the site including opportunities for preserving and enhancing on-site assets, maximising opportunities to link into existing assets and enhance biodiversity;
- (m) measures to ensure that any impact on wildlife within the site and at the nearby Waterford Heath nature reserve is successfully mitigated;

(n)the delivery of all other necessary on-site and appropriate off-site infrastructure; and

(o)other policy provisions of the District Plan and relevant matters, as appropriate.

Masterplan Framework

10.7 DP Policy DES1 requires all ‘significant’ development proposals to be underpinned by a Masterplan, which sets out: the quantum and distribution of land uses, access, sustainable high-quality design and layout principles, necessary infrastructure, the relationship between the site and other adjacent/nearby land uses, landscape, heritage considerations and other relevant matters. DP Policy HERT4 reflects this requirement outlining that a Masterplan will be collaboratively prepared for the site, involving site promoters, landowners, East Herts Council, Hertfordshire County Council, Hertford Town Council and other key stakeholders. This policy also notes that the Masterplan will be informed by public participation.

10.8 In accordance with DP Policies DES1 and HERT4, a Masterplan was prepared for the site and this was endorsed by the Council as a material consideration for development management purposes in 2022. In order to produce the Masterplan, the site promoters engaged with EHDC officers in numerous meetings, which helped shape the high-level proposals for the site. In addition, meetings were undertaken with the Shaping Hertford Steering Group, which included District, County and Town Council members and officers, alongside representatives from the Hertford Civic Society and residents group. The Shaping Hertford Steering Group meetings allowed for open debate of issues, which informed the emerging Masterplan.

10.9 The site promoter also undertook a private public consultation on the Masterplan running between 30 August and 14 September 2022. This consultation exercise included an in-person event and a dedicated website was created to enable communication with the site promoter. This consultation was advertised by the site promoter

through a postcard drop and by advertisement in the local press, as well as on social media.

10.10 Officers consider that the Masterplan has been produced for the site in line with the requirements of DP Policy DES1 which was informed by discussions with officers and meetings with the Shaping Hertford Steering Group. The creation of the Masterplan also involved public participation. As such, the requirements of DP Policies DES1 and HERT4, relating to Masterplanning, have been fully satisfied.

10.11 Below is a key image from the endorsed Masterplan. DP Policy DES1 sets out that any application on this site should be assessed against its contribution to the Masterplan. Throughout this report, officers will consider this current full application against the requirements of the Masterplan.



Housing Delivery

10.12 As already noted, DP Policy DPS1 outlines that the Council will provide a minimum of 18,458 new homes in the District, over the plan period (2011 – 2033). DP Policy DPS3 lists the housing sites across the District that will be delivered to achieve this target. In addition to this, Section 5 of the NPPF emphasises that the government maintains the objective of ‘significantly boosting the supply of homes’.

10.13 The provision of 118 homes on this site will assist the Council in reaching the housing target for the plan period. Furthermore, the importance of delivering this site allocation is clear, given that it is identified in DP Policy DPS3 as a site that will contribute towards achieving the supply of 18,458 new homes in the plan period. Therefore, the housing development on this allocated site will make an important contribution to support delivery of the overall development strategy across the District. This would align with the government's aim of boosting housing supply, as set out in the NPPF. This housing provision (including the affordable housing) is a material consideration of significant public benefit.

10.14 It has recently been concluded through an appeal decision (appeal reference number: APP/J1915/W/24/3340497) published 22 August 2024 that the Council cannot currently demonstrate a five-year housing land supply (5YHLS). This appeal decision states that the Council can only evidence between 4.20 and 4.49 years housing land supply (4,671 dwellings). If the allowed appeal scheme is included, this would increase the housing land supply to between 4.42 and 4.72 years. The Planning Inspector acknowledged that this was a snapshot in time and the Council is reviewing its position on housing land supply. Nonetheless, the current position is that the Council is not able to demonstrate the delivery of enough homes over the five-year period to establish a 5YHLS, and the supply policies including the Development Strategy set out in DPS2 and GBR2 are out-of-date.

10.15. It is important to note that the Planning Inspector included Phase 2 of the HERT4 site allocation within the total of 4,671 dwellings to be deliverable over the 5-year period. Consequently, if the application was to be refused or delayed, the Council's 5YHLS would be further reduced, which would result in the tilted balance being applied across the District for potentially a longer period. The further consequence of not having a five-year supply of housing sites is that it generally enables the potential for submission (and approval) of speculative development schemes, which sit outside of the Council's Spatial Strategy (ie: outside settlement boundaries, or on unallocated land) and would otherwise not be supported, in accordance with the Development Plan. Officers consider that it is important to maintain

and facilitate the delivery of the Development Strategy, as set out in the District Plan by supporting applications for development on allocated sites, where they meet the relevant policy requirements. Phase 2 of the HERT4 site allocation will make an important contribution to the Council's supply of housing at a time when it has been found that the housing supply is less than 5 years. This factor is a significant material consideration.

- 10.16** As outlined above, the consequence of not having a 5YHLS, with regards to considering planning applications, is that paragraph 11(d) of the NPPF is engaged. Paragraph 11(d) outlines that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. This means that the 'tilted balance' and 'presumption in favour of sustainable development' are applicable to the consideration of this application.
- 10.17** A number of local residents have outlined that Phase 2 of the HERT4 site allocation is not required, as East Herts, Hertford and the Bengoe Area have delivered their housing quota in recent years. These comments are noted, however the current lack of a 5YHLS is a clear indication that housing targets over the five-year period are not currently expected to be fully met across the District. Notwithstanding this, Phase 2 of HERT4 has been identified in the District Plan for a number of years as a development to come forward, as part of delivering the overall housing needs and development strategy for the District.
- 10.18** Some local residents have also suggested that brownfield land should be used for housing growth, instead of greenfield sites. These comments are acknowledged, however there are very few brownfield sites across the District that are capable of delivering a significant number of housing units. Due to this, land was released from the Green Belt through the District Plan process, so to enable it to be allocated for housing development. HERT4 is one of these sites that was released from the Green Belt, when the District Plan was adopted in 2018.

10.19 Officers note that several local residents have questioned why this scheme proposes to deliver 118 homes, rather than the 100 dwellings, referenced in the DP. Whilst these comments are noted, DP Policy HERT4 is clear that the overall site allocation (Phase 1 and Phase 2) should accommodate a 'minimum' of 150 homes. Furthermore, this policy outlined that Phase 2 should supply 'around' 100 homes. The wording of this policy was specifically set to allow some flexibility on the number of dwellings proposed. Given this, officers have no in-principle objection to the delivery of 118 homes on the site, subject to other considerations. The uplift in the housing numbers can be viewed as a significant positive material consideration, which would align with the government's objective of boosting housing supply.

10.20 Overall, the provision of 118 homes on this allocated site would assist the Council in meeting housing needs across the District and would support the implementation of the development strategy, as set out in the DP. The lack of a 5YHLS further emphasises the need to deliver housing. The housing supply on this site is a material consideration of significant positive weight in the overall planning balance. The provision of 47 x affordable homes is also afforded significant positive weight.

Phased Policy Approach

10.21 DP Policy HERT4 sets out the envisaged phased approach to the delivery of this site allocation. The wording of the policy is provided below:

- Land to the north of Hertford is allocated as a residential development site to accommodate a minimum of 150 homes, with around 50 dwellings being provided to the north of Sacombe Road by 2022; and, ***subject to the satisfactory previous phased extraction of mineral deposits on the neighbouring site***, around 100 homes to the west of B158 Wadesmill Road between 2022 and 2027.

10.22 Officers have consulted the Planning Policy Team for further comments on the background to the site allocation and the District

Plan adoption process. The Policy Team have provided a comprehensive summary of the context, which is further summarised in the consultation section of this report. Officers have considered the policy representations carefully in forming a judgement on the weight to be given to the phased nature of the policy at the time of considering the planning application.

10.23 In broad policy terms, this phased approach enabled Phase 1 of the site allocation to progress shortly after adoption of the District Plan in 2018. Whereas, at the time of adopting the District Plan and the lead-in, it was anticipated that mineral extraction would occur on the neighbouring land to the north of the site allocation (Preferred Area 2) in the early years of the District Plan post adoption. The Policy was worded to enable Phase 2 of HERT4 to come forward after the extent of gravel and sand had been extracted from the land to the north. This mineral extraction within Preferred Area 2 was allocated in the adopted Minerals Local Plan (Review 2002 – 2016) for sand and gravel extraction and so the District Plan made an allowance for this to occur in advance of Phase 2 of HERT4.

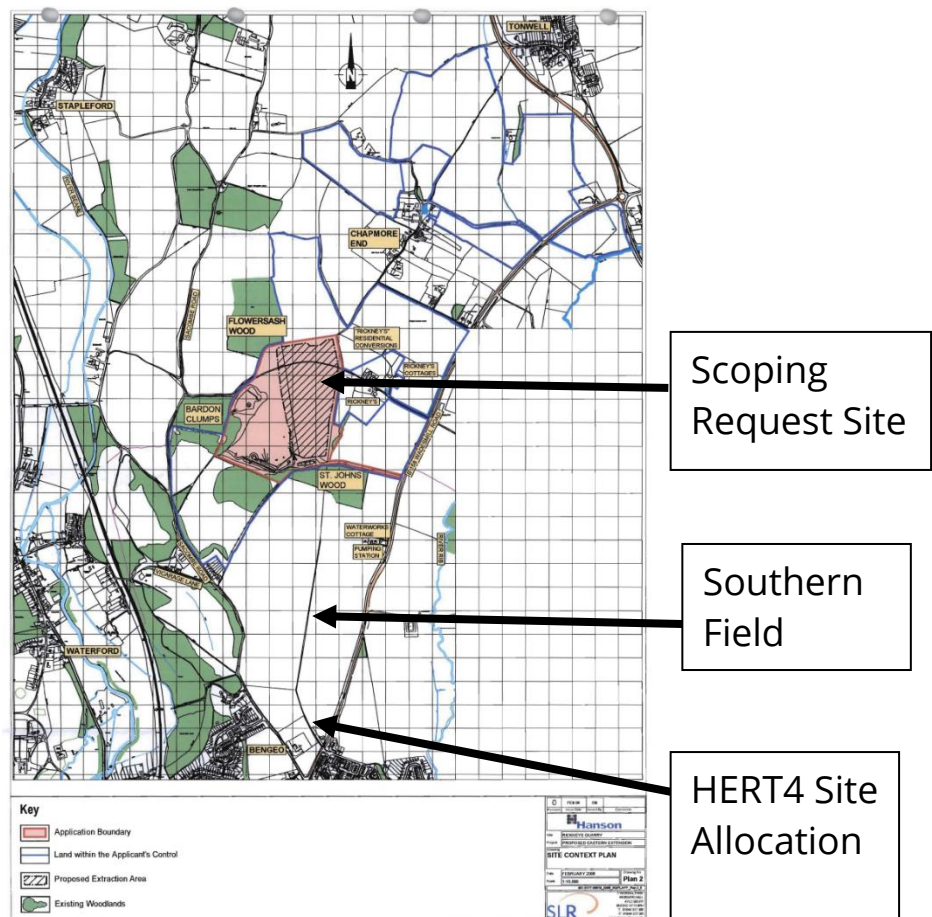
10.24 It is recognised that the phasing of the site delivery would have enabled the optimum amount of mineral deposits to be extracted from Preferred Area 2 and were there no phasing in the policy, conflicts were possible between the extraction works and housing development. This is because a buffer is required between mineral extraction activities and residential uses. If Phase 2 were to have been developed, prior to mineral extraction, then the buffer between housing and extraction activities would have extended further to the north into Preferred Area 2, limiting the level of extraction that could occur. Whereas, the delaying of Phase 2 would have enabled the buffer to the housing to have been further to the south, facilitating mineral extraction on additional land to the south. As such, the phased approach enabled extraction to take place over a greater area of land, maximising the extraction of mineral deposits.

10.25 In addition to the above, Officers acknowledge that following the extraction of minerals from the southern land as planned at the time, this would have provided an opportunity and requirement to

reprofile the neighbouring land, in order to restore the landscape and to form an appropriate landscape setting to facilitate the development of Phase 2 of the HERT4 allocation. It is understood that the phased approach would have also enabled re-profiling works of land to the north, following extraction, to have been planned and implemented in conjunction with Phase 2 of HERT4. In this scenario, it was envisaged that re-profiling works would have been used to assist in reducing the landscape impacts of the development, which would have been apparent given the immediate proximity and relationship of the housing with the extracted land. Notwithstanding the impacts on the landscape from potential extraction on the neighbouring site, there is no policy requirement within DP Policy HERT4 for re-profiling of land to occur. The wording to the HERT4 policy (j) requires landscaping and planting, both within the site and peripheral, which responds to the existing landscape and complements development, as appropriate and provides a defined, recognisable boundary to the Green Belt. Any reprofiling (of the minerals site) following extraction would have been subject to the minerals and waste submission, which would have needed to consider the impact of the housing development.

- 10.26** The above paragraphs provide the background to the phased nature of DP Policy HERT4. Whilst this context is noted, the phasing, as envisaged in the policy, is no longer deliverable or feasible, due to circumstances that have arisen in recent years. Firstly, although officers acknowledge that Preferred Area 2 remains as a site allocation in the adopted Minerals Local Plan (for the period 2002-2016), the emerging draft versions of this plan have, since 2017, not identified Preferred Area 2 for mineral extraction. This indicates that the strategy to plan for mineral extraction across all or part of Preferred Area 2 may not be advanced by HCC going forward. This in part is likely to have been strongly influenced by the two refused applications for mineral extraction on Preferred Area 2 (reference numbers: PL\0776\16 and PL\0870\17) refused by the Minerals and Waste Planning Authority (at HCC). The first of these applications was also subsequently dismissed at appeal and was referred to the Secretary of State for decision.

10.27 Officers consider it is a significant factor that the owners of the southern section of Preferred Area 2 (which comprises the neighbouring land to the north of the current application site) have indicated in a consultation response to the Draft Minerals and Waste Local Plan **that this area of land is not available for mineral extraction**. Consequently, the current submission by the owners of the northern field (adjacent to Rickney's Quarry) to secure an EIA Scoping Opinion omits the entire southern field within the Preferred Area 2. This is shown in the image below. This would suggest that it is no longer the intention to extract minerals from land neighbouring/adjacent to HERT4 Phase 2.



10.28 When regard is had to the refused applications, the representations from landowners and the emerging mineral strategy, officers consider it unlikely that mineral extraction will occur in the area neighbouring the application site directly to the north, in the near future. Extraction will not occur within the timeline envisaged by the DP Policy HERT4 or the Development Strategy, which planned for Phase 2 to be delivered between 2022 and 2027. Therefore, the

phased nature of the site allocation, as set out in DP Policy HERT4, is no longer considered to be deliverable or necessary.

- 10.29** Noting that minerals extraction will not take place in accordance with the timeline of the DP Policy HERT4 policy, and there remains significant doubt whether any extraction will occur in the neighbouring land. The policy does not implicitly state that housing will not be permitted in the scenario that exists today, which is the scenario outlined in this report. The policy also does not include a restriction on developing phase 2, if no extraction occurs on the neighbouring land. It is understood this restriction may not have been accepted by the Inspector under examination of the District Plan, as the allocation may have been undeliverable in this scenario (where extraction never occurred on the neighbouring land).
- 10.30** In light of the uncertainty of the extraction proposals to the north of the HERT4 site, officers have given careful consideration to the weight given to the phased approach to the policy and whether this aspect of the policy is justified, necessary or relevant anymore. As already advised, the phased approach to the policy was devised, in order to allow the optimisation of mineral extraction at Preferred Area 2. Given that extraction on the neighbouring land is now unlikely to be undertaken, officers consider there is no need to consider the position or allowance for the buffer between housing and mineral extraction activities. In addition, the absence of permission to permit mineral extraction means that the requirement to facilitate the maximisation extraction of mineral deposits is no longer relevant. Given this position, officers consider that the phased approach to the site allocation is no longer required, necessary or justified. This assessment is further backed up by the comments from HCC Minerals and Waste Team, who have not objected to the proposals and have not insisted on mineral extraction being undertaken at Preferred Area 2, prior to the housing development.
- 10.31** Concerns have been raised in the consultation responses citing the lack of reprofiling of land before Phase 2 is constructed. This is referred to in the Planning Policy Officer's representations and in the paragraphs above in the background context to the formulation of

the policy and was subject to examination as part of the District Plan adoption. The phased approach to the site allocation could have enabled reprofiling of the land to the north of the application site following mineral extraction, as proposed in the refused Minerals and Waste submissions. It is understood that re-profiling was recommended to restore the land subject to minerals extraction, reduce the landscape impacts of the development and improve the Green Belt boundary/settlement edge. Whilst these intentions are acknowledged, the policy criterion within DP Policy HERT4 does not require re-profiling of neighbouring land to mitigate the impact of development (of Phase 2) or to perform a specified landscape intervention to the Green Belt boundary regarding land levels. It is also considered that reprofiling is no longer a requirement on the southern parcel as this land will not be subject to extraction works. The requirement in the DP Policy HERT4 (j) requires landscaping and planting, both within the site and peripheral, which responds to the existing landscape and complements development, as appropriate and provides a defined, recognisable boundary to the Green Belt. As such, subject to the requirement in DP Policy HERT4(j) being met, there is no policy basis to impose a further requirement to re-profile the neighbouring land adjacent to the application site, as a precursor to the housing scheme.

- 10.32** It is noted that local residents and local groups have referred to a Statement of Common Ground from 2017 and a report from 2019 relating to the Masterplan for Phase 1 of the HERT4 site allocation. Both of these documents outline that Phase 2 of the HERT4 site allocation should not progress, if mineral extraction is not undertaken. Officers recognise that the statements set out in these documents will not be followed through, if Phase 2 is constructed even if minerals extraction was not to occur. This remains a significant concern for residents. However, the status of these documents is such that they formed part of the evidence and justification to the policy. The statements are not legally binding and the commitments therein constituted the current position of the Council at that time. Officers consider that, in light of the subsequent changes in circumstances comprising the refused minerals and waste submissions, the deallocation of the minerals site in the Draft M&W

Local Plan and subsequent confirmation from the owners of the southern field noting that this site will not be promoted for extraction that the statements contained in the SoCG and the content in the Phase 1 Masterplan have been overtaken by events and no longer apply to the proposed development of Phase 2. The documents themselves do not comprise material considerations that hold sufficient weight in the determination of a planning application. As required by Section 38(6) of the Planning and Compulsory Purchase Act (2004) and Section 70(2) of the Town and Country Planning Act (1990), this decision should be made in accordance with the development plan, unless material considerations indicate otherwise. In this instance, the most relevant development plan policy is DP Policy HERT4, which does not require re-profiling of land to be undertaken, prior to housing development.

- 10.33** In summary, officers consider that the phased approach to the site allocation, as set out in DP Policy HERT4, is no longer necessary, required or justified. Mineral extraction is not likely to occur on neighbouring land in the near future, and as such the requirement to maximise extraction of mineral deposits is not relevant. Furthermore, there is no policy requirement for re-profiling of neighbouring land, prior to housing development. Therefore, there is no policy basis or reason to require mineral extraction, in the advance of this residential scheme. Officers consider that the weight given to the phased nature of the policy should be significantly tempered/reduced, as the minerals and extraction proposals have been overtaken by events, which means they should not determine the phasing of the site any longer. Notwithstanding this position, the primacy of DP Policies DPS1, DPS2, DPS3 and HERT4 is to deliver sufficient homes to meet identified housing needs in the District. Officers consider that this priority should be attributed significant weight in the overall planning balance. This is given further weight at the current time as the Local Planning Authority cannot demonstrate a five-year supply of housing.

Green Belt and Local Green Space

- 10.34** The majority of the application site was removed from the Green Belt, through adoption of the DP. However, a strip of land along the

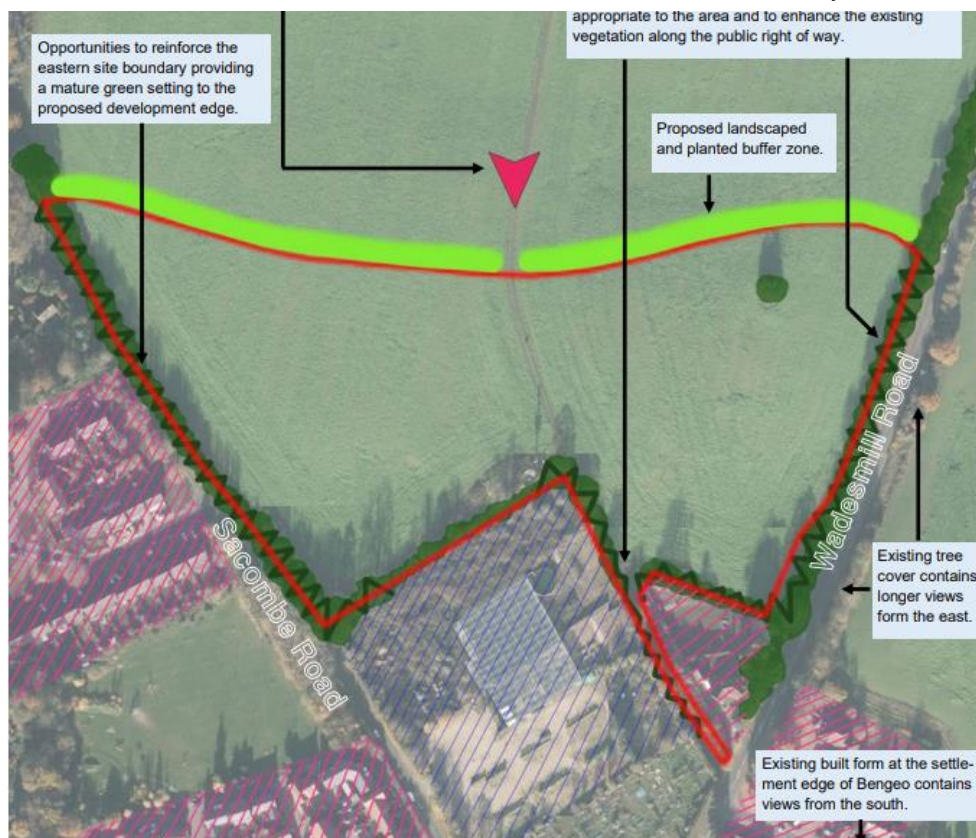
northern site boundary remains in the Green Belt, as shown in the image below. The eastern side of this strip of land is also within a Local Green Space (LGS), as identified in the NP. Paragraph 154 of the NPPF outlines that Local Planning Authorities should regard the construction of new buildings as inappropriate in the Green Belt. However, this paragraph, together with paragraph 155 of the NPPF, do identify some exceptions to this. NP Policy HBN1 also states that development within LGS 'will only be permitted where exceptional circumstances can be demonstrated'. DP Policy CFLR2 outlines that development in LGS will only be permitted if it is consistent with the function, character and use of the LGS.



10.35 It is clear from the image above that the housing development would be undertaken outside of the Green Belt and LGS. As such, no buildings would be constructed in the Green Belt or LGS. Whilst this is acknowledged, it is evident that the native tree and shrub buffer would be planted beyond the site allocation and within the Green Belt and LGS. This is noted. However, the planting of trees and shrubs does not constitute 'development', meaning that it does not require planning permission. On this basis, the planting would not constitute inappropriate development in the Green Belt or LGS. As such, there

would be no conflict with Section 13 of the NPPF, DP Policies GBR1 or CFLR2, nor NP Policy HBN1.

10.36 Notwithstanding this position, the endorsed Masterplan and DP Policy HERT4 both allow for planting within the site and 'periphery'. An image from the Masterplan is provided below to illustrate this. Therefore, the principle of a native tree and shrub buffer beyond the site allocation boundary accords with the Masterplan and DP Policy HERT4. Furthermore, the native tree and shrub buffer would deliver other benefits, in terms of creating a defensible boundary to the urban area of Hertford and providing screening of the development. These benefits will be discussed further in a latter part of this report.



10.37 Officers do note that a small part of the path in the north-western corner of the site would extend into the Green Belt. Therefore, this element of the proposal must be considered under paragraphs 154 and 155 of the NPPF. Paragraph 155 at (b) does allow for 'engineering operations' in the Green Belt. It is well established that the laying of hardstanding equates to 'engineering operations' for the purposes of Green Belt considerations. As such, the installation of this small stretch of path would fall within the scope of paragraph 155(b) of the NPPF. While this is acknowledged, paragraph 155 is clear in that

'engineering operations' must preserve openness and should not conflict with the purposes of the Green Belt.

10.38 The laying of this path would not involve the addition of any above ground structures. Due to this, officers do not consider that the openness of the Green Belt would be compromised. In terms of the purposes of the Green Belt, these are identified at paragraph 143 of the NPPF. The majority of these purposes are not entirely relevant to this element of the proposal, however officers acknowledge that (c) states that the Green Belt should 'assist in safeguarding the countryside from encroachment'. In this instance, the path would be to the south of the tree buffer, and consequently would be viewed as part of the housing development. Noting this, and given the only marginal protrusion into the Green Belt, officers do not consider that this minor stretch of path would result in encroachment into the countryside. Overall, this path would equate to an 'engineering operation', which would preserve openness and would not conflict with the purposes of the Green Belt. As such, the installation of this path would not represent inappropriate development in the Green Belt and would not be contrary to DP Policy GBR1 or Section 13 of the NPPF.

10.39 A number of local residents have referred to paragraph 4.68 of the NP, which states that:

- 'if development of approximately 100 homes within HERT4, which is subject to the satisfactory previous phased extraction of mineral deposits has not received planning permission and is removed from the District Plan as a Strategic Site Allocation, the Neighbourhood Plan would seek to extend LGS1 (Land at Bengoe Field) by a further 2.7Ha through a review of the Neighbourhood Plan. This would include land to the east of restricted Byway 1, north of Glenholm and west of Wadesmill Road i.e. land currently forming part of HERT4'

10.40 Whilst this extract from the NP is acknowledged, the Planning Policy Officer has explained that 'it is beyond the scope of the Neighbourhood Plan to take any policy decisions relating to the East Herts District Plan going forward, particularly in relation to any

removal of a strategic site allocation'. Officers agree with this statement. Phase 2 of HERT4 remains a site allocation in the District Plan and is identified at DP Policy DPS3, as part of the housing supply to meet housing targets. Therefore, this application must be considered against currently adopted policy, which includes Phase 2 as a strategic site allocation. This means that the recommendation set out in paragraph 4.68 of the NP holds no weight in the assessment of this current application.

Affordable Housing and Housing Mix

Affordable Housing

- 10.41** The District Plan acknowledges that affordability of housing is a key issue across the District. To address this, DP Policy HOU3 seeks to secure up to 40% affordable housing on sites proposing 15 or more gross additional dwellings. This policy notes that a mix of tenures will be expected, taking into account up-to-date evidence on housing need. Affordable housing should also be of similar design quality to private housing and integrated evenly throughout the site.
- 10.42** This scheme would supply 47 affordable homes, which equates to 40% of the overall proposed housing provision. Therefore, the proposed development would provide a sufficient number of affordable units to satisfy the requirements of DP Policy HOU3. The delivery of a policy compliant quantity of affordable homes is a material consideration of significant benefit, which weighs in favour of the overall scheme. The provision of 47 affordable homes is afforded significant weight at this time, given that there has been an under-delivery of affordable housing in the District.
- 10.43** The District Plan and the Strategic Housing Market Assessment (SHMA) suggest that within the overall affordable housing provision the tenure split should be 84% affordable rent and 16% intermediate housing (shared ownership). Whilst this is noted, the Council's Affordable Housing SPD acknowledges that paragraph 66 of the NPPF requires major schemes to make at least 10% of the total number of homes across the site available for affordable home ownership (shared ownership). Given that this 10% figure relates to the total

number of proposed dwellings on the site, not just the affordable proportion, the expectation to provide affordable home ownership is greater than as set out in the SHMA and DP. Noting this, the Affordable Housing SPD explains that the Council has now updated the position and will require an affordable housing tenure split of 75% affordable rent and 25% shared ownership.

10.44 This proposed scheme would deliver 33 units for affordable rent and 14 shared ownership units. This represents a 70% - 30% tenure split. The EHDC Housing Officer does not deem this split to be acceptable, as it would not fully accord with the updated requirements of the Affordable Housing SPD. This marginal shortfall against the recommended tenure split is acknowledged. However, officers consider the development will provide wider benefits as a result of the overall housing mix, which will deliver a policy compliant 40% affordable housing provision and will also deliver a good proportion of family-sized affordable units in houses (rather than entirely flatted units). These benefits are significant as they provide affordable housing at a time when there has been an under delivery of affordable housing when measured against the housing trajectory, and are considered to outweigh the marginal non-compliance with the preferred tenure split in the Affordable Housing SPD. Therefore, overall, officers consider that the tenure split would, on balance, be acceptable.

10.45 In terms of the type and size of affordable units proposed, the original scheme included a significant number of affordable flats and an insufficient number of affordable family-sized homes. The EHDC Housing Officer raised strong objections to this initial mix, explaining that there has been an over-provision of affordable flats throughout the District, when the greatest need is for three-bedroom houses. Noting these comments, officers have negotiated an improved affordable housing mix, which comprises a greater number of three-bedroom affordable homes (including as houses rather than flats) and a reduced quantity of affordable flats. The EHDC Housing Officer, in their latest comments, has welcomed the increase in affordable family-sized units. The amendments to the affordable housing mix are shown in the tables below. Officers now consider that the altered

affordable housing mix is acceptable, as the scheme would deliver a good variety of affordable unit sizes, whilst prioritising the provision of three-bedroom affordable units, which are in high demand in the District.

- 10.46** It is noted that the EHDC Housing Officer is disappointed to see the increase in two-bedroom flats. However, when regard is had to the overall affordable housing mix, officers do not consider that an excessive number of two-bedroom affordable flats is proposed. Therefore, the provision of a modest number of two-bedroom affordable flats would be acceptable and would contribute to the provision of an appropriately varied affordable housing mix.

Originally Proposed Affordable Housing Mix

Dwelling Type	Affordable Rent	Shared Ownership	Total
1-Bedroom Flats	16	0	16
2-Bedroom Flats	4	0	4
2-Bedroom Houses	2	4	6
3-Bedroom Houses	9	10	19
4-Bedroom Houses	2	0	2

Amended Affordable Housing Mix

Dwelling Type	Affordable Rent	Shared Ownership	Total
1-Bedroom Flats	4	0	4
2-Bedroom Flats	8	0	8
2-Bedroom Houses	2	4	6
3-Bedroom Houses	17	10	27

4-Bedroom Houses	2	0	2
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- 10.47** The affordable rent houses would be provided as house types B, C, D and Q, while the affordable rent flats would be delivered in the apartment blocks on the eastern side of the site. The shared ownership units would be provided as house types A and C. Officers consider that the proposed eastern apartment block would incorporate similar design features and materiality to other dwellings on the site. In addition, the proposed house types for the affordable houses would be of comparable design and appearance to the house types intended for the market housing. Therefore, it is considered that the development would be 'tenure-blind', as required by District Plan Policy HOU3.
- 10.48** The EHDC Housing Officer has questioned the integration of the affordable units into the development. The site plan below shows that affordable units would be provided on both the eastern and western parcels. Therefore, officers consider that there would be some spreading of affordable units across the site. Notwithstanding this, it is accepted that the affordable units would, to some degree, be supplied in clusters. This is acknowledged, however the overall delivery of a substantial number of affordable homes on the site means that there would inevitably be some clustering of affordable units. Furthermore, officers are aware that registered providers generally prefer affordable units to be grouped, as this assists with management arrangements. Noting these observations, and given that there has been some spreading of affordable units across the site, it is considered that an appropriate balance has been struck between 'pepper-potting' the affordable units and delivering affordable homes that meet the requirements of registered providers. Consequently, the integration of affordable units into the development is considered acceptable.



10.49 In summary, while the EHDC Housing Officer has some reservations regarding the affordable housing offer, officers consider that the provision of 40% affordable housing and the delivery of a varied affordable housing mix, including a significant number of three-bedroom houses, are material considerations of significant benefit. The marginal conflict with the tenure split guidance in the SPD and clustering arrangement are minor factors and these do not weigh heavily against the overall benefits to be attributed to the provision of affordable housing, which are significant overall. It was recognised in the recent Appeal decision (appeal reference number: APP/J1915/W/24/3340497) published 22 August 2024 that there had been an under-provision of affordable housing in the District and that the appeal scheme would provide a substantial contribution towards the deficit. The application scheme will further contribute towards the delivery of affordable housing at a time where there is a shortfall adding to the significance of this benefit within the planning balance. Therefore, overall, the affordable housing provision would be acceptable and would broadly comply with DP Policies HERT4 and HOU3. This affordable housing delivery attracts significant positive weight in the overall planning balance. The affordable housing provisions can be secured through the Section 106 legal agreement.

Housing Mix

10.50 DP Policy HOU1 states that 'on new housing developments of 5 or more gross additional dwellings, an appropriate mix of housing

tenures, types and sizes will be expected in order to create mixed and balanced communities’.

- 10.51** The proposal seeks to deliver a variety of dwelling sizes/types, ranging from one-bedroom flats up to five-bedroom houses. Within this mix, the scheme proposes a significant number of three-bedroom and four-bedroom houses. Provision of these family-sized units is supported by officers, as these are the dwelling types in highest demand across the District, as set out in the SHMA. Therefore, the proposed housing mix would directly address the identified housing needs in the District. In addition to the family-sized units, the scheme would still deliver a good level of smaller units, meaning that, overall, an appropriate range of dwelling types would be supplied. Consequently, the proposed housing mix would be acceptable, with a suitably mixed and balanced community created, in line with DP Policies HERT4 and HOU1.
- 10.52** DP Policy HOU7 requires major sites to provide units which meet the changing needs of residents and society over their lifetime. This policy notes that all new residential development should meet the Building Regulations Requirement M4(2): Accessible and Adaptable Dwellings. While on sites proposing 11 or more dwellings, a proportion of the dwellings will be expected to meet Building Regulations Requirement M4(3): Wheelchair User Dwellings.
- 10.53** The applicant has, in their Planning Statement, confirmed that the majority of the proposed dwellings would meet M4(2) standards. However, the lower ground floor flats in apartment block 1 – 12 would not meet M4(2) standards, as level access cannot practicably be provided. Furthermore, the upper floor flats cannot fully comply with this Building Regulation Requirement, without lifts being installed. Officers consider that it would be unreasonable to require the provision of lifts to serve only a minimal number of upper floor flats. In addition, the land levels adjacent to apartment block 1 – 12 means that there are practical reasons why M4(2) compliance cannot be achieved for the lower ground floor flats. Noting these observations, and given that the subject flats would, in all other respects, meet M4(2) standards, it is not considered that a reason for refusal based

on the minor under provision M4(2) units could be substantiated. Overall, officers consider that the proposed scheme has taken all reasonable steps to maximise the provision of M4(2) dwellings. The delivery of accessible and adaptable dwellings can be secured via condition.

10.54 In terms of M4(3) units, the applicant has confirmed that 6 of the proposed dwellings would meet this Building Regulations Requirement which equates to 5% of the total. Therefore, in line with DP Policy HOU7, a 'proportion' of proposed dwellings would be wheelchair user dwellings. The supply of wheelchair user dwellings can again be secured via condition.

10.55 In summary, the proposed provision of 118 homes will contribute towards the housing supply in the District, in accordance with the relevant DP policies relating to supply (DPS1, DPS2 and DPS3), housing mix (HOU1 and HOU7) and affordable housing provisions (HOU3). The provision of market housing and affordable housing are both significant positive benefits.

Design Quality and Landscape Character

10.56 DP Policy DES4 requires development to be of a 'high standard of design and layout to reflect and promote local distinctiveness' and should amongst other criteria 'respect or improve upon the character of the site and the surrounding area, in terms of its scale, height, massing (volume, shape), orientation, siting, layout, density, building materials (colour, texture), landscaping, environmental assets, and design features'. DP Policy HOU2 explains that proposals should demonstrate 'how the density of new development has been informed by the character of the local area'. NP Policy HBH2 encourages developments to follow the principles of 'Building for Life 12' and seeks to avoid unnecessary uniformity in external design.

10.57 The adopted Masterplan covering Phase 2 of the HERT4 site allocation sets design principles for the development, relating to: points of arrival, coherent movement strategies, internal routes, landscaping, layout, building heights and frontages. In addition, the Masterplan

specifies that the development should have three separate character areas (the western side of the development, the centre/heart of the development and the eastern side of the development). Each of these character areas should be based on the distinct design features and characteristics, outlined in the Masterplan. These characteristics are summarised below.

Character Area	Masterplan Requirements
Western Side of Development	<ul style="list-style-type: none"> • Similar characteristics to the Stiles. • Creation of leafy lane approach. • Housing to northern fringe to adopt materials and boundary treatments to reflect a semi-rural character. • Slightly denser development and more formal in character.
Centre/Heart of Development	<ul style="list-style-type: none"> • Sensitive inclusion of byway. • Buildings designed to accentuate and complement existing route with architectural characteristics to create visual interest. • Framing of an open space at the very centre of the development.
Eastern Side of Development	<ul style="list-style-type: none"> • Accommodate steep slopes. • Housing set in rows following contour lines and will rise towards the centre of the site. • A focal building of status should mark the main point of arrival from Wadesmill Road. • Less dense development.

Density, Layout and Siting

10.58 The layout of the proposed development has been directly informed by the requirements of the Masterplan. The western side of the development would be constructed at a slightly higher density. A formal layout would be adopted, with the proposed houses generally positioned in a linear formation along the main primary and secondary roads. This would be a simple and coherent layout for the western part of the site, which would appropriately mimic characteristics of the adjacent Stiles development. Therefore, officers

consider that the layout and density of the western development parcel would be acceptable and would reflect the requirements of the Masterplan.

10.59 Through the centre of the site, the byway is intended to be incorporated into the layout, which is supported by officers and the Masterplan. The proposed buildings in the central area would be appropriately set-back from the byway, so that this route would not become overly dominated by built development. Green spaces would also be delivered adjacent to the byway, affording some green character to the route. The separation provided between the byway and the proposed buildings, taken together with incorporation of green spaces, would ensure that the development would appropriately frame the byway. In addition, officers consider that the creation of green spaces adjacent to the byway would deliver an attractive 'pocket park' in the central part of the site, as required by the Masterplan.

10.60 The eastern side of the development would be of slightly lower density, when compared with the western side, in accordance with the requirements of the Masterplan. Furthermore, the proposed dwellings would be generally laid out in curved lines, running south from the primary access road. This layout would be a less formal arrangement and would allow the development to follow the contours of the site, which is supported by officers. To the north of the built development on the eastern parcel, an area of public open space would be created, together with a LEAP and SUDs features. The delivery of this public open space would provide some spacing between built development and the agricultural land beyond the site. This is appropriate and would allow a suitable transition between the proposed development and the countryside to the north.

10.61 Overall, in terms of the layout of the scheme, officers consider that the proposed development would appropriately reflect the adopted Masterplan. This is demonstrated in the images below, which clearly show how the layout of the development has been directly influenced by the Masterplan. In addition, the relatively low density proposed across the whole site (22.5 dwellings per hectare) is considered

appropriate for a development in an edge of settlement location. The proposed layout forms an appropriate basis for delivering a high-quality development on the site, in accordance with DP Policies HOU2 and DES4, as well as NP Policy HBH2.



Building Heights and Scale

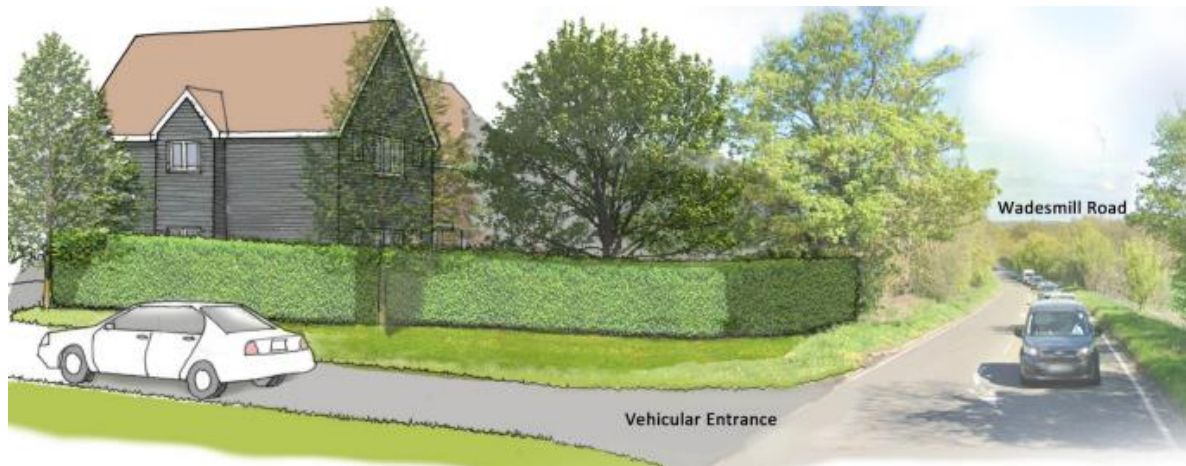
10.62 The majority of the houses would be of two storey height, with some two and a half storey dwellings also proposed. The apartment block in the central area (Plots 80 – 85) would be of two storey height, whereas the changing land levels on the eastern parcel would enable the

apartment blocks adjacent to Wadesmill Road (Plots 1 – 12) to be delivered in a three storey building.

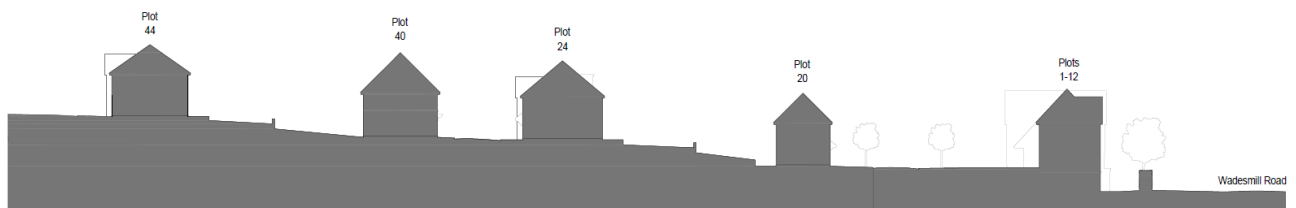
10.63 The proposed two storey buildings, as well as the two and a half storey houses, would be reflective of the buildings heights evident in the wider Bengo Area. As such, this scale of development would not appear out of keeping in the locality. These buildings heights would also be typical of domestic settings, and therefore are deemed appropriate for this residential scheme. The Masterplan allows for the provision of two storey, as well as two and a half storey buildings. Consequently, these proposed buildings heights would comply with the adopted Masterplan.

10.64 Officers note that the apartment blocks on the eastern side of the site (Plots 1 – 12) would be three storey in height. The Masterplan does not preclude the delivery of a three storey building in this location, as it states that there is 'an opportunity to provide a three storey landmark building at the very lowest point of the site along the eastern edge'. Therefore, there is no in-principle objection to the construction of a three storey building, adjacent to Wadesmill Road. The applicant has provided section details, which show that the apartment blocks would sit at a slightly lower land level, than the adjacent carriageway. This reduced land level, taken together with the screening afforded by vegetation along the eastern site boundary, would result in the apartment blocks appearing as two storey buildings in numerous views from Wadesmill Road. In addition, the apartment blocks would be dug into the sloping land levels, so that on the western side the buildings would appear two storey in scale. Noting that the Masterplan does allow for three storey development in this location, and given the perceived two storey scale of the apartment blocks in several views, officers do not consider that these buildings would appear inappropriately bulky on the site or in the street scene.





10.65 On the eastern side of the development the Masterplan outlines that the housing should follow the contours of the land, with the buildings required to rise in tiers towards the centre of the site. The applicant has provided section drawings (as shown below), which demonstrate that this would be appropriately achieved on the site. These section drawings illustrate how the land levels of the proposed buildings would gradually rise further into the site. Therefore, officers consider that the proposed development on the eastern parcel would be suitably incorporated into the existing land levels, meaning that this requirement of the Masterplan would be met.



10.66 Overall, it is considered that the range of two storey to three storey building heights would respect the edge of settlement location of the site, whilst also creating an appropriate domestic setting within the development. All of the building types would be well-proportioned and the development would suitably respect the undulating character of the existing site. Therefore, the size, scale and proportionality of the proposed development would be acceptable, in accordance with the Masterplan, as well as DP Policy DES4 and NP Policy HBH2.

10.67 The proposed buildings would generally be of pitched roof form, with some hipped roof elements incorporated. These simple and traditional designs would appropriately reflect the building typologies present on the Stiles and in the wider area. Therefore, the form and massing of the proposed buildings would be in-keeping with the setting. Gable-ends, porch detailing and small dormer windows would be incorporated into the design of a number of the house types. The provision of these design features would add some visual interest to the proposed buildings, while also ensuring that unnecessary uniformity in the appearance of the houses is avoided.

10.68 In terms of materiality, the scheme largely proposes to use traditional materials such as red brickwork, buff brickwork and clay tiling. Such materials are found on many buildings within the Bengeo Area. Therefore, the proposed approach to materiality would respect the character of the locality. In addition, cladding is proposed to be used for the apartment blocks and some of the houses. Use of this material would provide a somewhat rural character to several buildings, which would be appropriate, given the position of the site adjacent to the countryside.

10.69 In summary, officers consider that the simple form and design of the proposed buildings would be suitably sensitive to this setting. Furthermore, the traditional approach to materiality would ensure that the development would appropriately relate to its surroundings. However, in order to ensure that high-quality materiality is adopted on site, a condition is recommended securing details of the specifications for the proposed materials. Subject to satisfactory details of materials being provided through condition, the form, design and materiality of the proposed development would be acceptable, in accordance with DP Policy DES4 and NP Policy HBH2.

Important Buildings

10.70 The Masterplan emphasises the importance of ‘points of arrival’ within the site and suggests that these areas should be framed by ‘focal buildings set within an attractive landscape setting’. In order to deliver this, the Masterplan identifies locations within the development for ‘important buildings’, including the areas adjacent to

the byway and the part of the site close to the access from Wadesmill Road.

- 10.71** To the west of the byway the original scheme proposed to deliver two apartment blocks, which the EHDC Design Officer considered to be 'unremarkable' and lacking of 'interest and articulation'. Given this, officers considered that these apartment blocks were not of sufficient architectural quality to occupy positions for 'important buildings' within the site. Therefore, officers have negotiated different building designs for these locations.
- 10.72** Close to the southern boundary and adjacent to the byway it is now proposed to deliver a row of terraced houses (Plots 49 – 56) of traditional design and appearance, as shown below. These dwellings would be well-proportioned and an appropriate degree of articulation would be incorporated through the addition of porches, small dormer windows and bay windows. Consequently, officers consider that this row of terraced dwellings would be of high architectural quality, meaning that these houses would create a suitable aesthetic for this 'important building' location.
- 10.73** To the north of this, the scheme now proposes to provide an apartment block of a barn-style character (Plots 80 – 85), as illustrated below. The rural character of this building would be appropriate on the northern side of the site, as it would assist with the transition to the countryside beyond. In addition, officers consider that the placement of fenestration on this apartment block would provide a good level of visual interest to the building. Officers consider that the barn-style character of this building has been successfully achieved through the secured amendments to the scheme. Therefore, the barn-style apartment block would be of suitably high-quality to occupy an 'important building' position within the wider development.
- 10.74** Both Plots 49 – 56 and Plots 80 – 85 would be appropriately set-back from the byway, with grassed areas and hedging also provided to the front of these buildings. This separation, taken together with the provision of soft landscaping, would ensure that the 'landscape

setting' for the byway, as required by the Masterplan would be delivered.



10.75 The area adjacent to the site access from Wadesmill Road was also identified as a 'key point of arrival' and position for an 'important building' in the Masterplan. As already discussed, it is proposed to deliver a three storey apartment blocks in this location (Plots 1 - 12). The form of these buildings has changed throughout the course of this application, following comments from the EHDC Design Officer. The apartment blocks now incorporate multiple gable-ends on the front elevation, with a gable feature also created on the southern elevation of Plots 1 - 6, which faces onto the site access. A mix of cladding and brickwork would be used as the external materials. Officers consider that the altered designs for these buildings have sufficient articulation to ensure that they would suitably address both Wadesmill Road and the site access. In addition, the variety in materials and fenestration detailing would assist in breaking-up the mass of these buildings. Given these observations, officers consider that the revised designs for the apartment blocks are of appropriate quality for this 'important building' location.

10.76 In summary, officers consider that this scheme would deliver a development of high-quality design. The layout of the scheme has been directly informed by the Masterplan, with three distinct character areas created on the site. The density of the proposed development would appropriately relate to the edge of town location and would assist with the transition to the countryside beyond. Furthermore, the scale, heights and proportionality of the proposed dwellings would respect the building typologies found in the locality. The existing land levels of the site have been suitably integrated into the development, with the proposed buildings on the eastern parcel rising in tiers towards the central areas, as required by the Masterplan. Traditional forms and materiality have been adopted for the buildings, which is acceptable, as it would reflect the character of the surrounding area. Buildings of good architectural quality would be provided in the 'important building' locations, as set out in the Masterplan, ensuring that attractive points of arrival would be created within the development. Therefore, overall it is considered that scheme would be of a high standard of design, which would respect the character and appearance of the setting and the surrounding area, in accordance with the Masterplan, DP Policies HOU2, DES1 and DES4, as well as NP Policy HBH2.

Standard of Accommodation

10.77 DP Policy DES4 notes that all new residential developments should ensure that internal rooms are of an appropriate size and dimension, so that the intended function of each room can be satisfactorily achieved. In addition, the Technical Housing Standards – Nationally Described Space Standards (NDSS) provides guidance on the minimum internal floor area requirements for new dwellings. Paragraph 135 of the NPPF requires developments to provide a high standard of amenity for existing and future users.

10.78 All of the proposed dwellings would be laid out with appropriately sized rooms, which would comfortably allow the function of the spaces to be carried out, in accordance with DP Policy DES4. The vast majority of the proposed dwellings would have internal floor areas that would exceed the requirements of the NDSS. However, there would be a very limited number of flats within apartment block 80 – 85 that would fall

just below the minimum standards of the NDSS for two-bedroom, four-person flats (2B4P), although they meet the standard for two bedroom, three-person flats (2B3P). While this is acknowledged, it is clear from reviewing the floor plans of these flats that they would be suitably laid out, with adequately sized habitable spaces provided. Therefore, these flats would supply acceptable living conditions for the future occupiers. Overall, officers consider that the proposed development would deliver dwellings of appropriate internal dimensions and layouts. As such, good quality accommodation would be provided for the future occupiers, in line with DP Policy DES4 and Section 12 of the NPPF.

10.79 The EHDC Housing Officer has raised concern regarding the quality of some of the affordable units, commenting on the size of the living areas, the open plan layouts and the provision of bedrooms over multiple floors. These comments are noted, however all of the affordable units would exceed the minimum gross internal floor area requirements of the NDSS. As such, officers consider that the affordable dwellings would all be of appropriate size for the type of accommodation proposed. In terms of the layouts, there is no policy basis to refuse the application on the grounds of the open plan living areas or the provision of bedrooms on different floors. Whilst this is noted, a condition is recommended to secure the final layouts of the affordable units. Through this additional step, officers can require the open plan living areas to be designed out of the layouts, in order to address some of the Housing Officer's concerns.

10.80 The vast majority of the dwellings proposed across the full scheme would be dual-aspect, providing the future occupiers with good levels of light, appropriate outlook and opportunities for cross ventilation. Officers do note that two of the flats within apartment block 1 – 12 would be single-aspect. However, these flats would have several openings across the one elevation and the habitable spaces within the dwellings would all be served by good sized windows. As such, it is considered that these two flats would still receive adequate light, whilst also having suitable outlook and possible options for ventilation.

10.81 All of the houses proposed through the scheme would be served by appropriately sized garden spaces. Therefore, the occupiers of these dwellings would have suitable access to an outdoor space. It is noted that the proposed flats would not be designed with a garden or balcony. While the absence of private outdoor spaces for these flats is regrettable, there is no policy that requires the provision of balconies or gardens. Officers also note that none of the flats are family-sized units, meaning that there is not a necessity for a private outdoor space. Furthermore, these flats would be positioned close to the proposed public open space and LEAP, and therefore the future occupiers would have direct access to a green space and play area. Given these observations, officers do not consider that the lack of private outdoor spaces for the flats would render the living conditions of these dwellings unsuitable. These flats would still provide good quality living conditions for the future occupiers.

Landscape and Visual Impact

10.82 DP Policy DES2 states that 'development proposals must demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape'. NP Policy HBN2 identifies important views within the Parish and notes that where a Landscape and Visual Impact Assessment (LVIA) 'reveals a harmful impact on those views as a result of the proposal, the development will only be permitted where appropriate mitigation measures can be delivered'.

10.83 As already noted, the site is located within Landscape Character Area (LCA) 69, identified as Stonyhills. This LCA covers a large expanse of countryside to the north of Hertford. The Landscape Character Assessment SPD provides a general description of this LCA, as quoted below:

- Gently undulating light arable upland and valley slopes between the Rib and Beane valleys, widening to the north. Generally large irregular fields and woodland on very light soils, with several blocks of ancient woodland in the south. Very rural, with few settlements but many mineral extraction sites.

10.84 It is considered that the site and the immediate surroundings do exhibit some of the characteristics of the LCA, including: the gently undulating nature of the site, as well as the presence of woodland and tree lines. A Landscape and Visual Impact Assessment (LVIA) has been submitted with this application, which considers both the landscape and visual impacts of the proposed development. This LVIA sets the landscape character baseline for the site and setting, with references to the agricultural use of the field, the presence of trees/hedges along the site boundaries and the existence of a mature tree within the eastern area of the site. In addition, the LVIA baseline acknowledges that the site is adjacent to existing dwellings to the south and west, while transport corridors are also present in the immediate vicinity. The overall landscape character of the site is summarised as 'suburban fringe/marginal agricultural land'.

10.85 Officers consider that the landscape character baseline, as set out in the LVIA, is generally accurate and forms an appropriate basis for considering the landscape impacts. This has been confirmed by EHDC Landscape Officer, who considers the LVIA to be acceptable. It is acknowledged that numerous local residents consider the LVIA baseline to be flawed, as there is a reference to industrial and commercial buildings, when describing the context of the site. The LVIA does state that 'the sites context reduces the sense of tranquillity one may feel if the roads, industrial and commercial buildings and residential dwellings were not so evident'. It is accepted that commercial and industrial buildings are not present in the immediate locality. However, this extract in the LVIA is simply making the point that the tranquillity of the site has been diminished by activity and development in the vicinity, for example traffic on adjacent roads and the existence of dwellings close by. Officers agree with this general position, as it was clear from the site visit that the tranquillity of the setting is compromised, particularly by road traffic. Given this, it is considered that the LVIA constitutes a robust assessment for the purposes of the planning application.

10.86 The baseline of the LVIA has been further questioned by local residents, with many comments making reference to the Secretary of State's assessment of landscape impacts in the mineral extraction

appeal (appeal reference number: APP/M1900/W/17/3178839). Officers note that Secretary of State considered the appeal site to be 'a landscape resource and visual amenity of considerable importance'. While this is acknowledged, the current application site did not form part of the appeal site, which instead covered an extensive area of land to the north. Given this, it is not considered that the Secretary of State's assessment is directly relatable to this current application site. Notwithstanding this, this proposed development would only impact a small part of the fields to the north of Hertford. Therefore, the landscape resource, adjacent to the urban area, as described by the Secretary of State would remain available.

10.87 After establishing the baseline landscape character, the LVIA continues to assess the possible landscape impacts, resulting from the proposed development. The LVIA outlines that the proposals would result in a loss of the agricultural character of the land. In addition, this document accepts that the housing development would be prominent, but notes that it would not be uncharacteristic of the receiving landscape, given the presence of dwellings adjacent to the site. Given these observations, the LVIA concludes that a minor adverse landscape impact would result. Officers agree with this position, as the scheme would result in an erosion of the general rural landscape character of the area. However, when regard is had to the proximity of adjacent dwellings and the lack of tranquillity on the site, the landscape impacts would be minor adverse.

10.88 The visual impact of the proposed development has also been considered in the LVIA, through firstly identifying key visual receptors in the area, and then assessing the impact on views from these receptors. Officers consider that the location and number viewpoints assessed is appropriate, and therefore the LVIA forms a suitable basis for judging the visual impact of the development. The LVIA identifies adverse visual impacts across the viewpoints, ranging between minor adverse and major adverse. Officers accept these conclusions, as it is clear that in several of the viewpoints agricultural land would be replaced by built development.

10.89 It is noted that NP Policy HBN2 identifies important views within the Parish, with these views illustrated at Appendix D of the NP. The majority of these views would be some distance from the site, and therefore would be unaffected by the proposed development. Possible impacts on views 2 and 3 have been referred to in the comments from local residents. However, these views are taken northward and eastward away from the site, meaning that they would not be obstructed. The proposal would be within view 1, however this view is taken at such a distance from the site that it would not be compromised by the development.

10.90 Overall, the LVIA concludes that, without mitigation, minor adverse landscape impacts and moderate/major visual impacts would result from the proposed development. However, the LVIA notes that mitigation in the form of planting along the eastern/western boundaries and the provision of tree/shrub buffer across the northern boundary would over time screen views of the development. Once this planting has matured, the LVIA suggests that the visual impact of the development would be reduced. Officers do not dispute the overall conclusions of the LVIA.

10.91 Whilst the scheme would result in some adverse landscape and visual affects, such impacts are inevitable and were apparent when the site was allocated for housing development. Officers consider that the proposed scheme has sought to mitigate the landscape and visual impacts of the development, as far as possible, through the inclusion of the northern landscape buffer and the provision of other boundary planting. These landscaping works were required by the endorsed Masterplan and the landscape buffer will create a defined recognisable northern boundary, as required by DP Policy HERT4. As such, it is considered that the proposed scheme has appropriately mitigated the landscape and visual impacts of the development. This means that the proposal would not be contrary to DP Policies HERT4 or DES2, nor NP Policy HBN2. Further details of the northern landscape buffer and planting along boundaries can be required via condition, in order to secure appropriate mitigation on site.

10.92 DP Policy HA1 outlines that proposals should preserve and where appropriate enhance the historic environment of East Herts. Similarly, DP Policy HA4 notes that developments adjacent to CAs will be permitted, provided that they preserve or enhance the special interest, character and appearance of the area, taking into account: building lines, layouts, materials, scale, proportion, form, height, design and overall character. These policies reflect the requirements of the Planning (Listed Buildings and Conservation Areas) Act (1990).

Listed Buildings and Conservation Area

10.93 There are no listed buildings within close proximity of the site and the proposed development would not be of such height to impinge on any wider views of listed buildings. Therefore, officers do not consider that there would be any impacts on the settings of listed buildings.

10.94 Whilst the above is noted, the Hertford CA is located a short distance to the south and the southern end of the byway (which is within the red line site boundary) abuts the boundary of this heritage asset. The proximity of the CA is acknowledged, however the proposed built development within the site would be well-separated from this heritage asset. Due to this separation, the proposed development would not materially impact the character or setting of the CA, nor would any important views into the CA be unduly interrupted. Therefore, officers consider that the setting, significance and special interest of the CA would be preserved, in accordance DP Policies HA1 and HA4.

Archaeology

10.95 DP Policy HA3 notes that where development is permitted on sites that contain archaeological remains, permission will be subject to conditions requiring appropriate excavation and recording.

10.96 Approximately half of the application site is within an Area of Archaeological Significance, which defines an area known to contain Prehistoric and Roman activity. Due to this, HCC Historic Environment Unit were consulted on the application. This consultee notes that

various archaeological remains of Prehistoric, Bronze Age, Roman and Later Saxon origin have been discovered in this locality. Given this, the HCC Historic Environment Unit consider that the proposed development should be viewed as likely to impact upon heritage assets of archaeological interest. On this basis, this consultee recommends a condition requiring a programme of archaeological work. This condition forms part of this recommendation, in accordance with DP Policy HA3, and will ensure that appropriate provision is made to secure any archaeological remains on the site.

Access, Highways and Transport

Trip Generation

10.97 DP Policy TRA1 aims to promote developments that are accessible and conducive to travel by sustainable transport modes. DP Policy TRA2 notes that proposals should not result in a severe residual cumulative impact. Similarly, paragraph 115 of the NPPF explains that developments should not be prevented on highways grounds, unless the residual cumulative impacts on the road network would be severe. NP Policy HBT1 outlines that proposals should be supported by Transport Assessments, which consider the predicted levels of generated vehicular traffic and the impact of this on congestion.

10.98 The site is located close to the Bengo Area of Hertford. Within this locality there are available shops, including: a co-op supermarket on Bengo Street, a parade of shops on The Avenue and a convenience store on Barley Croft. Furthermore, there are other community facilities in the area such as public houses, churches, sports clubs and recreational grounds. Therefore, the future occupiers of the development would have the option of accessing services and facilities via walking or cycling. In addition, Bengo Primary School is a short distance to the south of the site and there is a further private primary school at Duncombe School along Bengo Street. As such, primary education facilities would be accessible for the future residents by walking or cycling.

10.99 There are bus stops to the south of the site on Bengo Street and to the south-west on Cowper Crescent, which provide access to services

that run into the Hertford Town Centre. This scheme proposes a financial contribution of £400,000 towards bus services, which may be used to enhance the frequency of this service. Within the Town Centre there are a range of available services, facilities and amenities. Furthermore, both Hertford East and Hertford North Train Stations could be accessed by the future residents, potentially through walking or cycling, or alternatively through combined bus and walking journeys. Given these overall observations, officers consider that numerous services and facilities would be accessible via sustainable modes of transport, in accordance with DP Policy TRA1.

10.100 While the accessibility of the site to services and facilities is acknowledged, the Transport Assessment (TA) concludes that the majority of journeys associated with the occupation of the development would still be undertaken by the private vehicle. The TA estimates that the development would generate around 81 two-way vehicular journeys at the AM peak and 63 two-way vehicular trips at the PM peak. The distribution of these trips is expected to be split, with 32% of journeys being taken along Wadesmill Road, while 68% of the trips would travel via Bengo Street.

10.101 Highways Officers raise no concerns with the trip generation forecasts in the TA. However, it is important to stress that, in line with DP Policy TRA2 and paragraph 115 of the NPPF, development should not be prevented on highway grounds unless the residual cumulative impacts on the road network would be 'severe'. The TA has assessed the impact of the trip generation on the highway network in the immediate locality and concludes that the relevant junctions would have the capacity to manage the vehicular movements associated with the proposed development. Furthermore, officers are conscious that the capacity of the highway network on a strategic level was considered through the DP process. During this process, the Highway Authority confirmed that they had no in-principle objection to the delivery of up to 150 homes on this site allocation, as set out in the Settlement Appraisal of Hertford (2016), which formed part of the evidence base informing the DP. It is accepted that Phase 1 and Phase 2 of the HERT4 site allocation would provide a combined total of 170 dwellings. However, in officers view, this minor uplift in housing

provision should not alter the position the Highway Authority adopted during preparation of the DP. Given this, it is considered that the strategic highway network is capable of accommodating the development, without 'severe' cumulative impacts arising. The Highway Authority raise no objection to the overall impact on the capacity of the local highways network.

10.102 In addition to the above, officers consider that the vehicular trip generation from this development would be further mitigated by the suite of sustainable transport measures proposed to be delivered. This scheme includes a financial contribution towards sustainable transport initiatives in the locality, such as the local cycling and walking infrastructure plans (LCWIP), as well as other projects listed in HCC's Growth and Transport Plan. As already noted, a financial contribution would also be made to bus services and this may be used to enhance the frequency of such services in the local area. Furthermore, the development would provide other sustainable transport measures, including upgrades to the byway, new footway/cycleway on Wadesmill Road, a travel plan and travel vouchers for the future residents. All these items would be secured by either the Section 106 legal agreement, or by condition, and would encourage sustainable modes of transport from the site, ahead of vehicular travel.

10.103 Overall, officers consider that robust information has been provided in the TA to conclude that the trip generation arising from this proposed scheme would not give rise to a severe impact on the local highways network. The impact of a similar level of development was considered as part of the DP process, where it was concluded that there would be not a severe impact on the local highway network. This established position, taken together with the conclusions of the TA and the delivery of sustainable transport initiatives, means that there would not be a severe impact on the strategic or local highway network. As such, the proposal would not be in conflict with DP Policy TRA2, NP Policy HBT1, nor paragraph 115 of the NPPF.

10.104 DP Policy TRA2 notes that developments should ensure safe and suitable access can be achieved for all users. Proposals should be acceptable in highways safety terms.

10.105 As already noted, this scheme proposes to create a new vehicular access into the development from Wadesmill Road. The vehicular access would be sited in a location, where suitable visibility can be provided along Wadesmill Road. On this basis, officers consider that the access into the site would be appropriate and would not compromise highways safety, in accordance with DP Policy TRA2. Furthermore, plans have been submitted with this application, which indicate the intention to reduce speed limits adjacent to the vehicular access to 40mph. This would further assist in ensuring that the vehicular access is acceptable in highways safety terms. The proposed access is also consistent with the indicative access shown in the approved Masterplan.

10.106 The applicant has submitted tracking drawings, which demonstrate that cars, vans, refuse vehicles and emergency vehicles could turn into and out of the new vehicular access. From discussions with the Highway Authority, no objections have been raised by the Highways Officers on the tracking drawings, which are viewed as being satisfactory and demonstrate that vehicles could enter and exit the new vehicular access in a safe manner. Furthermore, various turning points have been incorporated into the layout of the scheme, in order to enable refuse vehicles to manoeuvre within the site. Neither the Highway Authority, nor EHDC Waste Services have raised concerns with these turning manoeuvres, and therefore officers consider that refuse vehicles could appropriately access the proposed houses and turn within the site. The proposed scheme has been designed to enable all necessary vehicles to appropriately access the development and manoeuvre within the site, in accordance with DP Policy TRA2.

10.107 The consultation responses from local stakeholders and residents raised significant concerns with the resulting highway safety on both Wadesmill Road and Sacombe Road. It is considered that the submitted application plans demonstrate that satisfactory

visibility would be available from the new vehicular access on Wadesmill Road, subject to visibility splays being conditioned. At this stage, the applicant has provided sufficient detail in the plans to demonstrate to the satisfaction of the Highways Authority that vehicles could safely manoeuvre into and out of this access. As such, officers do not consider that adverse highway safety implications would arise on Wadesmill Road. The single access point serving the phase 2 development is considered to be adequate to meet the needs of the development without a further access onto Sacombe Road. The Highways Authority do not require a second access, subject to the conditions and obligations secured under this application. Therefore, it is not considered that the development would compromise highways safety on this route or within the vicinity of the development.

Pedestrian and Cycle Connectivity

10.108 DP Policy TRA1 notes that site layouts should prioritise the movements of modes of transport other than the car. This policy, together with NP Policies HBT2 and HBT3, require developments to deliver improvements to pedestrian routes and cycle paths. DP Policy CFLR3 outlines that developments should not adversely impact any public right of way.

10.109 Negotiations with the Highways Authority have resulted in the proposal to install a toucan crossing, together with a new shared footway/cycleway on Wadesmill Road. This shared footway/cycleway would connect to the existing byway at its southern end. It is proposed for pedestrians and cyclists entering the site from Bengoe Street, Wadesmill Road and Watermill Lane North to utilise the new crossing and footway/cycleway to access the byway, which would then be the main pedestrian and cycle route into the development. The reverse arrangements would be utilised by pedestrians and cyclists leaving the site. The TA also explains that the existing byway is proposed to be upgraded to a consistent 3 metre width and fully finished surface. The Highways Authority has not raised any objection to the use of the byway as the main route into the development. Furthermore, officers consider that the inclusion of the new shared footway/cycleway would encourage residents of the development to

adopt walking or cycling as a mode of travel. The provision of the footway/cycleway and the crossing, as well as the upgraded byway, can be secured via condition and the Section 106 legal agreement.

10.110 Officers note that some local residents have raised concern regarding the safety of the proposed footway/cycleway. These comments are acknowledged. However, the form and geometry of the new footway/cycleway and crossing has been shaped by the discussions with the Highways Authority. The Highways Authority consider the principle of the footway/cycleway is acceptable, subject to detailed design, in addition to safety auditing as part of the detailed design stages to enable compliance with DP Policy TRA2. Residents have also questioned why the cycleway does not connect to another cycle route. While this observation is noted, officers and the Highway Authority consider that provision of a stretch of useable cycleway would create a more overall desirable environment for cycling, therefore encouraging residents to adopt cycling as a mode of transport, in accordance with DP Policy TRA1 and NP Policies HBT3. Officers also consider the scale of the proposed highways interventions are proportionate with the scale of the development (in line with the CIL regulations tests for securing planning obligations) and so extending the linkages beyond the current scheme would be excessive and disproportionate with the development (contrary to the CIL Regulation tests).

10.111 Concerns have also been raised by local residents that the provision of the footway/cycleway could impact upon protected trees that are located in the gardens of properties to the east on Shepherds Court. These comments are acknowledged, however the footway/cycleway would be positioned, so that the grass verge on the eastern side of Wadesmill Road would not be impacted. Due to this, excavation works are not anticipated to be undertaken within the root protection areas of these trees. As such, it is considered that these trees would not be compromised. Comments have also questioned whether these trees would need to be cutback to facilitate the provision of the footway/cycleway. There may need to be some minor trimming back of the trees within the land overhanging the public highway, in order to ensure that branches do

not overhang the footway/cycleway. Such works (within the highway land) are reasonable and would not prevent the delivery of this new walking and cycling infrastructure. Any works to trees would need to adhere to best practice guidance (BS3998) covered under a planning condition. Noise from use of the footway/cycleway has also been raised as a concern by residents. Officers do not consider that the movement of pedestrians or cyclists along this footway/cycleway would generate undue noise disturbance.

10.112 While the main pedestrian and cycle route into the site is supported, the EHDC Design Officer and the Highway Authority initially raised concern with the lack of other pedestrian connections within the development. Acknowledging this, the scheme has been updated to provide additional pedestrian connections into the adjacent Stiles Development, onto the byway and onto Sacombe Road. The delivery of these connections, taken together with the use of the byway as the main pedestrian and cycle route into the site, means that the scheme would be permeable and would encourage pedestrian movements. Therefore, officers consider that a coherent movement strategy would be delivered, which promotes sustainable travel, in accordance with the Masterplan, DP Policies HERT4 and TRA1, as well as NP Policies HBT2 and HBT3.

10.113 Officers acknowledge that pedestrians can often gravitate towards vehicular accesses. Given this, discussions were undertaken with the applicant and the Highway Authority about the potential of providing a footway from the main vehicular access on Wadesmill Road, running south into the Bengo Area. Whilst this was explored, there are a number of issues that mean deliverability of such a footpath is not feasible. As such, an alternative solution is proposed through this scheme. The layout of the development around the area of the vehicular access has been altered through the course of this application to include a footway, which would divert pedestrians away from Wadesmill Road and onto the byway. This footway, coupled with the provision of wayfinding signage, would ensure that pedestrians do not attempt to exit the site via Wadesmill Road. Details of this wayfinding signage can be secured via condition. This

proposed approach would avoid any highway safety concerns with pedestrians on Wadesmill Road.

10.114 Several local residents have questioned whether the provision of shared surfaces within the site would prioritise pedestrian movements. The Highway Authority have reviewed the scheme and have not raised concern regarding shared surfaces, subject to the detailed specifications being conditioned. It is considered likely that vehicular speeds within the development would be low, and therefore shared surfaces would not compromise pedestrian movements. Furthermore, some residents have raised concern regarding vehicles crossing the byway in the centre of the development. Again, the low level of vehicular speeds within the site, together with the good visibility along the byway, would ensure that this is not an undue highways safety risk for users of the byway. The layout is consistent with the Masterplan which included vehicle movement crossing the byway. Given these observations, officers do not consider that the layout of the scheme would inhibit pedestrian movements or cause undue safety risks for pedestrians. As such, there would be no conflict with DP Policies TRA1, TRA2 or CFLR3.

Car Parking and Cycle Parking

10.115 DP Policy TRA3 outlines that vehicle parking should be assessed on a site-specific basis, taking into account the Supplementary Planning Document (SPD) 'Vehicle Parking Provision at New Development'. This SPD contains the Council's parking standards. DP Policy TRA3 also requires the supply of secure, covered and waterproof cycle storage facilities. DP Policy DES4 and NP Policy HBT5 encourage the provision of electric vehicle charging points.

10.116 The overall development would give rise to a need for 296 off-street parking spaces, under the requirements of the SPD. This scheme proposes to deliver 269 allocated parking spaces, together with 11 visitor parking spaces and 1 space serving the substation. Officers also note that some houses would only be served by one allocated off-street parking space. There would be an under-provision of off-street parking, when assessed against the standards

of the SPD. Whilst this is acknowledged, DP Policy TRA3 requires parking provision to be considered on a 'site-specific basis'.

10.117 In this instance, the site is adjacent to the urban area of Hertford, with various amenities and facilities available within walking distance. The scheme proposes good connections to the existing ROW and footpath network, meaning that the future occupiers would be encouraged to undertake routine journeys via walking. Furthermore, each of the proposed dwellings would be supplied with cycle parking, promoting this form of sustainable transport. As already noted, the development would include improvements to the existing cycle network in the locality, which would further encourage residents to cycle on a daily basis. There are bus services within the vicinity of the site, which are also intended to be enhanced through the proposed financial contribution. Therefore, the future residents could use public transport to access amenities and facilities. In addition, a Travel Plan and travel vouchers can be secured through the Section 106 legal agreement to further support uptake of sustainable modes of transport.

10.118 Noting the availability of services and facilities in the locality, and given that the scheme would encourage the use of sustainable modes of transport, officers do not consider that the proposed development would be overly reliant on car ownership. As such, a reduction in the level of off-street parking spaces, when compared against the SPD requirements, is justified. On this basis, officers are content that sufficient car parking would be delivered to serve the development and there would not be undue displacement of parked vehicles onto local roads, in accordance with DP Policy TRA3.

10.119 Some of the car parking would be provided in garages, with a range of single, double and twin garages proposed across the development. The dimensions of all the garages would exceed the standards set within the SPD. Therefore, it is considered that the garages would be of appropriate dimensions for the parking of vehicles. A condition restricting the use of these garages to the parking of vehicles is recommended, in this instance, given that there

would be a slight under provision of off-street parking across the development.

10.120 In terms of cycle parking, the submitted Planning Statement confirms that each of the new dwellings would be provided with cycle storage. The houses with private garages would have cycle parking incorporated into these spaces, whereas the houses without garages would have timber cycle sheds supplied in their garden areas. Communal cycle stores would also be provided for all the apartment blocks. Therefore, the scheme would make appropriate provision for cycle parking, which would promote this sustainable mode of transport, in accordance with DP Policies TRA1 and TRA3. The delivery of the cycle parking can be secured via condition.

10.121 The Planning Statement also outlines that electric vehicle charging points would be supplied for each of the new dwellings. This is supported by officers, as it would encourage the use of electric vehicles, in line with DP Policy DES4 and NP Policies HBT1 and HBT5. Whilst this is noted, limited details of the charging points have been provided. Further information on the type and siting of charging points can be secured via condition.

Construction Phase

10.122 A Construction Traffic Management Plan (CTMP) has been submitted with this application, which outlines how the construction phase of the development would be managed. This CTMP outlines that it is proposed to create the new vehicular access from Wadesmill Road, prior to commencement of construction works. The principle of this is supported by officers, as it would enable construction vehicles to use the new vehicular access, and then park within the application site, rather than parking on local roads. Furthermore, the CTMP includes routing details, which set out that construction vehicles would access and leave the site to/from the north, avoiding vehicular movements along Bengo Street. This is again supported, as construction traffic would utilise the B158 and A602, instead of routing through the urban areas of Hertford. Whilst this is noted, at this stage, the Highway Authority do not consider that there is sufficient detail within the CTMP, for example there is limited information on

construction vehicle numbers and types. Therefore, a final version of the CTMP should be secured via condition.

10.123 Local residents have questioned whether the byway would remain open during the construction phase of the development. The CTMP outlines the intention for the byway to remain open, as far practicable during construction works. However, the CTMP does note that temporary diversions or stopping up of the byway are likely to be necessary. Officers accept that temporary stopping up or diversions are inevitable, given the proximity of the byway to the development. It will be the responsibility of HCC's Rights of Way Team to oversee any temporary closure or diversion of the byway. Whilst this is noted, officers consider that the byway has been successfully integrated into the development and this will ensure the long-term retention of this public right of way, in accordance with DP Policy CFLR3.

Sustainability and Water Management

Sustainable Design

10.124 DP Policy CC2 outlines that proposals should demonstrate how carbon emissions would be minimised across the development, taking into account the energy hierarchy. The energy hierarchy looks at reducing energy demand through building fabric measures, such as insulation and air tightness, followed by efficient energy supply and finally incorporation of on-site renewable energy. DP Policy CC2 also encourages developments to achieve carbon emission reduction standards above and beyond the requirements of Building Regulations. DP Policy CC1 sets out that schemes should demonstrate how the design, materials, construction and operation of the development would minimise overheating in the summer and reduce the need for heating in the winter.

10.125 In order to address the requirements of the above policies, the applicant has submitted an Energy Strategy Statement (ESS) and a Sustainability Checklist. The ESS explains that compliance with the Building Regulations, relating to carbon emission reduction, would be achieved by adopting a fabric first approach to the development. The fabric first approach involves minimising energy demand through

design and construction methods, which would deliver improved U-Values, high-levels of insulation, reduced thermal bridging and enhanced air tightness. This means that the proposed dwellings would achieve good levels of thermal performance and would utilise energy efficiently. Therefore, the development would limit carbon emissions through this fabric first approach.

10.126 In addition to the above, the proposed development seeks to go beyond the Building Regulations, associated with carbon emission reduction, by providing renewable technologies on site. It is intended for each of the proposed dwellings to have an air source heat pump for heating and hot water. Use of this renewable technology will ensure that energy is provided to the proposed houses in an efficient and sustainable way. The ESS outlines that provision of this renewable technology, together with the fabric first approach to the development, would ensure that the overall scheme provides a 34.61% carbon reduction over and above carbon reduction standards in Building Regulations. Therefore, it is clear that the proposed development would comply with DP Policy CC2, as carbon emissions would be minimised and carbon reduction levels would go beyond Building Regulations.

10.127 The sustainable design of the proposed scheme is supported by officers, however a condition requiring further details is deemed necessary, so to secure on-site carbon emission reduction on-site. Furthermore, a condition is recommended securing details of the proposed air source heat pumps, in order to ensure that the proposed model delivers the required level of energy efficiency.

10.128 Officers note that various comments from local residents and local groups suggest that solar panels should be provided as part of the development. Whilst solar panels are not intended to be delivered for all the dwellings, the ESS demonstrates that carbon emission reduction above Building Regulations can be secured, though fabric first measures and provision of air source heat pumps. Therefore, compliance with DP Policy CC2 can be achieved, without installation of solar panels on every property. Given this, there is no

policy basis for officers to require the provision of solar panels on every dwelling in the scheme.

10.129 The application has considered the potential for the proposed dwellings to overheat through submission of an Overheating Assessment. This assessment concludes that all the proposed dwellings, which have been tested, would pass the standards in Building Regulations. To achieve this, energy efficient fittings are proposed in the dwellings to reduce internal heat gains. In addition, the building fabric would be insulated to limit heat gains and solar gain would be minimised by installing efficient glazing elements. Officers also note that the majority of the proposed dwellings would be dual-aspect, providing opportunities for cross ventilation, which would further assist in cooling the properties. Given the results of the Overheating Assessment, officers consider that the proposal would be designed to minimising possible instances of overheating, in line with DP Policy CC1.

10.130 DP Policy WAT4 also requires development to minimise the use of mains water. This policy sets a mains water consumption target of 110 litres or less, per head, per day.

10.131 The submitted Sustainability Checklist confirms that all of the proposed dwellings would achieve the water consumption target, referenced at DP Policy WAT4. This target would be achieved through use of water efficient fittings, flow restrictors and low volume cisterns. Therefore, officers consider that the proposed development would comply with DP Policy WAT4. Whilst this is noted, it is deemed necessary to recommend a condition securing adherence to the water consumption target.

Flood Risk and Drainage

10.132 DP Policy WAT1 outlines that development proposals should neither increase the likelihood or intensity of flooding, nor increase the risk to people, property, crops or livestock, both on site, to neighbouring land and further downstream. DP Policy WAT5 sets out that development must utilise the most sustainable forms of drainage systems, in accordance with the SUDs hierarchy. In addition,

this policy notes that development should aim to achieve greenfield run-off rates and ensure that surface water is managed as close to its source as possible.

10.133 The application site is fully within Flood Zone One, and therefore is at low risk from fluvial flooding. As such, officers do not consider that the development would be at undue risk of flooding from watercourses. Whilst this is noted, mapping from the EA shows that a small part of the south-eastern corner of the site is at low/medium risk of surface water flooding. Furthermore, parts of Wadesmill Road and Sacombe Road, adjacent to the site, are identified as being at medium/high risk from surface water flooding. This is reflected in a number of the comments received from local residents, who have raised concern about flooding, particularly on Sacombe Road. Given the risk of surface water flooding in the immediate locality, officers consider that a robust Drainage Strategy is required to ensure that surface water is appropriately managed and instances of flooding both on and off site are minimised.

10.134 This scheme is supported by a Drainage Strategy, which initially proposed to manage surface water through a combination of on-site infiltration techniques and controlled run-off into an existing off-site ditch adjacent to Wadesmill Road. The LLFA initially objected to this arrangement, due to uncertainties over management of the off-site ditch. Noting this, the applicant has updated their Drainage Strategy and it is now proposed for all surface water to be drained on-site. In order to achieve this, several SUDs features are proposed through the development, including two attenuation ponds on the northern boundary, a swale adjacent to the primary internal road, cellular soakaway systems, filter drains and permeable paving. The LLFA have reviewed this revised Drainage Strategy and this consultee is now content that surface water would be suitably dealt with on site. Given this updated position from the LLFA, officers consider that an acceptable Drainage Scheme would be delivered on the site. Therefore, the proposal would not materially increase the risk of surface water flooding on-site or off-site, in accordance with DP Policies HRET4, WAT1 and WAT5.

10.135 Whilst the above conclusions are noted, the LLFA have also recommended several conditions requiring further details of the sustainable drainage components, information on the maintenance proposals and submission of verification report. These conditions would ensure that the Drainage Scheme is implemented and retained in full accordance with the agreed strategy. As such, these conditions form part of this recommendation.

10.136 Officers do note that the access road would have to be installed across the existing ditch that is adjacent to Wadesmill Road. Neither the Environment Agency, nor the LLFA, have raised concern that this arrangement would increase flood risk. However, the LLFA have recommended a condition requiring details of how the road would be bridged across the ditch. This condition is deemed necessary, in the interests of ensuring that any water flow in the ditch is not unduly obstructed by the construction works. Therefore, this condition is again included as part of this recommendation.

Groundwater and Public Water Supply

10.137 DP Policy WAT2 requires development proposals in Source Protection Zones (SPZs) to submit an assessment of potential impacts and any mitigation measures necessary. Paragraphs 189 of the NPPF notes that developments must ensure that a site is suitable for the proposed use, taking into account ground conditions and any risks from contamination. NP Policy HBH3 outlines that proposals at HERT4 should ensure protection of local aquifers and Hertford's water supply.

10.138 The application site is predominantly within SPZ 2, however the north-eastern corner of the site is in SPZ 1. It is understood that these SPZs are associated with a pumping station, which is used for public water supply, comprising of a number of abstraction boreholes. There is also a principal chalk aquifer underlying the site.

10.139 The scheme proposes for foul water to be discharged to a Thames Water foul sewer located on Sacombe Road. It is proposed for foul water from the development to flow under gravity to a new foul water pumping station in the north-eastern corner of the site.

Following this, foul water would be pumped to the connection on Sacombe Road.

10.140 The Environment Agency (EA) initially objected to the scheme, on the basis that it was proposed to install a foul water pumping station in the north-eastern corner of the site and within SPZ 1. The EA did not consider that the risks from this foul water infrastructure to potable water abstraction had been adequately addressed by the applicant. In response to this, the applicant submitted a Controlled Waters Risk Assessment, which explained that the location of the foul water infrastructure was constrained by the topography of the site, which drops from west to east. This topography means that foul water would have to flow by gravity to the foul water pumping station at the lowest land levels, which are in the north-eastern corner of the site, before being pumped to the connection on Sacombe Road. Given this constrained topography, the Controlled Waters Risk Assessment concludes that it would not be possible to locate the foul water infrastructure in an alternative location outside of SPZ 1.

10.141 Noting this position, the Controlled Waters Risk Assessment then explains how the risks from the foul water pumping station within SPZ 1 would be managed. The Controlled Waters Risk Assessment and the other submitted details outline that a reinforced and contained design would be adopted for the foul water infrastructure. Furthermore, the foul water pumping station would not provide large volumes of on-site storage, with continual pumping of foul water to the off-site sewer proposed. Emergency measures would be put in place and a system with capacity for 24 hours of emergency storage would be provided. Given these measures, the Controlled Waters Risk Assessment concludes that the foul water system has been designed to provide protection to underlying groundwater quality.

10.142 The EA have reviewed the updated information and have removed their objection to the proposed development, noting that they are confident that it will be possible to manage risks to groundwater. In addition, neither Affinity Water nor Thames Water have objected to the proposed foul water arrangements. Whilst this is noted, the EA have recommended a condition securing details of

the sewage pipes. Subject to this condition, and the development progressing in line with the submitted details, officers do not consider that the foul water infrastructure would present an undue risk to SPZs, public water supply or the chalk aquifer, in accordance with DP Policy WAT2, NP Policy HBH3 and Section 15 of the NPPF.

10.143 While the above is acknowledged, the EA also initially objected to the scheme, on the basis that an appropriate risk assessment had not been undertaken to consider the risk of infiltration SUDs within SPZ 1. In order to address these comments, the applicant submitted a Hydrogeological Risk Assessment, which details the modelling and investigative work that has been undertaken to assess the risk to groundwater. This Hydrogeological Risk Assessment concludes that the proposed discharge to the ground would not represent an unacceptable contamination risk to groundwater quality or off-site groundwater abstractions. The EA have reviewed this Hydrogeological Risk Assessment and have removed their objection to the proposals. Given this position of the EA, officers do not consider that the SUDs proposals would cause undue risk to groundwater, SPZs, public water supply or the chalk aquifer. Therefore, the proposal would not be contrary to DP Policies WAT2 or WAT5, NP Policy HBH3 or Section 15 of NPPF.

Foul Water Capacity

10.144 DP Policy WAT6 notes that proposals should ensure that adequate wastewater infrastructure capacity is available in advance of the occupation of the development.

10.145 As already advised, it is proposed for the development to connect to a Thames Water foul sewer on Sacombe Road. A number of local residents have raised concern regarding the capacity and functionality of the existing foul sewage system in this locality. These concerns are acknowledged, however Thames Water have commented on the application, noting that they have no objection with regard to foul water sewerage capacity. Given these comments from Thames Water, it is considered that the existing foul sewage network has sufficient capacity to accommodate the proposed

development. Therefore, the proposal would comply with DP Policy WAT6.

Trees, Ecology and Biodiversity

10.146 DP Policy DES3 notes that proposals should demonstrate how they will retain, protect and enhance existing landscape features, which are of amenity and biodiversity value. DP Policy NE3 explains that development, which would result in the loss of, or significant damage to, trees or hedges will be resisted. Where losses are unavoidable and justified by other material considerations, compensatory planting or habitat creation will be sought, in line with DP Policy DES3 and NP Policy HBN3. A net gain in biodiversity should be achieved on site, in accordance with DP Policies NE2 and NE3.

10.147 DP Policy NE1 also outlines that designated Wildlife Sites should not be detrimentally impacted by development. In addition, DP Policy NE3 expects bird and bat boxes to be provided on-site, while this policy sets out that impacts on protected species should be avoided. NP Policy HBH3 specifically requires the provision of wildflower planting, bee bricks and nesting boxes for swifts, as part of the HERT4 development.

10.148 There are very few trees within the application site, however officers note that there is one high quality sweet chestnut tree, close to the north-eastern corner of the land. In addition, there is a row of predominantly English Elm, along the western site boundary, and a mixed broadleaf tree belt across the eastern site boundary. Along the southern site boundary, there is a mix of moderate-quality and low-quality trees and hedges.

10.149 A Tree Survey and Impact Assessment (TS) has been submitted in with this application. It is clear from the TS, Site Layout Plan and Landscape Masterplan that it is proposed to retain the high-quality sweet chestnut and this is supported by officers. In addition, a significant buffer would be provided between this mature tree and the proposed built development. Therefore, officers consider that the sweet chestnut tree has been appropriately integrated into the

proposed scheme and there would be no pressure to remove this high-quality landscape feature. The retention of this tree would comply with DP Policies DES3 and NE3.

10.150 There would be some localised tree/shrub removal along the southern site boundary. However, none of the landscape features identified for removal are high-quality, and therefore officers have no objection to this. The tree line along the western site boundary is proposed to be retained in its entirety, which is supported by officers. Furthermore, sufficient separation would be provided between the built development and the western tree line to enable the long-term retention of these landscape features.

10.151 The eastern broadleaf tree belt is proposed to be largely retained. However, the creation of the vehicular access would result in the requirement for some minor tree/shrub removal. Whilst this is noted, the access point has been strategically placed along the eastern site boundary to avoid impacts on larger trees. This siting is supported by officers, as it would ensure that trees of amenity and biodiversity value would be retained, in accordance with DP Policies DES3 and NE3. There would be a requirement for some trees along the eastern side to be trimmed back, so to allow the provision of suitable visibility splays along Wadesmill Road. While this is acknowledged, the Landscape Masterplan outlines that native tree/shrub planting would be undertaken across the site boundary. This planting would compensate for any trimming back of trees, in line with DP Policies DES3 and NE3, as well as NP Policy HBN3. Further details of these soft landscaping works can be secured via condition.

10.152 From the above observations, it is clear that inappropriate tree removal would not occur. As such, adverse arboricultural impacts would not result from the proposed development. While this is noted, it is deemed necessary to secure the retention of trees via a condition. Furthermore, the applicant has provided a Tree Protection Plan (TPP), as part of this application. This TPP would adequately ensure that trees would be protected during the construction phase of the development. A condition is recommended requiring adherence to the TPP.

10.153 The existing site is not considered to be of any significant ecological or habitat value, being largely made up of cropland, together with small areas of grassland, vegetation, mixed scrub, tree lines and hedgerows. While the limited ecological value of the existing site is acknowledged, the proposed development would still result in loss of agricultural land and grassland, as well as localised removal of trees, shrubs and other vegetation. Given this, there could be a reduction in the biodiversity value of the site, if losses are not offset with compensatory habitat creation.

10.154 This application is supported by a Habitat Condition Assessment Survey and Biodiversity Net Gain Assessment, which sets out the habitat enhancements proposed across the site. It is evident from this document that the scheme would provide various new habitats, including: a woodland buffer, grasslands, wildflower grasslands, ponds, mixed shrub, street trees and hedgerows. The Habitat Condition Assessment Survey and Biodiversity Net Gain Assessment, as well as the submitted Biodiversity Metric, conclude that these compensatory habitat enhancements would deliver a biodiversity net gain of 11.12%. Hertfordshire Ecology have reviewed this application and have confirmed that the biodiversity values can be accepted. Therefore, a biodiversity net gain would be achieved on the site, in accordance with DP Policies NE2 and NE3, as well as NP Policy HBN3.

10.155 This biodiversity net gain can be secured through recommended conditions and the Section 106 legal agreement. Officers do note the comments from EHDC Landscape Officer, who has concerns regarding the deliverability of some of the soft landscaping and has also requested a full Planting Plan. Whilst these comments are noted, officers consider that the Landscape Masterplan adequately demonstrates that sufficient soft landscaping would be incorporated on the site. Furthermore, a full Planting Plan can be secured via the recommended landscaping condition.

10.156 The site is not located within an area designated for its wildlife or nature value. However, there is woodland to the west of the site, known as: Great Mole Wood, which is designated as a Local Wildlife

Site (LWS). Officers note that there is no public right of way running directly through the Great Mole Wood LWS. Due to this lack of access, it is not anticipated that the development would result in a material increase in recreational activities in this LWS. On this basis, it is not considered that the integrity of the LWS would be harmed by increased activity in the woodland. Therefore, from this perspective, the proposal would not be contrary to DP Policy NE1. Whilst this is noted, the Ecological Appraisal (PEA) submitted with this application does suggest mitigation measures to avoid impacts on this LWS during the construction phase of the development. Implementation of these mitigation measures can be secured via condition, in the interests of protecting the LWS during construction works.

10.157 The Waterford Heath LWS and Local Nature Reserve (LNR) is also situated to the north-west of the site. The submitted PEA suggests that the majority of recreational needs associated with the proposed development would be absorbed by existing public rights of way through the area. On this basis, the PEA concludes that interest features within this LWS and LNR would not be impacted. Hertfordshire Ecology agree with this position, as this consultee expects the right of way network to deflect significant increases in access to the LWS and LNR. Given these comments, it is not considered that the integrity of this LWS and LNR would be compromised by increased recreational activity. As such, there would be no conflict with DP Policy NE1.

10.158 A comment has been received from a local resident outlining that the Local Planning Authority need to undertake an 'appropriate assessment' of the development to discharge its duties under the Conservation of Habitats and Species Regulations 2017. Whilst this comment is noted, the duty to undertake an 'appropriate assessment' is applicable if a scheme is likely to have a significant effect on a European Protected Site (EPS). There are no EPSs in close proximity of the development, and on this basis officers do not consider that an 'appropriate assessment', under the Conservation of Habitats and Species Regulations 2017 is required.

10.159 Officers note that various local residents have raised concerns that the proposed development would impact upon local wildlife. The submitted PEA has assessed the potential for protected species to occupy the site. This document does outline that commuting, foraging and roosting bats may be present on the site. However, the habitats likely to be used by bats are intended to be retained through this scheme. Therefore, it is not anticipated that this protected species would be harmed by the development. The PEA has also considered the possibility of mammals, badgers, reptiles, great crested newts and invertebrates being present on the site. Hertfordshire Ecology have reviewed the PEA and this consultee considers that limited opportunities exist for these species on the site. As such, these protected species would not be compromised by the development. The PEA does note that nesting birds, including house sparrows and skylarks, may occupy the site. Therefore, habitat utilised by these birds may be lost through the development. While this is noted, there are various habitats in the wider locality that are suitable for use by these birds. Noting this, and given the wildlife enhancements (e.g. birds boxes) proposed through the scheme, officers do not consider that the development would adversely impact birds. This conclusion is backed up by the comments from Hertfordshire Ecology.

10.160 Given the above observations, it is not considered that protected species would be harmed by the development. Therefore, from this perspective, the proposed scheme would comply with DP Policy NE3. Whilst this is noted, the PEA does recommend several precautionary measures to avoid impacts on wildlife, in the unlikely event of protected species being found during construction works. Adherence to these precautionary measures can be secured via condition.

10.161 The PEA recommends several wildlife enhancements to be delivered through the development, including bat boxes, bird boxes, hedgehog nest domes and bee bricks. Provision of these wildlife enhancements is supported by officers and would ensure compliance with DP Policy NE3, as well as NP Policy HBH3. Whilst this is noted, specific details of these wildlife enhancements have not been provided with the application. This information can be secured

via condition to ensure that appropriate wildlife enhancements are delivered on site.

Amenity and Pollution

Residential Amenity and Noise

10.162 DP Policy DES4 outlines that developments should avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land, and ensure that their environments are not harmed by noise and disturbance, or by inadequate daylight, privacy or overshadowing. DP Policy EQ2 notes that development should be designed and operated in a way that minimises the direct and cumulative impact of noise.

10.163 To the south of the proposed development are residential properties at The Stiles. Sufficient separation distance would be provided between the proposed dwellings and these neighbouring residential properties to ensure that undue: overbearing impacts, losses of light, overshadowing, restriction of outlook or overlooking would not occur. There are no other residential properties in such close proximity to the site that their living conditions would be materially impacted by the proposed development. Therefore, the proposal would comply with DP Policy DES4.

10.164 The scheme does not involve any noise generating uses, and as such, from this perspective, adverse noise impacts would not arise for nearby residential properties. Officers do note that air source heat pumps would be installed for each of the proposed dwellings and this renewable technology can at times generate noise. However, in this instance, the proposed dwellings would be such a distance from neighbours that noise from air source heat pumps would not materially impact the living conditions of nearby residential properties. Therefore, the proposed scheme would accord with DP Policies DES4 and EQ2. Whilst this is noted, a condition is still recommended securing further details of the air source heat pumps, so to ensure that this renewable technology is suitably sited and an appropriate model is used.

10.165 A number of local residents have raised concerns regarding possible disruption during the construction phase of the proposed development. As already noted, this application is supported by a Construction Traffic Management Plan (CTMP). This CTMP notes that it is proposed to create the new vehicular access from Wadesmill Road, prior to commencement of construction works. This would enable construction vehicles to use the new vehicular access and then park within the application site, rather than parking on local roads. Furthermore, this CTMP includes routing details, which set out that construction vehicles would access and leave the site to/from the north, avoiding vehicular movements along Bengeo Street. These overall access arrangements would ensure disruption from construction traffic would be minimised for local residents. Highways Officers and Environmental Health Officers raise no objections to the proposals on the basis of construction impact (from traffic or the construction itself), subject to conditions.

10.166 In addition to the above, the CTMP includes measures for mitigating noise impacts, whilst it also sets appropriate hours of operation. There is a commitment within the CTMP to liaise with businesses, schools and local residents, in order to address issues that may arise. A Liaison Officer would be provided by the developer, who would act as the point of contact for the local community. Officers consider that the steps within the CTMP would limit the levels of disruption to local residents. Furthermore, an Air Quality Assessment (AQA) has been submitted with this application, which outlines suitable measures for reducing dust generation during the construction phase. Compliance with the measures within the CTMP and AQA can be secured via condition. Subject to this, it is not considered that the construction phase would result in undue disturbance for existing residents.

Land Contamination

10.167 DP Policy EQ1 notes that the Council will require evidence to show that unacceptable risks from contamination will be successfully addressed through remediation.

10.168 The applicant has submitted a Phase 1 and Phase 2 Site Investigation Report, which considers possible contamination on the site. EHDC Environmental Health Officer has reviewed this report and does not dispute the findings. Therefore, this consultee has no objection to the development and does not recommend any land contamination conditions. On this basis, no land contamination conditions are deemed necessary.

Air Quality

10.169 DP Policy EQ4 notes that developments should include measures to minimise air quality impacts at the design stage and should incorporate best practice in design, construction and operation.

10.170 An Air Quality Assessment (AQA) has been submitted with this application, in order to address the requirements of DP Policy EQ4. As already advised, this AQA sets out various mitigation measures to avoid adverse air quality impacts during the construction phase. These mitigation measures can be secured via condition. The AQA has also considered the operational stage of the development and concludes that the proposal is not expected to exceed air quality objectives at the site. The Environmental Health Officer has reviewed the AQA and has not disputed the findings. Given this, officers consider that the proposal would not result in unacceptable air quality impacts. Notwithstanding this, the AQA has recommended several transport related mitigation measures, which would assist in reducing further air quality impacts. These measures are secured either by condition or the Section 106 legal agreement.

Minerals and Waste

10.171 DP Policy HERT4 expects development at the site to include:

- (c) demonstration of the extent of the mineral that may be present and the likelihood of prior extraction in an environmentally acceptable way has been fully considered. As a minimum, an assessment of the depth and quality of mineral, together with an appraisal of the consequential viability for prior extraction without

prejudicing the delivery of housing within the plan period should be provided;

10.172 In order to address this criterion of DP Policy HERT4, the application is supported by a Mineral Resource Assessment (MRA). This MRA has assessed the extent of mineral present at the site and then considered the feasibility of prior extraction. The conclusion of this MRA is that prior mineral extraction is not viable on the site. HCC Minerals and Waste Team have reviewed the MRA and agree that prior extraction is not viable. In reaching this conclusion, HCC Minerals and Waste refer to the lack of mineral extraction at Preferred Area 2 and the presence of residential development to the south, which would reduce the workable area. Given these comments from HCC, officers consider that prior mineral extraction would not be appropriate on this site.

10.173 HCC Minerals and Waste Team have recommended a condition requiring submission of a Site Waste Management Plan (SWMP). This consultee deems this condition necessary, in order to ensure that the development suitably minimises waste generation, encourages re-use of waste materials and promotes recycling of materials. This aim is supported by officers, and therefore a condition is recommended to secure a SWMP.

Healthy and Safe Communities

Secured by Design

10.174 DP Policy DES5 notes that developments should be designed to reduce the opportunity for crime by encouraging natural surveillance and creation of areas of defensible space.

10.175 Officers consider that the scheme has been designed, taking into account secured by design principles. Both public and private spaces are suitably overlooked, ensuring that the appropriate levels of natural surveillance are available across the whole development. In addition, defensible spaces would be created, with clearly defined boundaries. The Hertfordshire Constabulary Crime Prevention Design Advisor has reviewed the scheme and has not objected to the

proposals. As such, it is considered that the proposed development would be designed to reduce opportunities for crime, in accordance with DP Policy DES5.

Open Space and Play Spaces

10.176 DP Policy CFLR1 outlines that residential development will be expected to deliver open spaces, sport facilities and recreation facilities to provide for the needs arising from the development. The Open Space, Sport and Recreation SPD explains that major developments will be required to make either on-site or off-site contributions towards open space, sport and recreation. This SPD sets the formulas for calculating off-site contributions.

10.177 The SPD requires major developments to make contributions towards children's play. This scheme proposes to provide a locally equipped area for play (LEAP) close to the northern boundary of the site and a local area of play (LAP) along the southern boundary. These play spaces would be capable of being provided, in line with the size requirements of the Open Space, Sport and Recreation SPD. Therefore, the demand for child's play arising from the development would be addressed on-site, in accordance with DP Policies HERT4 and CFLR1. While this is noted, it is deemed necessary to secure further details of the play spaces via condition, in order to ensure that the LEAP and LAP provided are of adequate size and quality.

10.178 It is outlined in the SPD that developments should also contribute towards three different types of open spaces (parks and gardens, amenity green space and natural green space). This scheme would provide green spaces across the northern part of the site, as well as a grassed area in the central part of the development and tree lines across the boundaries. Officers consider that these green spaces would be of sufficient size to meet the demand arising from the development for parks and gardens and amenity green space. However, there would not be sufficient areas of natural green spaces provided on-site. Therefore, a financial contribution towards natural green space provision is justified and can be secured through the Section 106 legal agreement.

10.179 This SPD, as well as the Planning Obligations SPD, note that contributions will also be required towards sport facilities, recreation facilities and other community facilities. These types of facilities cannot reasonably be provided on-site, and therefore off-site financial contributions can be secured through the Section 106 legal agreement.

Other Matters

10.180 Section 149 of the Equality Act (2010) requires the Council to consider the equality impacts on all protected groups when exercising its functions. Officers have duly considered the equalities impacts on protected groups in the context of the development proposals. As such, it is considered that the Council has fulfilled its requirements to consider the equality impacts on protected groups.

10.181 Officers note that comments from local residents and groups have raised various other matters for consideration. There have been numerous objections questioning the capacity of infrastructure in this locality (e.g. schools, health services, utilities). Whilst these comments are acknowledged, all the statutory bodies responsible for these services have been consulted on the application and none have raised concern with the proposals. Furthermore, officers have secured significant financial contributions towards education, health services and community facilities, as set out in a later section of this report. These contributions will be used to improve services and facilities, so that they are able to accommodate the new residents occupying the proposed development.

10.182 Various residents have suggested that the Section 106 contributions are insufficient. These comments are noted, however the financial contributions have been calculated based on adopted policy and guidance, as explained in a following section of this report. Residents have also queried why the Section 106 totals have changed throughout the course of the application. The financial contributions from HCC have been adjusted, due to the altered housing mix and changes to identified projects. Members should be aware that the overall contribution sought by HCC has increased during the lifetime

of this application. Some residents have questioned why financial contributions are earmarked for projects in Ware, particularly the secondary education contribution. Hertford and Ware are within the same secondary education planning area. Therefore, the proposed new secondary school in Ware will also serve Hertford residents, as set out in Chapter 7 of the DP. On this basis, it is appropriate to secure a contribution towards a new secondary school in Ware through this development.

10.183 There have been a significant number of comments received that emphasise the recreational value of the byway and Bengo Field, with some of these objections supported by surveys of local residents. These comments raise concern that the recreational use of the byway and Bengo Field would be eroded. It is acknowledged that some countryside land would be lost through this scheme and that the byway would route through the development. However, the byway extends a significant distance to the north of the application site, meaning that residents would still have access to countryside land to the north of Hertford. Given this, it is considered that the recreational value and use of the byway and Bengo Field would still be available for the local community. Some residents have raised concern that this proposal could lead to further development of Bengo Field. While these comments are noted, the remainder of Bengo Field to the north of the application site remains in the Green Belt, and as such is protected from inappropriate development.

10.184 The loss of agricultural land and associated impacts on food security have been raised in several comments. These concerns are acknowledged, however the acceptance of agricultural land being lost was set through the District Plan process, when the site was allocated for residential development. Notwithstanding this, the remainder of Bengo Field to the north of the site would remain in agricultural use, and therefore could continue to be used for the production of crops.

10.185 Comments have suggested that none of the dwellings provided through this scheme would be affordable for first-time buyers. These comments are acknowledged, however the Council does not exert

any control over the property market or house prices. Whilst this is noted, this scheme would deliver 40% affordable housing, and therefore would make a significant contribution to the housing needs of the local area. As already noted, this is a material consideration that can be attributed significant positive weight in the overall planning balance. Some local residents have raised concern that this development would de-value their properties. Possible impacts on property values are not a material consideration for a planning application. Consequently, this is not a matter that can be taken into account through the assessment of this application.

10.186 Some local residents have raised concern with the submitted Health Impact Assessment. This Health Impact Assessment concludes that health and wellbeing has been taken into account and that the development would contribute towards the creation of a healthy and sustainable community. HCC Public Health Team have reviewed the Health Impact Assessment and confirmed that this document has provided a proportionate assessment of the health impacts of the proposals. On this basis, the HCC Public Health Team do not object to the development. Given the comments from this consultee, officers consider that the Health Impact Assessment is acceptable.

10.187 Issues of social cohesion between existing residents and new residents has been raised in some comments. Whilst these comments are acknowledged, officers see no reason why the occupiers of the new development would not integrate appropriately into the existing community. Therefore, issues of social cohesion would not arise from this scheme.

10.188 A comment from a local resident has questioned whether light pollution would result from the development. Officers acknowledge that limited details of the lighting scheme have been provided with this application, and therefore a condition is recommended securing details of the lighting proposals for the site.

10.189 Officers do note that NP Policy HBH3 outlines that the HERT4 development should be encouraged to provide opportunities for new

residents to grow food. It is accepted that no allotments or food production initiatives would be provided within the application site. However, such provision would not be reasonable, given the close proximity of the site to existing allotments. Instead, the scheme would make a financial contribution towards allotments, which could be utilised to enhance the existing allotments adjacent to the site. This is considered appropriate, as through improving existing allotments residents will be encouraged to utilise this community facility to grow food.

11.0 Planning Obligations

11.1 DP Policy DEL2 notes that the Council will seek a range of planning obligations. In line with this policy, paragraph 57 of the NPPF and the tests at CIL Regulation 122, planning obligations will only be sought where they are:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

11.2 A range of contributions have been requested by HCC Growth and Infrastructure Unit and EHDC Section 106 Officer. In addition, the NHS has requested a financial contribution. These contributions are deemed necessary to enhance local infrastructure, so that it is capable of supporting the additional residents arising from the proposed development. The contributions have been calculated, in accordance with the Planning Obligations SPD 2008, the Open Space, Sport and Recreation SPD 2020 and HCC's Guide to Developer Infrastructure Contributions 2021, meaning that they are considered to be reasonably related in scale and kind to the development. Therefore, the contributions are considered to pass the tests, referenced at DP Policy DEL2, paragraph 57 of the NPPF and CIL Regulation 122.

11.3 The triggers for payment of contributions are subject to negotiation between parties and are not for the resolution of the Committee.

11.4 Subject to resolution by the Committee, the contributions listed in the Heads of Terms in a following section of this report will be secured through the Section 106 legal agreement.

12.0 Planning Balance and Conclusion

12.1 This report provides a comprehensive consideration of the full planning application and its supporting documentation, including the further/additional information submitted and any representations received. The report has considered the proposals, in light of the adopted development plan policies and other material considerations or representations relevant to the effects of the proposals.

12.2 In the planning balance, the most important policy is compliance with the criteria set out in DP Policy HERT4, which allocates the site for around 100 dwellings. The below table indicates the extent to which this full application is able to demonstrate compliance with this criteria:

HERT4 PROVISIONS	CRITERIA MET?
(a) a range of dwelling type and mix, in accordance with the provisions of Policy HOU1 (Type and Mix of Housing);	Yes - the scheme would deliver a range of units, including flats and houses, ranging from one-bedroom homes up to five-bedroom homes.
(b) Affordable Housing in accordance with Policy HOU3 (Affordable Housing);	Yes - the scheme would deliver 40% affordable housing, which would be secured via Section 106 legal agreement.
(c) demonstration of the extent of the mineral that may be present and the likelihood of prior extraction in an environmentally acceptable way has been fully considered. As a minimum, an assessment of the depth and	Yes - The scheme is supported by a Minerals Resource Assessment, which identifies the extent of mineral present and considers the potential for

<p>quality of mineral, together with an appraisal of the consequential viability for prior extraction without prejudicing the delivery of housing within the plan period should be provided;</p>	<p>prior extraction. This document concludes that prior extraction is not viable.</p>
<p>(d) necessary new utilities, including, inter alia: integrated communications infrastructure to facilitate home working;</p>	<p>Yes - new utilities are proposed to serve the development and integrated communications infrastructure can be secured via condition.</p>
<p>(e) necessary upgrades to the sewerage system;</p>	<p>Yes - the scheme proposes to connect to the existing sewerage system. This has been confirmed as acceptable by Thames Water.</p>
<p>(f) sustainable drainage and provision for flood mitigation;</p>	<p>Yes - the site is located in Flood Zone One, and therefore is at low risk from fluvial flooding. A detailed Drainage Strategy has been provided to manage surface water and this includes several SUDs features.</p>
<p>(g) access arrangements and appropriate local (with contributions towards wider, strategic) highways mitigation measures;</p>	<p>Yes - the scheme proposes a new vehicular access from Wadesmill Road, while pedestrian and cycle access are achieved through use of the existing byway. A speed reduction is proposed along Wadesmill Road to enhance highways safety. Financial</p>

	contributions are secured towards sustainable transport improvements within the area.
(h) encouragement of sustainable transport measures, both through improvements to the existing walking, cycling and bridleway networks in the locality and through new provision, which should also provide links with the adjoining area and the town centre and enhanced passenger transport services;	Yes - the scheme proposes to encourage sustainable transport through upgrade works to the existing byway and by providing new pedestrian connections. In addition, a new footway/cycleway is proposed to be created on Wadesmill Road. Financial contributions are secured towards sustainable transport initiatives in the wider area.
(i) protection of all public rights of way (including, inter alia, the protection of the restricted byway) and other public access routes running through or on the boundaries of the site;	Yes - the scheme proposes to retain and upgrade the existing restricted byway. No other public routes would be impacted by the development.
(j) landscaping and planting, both within the site and peripheral, which responds to the existing landscape and complements development, as appropriate and provides a defined, recognisable boundary to the Green Belt;	Yes - the scheme includes generous soft landscaping and planting within the site. Further supplementary planting is proposed along the site boundary to enhance existing tree lines. A landscape buffer is proposed across the northern site boundary to provide a recognisable

	boundary to the Green Belt.
(k) public open spaces across the site, including the provision of play areas and opportunities for outdoor health and fitness activities, as well as space for wildlife;	Yes - the scheme proposes to provide a large public open space across the northern part of the site. Two play spaces would be delivered and there would be sufficient areas for outdoor recreation. The landscape buffer along the northern site boundary, together with new planting, would create opportunities for wildlife.
(l) quality local green infrastructure through the site including opportunities for preserving and enhancing on-site assets, maximising opportunities to link into existing assets and enhance biodiversity;	Yes - the scheme proposes to provide a large area of green space across the northern part of the site. The landscape buffer would connect to existing tree lines, providing continual green infrastructure along site boundaries. The scheme would deliver a biodiversity net gain of 11.12%.
(m) measures to ensure that any impact on wildlife within the site and at the nearby Waterford Heath nature reserve is successfully mitigated;	Yes - No protected species would be harmed by the proposed development. The scheme proposes to create opportunities for wildlife through new planting and other wildlife enhancements.

(n) the delivery of all other necessary on-site and appropriate off-site infrastructure; and	Yes - the scheme includes improvements to the highway and right of way network. In addition, contributions towards off-site infrastructure (education, health services and community facilities) would be secured through the Section 106 legal agreement.
(o) other policy provisions of the District Plan and relevant matters, as appropriate.	Yes - the scheme the scheme has been assessed against the development plan read as a whole.

12.3 Given the above assessment, it is considered that the proposed scheme complies with DP Policy HERT4 when read as a whole. In addition, this full application would deliver a significant level of new housing on an allocated site and would assist in meeting the identified housing needs across the District. This housing provision would also support the Council in restoring a five-year housing land supply. Delivery of these 118 homes is a material consideration of significant positive weight in the planning balance. Furthermore, this development would supply 47 affordable homes, which equates to 40% affordable housing. Included within this affordable housing offer are a considerable number of family-sized dwellings and this is the type of affordable unit in most demand throughout the District. As such, the proposed scheme would make a valuable contribution towards affordable housing needs in the District. This affordable housing provision also attracts significant positive weight in the planning balance.

12.4 The proposed scheme would make considerable financial contributions towards local infrastructure, including education, health services and community facilities. These contributions would enable local facilities and services to accommodate the new residents of the

development, but would also benefit the wider community. Therefore, these contributions towards social infrastructure can be assigned positive weight (limited benefit). A financial contribution is also secured towards sustainable transport initiatives and enhanced bus services. Again, this contribution would be of wider public benefit and should attract positive weight (moderate benefit). Off-site highways works are proposed to be delivered by the applicant, comprising of a new footway/cycleway on Wadesmill Road and upgrades to the existing byway. This new and enhanced sustainable transport infrastructure would be used by the occupiers of the development and the residents of the local area. Therefore, within the planning balance, these sustainable transport upgrades should be assigned moderate positive weight.

12.5 In addition to the above, wider economic benefits of limited benefit would arise from the proposed scheme, including the provision of a significant number of construction jobs and the contribution to the local economy from additional household expenditure in the area.

12.6 Coupled with the above tangible benefits of the scheme, the proposed development would be of a high-quality design, which would respect the character of the area and comply with the requirements of the Masterplan. The landscape impacts of the development would be mitigated by the provision of the northern landscape buffer and other boundary planting. The proposals would not result in a material adverse impact on the local highway network and would not compromise highways safety. In addition, the scheme would suitably promote sustainable travel, as required by the Masterplan. Sustainable design credentials have been adopted for the development, with carbon emission reduction above Building Regulations achieved. Furthermore, a suitable drainage scheme would be delivered, while risks to groundwater and public water supply would be appropriately managed. The development would provide a biodiversity net gain and would not harm protected species, high-quality trees or designated wildlife sites subject to conditions.

12.7 In terms of adverse impacts, officers have identified that the development would result in some negative landscape impact on the

character of the site, given the change from agricultural/suburban fringe to built-up urban character. This harm is assigned moderate harm in the balance, which is reduced to limited following the landscape buffer maturing and assimilating into the landscape over time.

12.8 In light of the above, officers consider that the proposed scheme would be in accordance with the relevant development plan policies within the District Plan, the Neighbourhood Plan and the Minerals Local Plan thereby complying with the Development Plan as a whole.

12.9 The above conclusions reflect the officer's assessment of the scheme and the recommendation on the application. Officers have concluded that the phased approach to the site allocation, as set out in DP Policy HERT4 is no longer necessary, deliverable or feasible. If the decision maker is minded to view the requirement in the policy to phase the development, as a defining material consideration in the assessment of this proposal against the development plan policy and was to find non-compliance with this aspect of the policy, officers advice that particular regard needs to be given to the 'titled balance' and 'the presumption in favour of sustainable development', which is currently engaged in the decision making process, as the Council are currently unable to demonstrate a five-year housing land supply. Paragraph 11(d) of the NPPF states that for decision taking this means:

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

12.10 The NPPF explains that, due to the lack of a five-year housing land supply, the policies relating to the provision of housing should be viewed as out-of-date. Therefore, (even if it is found that the proposals

do not comply fully with the requirements set out in the HERT4 policy), the application still needs to be assessed under paragraph 11(d) of NPPF regardless, meaning that permission should be granted, unless the circumstances in paragraph 11(d) (i) or (ii) exist.

12.11 In terms of paragraph 11(d)(i), the NPPF defines 'areas or assets of particular importance' as: habitat sites, Sites of Special Scientific Interest, Green Belt, Local Green Space, Areas of Outstanding Natural Beauty, National Parks, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change. None of these listed areas or assets would be adversely impacted by the development. The requirement to phase the development to follow minerals extraction is not defined as conflicting with any national planning designations. Therefore, as there are no conflicts with these provisions, there is not a clear reason for refusing the application, under paragraph 11(d)(i). The non-compliance with the phased element of the HERT4 policy in the officer's opinion, does not give sufficient grounds to refuse the application in absence of any other significant harm or conflict with national or local policy.

12.12 Paragraph 11(d)(ii) requires a balancing exercise to be undertaken to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

12.13 As already advised, the proposed scheme would give rise to several benefits, which when taken cumulatively, would attract significant positive weight in favour of the proposal. These benefits are listed below:

- The delivery of 118 new homes, which would assist in meeting the identified housing needs across the District. This material consideration should be assigned significant positive weight.
- The provision of 47 affordable homes, equating to 40% affordable housing. This affordable housing offer includes numerous family-sized units, which are the most in demand across the District. This material consideration should be assigned significant positive weight.
- The provision of financial contributions towards education, health services and community facilities. These contributions

would fund the upgrade of local facilities and services, so that they are able to accommodate the new residents of the development. However, these enhanced local facilities and services would also be used by the wider community. This is a public benefit that should be attributed limited positive weight.

- The provision of a financial contribution towards sustainable transport initiatives and enhanced bus services. This improved sustainable transport infrastructure would be available for the occupiers of the development, as well as the wider community. Therefore, there would be a wider public benefit that attracts moderate positive weight.
- The delivery of new and improved off-site highway infrastructure, which would be used by the occupiers of the development, as well as the wider community. This is a wider public benefit that can be attributed moderate positive weight.
- The proposed scheme would deliver a biodiversity net gain of 11.12%. This is a material consideration, which can be assigned limited positive weight.
- The proposed development would create jobs and employment during the construction phase. Additional household expenditure in the local area would also be generated. These economic benefits of the scheme attracts limited positive weight.

12.14 In regard to any adverse impacts, it is clear from the conclusions of this report that officers consider the scheme to be in compliance with the development plan, read as a whole. On this basis, and in the context of the development plan, the only adverse impacts are to landscape character, which reduce to limited harm over time.

12.15 Notwithstanding this, if the decision taker was to afford greater (negative) weight to the failure to comply with the phased approach to the site allocation, and therefore find a conflict with DP Policy HERT4, officers consider that any element of non-compliance would not be sufficient to demonstrably or significantly outweigh the significant benefits to arise out of the development, at a time when the Local Planning Authority has been found not to have a 5-year supply of housing land. In the officer's view, the non-delivery of the phasing of

the site allocation would not be a material consideration of such weight that it would outweigh the significant benefits arising from the proposed development. Therefore, in the context of the 'tilted balance' and 'presumption in favour of sustainable development', the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of the scheme. As such, in line with paragraph 11(d) of the NPPF, officers consider that planning permission should be granted, subject to conditions and a Section 106 legal agreement.

13.0 RECOMMENDATION

13.1 That planning permission be **GRANTED** subject to the conditions/reasons and the completion of a Section 106 agreement with the following heads of terms set out below.

HEADS OF TERMS

HCC Contributions

- **Sustainable Transport – £155,306 (index linked by SPONS from July 2024)** to go towards East Herts Local Cycling and Walking Infrastructure Plan (LCWIP) development in the area, the HERT project, Right of Way upgrades, and schemes within packages 1, 2, 4 and 5 of HCC's South East Growth & Transport Plan.
- **Bus Service Contribution – £400,000** (index linked by CPT from the date planning permission is granted) to go towards enhanced bus services in the local area.
- **Travel Plan – £6,000** (index linked by RPI from March 2014), together with enhanced travel vouchers of £150 per dwelling (index linked by RPI from March 2014).
- **Primary Education – £1,273,520** (index linked to BCIS 1Q2022) towards the expansion of Simon Balle Primary School, including nursery provision, and/or provision serving the development.
- **Secondary Education – £1,492,588** (index linked to BCIS 1Q2022) towards the delivery of the new secondary school

within the WARE2 development and/or provision serving the development.

- **Childcare Contribution (0 – 2 years) – £9,853** (index linked to BCIS 1Q2022) towards increasing the capacity of 0-2 year old childcare facilities at Bengo Playgroup and/or provision serving the development.
- **Childcare Contribution (5 – 11 years) – £1,651** (index linked to BCIS 1Q2022) towards increasing the capacity of 5-11 year old childcare facilities at Bengo Primary School and/or provision serving the development.
- **Special Educational Needs and Disabilities (SEND) – £145,262** (index linked to BCIS 1Q2022) towards new Severe Learning Difficulty (SLD) special school places (EAST) and/or provision serving the development.
- **Library Service – £40,960** (index linked to BCIS 1Q2022) towards the reprovision of Ware Library and/or provision serving the development.
- **Youth Service – £32,993** (index linked to BCIS 1Q2022) towards increasing the capacity of Ware Young People's Centre and/or provision serving the development.
- **Waste Service Recycling Centre – £28,648** (index linked to BCIS 1Q2022) towards the new Ware Recycling Centre and/or provision serving the development.
- **Waste Service Transfer Station – £12,440** (index linked to BCIS 1Q2022) towards the new Eastern Transfer Station and/or provision serving the development.
- **Fire and Rescue Service – £44,910** (index linked to BCIS 1Q2022) towards new fire station at Hertford and/or provision serving the development.
- **Monitoring Fees** – These will be based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of £340.

EHDC Contributions

- **Affordable Housing** – 40% of total housing units equating to 47 dwellings, with a tenure split of 70% affordable rent and 30% intermediate ownership.

- **Recycling – £8,496** towards the provision of refuse and recycling containers to the new dwellings in the development.
- **Allotments – £20,869** towards the cost of improvements to the allotment site at Bengo and/or other allotments and community growing spaces in Hertford as used by the residents of the development, including the installation of additional water provision, site security improvements and site maintenance works.
- **Bowls – £28,421** towards maintenance and improvements to the clubhouse and/or upgrading and ongoing maintenance of the green at Sele Bowls Club in Hartham Common (as the nearest club to the development) and/or other Bowls Clubs in Hertford as used by the residents of the development.
- **Community Centres – £81,758** towards the cost of the East Herts Council Hertford Theatre Growth & Legacy Project (capital refurbishment programme for Hertford Theatre in Hertford) to support the provision of a destination community facility and/or to support any other community centre provision in the vicinity of the development as used by the residents of the development.
- **Outdoor Tennis – £19,470** towards improvements, including relining and new nets, at the hard surface public tennis court within the multi-use games area at Hartham Common (the nearest public tennis court to the development).
- **Sports Hall – £67,544** towards improvements to the sports halls at Wodson Park Sports & Leisure Centre.
- **Swimming Pools – £69,071** towards the cost of the East Herts Council capital refurbishment programme for the provision of new and/or improvements to the existing swimming pool space at Hartham Leisure Centre (the nearest public pool which can be used by the residents of the development).
- **Fitness Gyms – £30,018** towards the cost of the East Herts Council capital refurbishment programme to include the provision of new fitness gym equipment and/or improvements to the existing fitness gym area and equipment at Hartham Leisure Centre (the nearest public gym which can be used by the residents of the development).

- **Studio Space - £12,400** towards the cost of the East Herts Council capital refurbishment programme to include the provision of new studio equipment and/or improvements to the existing studio equipment and space at Hartham Leisure Centre (the nearest public gym which can be used by the residents of the development).
- **Natural Green Space - £10,283.70** towards the cost of improvement works at Hartham Common including footpath, bridge and access works, and/or other works identified in the Hartham Common Management Plan.
- **Monitoring Fee - £3,900** for the Council's costs of monitoring the development over the lifetime of the planning obligations.

NHS Contribution

- **NHS Health GMS Contribution - £205,792** towards relocation of Wallace House Surgery and the extension, reconfiguring and refurbishing of Hanscombe House to provide sufficient space to increase resources and clinical services and thus keep the patient lists open.

Section 278 Works

- A shared footway/cycleway, together with a toucan crossing, on Wadesmill Road, which will connect to restricted byway HERTFORD 001.
- Upgrades to existing restricted byway HERTFORD 001 to enable a 3 metre width for the full length through the application site.
- Implementation of a 40mph speed limit buffer on Wadesmill Road and associated infrastructure.
- Construction of new dropped kerbs and tactile paving points at the junctions of: The Avenue/Bengeo Street, Tower Street/Bengeo Street and Cross Road/Bengeo Street.

PLANNING CONDITIONS

Time Limit

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

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

Approved Plans

2) The development hereby approved shall be carried out in accordance with the approved plans listed below:

- 21/001/010 REV PL02
- 21/001/011 REV PL13
- 21/001/012 REV PL11
- 21/001/080 REV PL06
- 21/001/014 REV PL03
- 21/001/015 REV PL05
- 21/001/016 REV PL05
- 21/001/091 REV PL03
- 21-001 V001
- 21_001_V004
- 21/001/020 REV PL05
- 21/001/021 REV PL04
- 21/001/022 REV PL06
- 21/001/023 REV PL06
- 21/001/024 REV PL05
- 21/001/025 REV PL04
- 21/001/026 REV PL05
- 21/001/027 REV PL04
- 21/001/028 REV PL05
- 21/001/029 REV PL05
- 21/001/032 REV PL03
- 21/001/033 REV PL03
- 21/001/036 REV PL06
- 21/001/037 REV PL04
- 21/001/038 REV PL06
- 21/001/039 REV PL06
- 21/001/040 REV PL05

- 21/001/041 REV PL04
- 21/001/042 REV PL05
- 21/001/043 REV PL04
- 21/001/044 REV PL03
- 21/001/045 REV PL05
- 21/001/046 REV PL03
- 21/001/047 REV PL02
- 21/001/048 REV PL01
- 21/001/049 REV PL04
- 21/001/050 REV PL05
- 21/001/051 REV PL02
- 21/001/052 REV PL01
- 21/001/053 REV PL01
- 21/001/060 REV PL05
- 21/001/061 REV PL05
- 21/001/063 REV PL04
- 21/001/070 REV PL02
- 21/001/071 REV PL02
- 21/001/072 REV PL02
- 21/001/073 REV PL01
- 21/001/074 REV PL03
- DUR1280-10 Rev C
- DUR1280-21
- 1870-KC-XX-YTREE-TPP01Rev H
- 1870-KC-XX-YTREE-TCP01Rev A
- 1126-05-101 Rev P08
- 1126-07-102 Rev P10
- 1126-07-104 Rev P08
- 1126-07-105 Rev P02
- 1126-07-106 Rev P05
- 1126-07-107 Rev P3
- 2023-16339-001
- 2023-16339-002

- 2023-16339-003
- 2023-16339-004
- 2023-16339-005
- 2023-16339-006
- 7083-MJA-SW-XX-DR-S-1000 Rev P2
- 7083-MJA-SW-XX-DR-S-1001 Rev P2
- 7083-MJA-SW-XX-DR-S-1002 Rev P1
- 7083-MJA-SW-XX-DR-S-1005 Rev P1
- SK02 Revision H
- SK09.1 Revision E
- 21-0458 SK18 Revision A
- 21-0458 SK19 Revision A

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

Construction Traffic Management Plan

- 3) Prior to the commencement of any development hereby approved, a 'Construction Traffic Management Plan' shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The 'Construction Traffic Management Plan' shall set out:
- the phasing of construction and proposed construction programme;
 - the methods for accessing the site, including wider construction vehicle routing;
 - the numbers of daily construction vehicles including details of their sizes, at each phase of the development;
 - the hours of operation and construction vehicle movements;
 - details of any highway works necessary to enable construction to take place;
 - details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway;
 - details of any hoardings;
 - details of how the safety of existing public highway users and existing public right of way users will be maintained;
 - management of traffic to reduce congestion;

- control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels;
- the provision for addressing any abnormal wear and tear to the highway;
- the details of consultation with local businesses or neighbours;
- the details of any other construction sites in the local area; and
- waste management proposals.

Thereafter, the construction phase of the development shall only be carried out in accordance with the approved Construction Traffic Management Plan.

Reason: In the interests of highways safety, in accordance with Policy TRA2 of the East Herts District Plan 2018.

Archaeology

- 4) No development shall take place within the proposed development site, until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. This condition will only be considered to be discharged when the Local Planning Authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made.

Reason: To secure the protection of, and proper provision for, any archaeological remains, in accordance with Policies HA1 and HA3 of the East Herts District Plan 2018.

Surface Water Drainage Network

- 5) Prior to the commencement of any development hereby approved, construction drawings of the surface water drainage network, associated sustainable drainage components and flow control mechanisms and a construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall then be constructed as per the agreed drawings, and method statement, based on the Drainage Strategy Report Revision P03 (Prepared by: iD LTD, Reference: IDL/1126/DS/001, Dated: 25 April 2024) and the Drawings at

Appendix E of the Drainage Strategy Report (Overall Levels Plan, Drainage Plan, Drainage Area Plan, Infiltration Pond Details, Headwall and Swale Details and Drainage Details) and the scheme shall remain in perpetuity for the lifetime of the development. No alteration to the agreed drainage scheme shall occur without prior written approval of the Local Planning Authority.

Reason: To ensure that the development achieves the highest standards of sustainable drainage, in accordance with Policy WAT5 of the East Herts District Plan 2018.

Bridging of Existing Ditch

- 6) Prior to the commencement of any development hereby approved, full detailed drawings and supporting calculations shall be submitted to and approved in writing by the Local Planning Authority, which demonstrate how the road will be bridged across the existing ditch (at the access to the site) and will not increase flood risk elsewhere. All development shall be constructed in accordance with the submitted Flood Risk Assessment Rev A (Prepared by: Amazi, Reference: AMA893 Rev A, Dated: July 2023), this includes all new residential dwellings to have a finished floor level raised a minimum of 300mm above any flood level and 150mm above the surrounding proposed ground level.

Reason: To ensure flood risk is adequately addressed, in accordance with Policy WAT1 of the East Herts District Plan 2018.

Temporary Drainage Measures

- 7) Prior to the commencement of any development hereby approved, details and a method statement for interim and temporary drainage measures during the construction phases shall be submitted to and approved in writing by the Local Planning Authority. This information shall provide full details of who will be responsible for maintaining such temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris, and sediment to any receiving watercourse or sewer system. The site works and construction phase shall thereafter be carried out in accordance with the approved details and method statement.

Reason: To ensure flooding and risks of pollution are avoided during construction, in accordance with Policies WAT1, WAT2 and WAT3.

Sewage Pipes

- 8) Prior to the commencement of any development hereby approved, a scheme to agree sewage pipe work specifications in Source Protection Zone 1 shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the sewage pipework has been provided in full accordance with the approved details.

Reason: To ensure that the proposed foul water sewage system does not harm groundwater resources, in accordance with Policies WAT2 and WAT3 of the East Herts District Plan 2018.

Decommissioning of Boreholes

- 9) Prior to the commencement of any development hereby approved, a scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. Thereafter, the scheme shall be implemented in accordance with the approved details prior to the first occupation of any part of the development.

Reason: To ensure that the development does not contribute towards water pollution from mobilised contaminants, in accordance with Policies WAT2 and WAT3 of the East Herts District Plan 2018.

Levels

- 10) Prior to the commencement of any development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in full accordance with the approved details.

Reason: To ensure that the development makes appropriate use of existing land levels, as required by the Masterplan, in accordance with Policies HERT4 and DES4 of the East Herts District Plan 2018.

Broadband Connectivity

- 11) Prior to the commencement of any development hereby approved, apart from enabling works, details of the measures required to facilitate the provision of high-speed broadband connections shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a timetable and method of delivery for high-speed broadband for each residential unit. Once approved, high-speed broadband infrastructure shall be implemented thereafter in accordance with the approved details, including the timetable and method of delivery. Reason: In order to ensure the provision of appropriate infrastructure to support the future sustainability of the development, in accordance with Policies ED3 and DES4 of the East Herts District Plan 2018 and the NPPF.

Site Waste Management Plan

- 12) Prior to the commencement of any development hereby approved, a Site Waste Management Plan (SWMP) for the site shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Waste Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in full accordance with the approved SWMP. Reason: To ensure that measures are in place to minimise waste generation and maximise the on-site and off-site reuse and recycling of waste materials, in accordance with Policy 12 of the Hertfordshire Waste Core Strategy and Development Management Policies Development Plan Document 2012.

Construction Environmental Management Plan

- 13) Prior to the commencement of any development hereby approved, a Construction Environmental Management Plan (CEMP),

detailing how emissions with the potential to adversely impact the local air quality are to be mitigated throughout construction works, shall be submitted to and approved in writing by the Local Planning Authority. As a minimum, the CEMP shall include the recommendations contained within Table 5.5 of the submitted Air Quality Assessment Revision C (Prepared by: Create Consulting Engineers LTD, Reference: TR/VL/P23-2811/01 Rev C, Dated: February 2023). Works shall be carried out in accordance with the approved CEMP for the duration of the construction process.

Reason: In order to ensure that an adequate level of air quality for local residents, in accordance with Policy EQ4 of the East Herts District Plan 2018.

Access Arrangements

- 14) Prior to the commencement of any development hereby approved, additional plans shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of the Wadesmill Road access and associated highway works, as shown on approved drawing number: 21-0458 SK19 REVISION A. These works shall be constructed to the specification of the Highway Authority and to the Local Planning Authority's satisfaction, and completed prior to commencement of the development on the application site.

Reason: To ensure safe vehicular access arrangements, in accordance with Policy TRA2 of the East Herts District Plan 2018.

Visibility Splays

- 15) Prior to the commencement of any development on the application site hereby approved, visibility splays from the new vehicular access on Wadesmill Road measuring 2.4 metres X 124.8 metres to the south, and 2.4 metres X 180.4 metres to the north, shall be provided, as shown on approved drawing number: 21-0458 SK05. Thereafter, these visibility splays shall be maintained at all times free from any obstruction between 600 millimetres and 2 metres above the level of the adjacent highway carriageway.

Reason: To ensure safe vehicular access arrangements, in accordance with Policy TRA2 of the East Herts District Plan 2018.

Materials

- 16) Prior to the commencement of any above ground construction works, details and specifications of all the external materials of construction and finishes for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented, in accordance with the approved details.

Reason: In the interests of amenity and good design, in accordance with Policy DES4 of the East Herts District Plan 2018.

Affordable Housing Layout

- 17) Prior to the commencement of any above ground construction works, details of the final internal layouts for the proposed affordable units shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the affordable units shall be constructed, in full accordance with these approved details.

Reason: In the interests of providing high-quality affordable housing, in accordance with Policy HOU3 of the East Herts District Plan 2018.

Sustainable Design

- 18) Prior to the commencement of any above ground construction works, details of the sustainability measures to be incorporated within the development shall be submitted to and approved in writing by the Local Planning Authority. These sustainability measures shall be based on the recommendations of the Energy Strategy Statement (Prepared by: Briary Energy, Dated: July 2023) and shall include details of:

- Energy efficient construction techniques;
- Energy efficient lighting and fittings;
- Services and controls;
- Efficient energy supply (including details of air source heat pumps);
- Water efficiency measures, which demonstrate compliance with the water consumption target of 110 litres, or less, per head, per day; and
- Compliance with the Future Homes Standard.

Thereafter, the development shall be implemented and maintained, in accordance with the approved details.

Reason: In the interests of minimising carbon emissions and promoting the principles of sustainable construction, in accordance with Policies CC1 and WAT4 of the East Herts District Plan 2018.

External Lighting

19) Prior to the first occupation of the development hereby approved, details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details.

Reason: In order to ensure inappropriate light pollution does not occur, in line with Policy EQ3 of the East Herts District Plan 2018.

Cycleway/Footway/Toucan Crossing

20) Prior to the first occupation of the development hereby approved, additional plans shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed engineering designs and construction of all improvement works to Wadesmill Road and Watermill Lane North, as shown on approved drawing numbers: 21-0458 SK09.1 REVISION E, 21-0458 SK18 REVISION A and 21-0458 SK19 REVISION A. This shall include, but is not limited to:

- A toucan crossing over Wadesmill Road to the south of the site;
- A new shared footway/cycleway connecting the toucan crossing along the western side of the Wadesmill Road carriageway to Restricted Byway Hertford 001;
- Widening of the existing footway on the eastern side of the Wadesmill Road carriageway and initial section of Watermill Lane North to shared footway/cycleway, connecting to the toucan crossing;
- Tightening the kerb radii of the Watermill Lane North junction onto Wademsill Road; and
- Introduction of central carriageway hatching and central traffic islands along Wadesmill Road to the north of Watermill Lane North.

These works shall be in place and constructed to the specification of the Highway Authority and to the Local Planning Authority's satisfaction prior to first occupation of the development.

Reason: To ensure the delivery of enhanced transport infrastructure that encourages sustainable modes of travel and ensure highways safety, in accordance with Policies TRA1 and TRA2 of the East Herts District 2018.

Internal Site Layout Details

21) Prior to the first occupation of the development hereby approved, additional plans and details of the internal site layout shall be submitted to and approved in writing by the Local Planning Authority which show:

- Copenhagen style crossovers at all side road junctions rather than bellmouths;
- A scheme outlining wayfinding measures within the application site that divert pedestrians away from the Wadesmill Road vehicular access, along with a clear and legible internal footpath running parallel to Wadesmill Road that links the site access to the byway;
- The level of footway and carriageway visibility from each individual vehicle access, and the level of visibility from and around each main junction within the site, within which there shall be no obstruction to visibility between 600 millimetre and 2 metres above the carriageway level;
- That service vehicles, including refuse and emergency vehicles, can safely and conveniently access and route through the site, to include the provision of sufficient turning and operating areas; and
- Improvements to the byway upgrading this route to a total minimum width of 3 metres for its full length through the site, made up of a minimum 1.5m wide non-sealed path built using aggregate and a minimum 1.5m wide horse grass strip as an option for horse riders.

All these features shall be provided prior to first occupation of the development to the satisfaction of the Local Planning Authority and maintained in perpetuity.

Reason: To provide adequate visibility, to promote alternative modes of travel, and for the overall free and safe flow of all site users, in accordance with Policy TRA1 & TRA2 of the East Herts District Plan 2018.

Parking Spaces

- 22) Prior to the first occupation of any dwelling hereby approved, the parking spaces for that dwelling, as illustrated on approved drawing number: 21/001/011 REV PL13, shall be provided in full.
Reason: To ensure the provision of an appropriate level of parking spaces, in accordance with Policy TRA3 of the East Herts District Plan 2018.

Hard Surfaced Areas

- 23) Prior to the first occupation of the development hereby approved, all on site hard surfaced vehicular areas and pedestrian routes, including (but not limited to) internal access roads, forecourts, garages, carports, external parking spaces, footways, and footpaths shall be accessible, surfaced, marked out and fully completed, in accordance with approved drawing numbers: 21/001/011 REV PL13 and DUR1280-10 Rev C.
Reason: To ensure provision of hard surfaces within the development, in accordance with Policy TRA2 of the East Herts District Plan 2018.

Electric Vehicle Charging Points

- 24) Prior to the first occupation of the development hereby approved, details of the siting, type and specification of electric vehicle charging points (EVCPs), together with details of the energy sources and a management plan for the supply/maintenance of the EVCPs, shall be submitted to and approved in writing by the Local Planning Authority. All EVCPs shall be installed in accordance with the approved details and permanently maintained and retained thereafter. No dwelling shall be occupied until the EVCP serving that dwelling has been installed.
Reason: In the interests of promoting use of electric vehicles, in accordance with Policies DES4 and TRA1 of the East Herts District Plan 2018.

Cycle Parking

- 25) Prior to the first occupation of any dwelling hereby approved, the cycle parking facilities serving that dwelling, as illustrated on approved drawing numbers: 21/001/012 Rev PL12, 21/001/073 Rev PL01 and 21/001/074 Rev PL03, shall be provided in full. Thereafter, the cycle parking facilities shall be retained.

Reason: In the interests of promoting sustainable transport, in accordance with Policies TRA1 and TRA3 of the East Herts District Plan 2018.

Means of Enclosure

- 26) Prior to the first occupation of any dwelling or apartment blocks hereby approved, details of all means of enclosure, including gates, walls and fences, for the relevant dwelling shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, the development shall be implemented in accordance with the approved details. No dwelling shall be occupied until all the means of enclosure for the relevant dwelling or apartment blocks have been installed.

Reason: In the interests of amenity and good design, in accordance with Policy DES4 of the East Herts District Plan 2018.

Refuse Stores

- 27) Prior to the first occupation of the relevant part of the development hereby approved, the refuse stores for the apartment blocks, as illustrated on approved drawing numbers: 21/001/011 PL13, 21/001/012 Rev PL12 and 21/007/074 Rev PL03, shall be provided in full. Thereafter, the refuse stores shall be retained.

Reason: To ensure adequate refuse storage is provided, in accordance with Policy DES4 of the East Herts District Plan 2018.

Air Source Heat Pumps

- 28) Prior to the first occupation of the relevant parts of the development hereby approved, details of the specification and siting of the proposed air source heat pumps shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the air source heat pumps

serving that dwelling have been installed, in line with the approved details.

Reason: To enable the Local Planning Authority to consider noise impacts from air source heat pumps and to secure the provision of renewable technologies, in accordance with Policies DES4, CC2 and EQ2 of the East Herts District Plan 2018.

Play Spaces

29) Prior to the first occupation of the development hereby approved, details of the proposed Locally Equipped Area for Play (LEAP) and Local Area for Play (LAP), providing a minimum area of 685 square metres, shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:

- a site plan showing the detailed layout of the play spaces;
- scaled drawings of new play equipment and furniture;
- scaled drawings of any boundary treatments; and
- information on any surface coverings.

No dwelling hereby approved shall be occupied until the LEAP and LAP have been installed in accordance with the approved details.

Reason: To ensure the provision of high-quality play spaces, in accordance with Policies DES4 and CFLR1 of the East Herts District Plan 2018.

Landscaping

30) Prior to the first occupation of the development hereby approved, full landscaping details shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:

- Hard surfacing materials;
- Soft landscaping proposals;
- Retained landscape features;
- Planting plans detailing schedule of plants, species, planting sizes and density of planting.; and
- An implementation timetable.

Thereafter, the site shall be landscaped in full accordance with the approved details and implementation timetable.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, in accordance with Policies DES3 and DES4 of the East Herts District Plan (2018).

Native Tree and Shrub Buffer

31) Prior to the first occupation of the development hereby approved, a full detailed specification for the northern native tree and shrub buffer, as illustrated on approved drawing number: DUR1280-10 Rev C, shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:

- Planting plan detailing schedule of plants, species, planting sizes and density of planting;
- An implementation timetable; and
- An ongoing maintenance programme for the buffer.

Thereafter, the northern native tree and shrub buffer shall be planted in accordance with the approved details and implementation timetable. This native tree and shrub buffer shall be retained in perpetuity, in accordance with the approved maintenance programme.

Reason: To ensure that the landscape buffer and the associated screening is provided and retained, in accordance with Policies DES2 and DES3 of the East Herts District Plan 2018.

Landscape Maintenance

32) Prior to the first occupation of the development hereby approved, a schedule of landscape maintenance for a minimum period of five years, following completion of the approved development, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscaping shall be maintained, in accordance with the approved schedule.

Reason: To ensure the maintenance of landscaping, in accordance with Policy DES3 of the East Herts District Plan 2018.

Biodiversity Net Gain Plan and Landscape Environmental Plan

33) Prior to the first occupation of the development hereby approved, a Biodiversity Net Gain Plan and Landscape Environmental Management Plan (LEMP), informed by the Statutory Metric, shall be submitted to and approved in writing by the Local Planning

Authority. This Biodiversity Net Gain Plan and LEMP shall demonstrate that a biodiversity net gain would be achieved on the site and shall also include:

- Descriptions and evaluations of features to be managed;
- Aims and objectives of management;
- Appropriate management options for achieving target condition for habitats as described in the metric;
- Details of management actions;
- Details of the body or organisation responsible for implementation of the plan;
- Ongoing monitoring plan and remedial measures to ensure habitat condition targets are met;
- Details of species and mixes selected to achieve target habitat conditions as identified in the metric.

The development shall be implemented and retained in full accordance with the approved Biodiversity Net Gain Plan and LEMP. Reason: To ensure that a biodiversity net gain is delivered and habitats are appropriately managed, in accordance with Policies NE2 and NE3 of the East Herts District Plan 2018.

Ecological Enhancements

- 34) Prior to the first occupation of the development hereby approved, details of the ecological enhancements on the site, including bat boxes, bird boxes, swift boxes, bee bricks and hedgehog nest domes, as outlined in Section 6.2 of the Ecological Appraisal (Prepared by: Aspect Ecology, Reference: 6534 EcoAp vf2 /ES/LN/DS, Dated: 22 May 2024), shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the approved details have been implemented in full.

Reason: In order to create opportunities for wildlife, in accordance with Policy NE3 of the East Herts District Plan 2018.

Maintenance of Sustainable Drainage Scheme

- 35) Prior to the first occupation of the development hereby approved, details of the maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be

implemented in its entirety prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:

- a timetable for its implementation;
- details of SuDS feature and connecting drainage structures and maintenance requirements for each aspect including a drawing showing where they are located; and
- a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime. This will include the name and contact details of any appointed management company.

Reason: To ensure that flood risk is adequately addressed and the highest standards of sustainable drainage are achieved, in accordance with Policies WAT1 and WAT5 of East Herts District Plan 2018.

Verification of Surface Water Drainage System

- 36) Upon completion of the surface water drainage system, including any SuDS features, and prior to the first occupation of the development, a survey and verification report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved under condition 5. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed with the findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that flood risk is adequately addressed and the highest standards of sustainable drainage are achieved, in

accordance with Policies WAT1 and WAT5 of East Herts District Plan 2018.

Accessible and Adaptable Dwellings

- 37) All the dwellings within the development (except for plot numbers: 1, 2, 5, 6, 7, 8, 11, 12, 80, 84 and 85, and those completed to M4(3) requirements) hereby approved shall be completed in full compliance with Building Regulations Optional Requirement Part M4(2) 'Accessible and Adaptable Dwellings' (or any subsequent replacement) prior to first occupation and shall be retained as such thereafter.

Reason: To ensure that the proposed development is adequately accessible for future occupiers, in accordance with Policy HOU7 of the East Herts District Plan 2018.

Wheelchair User Dwellings

- 38) The dwellings hereby approved at plot numbers: 3, 4, 9, 10, 27 and 28 shall be completed in full compliance with Building Regulations Optional Requirement Part M4 (3) 'Adaptable Wheelchair User Dwellings' (or any subsequent replacement), prior to first occupation and shall be retained as such thereafter.

Reason: To ensure that the proposed development is adequately accessible for future occupiers, in accordance with Policy HOU7 of the East Herts District Plan 2018.

Garage Use

- 39) The garages hereby approved shall be used for the housing of private vehicles solely for the benefit of the occupants of the dwelling and shall not be used as additional living accommodation or for any commercial activity.

Reason: To ensure the continued provision of off-street parking, in accordance with Policy TRA3 of the East Herts District Plan 2018.

Landscaping Implementation

- 40) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or

defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
Reason: To ensure the maintenance of landscaping, in accordance with Policy DES3 of the East Herts District Plan 2018.

Tree and Hedge Retention

- 41) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.
Reason: To ensure the continuity of amenity afforded by existing trees and hedges, in accordance with Policies DES3 and NE3 of the East Herts District Plan 2018.

Tree Protection Plan

- 42) The construction phase of the development shall be undertaken in full compliance with the Tree Protection Plan (TPP) (Drawing Number: 1870-KC-XX-YTREE-TPP01RevH).
Reason: To ensure adequate protection of trees during construction, in accordance with Policies DES3 and NE3 of the East Herts District Plan 2018.

Protected Species and Wildlife Site Mitigation

43) The construction phase of the development shall be undertaken in full compliance with the mitigation measures outlined at paragraph 6.1 of the submitted Ecological Appraisal (Prepared by: Aspect Ecology, Reference: 6534 EcoAp vf1 rev B /ES/LN/DS, Dated: 22 May 2024).

Reason: To mitigate impacts on the nearby Local Wildlife Site and protected species, in accordance with Policies NE1 and NE3 of the East Herts District Plan (2018).

Previously Unidentified Contamination

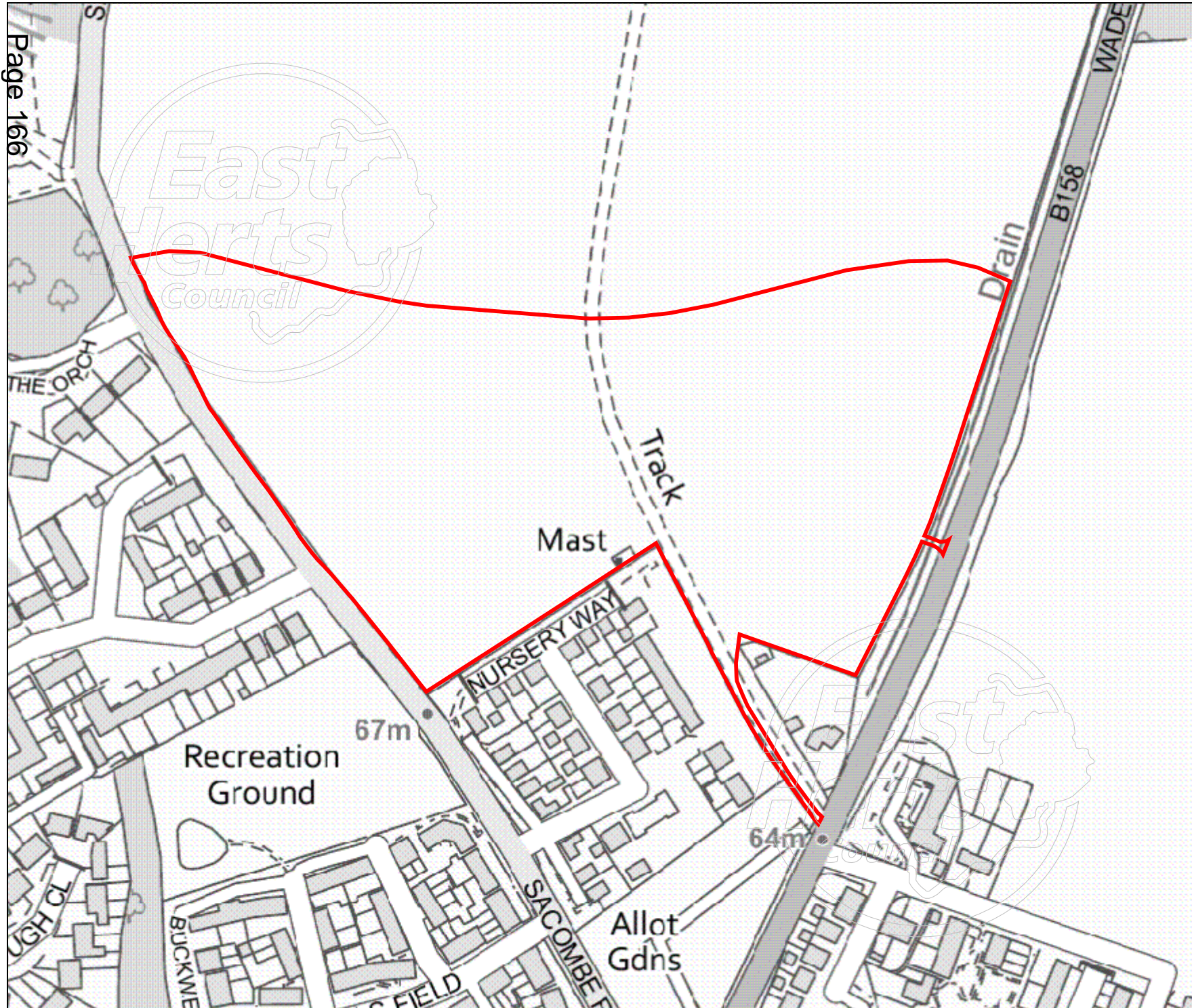
44) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the remediation strategy shall be implemented as approved.

Reason: To ensure that the development does result in risk of water pollution and in the interests of ensuring that the occupiers of the development are not at risk from unidentified contamination sources, in accordance with Policies WAT3 and EQ1 of the East Herts District Plan 2018.

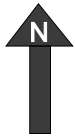
Piling or Intrusive Groundworks

45) Piling, deep foundations or other intrusive groundworks (investigation boreholes/tunnel shafts/ground source heating and cooling systems) using penetrative methods shall not be carried out other than with the written consent of the Local Planning Authority.

Reason: To ensure that the development does not harm groundwater resources, in accordance with Policies WAT2 and WAT3 of the East Herts District Plan 2018.



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East Herts Council
 Wallfields
 Pegs Lane
 Hertford SG13 8EQ

Tel: 01279 655261

 Site Boundary

ADDRESS
 Land West of Wadesmill Road
 Bengoe
 Hertford

PLAN TITLE
 Location Plan

SCALE
 1:2500@A4

**EAST HERTS COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE
ITEMS FOR REPORT AND NOTING
MAY-JUNE 2024**

Application Number	3/22/1964/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Peregrine HouseThe BlanesWare SG12 0XD
Appellant	Mr Paul Connolly
Proposal	Enlargement of block of flats by construction of an additional storey for 2 additional flats.
Appeal Decision	Dismissed

Application Number	3/22/2078/FUL
Decsn	Refused
Level of Decision	Delegated
Address	GreenleysSlough RoadAllens GreenSawbridgeworth CM21 0LR
Appellant	Mr Hicks
Proposal	Demolition of barn and nissen huts. Erection of new single dwelling and four commercial units.
Appeal Decision	Dismissed

Application Number	3/22/2104/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Piggotts FarmAlbury EndAlburyWare SG11 2HS
Appellant	Mr Hockley
Proposal	Change of use of barns to Class E(g)(i) office use with insertion of windows/doors, new openings, insulation, re-roofing of Barns 1 and 2 and internal partitions with mezzanines to Barns 2 and 3. Creation of car park, gates with creation of wall, bin store, cycle store, lighting, landscaping and dedicated bat loft. Demolition of modern stables building and blockwork walls within the courtyard.
Appeal Decision	Dismissed

Application Number	3/22/2105/LBC
Decsn	Refused
Level of Decision	Delegated
Address	Piggotts FarmAlbury EndAlburyWare SG11 2HS
Appellant	Mr Hockley
Proposal	Change of use of barns to Class E(g)(i) office use with insertion of windows/doors, new openings, insulation, re-roofing of Barns 1 and 2 and internal partitions with mezzanines to Barns 2 and 3. New car park, gates, new section of wall, bin store, cycle store, lighting, landscaping and dedicated bat loft. Demolition of modern stables building and blockwork walls within the courtyard.
Appeal Decision	Dismissed

Application Number	3/22/2215/FUL
Decsn	Refused
Level of Decision	Delegated
Address	82 Ware RoadHertford SG13 7HN
Appellant	Mr N Rhodes
Proposal	Erection of a new detached 4 bedroom bungalow with basement
Appeal Decision	Dismissed

Application Number	3/22/2431/OUT
Decsn	Refused
Level of Decision	Delegated
Address	Field West Of Hay Street(Opposite / North-West Of The Barn)Dassels SG11 2RW
Appellant	Mr And Mrs S Madsen
Proposal	Outline planning application proposing the demolition of a stable and erection of up to 6 new dwellings (all matters reserved).
Appeal Decision	Dismissed

Application Number	3/23/0256/HH
Decsn	Refused
Level of Decision	Delegated
Address	Thurlwood House Main RoadBramfield SG14 2QG
Appellant	Mr and Mrs Johnson
Proposal	Installation of 40 stand alone solar panels
Appeal Decision	Dismissed

Application Number	3/23/0356/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Quinbury Farm Hay Street Braughing Ware SG11 2RE
Appellant	G.J and C.H Langley-Jones
Proposal	Conversion of agricultural barn to a single residential dwelling.
Appeal Decision	Dismissed

Application Number	3/23/0374/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Jobbers Wood Sports Pavilion Great Hadham Road Much Hadham SG10 6FB
Appellant	Mr A Pickup
Proposal	Change of use of land to D2 (Assembly and leisure) Erection of cricket school and creation of 17 parking spaces
Appeal Decision	Dismissed

Application Number	3/23/0430/TEL
Decsn	Refused
Level of Decision	Delegated
Address	Land East Of London Road Bishop's Stortford CM23 3HE
Appellant	EE Limited
Proposal	The installation of a 30 metre high ground based lattice tower fixed on concrete supporting 6 antenna, 2 transmission dishes, 1 node, 2 cabinets and ancillary development to include 1.8 metre high fencing and a 1m pedestrian access gate
Appeal Decision	Dismissed

Application Number	3/23/0766/HH
Decsn	Refused
Level of Decision	Delegated
Address	Longridge Amwell Hill Great Amwell Ware SG12 9RG
Appellant	Mr Paul Taylor
Proposal	Construction of car port to front of property
Appeal Decision	Dismissed

Application Number	3/23/0885/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Watton Mill Mill Lane Watton At Stone
Appellant	Mr Meqa
Proposal	Erection of additional storey to existing office building, installation of cladding and provision of parking and cycle/refuse stores
Appeal Decision	Dismissed

Application Number	3/23/1092/FUL
Decsn	Refused
Level of Decision	Delegated
Address	The Grange Swades Farm Wareside SG12 7QG
Appellant	Mr Ian Holman
Proposal	Conversion of Barn at Swades Farm to form a residential dwelling, demolition of an existing outbuild and erection of new garaging
Appeal Decision	Allowed

Application Number	3/23/1281/FUL
Decsn	Refused
Level of Decision	Delegated
Address	25 Temple Court Hertford SG14 3LY
Appellant	Mr Mason Bennett
Proposal	Proposed new two bedroom dwelling
Appeal Decision	Dismissed

Application Number	3/23/1567/HH
Decsn	Refused
Level of Decision	Delegated
Address	74 Heath Drive Ware SG12 0RJ
Appellant	Mr James Bellinger

Proposal	Demolition of side garage. Erection of part two storey, part single storey side extension. Construction of front porch. New dropped kerb.
Appeal Decision	Dismissed

Application Number	3/23/1590/HH
Decsn	Refused
Level of Decision	Delegated
Address	Gannet House11 Chapmore EndWare SG12 0HF
Appellant	Mr John Read
Proposal	Demolition of rear extension. Erection of single storey rear and side replacement extension incorporating two roof lanterns.
Appeal Decision	Dismissed

Application Number	3/23/2258/HH
Decsn	Refused
Level of Decision	Delegated
Address	128 Ware RoadHertford SG13 7HR
Appellant	Dr Ashley Gray
Proposal	Removal of chimney, attached garage and detached outbuilding. Construction of two storey and part single storey side and rear extension (to provide accommodation for elderly relatives). Addition to rear garden wall and retaining wall.
Appeal Decision	Dismissed

Application Number	3/23/2337/HH
Decsn	Refused
Level of Decision	Delegated
Address	7 CarrigansBishops Stortford CM23 2SL
Appellant	Mr And Mrs N And K Cook
Proposal	Erection of two storey side extension incorporating rear Juliet balcony. Replacement of rear doors with glazed sliding doors. Garage conversion and replacement of existing garage door with window.
Appeal Decision	DIS

Application Number	3/23/2385/HH
Decsn	Refused
Level of Decision	Delegated
Address	60 The WickHertford SG14 3HR
Appellant	Mr Karl Graham
Proposal	Erection of part single storey, part two storey rear extension. Single storey front extension. Relocation of first floor rear balcony with a permanent screen wall and planted living wall. Insertion of 4 rooflight windows. Addition of pitched roof to front of house. New first floor side window and alterations to fenestration.
Appeal Decision	Withdrawn

Application Number	3/23/2421/HH
Decsn	Refused
Level of Decision	Delegated
Address	33 Wychford DriveSawbridgeworth CM21 0HA
Appellant	Mr and Mrs M Silvester
Proposal	Proposed first floor side extension with hipped pitched roof (over the existing single storey side projection) and new vertical board timber fence to obscure the ground floor side projection brickwork, with planting trained through a trellis. The proposed extension to be cantilevered at the rear.
Appeal Decision	Dismissed

Application Number	3/24/0290/HH
Decsn	Refused
Level of Decision	Delegated
Address	13 ElmwoodSawbridgeworth CM21 9NL
Appellant	Mr Jeffrey Cousens
Proposal	Erection of second storey front extension above porch
Appeal Decision	Dismissed



Appeal Decision

Site visit made on 4 June 2024

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 June 2024

Appeal Ref: APP/J1915/W/23/3326483

Peregrine House, The Blanes, Ware, Hertfordshire SG12 0XD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Connolly against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1964/FUL.
 - The development proposed is described as enlargement of block of flats by construction of an additional storey to match the height of next door block of flats.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the late stages of this appeal the Council brought to my attention that it published a new 5 year housing land supply position statement. As this is of relevance to the appeal before me, and the appellant has been given the opportunity to comment on this matter, I have accepted this late evidence and considered it, as well as any comments received, as a part of my assessment.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the residents at Falcon Court with particular regard to outlook.

Reasons

4. Peregrine House is a four-storey block of flats where the top floor is contained in a mansard style roof. Due to the sloping ground, the northern part of the building is taller than the southern part where the proposal would be located.
5. Falcon Court is a four-storey block of flats positioned at approximately 17m from the southern part of Peregrine House at a lower ground level. The evidence indicates that the flats within Falcon Court have windows serving habitable rooms facing towards the appeal site.
6. The development would raise the height of the existing building by an additional storey. Due to its positioning, substantial size and scale, the proposal would appear as a significant and conspicuous structure that would have an overbearing effect on the outlook of the residents at Falcon Court, in particular to those on the upper floors. As such, I do not find that the gap between both buildings would offer sufficient mitigation for the scale of the proposal, even more so when considering that Falcon Court sits on lower ground.

7. The height of the proposal would appear consistent with the height of the northern part of the building. However, as this part of the building is sited further away from Falcon Court, its influence on the outlook from the windows at this neighbouring development is more limited. As such, I do not find that the northern section of Peregrine House would justify the proposal.
8. The details provided in relation to the cited schemes elsewhere within the Borough are somewhat limited, with no specific information regarding the size of these proposals or their context. As such, I cannot make any meaningful comparison between the proposal and these schemes.
9. In conclusion, the proposal would have a harmful effect on the living conditions of the residents at Falcon Court with particular regard to outlook. The proposal would be contrary to Policy DES4 of the East Herts District Plan 2018, insofar as this policy requires a high standard of layout of new development.

Other Considerations

10. Notwithstanding my findings above, the appellant asserts that the proposal would meet the requirements for prior approval. However, no substantive evidence has been provided to demonstrate that this would be the case. Although the appellant has sought to exercise their permitted development rights, a previous prior approval application for one additional floor was refused by the Council. As such, this argument would not alter my conclusion on the main issue and is a consideration which I find does not weigh significantly in favour of the proposed development.

Other Matters

11. Swift and bat boxes as well as appropriate refuse storage could be secured by planning condition, but this would not successfully mitigate the above harm. I appreciate that the appellant is seeking to optimise the potential of the property and ensure that it is put to effective use. However, I am not persuaded that this proposal is the only means to achieve this, nor am I convinced it would be an effective use of land because of the harm in terms of living conditions that I have identified.

Planning Balance and Conclusion

12. The proposal would be acceptable in relation to other matters, including its external appearance and would not detract from the character of the area. However, these are neutral factors that neither weight for nor against the development.
13. The Council can currently demonstrate a 5 year housing land supply of deliverable housing sites, which is not disputed by the appellant. Even so, the proposed development would contribute to the Council's housing stock and would meet the government's objective of boosting the supply of housing. The site is a small one, so it could be built out relatively quickly. In addition, the proposal would use the airspace above the building. However, given that the scheme is for two flats, these benefits attract limited weight in favour of the proposal and do not outweigh the harm that I have identified.
14. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

15. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR



Appeal Decision

Site visit made on 27 March 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2024

Appeal Ref: APP/J1915/W/23/3329956

Greenleys, Slough Road, Allens Green, Hertfordshire CM21 0LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Hicks against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/2078/FUL.
 - The development proposed is proposed development for replacement of existing business units and a detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided me with copies of amended plans that were submitted to the Council during the course of the application but which the Council declined to accept. I have determined the appeal on the basis of the plans that were considered by the Council in the interests of fairness to all parties.
3. During the course of the appeal, the Council confirmed that it could now demonstrate a five year supply of deliverable housing land. The appellant has not disputed this and I have determined the appeal accordingly.

Main Issues

4. The main issues are:
 - the principle of the proposed development with specific regard to its location, the loss of an agricultural use, and access to services;
 - the effect of the proposed development on the character and appearance of the area, including its effect on the significance of designated heritage assets;
 - whether the proposed dwelling would provide acceptable living conditions for future occupiers with specific regard to outlook, light and noise; and
 - whether the proposal makes appropriate provision for sustainable building methods and biodiversity net gain.

Reasons

5. The appeal site lies at the edge of Allen's Green, a rural hamlet. It is roughly rectangular. There are four Nissen hut style buildings and a barn surrounded by

hardstanding. There is a grassed area on the eastern side of the site towards the existing dwelling at Greenleys on which some rubble was sited at the time of my site visit. While these buildings could be in a better condition, their overall form and appearance are not uncommon in rural areas. The site is not visually intrusive, rather it is an established part of the settlement.

Management choices have contributed to its appearance, and this is not a reason to find that the site has a negative effect on the surrounding area. The site also did not appear vacant at the time of my site visit.

Principle of Development

6. East Herts District Plan (2018) (EHDP) Policy ED2 III requires development that would result in the loss of an agricultural use to demonstrate, amongst other things, that the current agricultural use is no longer needed or viable. It is not in dispute that the lawful use of the barn is agricultural.
7. The barn does benefit from prior approval for its conversion to a dwelling. However, in the absence of any evidence that this has been implemented and the agricultural use lost, the proposed development would still need to be assessed against EHDP Policy ED2. The appellant has asserted that the barn has not been used in over 10 years due to viability issues. However, there is no substantive evidence of this before me. The planning history of the site does not constitute evidence that there is not a need for agricultural use of the site, nor that it would not be viable. I therefore cannot be satisfied that there is no longer a need for the barn or that its use is no longer viable.
8. The prior approval for the conversion of the barn may no longer be extant. However, even if it is, that permitted development right only applies to conversions. It does not extend to the construction of a new dwelling which would require planning permission and consideration against the relevant policies of the development plan.
9. As there is no evidence before me that the prior approval has been implemented, so it follows that the proposed dwelling would not constitute a replacement. The Council has not alleged that the proposed dwelling would be isolated for the purposes of paragraph 84 of the National Planning Policy Framework (the Framework) and I have no reason to find otherwise. However, LP Policy VILL3 sets out that Group 3 Villages are the least sustainable locations for development, but that limited infill will be allowed where it has been identified in an adopted Neighbourhood Plan. However, there is no such Plan before me.
10. While the first reason for refusal identifies harm arising from the development due to the dependence on the private car, the officer's report only assesses this as an issue for the dwelling. I have considered this issue on the same basis.
11. It may be that cycling a distance of less than 5km is readily achievable for able-bodied people and that there are a number of settlements with services and facilities within this distance of the appeal site. However, the roads surrounding Allen's Green are narrow, generally unlit and do not provide for segregated cycle ways. It therefore does not follow that cycling would represent an attractive option in these circumstances, particularly if it involved families with young children as may be the case for a four bedroom home as is proposed. It is therefore likely that future occupiers of the proposed dwelling would have a high degree of reliance on the private car.

12. Electric vehicle charging points now form part of the Building Regulations and so are expected of new dwellings. Furthermore, their provision does not ensure that occupiers will own electric vehicles. This therefore would not mitigate the harm arising from the reliance on the private car.
13. It is likely that the existing employment use of the site also involves reliance on the private car. However, that does not justify allowing a dwelling on the site. Nor is there any evidence that the proposed development would have an adverse effect on highway safety including as a result of traffic generation.
14. The proposed employment units would provide approximately the same amount of floorspace as those they would replace. The general thrust of EHDP Policies ED1 and ED2 is to prevent the loss of employment land and vital sources of rural employment. Given the issues with the safety of the existing buildings, and the likely challenges that would arise from the shape of the existing buildings, the provision of modern employment floorspace would weigh in favour of the proposal. It would also involve the reuse of previously developed land and so would not conflict with LP Policy GBR2 with respect to the employment use. However, given the small scale of the proposal and its speculative nature, these benefits would be moderate. Nonetheless, in accordance with the advice in paragraph 124 of the National Planning Policy Framework (the Framework), I attach substantial weight to the reuse of brownfield land within a settlement.
15. When considered against the development plan as a whole, the proposal would not constitute sustainable development. It would be contrary to EHDP Policies DPS2 and VILL3 which set the development hierarchy for the area and confirm that Group 3 Villages are the least sustainable locations for development, TRA1 which seeks to direct development to primarily be located in places which enable sustainable journeys to be made, and ED2 which requires any loss of agricultural uses to be justified. The substantial weight to be given to the reuse of brownfield land would not outweigh these harms.
16. I do not find conflict with EHDP Policy GBR2 insofar as it relates to the redevelopment of previously developed land for employment use.

Character and Appearance including Heritage Assets

17. The Nissen huts have a distinctive semi-circular roof shape. This serves to substantially reduce their mass, relative to their width and height. They are a not uncommon feature in the countryside. The existing barn is also typical of agricultural buildings in the countryside. In that respect, the site provides an appropriate transition from the developed area of Allen's Green to the surrounding countryside.
18. The proposed employment building would have a slightly smaller floorspace than the existing buildings and would be no taller than the highest point of the Nissen huts. However, it would appear substantially larger due to its increased length and massing as a regularly shaped building. Although it is proposed to clad the building in black timber, it would nonetheless have a more urban appearance than the existing development on the site.
19. The site layout would present the car park towards the open countryside. With this, and the more modern appearance and perceived scale of the proposed employment units, the proposed development would appear as an urbanising

feature in the settlement. There would be limited opportunity for landscaping to provide a more appropriate transition from the open countryside to the settlement due to the position of the refuse stores and drainage ditch. I acknowledge there are trees adjacent to the site, however these are not within the appellant's control, and therefore could not be relied upon to screen the development.

20. Dwellings in Allen's Green typically face onto the main roads but there is no consistent or predominant style, scale or materials. The proposed dwelling, presenting a side elevation to the road would be atypical in this respect. There would be little by way of detailing to provide interest on the elevation facing towards Slough Road beyond the use of a glazed entrance hall. The proposed use of timber weatherboard would reflect the dwelling directly opposite the site, as would the overall form and scale of the proposed dwelling. However overall, the proposed dwelling would not positively contribute to the character and appearance of the area by failing to adequately address the highway.
21. The appeal site lies opposite the Grade II listed buildings Farmhouse at Dukes Farm and the Barn some 20 metres to the east of the house. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The significance of these buildings as they relate to this appeal lies in their historic value as evidence of the agricultural history of the area.
22. The existing agricultural setting of the listed buildings to the rear and opposite the barn would remain unaltered. The appeal site is largely developed at present, and the proposed employment development would be slightly further away from the listed buildings than the existing. The addition of a dwelling, on land which lies between the existing built form, would not alter the setting of the buildings as the site is viewed as part of the existing built form of the settlement. I therefore conclude the setting of the listed buildings would be preserved, as required by the Act, EHDP Policies HA1 and HA7 and the provisions of Section 16 of the Framework.
23. Notwithstanding, I conclude that the proposed development would have an adverse effect on the character and appearance of the area and thus would be contrary to EHDP Policy DES4 which requires development to demonstrate a high standard of siting, layout and landscaping.

Living Conditions

24. The proposed dwelling would be sited immediately adjacent to the proposed access track to the fields beyond the appeal site. The layout plans show a hedge to be planted along this boundary. This would result in a poor standard of outlook from bedrooms two, three and the study. While there would be an adequate level of light reaching these rooms due to the rooflights, this would not outweigh the poor outlook.
25. The proposed dwelling would be next to the track to serve the adjacent fields. There is no substantive evidence before me that this track would be subject to levels of use beyond those which would be expected in a rural area. Noise from farm traffic is to be expected in a village location, and as such, this would not

merit dismissing the appeal. However, this would not outweigh the harm I have identified above with respect to outlook.

26. The proposal would therefore not provide acceptable living conditions for future occupiers with specific regard to outlook and light. It would therefore be contrary to EHDP Policy DES4 which requires development to be of a high standard of design and layout. It also would be contrary to the advice in paragraph 135 of the Framework which requires development to function well and provide a high standard of amenity for future occupiers.

Biodiversity and Sustainable Design

27. EHDP Policy CC1 requires development to demonstrate how it has been designed to minimise overheating in summer, reduce the need for heating in winter and integrate green infrastructure. Policy CC2 similarly requires it to be demonstrated how carbon dioxide emissions will be minimised. Policy WAT4 seeks to minimise the use of water, setting a target of 110 litres or less per head per day. As a policy requirement of the adopted local plan, it is not appropriate for these considerations to be left to the building regulations stage of the development.
28. The Sustainable Construction, Energy and Water Statement submitted with the appeal makes generalised statements about how these will be achieved but there is no substantive detail. Likely U-values of materials have not been provided, despite the approved plans clearly indicating the proposed materials. There is no robust assessment of how the proposal has been oriented to address solar gain. There is no detail as to where an air source heat pump would be sited. The provision of such information would be proportionate to a development of the scale of that proposed.
29. The statement also makes assertions which are not consistent with the submitted plans. The windows in the proposed employment units and the windows serving the bedrooms and study in the western elevation of the proposed dwelling could not reasonably be described as large. The windows in the western elevation of the dwelling would be immediately adjacent to a hedge proposed to screen the field access. This does not instill confidence that sustainable construction measures have been integral to the development of the proposal.
30. The application was accompanied by a Preliminary Ecological Appraisal (PEA) which did not identify any particular biodiversity value to the site beyond use by transitory species, amenity grass and scatter scrub/ruderal colonisation. The findings of the PEA have not been questioned by the Council, and I have no reason to disagree with its findings.
31. The PEA included recommendations for biodiversity mitigation and enhancements, which the Council's officer report notes could have been conditioned for further detail. The distinction between this, and the net gain requirements of EHDP Policies NE2 and NE3 has not been explained by the Council. I also note the policies do not specify a level of net gain to be achieved. Given the findings of the PEA with respect to the existing site, a condition could be imposed which could be capable of securing appropriate biodiversity net gain as required by EHDP Policies NE2 and NE3.

32. However, the proposal would not make appropriate provision for sustainable building methods. It would therefore be contrary to EHDP Policies CC1, CC2 and WAT4 which taken together and insofar as they related to this appeal, require development to minimise resource use.

Other Matters

33. I have no reason to consider that the proposed development would have an adverse effect on highway safety. Sufficient parking, including cycle parking would be provided for both the employment units and the dwelling. There would not be an adverse effect on the living conditions of existing residents occupying the dwellings in the vicinity of the site and appropriate measures to minimise disturbance during construction could be secured by condition. Appropriate private amenity space is proposed for the dwelling, and outdoor space would also be provided to serve the employment units. The site would not be at risk of flooding and appropriate drainage could be secured by condition, as could any necessary measures to mitigate any contamination on the site. Appropriate provision for waste storage could be made. However, these would all be expected of any well designed development and as such are neutral.

Conclusion

34. EHDP Policy INT1 provides a version of the presumption in favour of sustainable development. As the Council can now demonstrate a five year supply of deliverable housing land, the appeal proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
35. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR



Appeal Decisions

Site visit made on 11 April 2024

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal A Ref: APP/J1915/W/23/3334605

Piggotts Farm, Albury End, Albury, WARE SG11 2HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Hollyhock Limited against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/2104/FUL.
 - The development proposed is Change of use of barns to Class E(g)(i) office use with insertion of windows/doors, new openings, insulation, re-roofing of Barns 1 and 2, and internal partitions with mezzanines to Barns 2 and 3. New car park, gates, new section of wall, bin store, cycle store, lighting, landscaping, and dedicated bat loft. Demolition of modern stables building and blockwork walls within the courtyard.
-

Appeal B Ref: APP/J1915/Y/23/3334606

Piggotts Farm, Albury End, Albury, WARE SG11 2HS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Hollyhock Limited against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/2105/LBC.
 - The works proposed are Change of use of barns to Class E(g)(i) office use with insertion of windows/doors, new openings, insulation, re-roofing of Barns 1 and 2 and internal partitions with mezzanines to Barns 2 and 3. Creation of car park, gates with creation of wall, bin store, cycle store, lighting, landscaping and dedicated bat loft. Demolition of modern stables building and blockwork walls within the courtyard.
-

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed and listed building consent is refused.

Preliminary Matters

3. There are two appeals before me. To avoid duplication, I have dealt with the appeals together where appropriate.
4. The Council's conservation consultee notes that the site lies within the Albury Conservation Area but there is no supporting evidence to this effect. As such, I have not considered this further.
5. I have used the barn numbering set out in the appellant's evidence in my reasoning.

6. With regard to heritage assets, the Council has found harm only in relation to a new opening in Barn 3. However, in line with my statutory duties I have considered the effects of the development and works on all those assets.

Main Issues

7. The main issues are:

- Whether the development would preserve or enhance the Grade II listed Three Barns and Outbuilding to north of Piggotts Farmhouse, and the setting of the Grade II listed Piggotts Farmhouse and Boundary Wall to east (Appeals A and B);
- Whether the development would accord with local policies with regard to location (Appeal A);
- The effects of the development on the living conditions of occupiers of The Ridings with particular regard to noise and disturbance (Appeal A); and,
- The effects of the development on the character and appearance of the area (Appeal A).

Reasons

Heritage Assets (Appeals A and B)

Three Barns and Outbuilding

8. The 1842 Albury Tithe Map shows a farmstead with structures arranged around a yard area which corresponds more or less with the current layout and footprint of the barns, outbuilding and farmhouse. Although there are more modern sheds to the west, the listed barns and farmhouse remain as evidence of the early farming operations.

Barn 1

9. Barn 1 is a five bay timber framed double aisled barn, with external black weatherboarding above a rendered brick plinth. The main cart doors on the north elevation appear to be original and have ironmongery typical of the 17th and 18th centuries. Shutters and openings on the east elevation also appear to be original. Given the likely purpose of the barn when built, the large opening door on the west elevation is likely to have been a later addition, and it has 20th century doors.
10. Internally the timber framed aisled structure has many authentic features including arcade posts, tie beams, arcade plates, some of the arch braces and aisle ties, some wall posts and sill beams. However, I noticed significant areas of machined timber in the wall framing and rafters and this is confirmed by observations in the heritage statement and from the Council.
11. Barn 1 is a plain structure whose overall form and typology reflects its age and its agrarian context, and the use of local materials. Its significance arises from its simple functional form with a limited number of openings, the retained historic fabric and its spatial relationship with Barns 2 and 3, the outbuilding and the farmhouse. It also makes a contribution to the setting of the other listed buildings enclosing the inner yard.

Barn 2

12. Barn 2 is a four bay timber framed aisled barn dating from the 18th century and which retains its original principal frame structures and evidence of brick flooring. However, the timbers in the walls and roof have been substantially replaced, and the north and south elevations are formed of modern brickwork. The other elevations are clad in black weatherboarding. There are two openings, a large barn door in its original location and a modern window in the southern elevation, with evidence of a former winnowing door on the east elevation.
13. Barn 2's significance arises from its simple form which reflects the local vernacular, and such retained historic fabric as remains. It also contributes to the setting of Barns 1 and 3, the outbuilding and the farmhouse.

Barn 3 and outbuilding

14. Barn 3 is the largest barn. Its southern and principal elevation faces the inner yard and the central midstrey gives it an imposing presence. It also dates from the 18th century and has black weatherboarding above a rendered concrete plinth and slate roof. Although the main doors are modern, they are traditionally located in the midstrey, and there is a winnowing door on the opposing wall.
15. Internally, the five bay single aisled threshing barn structure remains largely in place although the aisle ties and roof trusses have been largely replaced, along with wall framing on the north elevation. However, the east and south elevations have retained a large proportion of the original timber structure as well as some lath and plaster.
16. The outbuilding is an eight bay single storey structure attached to Barn 3's east elevation and dates from the 18th century. The four bays closest to Barn 3 are open shelters with timber posts, but the remaining four bays have been infilled with brickwork to form separate compartments with stable doors and windows.
17. The significance of Barn 3 and the outbuilding is derived from their overall form and retained historic fabric, which reflect the development of the agrarian economy and their contribution to the farm's development over time. Barn 3 and the outbuilding also contribute to the setting of Barns 1 and 2 and the farmhouse.

Piggotts farmhouse and boundary wall

18. The two-storey farmhouse has a charming red brick and symmetrical principal elevation with a central door, bay windows on the ground floor and sash windows above, all beneath a red tile pitched roof with brick chimney stacks. To the rear, two projecting wings with plastered walls and casements present with less formality and a typology suggestive of organic growth. It seems likely that the front red brick range was a later Victorian extension or conversion. Whereas the farmhouse's rear and side elevations abut the inner yard, the front elevation is enclosed by a brick boundary wall which contains a small garden and mature trees, and provides clear differentiation between operational and domestic activities.
19. Notwithstanding the aesthetic value of the farmhouse, the evidential value arising from the built extensions and alterations reflect both the farm's

prosperity and changing architectural fashions. Its significance is derived from its retained historic fabric, its overall design and largely undeveloped appearance, and its position within the original yard layout as the hub of the farm. It also contributes to the setting of Barns 1, 2 and 3 and the outbuilding.

Three Barns and Outbuilding – Proposals and effects

Barn 1

20. Each barn would be converted to office accommodation. In Barn 1 the existing openings would be glazed, the external insulation would require the replacement of the timber weatherboarding, and the internal sloping floor would be dug out to form two level sections.
21. The timber weatherboarding is considered in the heritage statement to be of high significance, although it is unclear whether this is derived from its age or its contribution to the barn's overall appearance. There seems to be a presumption in the evidence that the existing weatherboarding will be removed and replaced. This will slightly increase the barn's dimensions above the plinth. Moreover, the existing weatherboarding does not look particularly robust in some areas and even if it could be removed without damage, new material would be needed. In addition, the excavations to create a level floor would cause damage to the plinths to the main doors and the threshing board.
22. As such, the conversion would result in some loss of historic fabric. However, the barn's overall form, and its contribution to the appreciation of the original farm layout would remain. Nonetheless, there would be a loss of significance which would amount to less than substantial harm.

Barn 2

23. In Barn 2 a new entrance would be provided in the northern elevation, which is itself a 20th century construction. There would be additional windows, and rooflights and the winnowing door and boarded up windows would be reinstated. The large barn doors would be glazed. Internally, there would be two freestanding mezzanines.
24. As there has been significant modern intervention to the barn's outer frame, the insulation would be fixed internally, and the weatherboarding would remain. Although the Council raised a concern in relation to an internal wall, the appellant has confirmed that this would be largely glazed and as such would retain the barn's underlying openness, which is a key feature in the assessment of significance.
25. The conversion would result in some loss of historic fabric and the introduction of new openings and glazing but the barn's overall form and its contribution the setting of the farm's other listed buildings would be retained.
26. The works would also include the removal of a wall currently attached to Barn 2, which creates an enclosure. This demolition would enhance the settings of the barn and the farm layout as a whole, but to a minor degree only.
27. Nonetheless, even taking this minor benefit into account the loss of historic fabric would diminish significance and amount to less than substantial harm.

Barn 3 and outbuilding

28. Barn 3 would have a combination of internal and external insulation, as well as freestanding mezzanines but views to the roof would remain, giving a true sense of the height and scale of the internal void.
29. The barn's eastern elevation, which retains much of the original timber framing, would be breached by the insertion of a door to access the outbuilding and the pedestrian route to the car park. The argument is advanced that creating an entrance to Barn 3 in this location avoids conflict with the domestic activities of the farm. However, the route through the outbuilding to Barns 1 and 2 accesses what appears to be a large paved area in front of Barn 3's principal elevation. People would be using this area anyway and consequently the argument that the eastern elevation provides the only suitable entrance to Barn 3 is less than compelling, particularly as other options would be available, not least the doors within the midstre. As I can see no convincing conflict between the farm's activities and access to Barn 3 through any of its existing openings, the removal of historic fabric on the east elevation appears unnecessary.
30. The western end of the outbuilding, where it abuts Barn 3, would be used as an open entry from the car park to facilitate through access. The brick compartments would be opened up internally, and the existing door and window openings glazed. The loss of historic fabric would reduce significance and amount to less than substantial harm.

Piggotts Farmhouse – proposals and effects

31. The insertion of glazing and additional rooflights, along with the car park, paving and cycle store would clearly indicate that the three barns and outbuilding were no longer used for agriculture. This would diminish the largely undeveloped character and appearance of the original farmyard. However, although the side of the farmhouse forms one side of the yard's enclosure, I am satisfied that the proposals would have a negligible to minor adverse impact on the farmhouse's setting. As such there would be a broadly neutral impact on the farmhouse's significance.

Car park – proposals and effects

32. When viewed from the north, the long rear elevation of Barn 3 and the outbuilding are a notable feature in what is otherwise a broad open landscape, and these buildings themselves screen views of the inner yard. Barn 3 and the outbuilding are also partially obscured by a narrow belt of trees. The site of the proposed car park, which is currently open field, forms the foreground to these views and contributes to the overall setting of Barn 3 and the outbuilding, as well as to a far lesser extent, the other listed buildings.
33. However, as the listed buildings are essentially inward looking and relate directly to each other and the farmhouse, I am satisfied that the car park site makes only a minor contribution to the setting of the listed buildings. As such, although the car park would intrude into this setting and cause some loss of significance to those settings, I conclude that this would fall at the lower end of less than substantial harm. My reasoning with regard to the effect of the car park on the character and appearance of the area is considered later.

Heritage conclusion

34. The proposals would fail to preserve or enhance Barns 1, 2 and 3 and the outbuilding. This amounts to less than substantial harm. There would also be a diminution of the setting of Barn 3 and the outbuilding but this would be at the lower end of less than substantial harm.
35. As such, the development and works would conflict with S16(2) and S66(1) of the Planning (Listed Buildings and Conservation Act) (the Act) which taken together require the decision maker to have special regard or to pay special attention to, preserving or enhancing listed buildings or their settings. There would also be conflict with LP Policy HA7 which sets out to ensure that the historic fabric and settings of listed buildings is preserved and LP Policy HA1 and Section 16 of the Framework which are concerned with the safeguarding of heritage assets. The Council has also cited LP Policy HA4, but this is concerned with conservation areas only and as such weighs neither for nor against the appeal.
36. The heritage balance is considered later in my reasoning.

Location

37. Policy ED1 and LP Policy ED2, taken together, support new employment uses, including the expansion of existing businesses in the rural area where they are appropriately and sustainably located. LP Policy ED1 also sets out that there is an expectation that such development would enable access by a choice of sustainable transport options.
38. The development would provide office accommodation for around 70 people. The site is in a rural location and a few miles by road from the small town of Bishops Stortford. The surrounding area is criss-crossed by country lanes but the two lane A120 which links Bishops Stortford to the wider road network, is a short distance away.
39. The transport statement¹ notes that there are few surveys on the TRICS database that are similar to the proposals in terms of location, use and size. It has therefore used the TRICS survey data used in an application for a similar development at Church End Farm which, it is stated was agreed with the highway authority. This was also for a large office building. During the appeal I asked for this report to be provided². However, this report also concludes that for Church End Farm, there were no comparable datasets to be found on the TRIS database. As such average trip rates were selected from ten chosen sites that were not comparable. It is stated that this was the approach taken on another planning application, which from its references, appears to date from 2016.
40. TRICS sets out a spectrum of locational filters for its trip generation survey data. These are *free standing, edge of town, suburban area, neighbourhood centre, edge of town centre and town centre*. The datasets used for the Church End Farm report, and thus for this development, have been derived from sites with the locational filters of *suburban areas and edge of town*. The secondary filters include sub-categories of *residential zone, built-up zone, commercial zone and industrial zone*. Irrespective of whether the highway authority

¹ Icenj, March 2022

² Bancroft Consulting, May 2018 – Church End Farm

considered this data to be relevant to the application for Church End Farm, my understanding of the descriptions of the locational data is that they are not relevant to this particular site which is in a fairly remote, strongly rural and agricultural location.

41. Moreover, there is nothing before me to indicate whether there are any public transport options for the sites included in the source datasets for the Church End Farm report. Furthermore, the Church End Farm data is now some years out of date, and the source datasets are even more outdated. As such, I am unable to conclude that the data used for the trip generation for this appeal is realistic, particularly as there is nothing before me to indicate where future visitors or employees might be travelling from.
42. It is suggested that the site entrance would be a short distance from what appears to be a looped recreational and commuting route which links Bishops Stortford to rural lanes to the north-west. Whilst I accept that some future workers or visitors to the site might be regular cyclists, these lanes are unlit, often quite narrow and it seems unlikely that they would be used for regular commuting to the site by more than a minority of visitors or future employees, even if showers were to be provided. There also appears to be a presumption that cyclists would be travelling from Bishops Stortford as the route is a closed circuit which links the town to nearby countryside.
43. As such, for the reasons set out above I conclude that the transport report does not appear to have based potential trip generation on the site's specific location and lack of transport options. It significantly underestimates likely trip generation and significantly overestimates the likelihood of future employees regularly using cycling to commute. Future employees and visitors would be likely to be travelling to the site from the many small and medium towns in the wider area and there would not be sustainable transport options.
44. The development would therefore fail to accord with LP Policies ED1 and ED2 with regard to location, as set out above. It would also conflict with Paragraph 109 of the Framework which requires the planning system to actively manage patterns of growth in support of the objective of sustainable transport options. I acknowledge that Paragraphs 109 and 89 of the Framework note that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found in locations that are not well served by public transport and that transport options may vary. However, there is very little before me to indicate that there is a business or community need for the development.
45. There would also be conflict with LP Policy GBR2 which states that new employment generating uses will be supported in rural areas beyond the Green Belt, provided they are sustainably located. I have concluded that this new employment use would not be sustainably located. I have also found conflict in relation to LP Policy TRA1 which sets out that development proposals should ensure a range of sustainable transport options.
46. The Council has cited LP Policy TRA3 but this is concerned with parking provision. Although I have considered the car park later in my reasoning, it weighs neither for nor against the appeal with regard to location. The appellant has set out that cycle stores, showers and EV charging would support sustainable transport options and encourage the use of electric cars. However, these benefits carry minor weight in favour of the appeal and do not alter my

overall reasoning with regard to the likely number of commuters, and the lack of realistic transport options.

Noise and disturbance

47. The Ridings is a detached dwelling on a large plot opposite the appeal site. I have set out above that I give the projected trip generation figures limited weight and as such, it seems likely that there would be a significant increase in vehicular traffic associated with the development, with attendant noise and disturbance. I acknowledge that there is permission for a grain store but agricultural vehicular movements and noise are to be expected in this context. The frequency and nature of commuter traffic and deliveries would be different from that associated with farm operations, and in any case would be over and above those additional agricultural trips.
48. The Ridings is set back from the road, and is not directly opposite the farm entrance. Although there would be some adverse impact on the living conditions arising from noise and disturbance, I give this harm minor to moderate weight only.
49. I appreciate that there would be opportunities to screen the car park with planting, and there is already a new boundary hedge planted. However, there is nothing before me to indicate that the hedge or any other planting would provide an effective acoustic screen. In any case screening within the site would not alter the noise and disturbance arising from traffic on the road.
50. Nonetheless, there would be conflict with LP Policy DES 4 which is concerned with the amenity of occupiers of neighbouring properties. The appellant raises the argument that the policy sets out the test of significant harm in this regard. This would be a higher test than that set out in the Framework, which, in Paragraph 135 requires a high standard of amenity, and as such LP Policy DES4 is more restrictive than the Framework. Given the LP's age, I give this policy less than full weight. In any case, the road separating the farm and The Ridings appears to carry very little traffic at the moment and it would be unreasonable to expect this situation to persist in perpetuity. As such, I give the policy conflict with regard to noise and disturbance minor weight only.

Character and appearance

51. The car park would be in a visible location from the public domain and would appear incongruous in this rural and agrarian setting. It would have 23 bays which appears to be in line with the Council's guidance in this regard. However, even based on the trip generation figures, to which I give very little weight, the projected movement of vehicles indicates that the car park would not accommodate all vehicles. Moreover, given the number of work spaces and the lack of realistic alternatives to vehicular access, it seems very likely that the demand for parking would outstrip supply, leading to parking outside the designated car park bays.
52. The car park would result in increased urbanisation to the site even if it was sufficient to accommodate all likely vehicles. There would also be a change in the nature and frequency of vehicles using the site and an increase in comings and goings. This would have an adverse effect on the character and appearance of the area. However, there would be sufficient space between the

car park and the road for additional planting which could mitigate the adverse visual effects of the car park to some extent.

53. Nonetheless there would be conflict with LP Policy GBR2 which is concerned with Rural Areas Beyond the Green Belt and which requires development, including those generating new employment, to be compatible with the character and appearance of the rural area.
54. The Council has also cited LP Policies HA1 and HA7, which are concerned with heritage assets. However, I have set out my reasoning with regard to the setting of the heritage assets elsewhere. In this regard these policies weigh neither for nor against the appeal with regard to character and appearance

Other Considerations

55. The argument is advanced that there would be biodiversity benefits. However, as the confirmed bat roosts in the barn would be displaced if the appeal was allowed, the provision of a bat loft is to be considered as compensation for that loss rather than a benefit and I give this neutral weight. Having reviewed the ecology report I also conclude that the proposed bird boxes are mitigation for the loss of nesting sites within the barns and outbuildings, and that there would not necessarily be a net benefit. Although the hawthorn hedge is proposed as a benefit, this already exists. The introduction of flowering lawns, native climbers and fruit trees carries little weight only in favour of the appeal as they are unlikely to contribute to biodiversity to more than a very minor extent.
56. There would also be some rationalisation of areas around the inner yard. However, although this might give a smarter appearance, the barns' setting in heritage terms is derived from the yard's austere and functional appearance. The introduction of landscape features unrelated to the agricultural context would not enhance the settings of these assets. Moreover, improvements to roof materials and rainwater goods on the barns themselves could be carried out independently of their conversion.

Other matters

57. Other concerns have been raised by interested parties but as I have found harm in relation to the main issues there is no need for me to consider these further. I also note that there is support for the proposals, but this does not alter my reasoning.
58. There are other listed buildings in the wider area but I am satisfied that the development would not have an adverse effect on their settings.

Heritage and Planning Balance

59. LP Policy HA1 states that where there would be less than substantial harm to designated heritage assets, this should be weighed against the public benefits of the proposal. This accords with Paragraph 208 of the Framework.
60. The barns are used for storage and do not appear to be functionally related to current farm operations. A future business use would provide an incentive and income source to ensure ongoing maintenance and secure a viable future for the barns, to which I attach considerable weight. The proposals would also provide new employment in a rural area which would have some public benefits. However, it is unclear whether there is a need for offices of this size in

rural locations in general, or in this location in particular, which limits the weight I afford to public benefits arising from additional office space.

61. Moreover, in addition to the harm in relation to heritage assets, I have found considerable conflict with the local development plan and the Framework, arising from the creation of what is a fairly large employment base in a rural location with very restricted transport options. That harm in relation to location is reinforced by the minor harm arising from living conditions and the character and appearance of the area, as set out above. On balance the combined harm in relation to heritage assets, location, noise and disturbance, and character and appearance, would not be outweighed by the heritage and other public benefits.
62. I have given no weight to the demolition of the modern stable block as this has already been largely removed and as such its demolition is clearly not predicated upon the proposals contained in this appeal. The demolition of a blockwork wall attached to Barn 2 would have only a very minor impact on the settings of Barns 1, 2 and 3 and the farmhouse. Consequently, its removal carries very minor weight in favour of the appeal.

Conclusion

63. In the light of the above I conclude that the proposals would conflict with the Act, the local development plan and the Framework, and although there would be public benefits, they are of insufficient weight to lead me to conclude otherwise.
64. Appeal A is dismissed.
65. Appeal B is dismissed and listed building consent is refused.

A Edgington

INSPECTOR



Appeal Decision

Site visit made on 13 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/J1915/W/23/3331026

Land to the rear of 82 Ware Road, Hertford SG13 7HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr N Rhodes (Carlton Rhodes Associates Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/2215/FUL.
 - The development proposed is the erection of a new detached 4 bedroom bungalow with basement.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.

Main Issues

3. The main issues are the effects of the proposal upon the character and appearance of the area including the host property, 82 Ware Road, and the Hertford Conservation Area.

Reasons

4. The appeal site is located within the Hertford Conservation Area (CA). The CA is large, and it covers a substantial proportion of Hertford. Within its centre there is Hertford Castle and a concentration of historic and traditionally designed buildings which form a historic core, many of which are listed. Verdant green fingers of land run through the CA which includes the wooded banks of Hertford's rivers. Prominent landmark buildings are distributed around the CA, this includes Shire Hall (15 Fore Street) and Hertford St Andrew Church. The historic core, the landmark buildings and the verdant character are important facets of the significance and special interest of the CA as a whole.
5. The part of the CA within which the appeal site is located is predominantly residential in character. In close proximity to the site, many of the residential properties that line Ware Road are large, traditionally designed and are set within spacious plots with mature trees and other landscape features. This attractive residential character also contributes positively to the significance of the CA as a whole. Close-by to the site there are other residential properties

- which are more modern and arranged more densely including those on Fallow Rise and Beechwood Close. These are not within the CA, however.
6. The host property, 82 Ware Road, is a large and distinctively designed house. Its rear elevation contains feature bay windows and french doors which overlook a large back garden. Both the back and front gardens are mature and contain some large trees. The Hertford Conservation Area Appraisal and Management Plan (CAA) does not specifically identify No 82 as a non-listed building that makes an important architectural or historic contribution to the CA. Even so, the Council identify it as a non-designated heritage asset and, given its character and architecture, I have no reason to disagree. Regardless, it is an attractive property in an attractive setting which is very reflective of the character of the CA here. Therefore, it contributes positively to the CA's significance.
 7. As a result of the proposal, a substantial amount of No 82's spacious rear garden would be built-upon. In reducing this garden, the proposal would detract from the character of large houses within spacious plots which the host property is representative of in this particular part of the CA. The loss of part of the property's large and leafy garden would also infringe upon and detract from the house's setting.
 8. The appellant refers to the house at No 92 which is set out the back of properties on Ware Road. However, the evidence that the land upon which No 92 is sited was truncated from another property's garden, in a very similar manner to that proposed in this appeal, is not very compelling. Moreover, and importantly, No 92 is not within the CA. The effects of No 92 upon the CA's character and appearance are not therefore comparable to those of the appeal scheme.
 9. The plans show that at least two conifers and an ash tree would be removed to facilitate the development. These trees contribute positively to the mature and leafy appearance of the garden. The proposed dwelling would be closely positioned to other trees, and so much so that it would be beneath where some canopies presently over-sail. The proposed dwelling includes a basement area – ground excavations would therefore be significant. Parking spaces and the driveway upon which vehicles would travel are also situated very closely beside large trees.
 10. Given this, I find it likely that the effects upon the trees within the back garden would be greater than just the felling shown on the plans. Further removal may be a necessity whilst damage to rooting systems to the detriment of the trees' health could be another outcome. In the absence of a tree report, I have no substantive evidence before me to dispel my concerns in these regards.
 11. Should further tree loss result, either to facilitate works, or later because of harm to their condition, this would further erode the attractive garden setting of the host property and it would make the development more prominent in views from the likes of Fallow Rise and Caxton Hill.
 12. For these reasons, the proposal would result in harm to the character and appearance of the area, No 82 Ware Road itself, whilst it would fail to preserve or enhance the character or appearance of the CA as a whole. The harm to the designated heritage asset would be less than substantial. Even so, having regard to the statutory duty in Section 72 of the Planning (Listed Buildings and

Conservation Areas) Act 1990, this harm is a matter of considerable importance and weight in my decision.

13. The trees on site are not protected by virtue of a Tree Preservation Order, they are not specifically referred to within the CAA or associated plans and the evidence before me indicates that the authorisation is in place to undertake the felling of some trees within the site. However, it has not been made clear to me that the tree felling which has authorisation involves the same trees as would need to be felled as a part of the appeal proposal, nor that the proposal would not endanger different trees. Furthermore, without permission for the proposed dwelling, the incentive to remove trees within the garden is not clear to me either. Therefore, although a fallback position has been presented to me regarding tree works, it is one which I can only attribute limited weight.
14. The Framework sets out that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. It further sets out that in weighing applications that affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
15. The proposal would provide a boost to housing supply, provide a choice for home-seekers and, appropriately, the site is located within the bounds of a settlement with good access to the services and facilities it offers. As a quite small development, it would be likely to contribute quickly to the supply of houses in the area as well. This would come at a time when the Council cannot demonstrate a deliverable five-year supply of housing land as required by the Framework. Some economic benefits would be derived from the construction of the development and the occupation of the dwelling would also provide some support to local services and facilities. However, with only a single dwelling being provided, the effect upon reducing the housing shortfall would be limited, as would the economic benefits derived from it.
16. Given all that is before me, I find that the public benefits that would be derived from the development would be insufficient to outweigh the less than substantial harm to the CA.
17. Therefore, I have identified harmful effects upon the character and appearance of the area, including the host property and the CA. As a result, the proposal would conflict with Policies HA1 and HA4 of the East Herts District Plan. These policies seek to ensure developments are sympathetic and complementary to their surroundings so that they preserve or enhance the special interest, character and appearance of conservation areas. Together, these policies also require that any less than substantial harm to designated heritage assets that would be caused by development should be weighed against its public benefits. Given the development would fail to sustain the significance of the designated heritage asset, and its public benefits would not outweigh the harm which would result from it, the development would also be contrary to the advice to this end at paragraphs 203 and 208 of the Framework.

Other Matters

18. The proposal may not result in harmful effects in relation to a range of considerations including, amongst them, living conditions and highway safety. However, these matters also do not outweigh the harm I have identified.

19. The appellant has drawn issue with the Council's handling of the planning application and some earlier related history. This includes submissions that the Council's application of development plan policies has been inconsistent and that it provided positive pre-application advice which has not been upheld. However, I must determine the appeal proposal on its own planning merits. The Council's handling of the site's various schemes has very little bearing upon this.
20. It may also be the case that the appeal proposal has resolved some of the design issues with which the Council drew issue within an earlier planning application. Even so, and for the reasons I have set out in my main issues, I have nevertheless identified that the proposal would be harmful and would conflict with development plan policies.

Planning Balance and Conclusion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. As part of my main issues, I have found that the proposal would fail to preserve or enhance the character or appearance of the CA. Consequently, I have identified particular development plan policies that the proposal conflicts with and I conclude that it conflicts with the development plan taken as a whole.
22. The Framework is an important material consideration. The Council cannot demonstrate five years' worth of housing supply. The result of this is that paragraph 11 d) of the Framework is engaged.
23. In this case, the public benefits of the development would not outweigh the less than substantial harm that would be caused to the designated heritage asset. The application of Framework policy that protects designated heritage assets therefore provides a clear reason for refusing the development and, in turn, the proposal does not benefit from the presumption in favour of sustainable development.
24. Consequently, I have found that the proposal conflicts with the development plan and no other considerations material to the appeal, including the content of the Framework, indicate that a decision should be made other than one in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

H Jones

INSPECTOR



Appeal Decision

Site visit made on 7 November 2023

by **L Reid BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/J1915/W/23/3322310 Barn Field, Hay Street, Dassels SG11 2RW

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.

The appeal is made by Mr and Mrs S Madsen against the decision of East Hertfordshire District Council.

The application Ref is 3/22/2431/OUT.

The development proposed is described as outline application for max 6 new houses.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was made, the Government published the revised National Planning Policy Framework (the Framework) and the 2022 Housing Delivery Test results. In the interests of natural justice, both main parties have had the opportunity to make representation.
3. The application is in outline with matters of access, appearance, landscaping, layout and scale reserved for future consideration (the 'reserved matters'). I have therefore dealt with the appeal on this basis, treating the submitted proposed plans as indicative.
4. The description of development refers to a maximum of 6 houses. I have therefore considered the appeal on this basis.

Main Issues

5. The main issues are:
 - Whether the principle of the proposed development would be acceptable in this location, having regard to the character and appearance of the area and its accessibility to services and facilities,
 - The effect of the proposed development on highway safety; and,
 - The effect of the proposed development on existing trees.

Reasons

Principle

6. For planning policy purposes, Dassels is not part of Braughing. Dassels is classed as a Group 3 Village under Policy VILL3 of the East Herts District Plan 2018 (the DP).

7. Subject to meeting the prescribed criteria of Policy VILL3, limited infill development in a Group 3 Village identified in an adopted Neighbourhood Plan will be permitted. The appeal site is located within the boundary of the Braughing Parish Neighbourhood Plan 2017 – 2033 (the Neighbourhood Plan). However, it is not a site identified for housing by the Neighbourhood Plan. Residential development on the site would therefore not be permitted by Policy VILL3.
8. The appeal site lies within an area identified as the 'Rural Area Beyond the Green Belt'. Policy GBR2 of the DP seeks to maintain the rural area as a valued countryside resource by permitting limited infilling in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area.
9. The appeal site is elevated above road level and consists of a field with trees and a stable. It is adjoined by open countryside and the boundary of one house, with a considerable distance from the house itself. The spaciousness and mature landscaping give the site its distinctive rural character. It plays an important role in marking the transition between the hamlet and the open countryside and therefore makes a positive contribution to the character and appearance of the area.
10. There are two different patterns of development in the immediate area. One side of Hay Street is typically characterised by more built-up housing, generally displaying closer spacing, set parallel to the road. The housing clustered around the junction of Hay Street and Hobbs Lane is fairly sporadic and has a looser-knit form. The appeal site is separated by the roads from the nearby housing and reinforces its position outside of the more urbanised pattern of development. It is therefore more visually and functionally related to the wider countryside than the existing housing.
11. The Council identified no harm to be caused to the setting of the listed buildings in Hay Street. As these buildings are on the opposite side of the road to the appeal site, they are in a different character area.
12. While all matters are reserved, the size and shape of the appeal site give a good indication of the likely layout if 6 houses were built on the site. 6 is not a large number. However, when considering this as the maximum number of units, the development would cover a large part of the site. Even if I were to accept that the development would constitute infilling, given the size of the appeal site and what it can likely reasonably accommodate, 6 houses on the site would not be limited.
13. Whilst an Inspector may have found 5 houses elsewhere to be reasonably interpreted as limited¹. I have not been provided with a copy of this appeal decision and I am not party to the evidence before the Inspector. I have reached my own findings based on the merits of this case.
14. When considering the maximum number of units proposed, combined with the new road, likely parking provision and associated domestic paraphernalia, a substantial amount of built form would be introduced. The resultant domestic creep would erode the spaciousness, diminishing this key characteristic to an unacceptable degree. The subsequent urbanising effect would detrimentally

¹ APP/C1570/W/19/3241822

harm the rural character of the appeal site, undermining the sense of transition to the open countryside.

15. Although indicative, the block plan shows that the tree belt surrounding the appeal site would be retained. In some longer-range views, the existing tree belt screens the appeal site. There are gaps between some of the trees along Hay Street, where the appeal site can be seen in shorter-range views, despite the density of the foliage. Notwithstanding that landscaping is reserved for future consideration, even if additional landscaping would be secured to screen the development, this would not mitigate the significantly harmful urbanising effect of the development on the spacious character of the appeal site.
16. As the description of development refers to the maximum number of houses, it would not be within the spirit of the application to impose a planning condition that reduces the number of houses to less than 6.
17. The proposed development would therefore not constitute limited infilling that is appropriate to the character and appearance of the site and surrounding area. Subsequently, it would cause harm to the character and appearance of the area.
18. The list of approved developments referred to by the appellant, also relate to schemes for housing and have some parallels with the development proposed in this case. However, there is limited evidence to demonstrate that these sites are directly comparable to the appeal scheme, particularly in terms of character and appearance. Considering the specific sites highlighted in the appellant's statement of case, site 9 which is in the immediate area, pre-dates the development plan and the Framework. Site 16 appears to have existing buildings on the site and site 14 is in an area with a more tight-knit and regular development pattern. These site characteristics are different to the appeal site. As I can therefore draw no direct parallels, these examples carry limited weight.
19. Whilst the appeal site is outside of a settlement boundary, there is no definition of settlement, as endorsed by a High Court Judgement². Given the presence of housing nearby, the appeal site is not isolated in the context of the Framework.
20. Group 3 Villages are identified as the least sustainable locations for development in the district. Dassels itself has very few local services. Whilst limited in its services and facilities, Braughing is within a reasonable walking and cycling distance from the appeal site.
21. There is a bus stop very close to the appeal site where a bus service to larger villages can be accessed and also includes a school bus service. Although the bus service may offer limited flexibility, bearing in mind that opportunities to maximise sustainable transport will be more inherently limited in rural areas, the development would not be wholly car dependent. Future occupants would therefore have an alternative to car use to access day-to-day facilities and services further afield. The appeal site is therefore in a sustainable location and complies with the sustainable development aims of Policies TRA1 and DPS2 of the DP.

² City and Country Bramshill Ltd v SSHLG and others [2021] EWCA Civ 320

22. In all the decisions cited by the Council³, the sites were found to be in unsustainable locations. This is not the case in this appeal. These decisions are therefore not directly comparable and have limited weight.
23. Whilst the appeal site is in a sustainable location, for the reasons given above, the principle of the proposed development would not be acceptable in this location, having regard to the character and appearance of the area. Accordingly, it conflicts with Policies GBR2, VILL3 and DES4 of the DP and Policy 1 of the Neighbourhood Plan. Amongst other things, these policies require new development to be compatible with the character and appearance of the rural area. These policies are also broadly consistent with the Framework in allocating sites and seeking development that is sympathetic to local character.

Highway safety

24. Notwithstanding that access is reserved for future consideration, the development would be accessed from Hobbs Lane, which is a narrow track.
25. Hobbs Lane is described as a 'definitive footpath', with limited details provided to expand upon this. Based on my observations, Hobbs Lane is not heavily used by vehicles. Vehicles both entering and exiting the lane is an existing arrangement with vehicles having to wait to enter if another vehicle is exiting. It is indicated that 1 road traffic accident has been recorded in the last 23 years. There is no substantive evidence before me to dispute this.
26. The junction appears to have previously been widened and broadens out as it reaches Hay Street. Because of its width and depth, generally, there is enough space for vehicles to wait at the junction until it is clear to enter Hobbs Lane, without having to wait on or reverse onto Hay Street. When exiting from Hobbs Lane onto Hay Street, this part of Hay Street is relatively straight, with good visibility in both directions, so drivers would be aware of oncoming vehicles. The access is proposed not far from the junction. Vehicles would therefore need to drive a short distance along Hobbs Lane before they entered the appeal site, reducing the conflict with on-coming vehicles.
27. The development would give rise to some increased use of the junction. However, I am advised that peak hour traffic generation would be low, for the maximum number of houses proposed. The increase in traffic from the development would be moderate and I have no substantive evidence that existing highway safety concerns would be materially exacerbated.
28. Should the appeal succeed, other matters relating to the highway could be addressed by way of pre-commencement condition and further details about access could be considered under a future reserved matters application.
29. Drawing this together, based on the evidence from the submissions and the findings from my site visit, the proposed development would therefore not have an adverse effect on highway safety. Accordingly, it would comply with Policy TRA2 of the DP, which requires access proposals to be acceptable in highway safety terms.

³ 1 Whempstead Road, Land at Crabbs Lane, Land West of The Grove, 31 Burnham Green Road

Trees

30. The trees within the more central part of the appeal site, have the potential to be impacted by the development. However, I have not been advised that these trees are protected as part of a preservation order, nor is there any substantive evidence before me regarding their health and life expectancy. Without evidence to the contrary, even if these trees were lost, they make a limited contribution to the character. It is the trees surrounding the site boundary, particularly those closest to Hay Street, which positively contribute to the verdant character.
31. Whilst acknowledging that layout is reserved for future consideration, the indicative site plan shows that the housing could be laid out to be away from the tree belt along Hay Street. Should the appeal succeed, planning conditions could also be imposed to identify the trees to be retained as well as protection during construction.
32. The proposed development would therefore not cause harm to the existing trees. Accordingly, there would be no conflict with Policy DES3 of the DP which requires development proposals to retain, protect and enhance existing landscape features which are of amenity value.

Other Matters

33. Matters regarding title deeds, land ownership and rights of access are a civil matter between the parties involved.

Planning Balance

34. For the reasons set out above, the proposed development would conflict with Policies GBR2, VILL3 and DES4 of the DP and Policy 1 of the Neighbourhood Plan. Whilst it does comply with other policies of the development plan, this conflict means the proposed development conflicts with the development plan as a whole. I apportion significant weight to this conflict and to the associated harm.
35. The Council previously indicated that they could demonstrate a 4.41-years supply of deliverable housing sites. Over the course of the appeal, the Council have since confirmed that they can currently demonstrate a 5.95-years housing land supply. The appellant disputes this, considering that the Council can only demonstrate a 4.75-years supply. They also indicate that the Council failed its Housing Delivery Test.
36. The proposed development would be supported by parts of the Framework with regard to boosting the supply of homes by providing up to 6 additional homes. It would also help to address the shortfall in housing allocations set out in the Neighbourhood Plan. As this is a small site, it could be delivered quickly. A limited amount of short-term employment would arise through the construction of the development and some further limited benefits would result from the additional support to the vitality of the surrounding areas from the future occupants. Taken together, these benefits attract only moderate weight given the quantum of development under consideration.
37. As residential development is expected to meet energy efficiency standards, the intention to provide electric vehicle charging points and renewable energy measures are neutral matters and do not weigh in favour of the development.

38. Even if I were to conclude there is a shortfall in the 5-year housing land supply on the scale suggested by the appellant and that the development plan policies are out of date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

39. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

L Reid

INSPECTOR



Appeal Decision

Site visit made on 13 May 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th May 2024

Appeal Ref: APP/J1915/D/23/3324267

Thurlwood House, Bramfield, Hertford, Hertfordshire SG14 2QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Marietta Johnson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0256/HH.
 - The development proposed is the installation of 40, stand-alone solar panels.
-

Decision

1. The appeal is allowed, and planning permission is granted for the installation of 40, stand-alone solar panels, at Thurlwood House, Hertford, SG14 2QG in accordance with the terms of the application, Ref 3/23/0256/HH, and the plan submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Proposed plan: NH/999/01.
 - 3) The use hereby permitted shall be for a limited period being the period of 25 years from the date of this decision. The solar panels hereby permitted shall be removed and the land restored to its former condition on or before 25 years from the date of this decision.

Preliminary Matters

2. Policy GBR1 of the East Herts District Plan [2018] (DP) states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (the Framework). The proposed development is located within the Metropolitan Green Belt. Section 13 of the Framework establishes the national policy objective to protect the Green Belt. Paragraphs 154 and 155 define different types of development that would not be inappropriate development in the Green Belt. It is uncontested by main parties that the proposed solar array would not comply with any such provisions. I see no reason, within the evidence, to disagree with this assertion. The proposal would therefore be deemed to be inappropriate development in the Green Belt.
3. Paragraph 152 and 153 of the Framework state that inappropriate development in the Green Belt is, by definition, harmful and carries substantial weight. Such development should not be approved except in very special circumstances. It continues that very special circumstances will only exist if the harm to the

Green Belt by its inappropriateness, and any other harm resulting from the proposal, would be clearly outweighed by other considerations.

Main Issues

4. Therefore, main issues are:

- The effect of the proposal on the openness of, and purposes of including land within, the Green Belt; and
- whether the harm caused by the proposal, by virtue of being inappropriate development in the Green Belt, would be clearly outweighed by other considerations to result in 'Very Special Circumstances'

Reasons

Green Belt - openness and purposes

5. The fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open¹. Openness has both visual and spatial qualities. The site is part of the large front garden of a dwelling. The property is accessed via a lane that is also a bridle path, this then splits at the entrance to the appeal site and continues adjacent to the site as a bridle path.
6. The proposed development would be partially visible in glimpses from the bridle path through the adjacent tree and hedge cover. Nevertheless, the panels would be modest in mass and footprint. These would also be spaced apart which would visually disaggregate the appearance of the array. As such, visually the harm to the openness of the Green Belt would be limited and would be further reduced through the provision of the proposed planting. From a spatial perspective the proposal would introduce a low-lying group of panels in a part of the residential plot. As such, the proposal would represent a modest intrusion into the surrounding Green Belt having a minor effect on the openness of the site.
7. Consequently, the proposal would have a harmful, albeit minor, effect on the openness of the Green Belt.

Other considerations

8. The Appellant explains that the solar panels are a temporary installation which would be set low in the ground, which would be reversible and could be renewed by a temporary approval. It is also suggested that the site is not overlooked, due to existing and proposed plant screening.
9. Furthermore, it is asserted by the Appellant that the scheme would deliver environmental benefits through its production of energy from this renewable source. The Appellant claims that whilst the proposed scheme would be modest in scale, it would enable the house to be self-sufficient.

Renewable energy

10. The Framework explains, at paragraph 161, that all communities have a responsibility to help increase the use and supply of green energy and decision makers should support community led initiatives. The Framework also

¹ Paragraph 142 of the National Planning Policy Framework

recognises that even small-scale projects provide a valuable contribution to cut greenhouse gas emissions.

11. The Planning Practice Guidance (PPG) explains that increasing the amount of renewable and low carbon technologies will help to make sure the UK has a secure energy supply. Microgeneration projects, by individuals to meet their own needs, also play an important part in combatting climate change.
12. The UK Government has declared a climate emergency and set a statutory target of achieving net zero emissions by 2050, and this is also a material consideration. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that there is a greater than 50% chance that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicates that delay in global action to address climate change will miss a rapidly narrowing window of opportunity to secure a liveable and sustainable future for all².
13. Furthermore, DP policy CC3, with respect to Renewable and Low Carbon Energy, states that the Council will permit new development of sources of renewable energy generation subject to assessment of impacts on the environment, visual amenity and landscape character, local transport networks, residential amenity, health and the safety of aerodromes. A second requirement of the policy is to ensure that the character of the countryside is protected, including views from public rights of way.

Whether there would be Very Special Circumstances

14. The Framework identifies that many renewable energy projects in the Green Belt will comprise inappropriate development. In such cases, developers will need to demonstrate very special circumstances which could include the wider environmental benefits associated with the increased production of energy from renewable sources. Whilst this lends support for renewable projects in the Green Belt it does not confer an automatic approval of such schemes, where the effects of such development must take into account a broad range of issues in mind of the general presumption against inappropriate development and the resultant substantial harm conveyed to the Green Belt by this.
15. The appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would also result in harm to the openness of the Green Belt, albeit minor. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt.
16. On the other hand, the proposed development would make a positive contribution towards the microgeneration of energy, enabling the associated dwelling to be carbon free and become self-sufficient for its energy needs. Also, being a microgeneration scheme, the scheme's location is necessary to serve the dwelling nearby, limiting the suitability of alternative sites to generate the same benefits. The site is also largely hidden from public view, having a low visual impact and causing no harm to the area's landscape character. Consequently, based on site specific assessment the proposal would cause no harm to the character and appearance of the area. Furthermore, the proposed development could be required to be removed after a set period of time to

² IPCC Sixth Assessment Report - Summary for Policymakers, paragraph D.5.3

prevent a permanent impact on the Green Belt, further reducing its overall effect.

17. The benefits of this renewable energy project would be localised but substantial, nonetheless. These benefits are recognised in local and national policy in accordance with the Climate Change Act of 2008. It is also clearly identified, in Section 14 of the Framework, where it seeks to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects is fundamental to facilitate the country's transition to a low carbon future in a changing climate.
18. Accordingly, the benefits of the proposal are of sufficient magnitude to outweigh the substantial harm found to the Green Belt. These identified benefits attract very substantial weight in favour of the scheme. In this context, the harm to the Green Belt would be clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development exist. Accordingly, the proposal would satisfy the local and national Green Belt policies I have already outlined.

Conditions

19. I have considered the use of conditions in line with the guidance set out in the PPG. I shall take the Council's suggested conditions into consideration and impose these with some amendments and adjustments for clarity.
20. The Council has suggested a condition that the solar panels be used only in association with Thurlwood House. However, the Council has not justified why this would be required and the objective of such a condition is unclear. Therefore, such a requirement would be unnecessary and would fail the tests of the Framework as set out at paragraph 56.
21. The Appellant has offered that the proposal gain consent for a temporary period only. I am mindful that such facilities generally have a lifespan of 25 years, and this seems to be a reasonable maximum period of time for the panels to be installed, preventing permanent harm to the Green Belt.

Conclusion

22. For the above reasons, the appeal is allowed, and planning permission is granted subject to the conditions.

Ben Plenty

INSPECTOR



Appeal Decision

Site visit made on 27 March 2024

by **J Downs BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/J1915/W/23/3331901

Quinbury Farm, Hay Street, Braughing, Hertfordshire SG11 2RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by G.J and C.H Langley-Jones of Langley's Property Development Limited against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0356/FUL.
 - The development proposed is conversion of barn to a residential dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of barn to a residential dwelling at Quinbury Farm, Hay Street, Braughing, Hertfordshire SG11 2RE in accordance with the terms of the application, Ref 3/23/0356/FUL, subject to the conditions in the attached schedule.

Background and Main Issue

2. Since the Council determined the application, an appeal has been allowed on land adjacent to the appeal site for the continued erection of four dwellings¹. In light of that decision, the Council no longer seeks to defend those parts of its reason for refusal as it related to the isolated and unsustainable location of the site.
3. The parties have confirmed that planning permission has subsequently been granted for conversion of the barn the subject of this appeal to a single residential dwelling². I have no reason to think that this permission would not be implemented were this appeal to be dismissed and it therefore represents a realistic fallback position. Consequently, the principle of residential use of the barn has been established and it is not necessary for me to consider this further.
4. Given the above, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site consists of an agricultural barn accessed via a byway open to all traffic. The site includes what is described as an agricultural field which leads to a narrow river. There are further fields on the opposite side of the byway and to the rear of Quinbury Farm Cottage however on the opposite side of the river where the land rises sharply there is a small tree belt.

¹ APP/J1915/W/23/3317491 allowed 5 December 2023

² 3/23/2140/FUL granted permission 2 February 2024

6. At my site visit, I observed the dwellings granted on appeal under construction and Quinbury Farm Cottage which has the benefit of extant permissions for its demolition and replacement with a four bedroom dwelling³. There is also what appears to be a large residential property beyond those under construction. While the existing farm house is sited in proximity to the access, the farm cottage is not. Furthermore, the adjacent approval has a courtyard type layout. Dwellings facing the highway will no longer be a key characteristic of the immediate area. The proposed conversion, facing towards the courtyard, would not be incongruous in this context.
7. The proposed development would incorporate a notable proportion of the adjacent field into the private amenity space. This field is a small area of land which will ultimately be bounded by the small enclave of residential development at Quinbury Farm and the river and treebelt beyond. It would only be visible to users of the byway for a short duration due to the elevation changes. Suitable boundary treatments would limit the extent to which any resultant domestic paraphernalia would be visible to users. The surrounding landscape would remain predominantly rural and would contrast with the immediate surrounds of the appeal site given the extant permissions. The use of part of the field as a domestic garden would not have an adverse effect on the rural character and appearance of the area.
8. The existing barn is a modern structure entirely functional in its appearance. There are a variety of dwellings, existing and proposed, in immediate proximity to the site. The existing dwellings do not display any consistent pattern of fenestration. The approved plans for the adjacent four dwellings show some variety in the form of the proposed fenestration, although it would be in a generally regular position. The proposal before me shows openings which, while symmetrical along the front and rear elevations, would have the openings in different positions. However, as established above, the proposed dwelling would not occupy a prominent position in the landscape. It is not in an area of any particular sensitivity. As a result, the proposed alterations would be acceptable.
9. The proposed development would therefore have an acceptable effect on the character and appearance of the area. It would be in accordance with East Herts District Plan (2018) (EHDP) Policies DES4 and GBR2(d), and Braughing Neighbourhood Plan Policy 2 which, taken together and insofar as they relate to this appeal, require alterations to buildings to be of a high standard of design, be appropriate to the character, appearance and setting of surrounding areas and contribute to local distinctiveness.

Other Matters

10. During the course of the appeal, the Council advised it now considered it could demonstrate a five year supply of deliverable housing land. This is disputed by the appellant. However, given that the principle of residential use of the site has been established, and the lack of harm I have found above, the proposal would comply with the development plan when read as a whole. As such, paragraph 11c of the National Planning Policy Framework (the Framework), which requires development that does not conflict with the development plan to be approved, is engaged.

³ 3/23/2272/FUL granted permission 19 February 2024 and 3/22/0138/FUL granted permission 25 May 2022

11. The site would be accessed via the byway. While this is unmade, it is of sufficient width that cars could pass. The verges would also provide a place for pedestrians if passing cars. The proposal would therefore be acceptable in highway safety terms and would not adversely affect users of the byway. There is no evidence to demonstrate that the additional use of the byway that would be generated by the proposed development would necessitate improvements to its surface, or that the development could not be carried out without encroaching onto the byway.
12. It may be that the supporting documentation to the previous permission for conversion on the wider site referred to the demolition of this barn. However, it has not been required as part of the recently allowed appeal. National policy is to boost significantly the supply of housing, and targets are expressed as a minimum. Surpassing these is not a reason to dismiss an appeal. This proposal is to be assessed on its own planning merits, and it is not for this appeal to compare this proposal with the subsequently approved scheme. Nor would it bind future decision makers in other locations given the specific circumstances of this site. The principle of residential use of the site has been established and the need to travel by private car to access services and facilities would be the same for this proposal as the approved. There would be economic benefits from employment during the construction stage and spending by future occupiers.

Conditions

13. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 56 of the Framework. I acknowledge the conditions imposed on the recent appeal decision however I have considered conditions in this case on the basis of the evidence before me. I have made amendments to some of them for consistency and clarity purposes.
14. In the interests of certainty, I have imposed conditions stipulating the timescale for the commencement of works and the approved plans. It is reasonable and necessary for details of materials and boundary treatments to be approved. An appropriate degree of control can be achieved through approval of written details of materials and it is not necessary for samples to be submitted. It is reasonable and necessary to control external lighting and working hours to protect the living conditions of surrounding residents. It is reasonable and necessary for details of landscaping to be secured and for provision to be made for the replacement of any planting within five years. I have amended the condition to require the planting plans to be prepared with regard to the recommendations of the preliminary ecological appraisal. There is such limited planting within the appeal site that it would not be necessary to require its retention, however it is reasonable and necessary to ensure that there would not be any adverse effects on those trees that lie outwith the site boundary. I have amended the period in which trees shall be replaced to from first occupation of the dwelling as this is more precise.
15. It is reasonable and necessary for the development to be carried out in accordance with the mitigation measures identified in the preliminary ecological appraisal (PEA). The PEA indicated a construction environmental management plan would be necessary and I have imposed an additional condition to require this. It is necessary for this to be a pre-commencement condition to ensure that appropriate safeguards are in place for the duration of the development.

The PEA also specified biodiversity enhancements. There is no substantive evidence before me that this would not deliver appropriate enhancement, therefore it is not necessary for further biodiversity information to be submitted.

16. It is reasonable and necessary to ensure that provision for car parking is provided. Details of the surfacing of such areas would be controlled by the landscaping condition and further repetition is not necessary. The site is within an area of water stress so it is reasonable and necessary to require that water consumption be limited to 110 litres or less per person per day. I have amended the condition to require the details of the measures to be approved by the local planning authority to ensure that the condition is enforceable and to require their retention to ensure the measures are effective. The manner in which the building will reduce energy demand has been set out in the energy and carbon reduction section of the sustainability questionnaire. This is sufficient to meet the requirements of the development plan and compliance can be secured via an amended condition. Given the sensitive end use of the site and the former agricultural use of the building, appropriate contamination conditions are considered reasonable and necessary. I have removed the tailpiece to ensure the condition is precise.
17. It is reasonable and necessary to ensure that floodplain compensation is provided and to ensure that the air source heat pump would not have an adverse effect on the living conditions of surrounding occupiers.
18. There is no substantive evidence before me of any surrounding noisy uses that would give rise to the need for additional controls on sound insulation. There is no evidence that the conversion works would give rise to levels of dust sufficient to require additional control. Construction sites are required to be kept in good order by other legislation, so a condition is not necessary to control this.
19. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. There is no evidence before me that the site is in a valued landscape such that it would be necessary to withdraw permitted development rights for extensions, alterations, outbuildings or boundary treatments. Class AA rights would not apply as the dwelling would be constructed after 28 October 2018. The appeal site is of sufficient size storage of bins could be achieved without the need for a specific planning control. An electric vehicle charging point is shown on the approved plans, and the building regulations address this issue so a further condition would not be necessary. While noise may be an issue from air source heat pumps, the proposed condition would not be enforceable as it would require measurements to be taken from land which may not be in the appellant's control.

Conclusion

20. For the reasons given above the appeal should be allowed.

J Downs

INSPECTOR

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1660/01 Rev A and 1660/03.
- 3) Prior to the first occupation or use of the development hereby approved, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development should be implemented in accordance with the approved details.
- 4) Prior to any above ground building works being commenced details of the external materials of construction for the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.
- 5) Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 9/19 'Domestic exterior lighting: getting it right!'. Lighting should be minimised and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.
- 6) In connection with all site preparation, demolition, construction, conversion and ancillary activities, working hours shall be restricted to 08:00 - 18:00 hours on Monday to Friday, 08:00 - 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.
- 7) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing by the local planning authority. The submitted details shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable. The planting plans shall be prepared with regard to the advice in Appendix H of the Preliminary Ecological Appraisal. The development should be implemented in accordance with the approved details. All hard and soft landscape works shall be carried out in accordance with the approved details.
- 8) Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
- 9) All trees and hedges immediately adjoining the site and any shown as being retained on the landscaping plan to be agreed by condition 7 shall be protected from damage as a result of works on the site in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following first occupation of the approved development. In the event that trees or hedging become damaged or

otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

- 10) Before the development commences, a construction environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include measures to prevent pollution of watercourses in accordance with BS 42020:2013, Biodiversity – Code of Practice for planning and development. The development shall be carried out in accordance with the approved CEMP.
- 11) The development hereby permitted shall be carried out in accordance with the details of the Preliminary Ecological Appraisal dated 31st May 2022 and the mitigation and enhancement measures contained therein.
- 12) Prior to the first occupation of the development hereby approved, spaces shall be provided for the parking of cars as shown on the approved plans and the spaces shall be retained for such use in connection with the development.
- 13) Prior to any above ground works taking place, a scheme setting out measures to ensure a water efficiency standard of 110 litres (or less) per person per day shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and the approved measures thereafter retained.
- 14) The development hereby approved shall be carried out in accordance with the responses in the energy and carbon reduction section of the sustainability checklist.
- 15) The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures:
 1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 2. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated.
 3. Details of any ongoing monitoring.

The development shall be carried out in accordance with the approved measures.

If during the works contamination is encountered which has not previously been identified, works shall stop until the additional contamination has been fully assessed in an appropriate remediation scheme which shall be

submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any approved remediation scheme.

Prior to first occupation of the dwelling, a validation report detailing the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted

- 16) Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
- 17) The development shall be carried out in accordance with the submitted flood risk assessment 'Doc ref: Plot 5 Quinbury Farm FRA Revision A, (dated March 2023) and the mitigation measures set out in Section 5 point 5.32 with respect compensatory storage as shown in Appendix F of the FRA on the north-east portion of the site where land will be lowered/ manipulated to provide the storage.

The compensatory storage shall be fully implemented prior to occupation and thereafter retained and maintained for the lifetime of the development.

- 18) The rating level of noise emitted from the air source heat pump (ASHP) hereby approved shall not exceed 10dB below the existing background noise level as measured or calculated at 1 metre from the façade of the nearest noise sensitive property. The measurement and assessment shall be made according to BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound' at the nearest and / or most affected noise sensitive premises, with the ASHP operating at maximum capacity and be inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics.



Appeal Decision

Site visit made on 5 June 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/J1915/W/23/3331401

Jobbers Wood Sports Pavilion, Great Hadham Road, Much Hadham, Hertfordshire SG10 6FB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr A Pickup [Ashdown Developments Ltd & Bishop's Stortford High School] against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0374/FUL.
 - The development proposed is erection of new cricket school and construction of associated parking on recreational ground at Jobbers Wood.
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Decision

1. The appeal is dismissed.

Background

2. Herts and Essex Cricket Centre (HECC) is a specialist indoor cricket training facility for individuals, schools, clubs and elite academies. It is the appellant's case that the current premises sited elsewhere in the district at Tharbies Farm, is underutilised due to its countryside location. Although it is suggested that the proposal would provide a replacement facility at the appeal site, it has not been submitted as a tandem application including the redevelopment of Tharbies Farm. Nor is there a S106 agreement before me to require the existing facility to cease or be removed. The proposal before me therefore seeks to provide a new cricket training facility. It follows the refusal of a previous scheme for a similar development in December 2022¹.

Preliminary Matters and Main Issues

3. A Transport Statement (TS) and amended site plan were submitted with the appeal documentation. As the TS and plan do not fundamentally alter the proposal and the Council and interested parties have had the opportunity to comment on their contents through the appeal process, no party would be prejudiced in taking the TS and plan into account in my decision.
4. Policy GBR1 of the East Herts District Plan (DP) 2018 advises that proposals for new development within the Green Belt will be determined in line with the provisions of the National Planning Policy Framework (the Framework). In December 2023 the Government published a revised Framework. Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. No party would be prejudiced by reference to the revised Framework.

¹ Planning application reference 2/22/0899/FUL.

5. The proposal is for the erection of a single storey building to provide an indoor cricket training facility. Paragraph 154 of the Framework indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Both parties agree that as the proposal does not meet any of the specified exceptions, the proposal is inappropriate development. Hence, the main issues in relation to this appeal are therefore;
- i) The effect of the proposed development on the openness of the Green Belt;
 - ii) The effect of the proposed development on the character and appearance of the area, with particular regard to trees;
 - iii) Whether the appeal site is in an accessible location having regard to the development plan;
 - iv) Whether the proposal would provide biodiversity net gain; and
 - v) Whether any harm by reason of inappropriateness and any other harm, would be outweighed by other considerations, including health, education and transport benefits, so as to amount to very special circumstances necessary to justify it.

Reasons

Openness

6. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension, as set out in the Planning Practice Guide².
7. The erection of a large building where one does not currently exist would result in a spatial loss of openness. Sited behind the existing pavilion and adjacent bund, the proposed building would be partially visible from Great Hadham Road (B1004)³ albeit from a distance, and from the sports pitches. The visual encroachment of built development within the Green Belt would therefore be apparent.
8. The appellant suggests that in combination with a separate application to demolish the existing HECC cricket facility elsewhere within the Green Belt, there would be a net benefit to openness. However, that proposal also sought permission for the creation of 6 dwellings⁴. It seems to me that there would be no material gain to the openness of the Green Belt as the existing HECC facility would have been replaced by other built form. In any event, the Council has confirmed that that application was refused. Without a mechanism such as a S106 requiring the closure and/or removal of the existing facility, the impact of the proposed building on the openness of the Green Belt would not be offset.
9. Consequently, the proposal would result in permanent harm to the spatial and visual openness of the Green Belt and I find conflict with paragraph 142 of the Framework.

² Paragraph:001 Reference ID: 64-001-20190722.

³ As demonstrated in fig 2 of the appellant's supporting statement dated February 2023.

⁴ Planning application 3/23/0399/FUL as

Character and Appearance

10. The appeal site comprises an area predominantly of tree planting as well as a grassed area, and temporary structures including 2 container units, a tank and tractor. The existing trees form part of a wider woodland belt surrounding the existing playing fields, understood to form part of The Bishop's Stortford High School (TBSHS). As landscape features of visual and biodiversity value, they contribute positively to the verdant and rural character of the Green Belt.
11. The proposed building is required to perform a particular function, essentially that of a large indoor sports hall, which the appellant advises has to comply with Sport England and English Cricket Board (ECB) guidelines. Nevertheless, Policy DES4 of the DP is clear that all development proposals must be of a high standard of design to reflect and promote local distinctiveness.
12. With a high eaves height and shallow pitched roof, it would differ in form and bulk to the existing pavilion, appearing as a building of a much larger scale. Whilst the pavilion includes a gable feature to the front elevation, it is sited centrally so as to provide a focal point along with the projecting balcony. In contrast, the gable projection to the eastern end appears as an afterthought, with contrasting eaves height and steeper pitch of roof, such that the proposed building would not have one overall cohesive design, nor reflect the appearance of the pavilion. Whilst the use of materials to match the pavilion would offer some visual mitigation, there would be little articulation to the front elevation of the building in particular, which would be visible to the users of the appeal site and adjacent sports pitches.
13. Whilst the proposed building would not offer a particularly high standard of design as viewed from within the appeal site, only part of the building would be visible from Great Hadham Road above the existing bund. Given the separation distance provided by the existing sports pitches, the proposal would not provide a dominating intrusion within the street scene as suggested by the Council.

Trees

14. Policies DES2 and DES3 of the DP require in combination, development proposals to demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape and seek to ensure that existing landscape features of amenity and biodiversity value will be retained, protected and enhanced. Criterion iii of Policy NE3 advises that development which would result in the loss of trees will not be permitted. Criterion ii of Policy DES3 advises that where losses are unavoidable and justified by other material considerations, compensatory planting will be sought within or outside the development site.
15. To facilitate the erection of the proposed building, a cluster of circa 150 trees are proposed for removal. A Tree Survey and Arboricultural Impact Assessment (TSAIA) accompanies the proposal, which advises that the trees are largely young to semi-mature native specimens of good ecological value, a matter I will return to later in my decision.
16. I observed that the trees have an important collective value in forming part of a woodland belt that serves to frame views around the perimeter of the sports

pitches. The trees are visible from Great Hadham Road above the pavilion as well as from the existing sports pitches above the existing bund.

17. However, the TSAIA provides no consideration of the importance of the existing trees as a woodland belt and in this regard, I find that their value has been understated significantly. Moreover, it is clear that the trees are capable of surviving for a number of years without the proposed development. The proposal would not therefore conserve, enhance or strengthen existing amenity features.
18. The appellant's evidence relies on the provision of compensatory planting. However, Policy DES3ii) is clear that such provision should only be made where losses are unavoidable and justified. No evidence has been presented including within the TSAIA to demonstrate that consideration has been given to moving the building footprint to prevent the need for the loss of so many trees. It is unclear what planning constraints result in the position of the proposed building being considered as the only suitable location for the development. Furthermore, it has not been proven that a 2.5m buffer zone between the proposed building and the retained stems of group G2, would be sufficient to allow the young specimens to reach maturity without resulting in future pressure to remove or prune.
19. Mitigation would consist of 180 native trees to be planted on the existing bund to the north of the proposed building. No evidence has been presented to demonstrate that the bund is of a sufficient size to enable the proposed planting to reach full maturity. Neither is it clear what material the bund is made from or whether previous compaction may inhibit the successful growth of the proposed planting. In any case, it would take a number of years for the trees to reach sufficient maturity so as to offer screening of the proposed development. Even then, the provision of an isolated group of trees raised up on an artificial bund would appear odd and incongruous and would not adequately mitigate for the loss of a large cluster of trees, forming part of a wider tree belt.

Conclusion – Character and Appearance

20. The proposed design would not reflect the quality or distinctiveness of the existing pavilion and would result in the loss of a large number of trees without adequate justification. An adverse effect would therefore be exerted on the character and appearance of the area. The proposal would fail to comply with Policies NE3, DES2, DES3 and DES4 of the DP as set out above. Conflict is also found with paragraph 135 of the Framework which seeks to ensure that new development adds to the overall quality of the area, is visually attractive and sympathetic to local character.

Accessible Location

21. DP Policies CFLR1 and TRA1 seek to support proposals for new indoor sport and recreation facilities in sustainable locations, served by a choice of sustainable travel options. Whether or not the existing HECC facility offers a more sustainable location or not, I am required to assess the acceptability of the proposal before me.
22. The appeal site is located in the countryside, outside of any defined settlement and is not served by public transport including rail or bus services. From my

observations Great Hadham Road is a 60mph, unlit, winding rural road without a dedicated pedestrian footway. It would not therefore be particularly pleasant or safe to walk from the built-up area of Bishop's Stortford which is some distance to the east. This would particularly be the case after dark. The appeal site may offer the opportunity for cycling but due to the nature of Great Hadham Road, is likely to be limited to a small number of experienced road cyclists. The location of the appeal site would not therefore offer future users a realistic choice of transport options.

23. Nevertheless, I acknowledge that the majority of adults using the proposed cricket training facility are likely to have their own kit which would be cumbersome and difficult to carry, even if public transport was a credible alternative to the private car. Future users are therefore likely to rely on their own private vehicles to access the proposed facility.
24. Despite the countryside location, any trips from Bishop's Stortford, said to be the core customer base for the facility, would nonetheless be relatively short trips. However, the Community Use Schedule provided is unclear as to whether the named schools in Appendix 1b would use the proposed facility itself or whether the HECC coaches are outsourced to the school locations. If it is the case that the schools would travel to the proposed facility, it seems to me that some, for example Hitchin and Watford Girl's Grammar schools, would travel a considerable distance. The evidence is ambiguous as to what proportion of users would be local individuals or sports teams and how many would come from further afield, thus generating longer trips.
25. Paragraph 89 of the Framework recognises that sites to meet community needs in rural areas may have to be found adjacent to, or beyond existing settlements and in locations that are not well served by public transport. It goes on to advise that in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
26. It has been established above that the proposal would not be sensitive to its surroundings due to the adverse impact on the character and appearance of the area and the loss of openness.
27. The appellant suggests with reference to a Transport Statement (TS) that the proposal would produce a transport gain. It is noted that the TS was produced in relation to the separate proposal for the redevelopment of the existing HECC premises for housing⁵. Although the TS claims that the housing proposal would result in an 85% reduction in traffic, that would be to the Tharbies Farm site and arising from the proposed change of use. There is no evidence before me to suggest that the amount of traffic to and from the existing facility at Tharbies Farm is problematic or hazardous resulting in significant highway safety concerns.
28. It seems logical that the erection of a new building with the purpose of increasing attendance at the HECC would result in an increase in traffic generation to and from the appeal site. The TS does not however, comprehensively evaluate the traffic impact generated by the proposed development on the local road network adjacent to the appeal site.

⁵ Planning application reference 3/23/0399/FUL.

29. The amended site plan now provides cycle parking. However, no travel plan has been presented which could identify opportunities to manage or reduce travel demand and assist in a modal shift towards for example car sharing, such that the proposal does not fully exploit opportunities to make the location more sustainable.
30. Reference is made to appeal decisions made in relation to the Great Hadham Golf and Country Club⁶. The Inspector acknowledged the isolated location of the proposed development but considered that lodges were suitable in the rural area and consistent with the golf course use i.e., that there would be a functional link between the two. In the case before me, there is no evidence that the users of the proposed facility would have access to or would use the existing outdoor sports pitches. The decisions do not therefore affect my findings.
31. Drawing the above together, there would be some harm arising from the location of the proposed facility outside of a defined settlement due to the reliance of users on the private car as a means of transport. Consequently, there would be some limited conflict with Policies CFLR1 and TRA1 of the DP as detailed above. Although the Framework as a material consideration may offer some support for community development in the countryside, it is subject to criteria that I am not satisfied have currently been met.

Biodiversity Net Gain

32. Together Policies NE2 and NE3 of the DP seek to ensure that development always enhances biodiversity, as measured by applying a locally approved Biodiversity Metric, as well as avoiding harm to, or the loss of features that contribute to the local and wider ecological network.
33. As discussed above, the proposal would result in the loss of 150 young to early mature trees and associated habitat. The Preliminary Ecological Appraisal identifies that the grassland and woodland habitats on or adjacent the appeal site are suitable for foraging/commuting bats and have the potential to support nesting birds and rabbits. It advises that the appeal site has good connectivity to quality habitats in the wider area but concludes that the proposal would not result in any substantial loss of habitat. It is not known what a substantial loss would be, but the removal of 150 trees is not insignificant. Moreover, it has not been demonstrated that the loss of trees is unavoidable.
34. Hertfordshire Ecology considers that 180 replacement trees would provide a biodiversity net gain (BNG) but without explanation as to how this view is arrived at, given the absence of a biodiversity metric. Even though more trees would be planted than would be removed, there is no assessment of the existing biodiversity value offered by the semi-mature trees, relative to their replacement by prospective younger specimens that are unlikely to provide equivalent compensatory habitat for some time. Without any baseline or projected calculations and given my concerns about the likely success of replacement planting as discussed above, it is not clear whether BNG would be achieved.
35. The proposal does not avoid the loss of features that contribute to the local and wider ecological network and neither can I be certain that the replacement

⁶ Appeal decisions APP/J1915/W/18/3195491 & APP/J1915/W/18/3203036.

trees would achieve BNG. The proposal would therefore fail to comply with Policies NE2 and NE3 as set out above. It would also be contrary to paragraph 180d) of the Framework which seeks to minimise impacts on and provide net gains for biodiversity.

Other Considerations

36. The provision of a facility to allow sport to take place all year around would clearly be of benefit to the physical health and well-being of the local community, as well as providing opportunities for individual and group development in the sport of cricket⁷. In this regard the proposal would meet the purpose of the Council's Open Space, Sport and Recreation SPD (2020).
37. Educational benefits to the pupils of TBSHS through the provision of an additional facility for the specific purpose of cricket training, are also cited by the appellant. Even if the TBSHS has a history of cricket achievement, the proposal appears from the evidence to be a commercial building for use by the general public, not specifically a building for the school. Although it is suggested that a private agreement has been made, there is no confirmation that the school would utilise the proposed facility on a regular basis, in addition to its existing or proposed multi-use sports hall⁸. In fact, despite the school being named on the application, it is oddly silent on the proposal.
38. Sport England and its subsequent consultation with the ECB appear to accept that the existing HECC facility is underutilised as suggested by the appellant, due to difficulties with access, particularly via unclassified roads in the winter. It is not clear why this would be problematic or what evidence Sport England and the ECB have had to make this assessment.
39. It seems to me that there is little substantive evidence to back up the assertions regarding access. For example, a survey of existing or previous users has not been supplied. Without a written consultation response from the ECB, I cannot be satisfied what factors it considered to inform its view that the appeal site would provide a major improvement above the location of the existing facility. Given the lack of compelling evidence presented, it is not known whether the quality of the space, cost and availability may also be contributing factors to underutilisation.
40. Neither has any evidence been presented to demonstrate that the core customer base arises from Bishop's Stortford. Indeed, the appellant acknowledges that the current HECC facility at Tharbies Farm is placed fairly centrally within its catchment area⁹. Without an accompanying map, it is not clear from the Community Use Schedule that the proposed facility would be any nearer to any of the groups or schools referenced, or those that do not currently choose to visit the existing premises. Whilst the appeal site is geographically closer to Bishop's Stortford it is still isolated from the settlement requiring travel into the countryside.
41. A Sequential Site Assessment to support the appellant's assertion that there is a lack of alternative sites available outside of the Green Belt has been

⁷ With reference to Government guidance documents; Sporting Future: a new strategy for a more active nation (2015 and Get Active: a strategy for the future of sport and physical activity).

⁸ Reserved matters planning application, reference 3/0527-20(CC0816) for a new 6FE secondary school as cited within the Council's officer report.

⁹ As set out within the access section of the appellant's supporting statement dated February 2023.

provided. A number of premises are rejected on the basis they would not provide the required 20m by 40m internal space for the cricket training area. However, no consideration appears to have been given to whether the layout of the buildings could be altered to make the internal space larger. Unit 2A at Stanstead Distribution Centre appears to have also been discounted due to it being offered on a short sub-let lease until September 2023. This contradicts the supplied rental particulars which advise that longer leases may be available upon request.

42. I am not satisfied that the reasoning for discounting these alternative sites stands up to scrutiny. Neither has any evidence been provided as to whether any allocated or brownfield sites within a settlement could be redeveloped to provide a suitable location, or the facility could be conjoined with other existing sports provisions, such as the Lawn Tennis Club referenced elsewhere in the appellant's evidence.
43. Notwithstanding all of the above, the appellant's case is predicated on the basis that the proposed development at the appeal site would result in an increase in patronage including use by individuals for coaching, lane hire and birthday parties, in addition to use by local schools, cricket clubs and other cricket squads and academies.
44. However, the existing Jobbers Wood sports pitches are restricted by planning conditions for use by TBSHS and any other organisations agreed with the Council, such that general community access is prevented¹⁰. The Council's evidence does not explain why these restrictive conditions were considered necessary or relevant to the development permitted. Nevertheless, they exist and seek to prevent open use of the wider Jobbers Wood sports pitches by the public. The proposed development would introduce members of the public to the appeal site which would appear to be incompatible with the nature of the existing conditions, concerns I note are shared by Sport England. I am not satisfied that if permitted the proposed development could comply with these circumstances. Nor is it clear that the Council would support any variation to the conditions to enable general access to the proposed facility.

Conclusion – Other Considerations

45. Considered carefully, the lack of compelling evidence regarding the availability of suitable sites and premises within a settlement, the suitability of the location to increase patronage, the use by TBSHS and the absence of a suitable mechanism to ensure that the existing facility is removed, is such that I cannot be satisfied that the suggested health and educational benefits of the development as currently proposed would be realised. For these reasons they would attract no more than limited weight.

Other Matters

46. Reference is made to development permitted within the Green Belt at Bishop's Stortford Lawn Tennis Club. It is clear from the Inspector's decision for the 2 linked appeals, that the appeal site consisted of a number of enclosures and lighting columns as well as a large building. The surrounding development was also considered to contain a substantial presence of built form.

¹⁰ Conditions 1 and 2 of planning application 3/10/1044/FO as set out within the Council's officer report.

47. Whilst harm was found to the Green Belt in the case of Appeal A¹¹, it was outweighed by the substantial weight to be afforded to the benefits of the scheme to physical and mental health. No harm was found in relation to Appeal B¹². Neither of those circumstances apply to the proposal before me given the identified harm to the Green Belt, the differing context of the appeal site and the uncertainty around the deliverability of the suggested benefits.
48. I find no evidence that the Council has ignored the advice of its statutory consultees. Rather it is clear from its officer report and statement of case, that all of the matters raised from such consultations were considered and justification provided for any departure from the advice given.

Green Belt Balance and Conclusion

49. The proposal would amount to inappropriate development in the Green Belt resulting in a loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are outweighed by other considerations.
50. I am required to give substantial weight to Green Belt harm which is combined with the other identified harm to the character and appearance of the area, and insufficient information to demonstrate the achievement of BNG. Due to the ambiguity of evidence, only limited weight can be attached to the suggested health and educational benefits of the proposal, such that the harm is not clearly outweighed.
51. There would also be limited harm arising from the inaccessibility of the appeal site other than by the private car. However, the balance does not hinge on this issue. The limited weight ascribed to the health and educational benefits of the proposal would be insufficient to outweigh the Green Belt harm, even if no other harm had been identified.
52. The very special circumstances necessary to justify the proposal do not exist. The appeal is dismissed accordingly.

M Clowes

INSPECTOR

¹¹ Appeal reference APP/J1915/W/21/3272506.

¹² Appeal reference APP/J1915/W/21/3275195.



Appeal Decision

Site visit made on 26 March 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Appeal Ref: APP/J1915/W/23/3322314

Land East of London Road, Bishop's Stortford CM23 3HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by EE Limited against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0430/TEL.
 - The development proposed is mast and associated supporting apparatus.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Schedule 2, Part 16, Class A require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The Council has referred to a number of development plan and national policies in its decision notice. However, the principle of development is established by the GPDO as set out above and its provisions do not require regard be had to the development plan. I have nonetheless had regard to the policies of the development plan, namely the East Herts District Plan (2018) and the Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley, along with the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, highway safety, and in the event that any harm is identified, whether that harm would be outweighed by the need for the installation and the lack of less harmful alternative sites.

Reasons

Character and Appearance

5. The appeal site is a small area of a larger field bounded by London Road, Pig Lane, a railway line and further undeveloped land. There are substantial trees along the frontages to London Road and Pig Lane. The proposed mast would be a 30m high lattice mast with associated equipment including two equipment cabins. They would be sited within a compound surrounded by a 1.8m high palisade fence. Access would be taken from Pig Lane and a temporary trackway installed. There are residential properties on the opposite sides of London Road and Pig Lane which are at higher ground levels than the appeal site.
6. The proposed installation would be a considerable height with a utilitarian appearance common to such structures. It would be readily visible above the tree line and taller than any of the surrounding buildings, despite the changes in ground level. The compound would be a considerable size given the width of the base of the mast and it being necessary for it to incorporate the equipment cabins. This would be visible at ground level through gaps in the tree cover and more so were the shrub growth to be removed or maintained differently. Despite this, it would not be physically prominent when viewed from London Road and Pig Lane due to its proposed siting behind the tree belt. Few residential properties face directly onto the site and have windows which would overlook the mast. The tree belt would continue to provide screening. Longer distance views from the countryside would be read in the wider context of the settlement that sits around the site.
7. The plans do not specify any colour treatment for the proposed mast and show a cabinet to be colour treated grey, while the written statement states they would be fir green. A grey mast would not benefit to the same extent from screening by the surrounding tree cover. A grey cabinet and fencing would be more likely to be obtrusive in any gaps in the landscaping around the site. The proposed temporary trackway to access the site would be of a considerable length. However, there is not specific detail before me of the nature of this track. Nor is there any mechanism to ensure that it would only be temporary during the construction period and any subsequent upgrades. There is no provision in the GPDO which would allow me to impose conditions to address either of these issues, both of which would cause harm to the appearance of the surrounding area.
8. Prior to this application, prior approval was granted¹ for a 25m lattice mast at Haslemere Industrial Estate. This is a very short distance from the appeal site. The appellant has identified land ownership constraints as why that mast has not been sited. Notwithstanding condition 1 on the decision notice, the GPDO allows five years for this approval to be implemented. There is no evidence before me to show that the land ownership constraints would be insurmountable in this timeframe. Consequently, were I to allow this appeal, both could be implemented. Given the proximity of the sites, there would be occasions where both masts would be visible. Two substantial masts with the associated equipment in such close proximity would create adverse visual clutter. There is no mechanism before me to prevent the first prior approval from being implemented.
9. The Council has acknowledged that the proposal would utilise an existing gated access point and would not require additional access measures. It may be that this access point is not ideal given its proximity to the single carriageway

¹ 3/22/0819/TEL issued 8 June 2022

bridge and the traffic signals, and the visibility from this access, however that is not a reason to prevent use of an existing access point. In any event, the operation of the traffic signals and narrow width of the bridge serve to limit speeds in the area, and traffic generated by the development would be of a very low level. The siting of the proposal would therefore not have an adverse effect on highway safety.

10. Paragraph 121 of the Framework states that applications should be 'supported by the necessary evidence to justify the proposed development' including as regards potential alternatives. The appellant has followed a sequential approach to site selection within this constrained cell search area and in light of the existing site to be decommissioned. A number of alternative sites have been considered and subsequently discounted. This has been evidenced through a map of the cell search area and a brief commentary on why each of the alternative sites is unsuitable. Of the sites that were not discounted on technical grounds, I have no reason to disagree with the reasons for which the other sites were discounted. However, this would not outweigh the harms I have identified which would arise from the siting and appearance of the proposed mast.

Other Matters

11. Reference has been made to a number of social and economic benefits. These have not been taken into account in considering the matters of siting and appearance as the benefits of telecommunications are implicit in the grant of permission by the GPDO. The need for the development is not in question.
12. Given the prescriptive nature of the time limit to the prior approval process, it is understandable why the Council ensured it had issued its decision within the prescribed time limit. I have been directed to a number of other appeal decisions by the appellant. However, each case must be considered on its individual merits.

Conclusion

13. For the reasons given above, I conclude the appeal should be dismissed.

J Downs

INSPECTOR



Appeal Decision

Site visit made on 4 June 2024

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/J1915/D/23/3329723

Longridge, Amwell Hill, Great Amwell, Hertfordshire SG12 9RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Taylor against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0766/HH.
 - The development proposed is the construction of car port to front of property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
3. The appeal documents include an additional plan showing a street scene elevation and cross section which seeks to clarify the relationship of the proposal to the street. The appellant confirms that there are no changes to the car port. On this basis, I am satisfied that no prejudice would occur to any party as a result of my consideration of this plan. I have therefore proceeded on this basis.

Main Issue

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area and on the setting of a nearby Grade II listed building; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site is located within the Metropolitan Green Belt. Policy GBR1 of the East Herts District Plan 2018 (DP) sets out that development proposals within the Green Belt will be considered in line with the provisions of the Framework.
6. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. The parties agree that the car port could be considered as a normal domestic adjunct to the main property and therefore treated as an extension. On this basis, paragraph 154 c) of the Framework is of relevance. It states that one of the exceptions is 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.
7. The Framework does not provide a definition of 'disproportionate additions'. Therefore, an assessment of whether a proposal would amount to a disproportionate addition over and above the size of the original building is a matter of planning judgement and can include reference to matters such as volume, footprint or floorspace.
8. The planning history shows that the development in 2014 comprised a single storey front extension, first floor extension including front and rear dormers and the appellant indicates that the original roof was raised by 1m. As such, it is clear that the original property has been extended substantially. The Council has provided footprint calculations, which are not disputed by the appellant. Neither party has provided floorspace calculations.
9. In accordance with the Council's calculations, the footprint of the existing dwelling is 99% larger than the original building. The car port would add 34.2m² in footprint, thereby further increasing the coverage of built form when combined with previous extensions to the dwelling.
10. The car port is open sided, so it would have little volume. Nevertheless, the appellant estimates that, when taken together with the previous extensions to the property, the proposal would result in an uplift in volume of approximately 42% over and above the original dwelling. This increase in built form would be significant.
11. No empirical guidance is provided in either the Framework or development plan as to what may be regarded as a disproportionate addition. Nevertheless, the figures provided with the appeal show that, whilst the car port now proposed is not substantial, of itself, it would add to the cumulative impact of the previous development at the site. As such, the proposal would result in a disproportionate addition over and above the size of the original building. Accordingly, the proposed development would not comply with the exception listed at paragraph 154 c) and would amount to inappropriate development, having regard to national and local planning policy.

Openness

12. The Framework notes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of the Green Belt are their openness and permanence.
13. The openness of the Green Belt has a spatial aspect as well as a visual aspect. Despite being open sided, due to its volume, the proposed development would result in the reduction of the openness of the Green Belt in spatial terms. The proposal would be sited close to the existing boundary treatments, which would restrict the effect on the visual aspect of the Green Belt. Still, any harm to the openness of the Green Belt runs contrary to the aims of the Framework and attracts substantial weight.

Character and appearance

14. Longridge is a detached dwelling sited in a large plot. The dwelling is set-back from the road behind a close boarded fence. This part of Amwell Hill comprises detached dwellings on spacious plots with deep frontages, normally with generous vegetation as the front boundary treatment, presenting a verdant character and appearance to the street scene. The public house next to the site is located close to the road.
15. The proposal would introduce a car port at the front of the dwelling, near the front and side boundary fences. As it would be sited on lower ground than Amwell Hill, only part of the roof would be visible above the fence line. As such, despite its forward position, the car port would not appear conspicuous in the street scene.
16. The neighbouring dwellings to the north, the Firs, is a Grade II listed building. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of this heritage asset. The Firs is a pair of two-storey semi-detached Victorian villas and its significance derives, in part, from its unusual side by side built, in isolation, as well as from the architectural features of its façades. Given the amount of development that has taken place around the listed building, I find that the car port, which would not be of a substantial size, would preserve its setting.
17. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the area and on the setting of a nearby Grade II listed building. The proposal would therefore accord with DP Policies HA7 and DES4 which, amongst others, require development to protect heritage assets and be of a high standard of layout to reflect and promote local distinctiveness.

Other considerations

18. The proposal would be acceptable in relation to other matters, including living conditions and highway safety. Nevertheless, the absence of harm in regard to these matters does not carry positive weight in favour of the proposal.

Other Matters

19. The appellant asserts that the Council has approved other developments where the increase in floorspace was up to 50%, but I have not been directed to any example. Nevertheless, the approach that Council followed in relation to other

schemes is of little significance for this appeal; the matter of whether the extension is disproportionate remains one of planning judgement.

Green Belt Balance

20. The proposal would be inappropriate development in the terms set out in the Framework. In addition, it would fail to preserve openness. The Framework requires that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. The other considerations in this case are not sufficient to comprise the very special circumstances necessary to justify this development. As such, the proposal would be contrary to DP Policy GBR1 and to the Framework.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR



Appeal Decision

Site visit made on 12 June 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/J1915/W/23/3332111

Watton Mill, Mill Lane, Watton at Stone SG14 3TT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Meqa of Stone Mill Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/0885/FUL, dated 4 May 2023, was refused by notice dated 28 July 2023.
 - The development proposed is described as additional floor to existing office building.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. At my visit the site building had been refurbished and some boarding, cladding and painted areas were present on some external elevations which differ from those set out on the existing and proposed plans. There is nothing before me to suggest the external elevation works are authorised, so I have assessed the appeal proposal based upon the existing and proposed plans submitted.
3. Since the appeal was lodged the Watton-at-Stone Neighbourhood Plan 2017 – 2033 (2023) (the NP) has been adopted and so forms part of the development plan. I have given the Council and the Appellant the opportunity to comment upon the implications of this for their respective cases and taken any comments into account in determining this appeal.

Main Issues

4. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal upon the openness of the Green Belt;
 - the effect of the proposal upon the character and appearance of the host building and the area including the setting of the Watton-at-Stone Conservation Area (the WSCA);
 - the effect of the proposal upon highway safety;

- whether or not the proposal would be consistent with policies in respect of flood risk; and,
- if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. The appeal site is within the Green Belt within which paragraph 142 of the National Planning Policy Framework (2023) (the Framework) identifies the fundamental aim is to prevent urban sprawl by keeping land permanently open. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework identifies the construction of new buildings should be regarded as inappropriate development, subject to certain exceptions set out in paragraphs 154 and 155.
6. Policy GBR1 of the East Herts District Plan (2018) (the EHDP) states applications in the Green Belt will be considered in line with the provisions of the Framework, so Policy GBR1 is consistent with the Framework.
7. An exception at paragraph 154 c) of the Framework is the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. While the Framework does not define what constitutes disproportionate, Annex 2 defines the original building as being as it existed on 1 July 1948 or, if constructed after, as it was built originally. I am informed the original mill building was from the 19th century and was present on 1 July 1948. The Council estimates the volume was approximately 1,529 cubic metres. I am provided with no alternative figure or demonstration this is not reflective of what was on site.
8. The Council informs me the building had northern and southern extensions added in the mid-1950s and 1960s respectively, which are both still present. In the mid to late 1960s the historic mill building was fire damaged and demolished, but the more modern extensions remained. A new infill extension joined the two extensions, following which a rear extension was added in the early 1970s, with a further ground floor extension in the early to mid-1970s.
9. The substantive submissions before me indicates the 19th century mill building is the original building for the purposes of assessment under Green Belt policy. There has been no substantial clearance of the site to create a new 'original building' for the purposes of the application of Green Belt policy and I am not provided with a substantive case including relevant authority, to demonstrate the Council's approach would be incorrect.
10. The appeal proposal would result in the extended building comprising a total volume of 2,401 cubic metres, which would be an increase of approximately 57% above the original. The combination of the developments previously has resulted in an increased spatial footprint of the building, and despite not being so high as the old mill, the appeal proposal would result in cumulatively a much increased floorspace, volume, bulk and overall scale of building. There would be a large increase from the original building, and in combination with the

previous extensions, the appeal proposal would result in disproportionate additions over and above the original building.

11. Therefore, for the reasons set out above the proposed development would constitute inappropriate development having regard to the provisions of the Framework and Policy GBR1 of the EHDP. In this regard, the proposal would conflict with the aims of the Framework, insofar as it confirms that inappropriate development is, by definition, harmful to the Green Belt.

Openness

12. The proposed extension would not increase the building width or depth or result in harm to the spatial openness of the Green Belt. However, it is unavoidable that the additional storey of built development over and above the existing building, would increase height and scale of the building. Though it might have some subservience, the upward increase to the building would result in a marked adverse effect upon the visual openness of the Green Belt.
13. This would be clearly visible from Mill Lane in front of the Appeal site, from around the bridges, parts of the Scout and Guide premises and from a length of Mill Lane to the northeast. It would also be prominently visible approaching Mill Lane from a significant length of the public right of way on its alignment due northeast, with a much more glimpsed and filtered visibility from limited parts of another right of way and open spaces. From what is before me it would not be possible to mitigate the harm to openness by the imposition of suitably worded planning conditions.
14. Therefore, for the reasons set out above, appeal proposal would have an adverse impact on the visual openness of the Green Belt, in conflict with the Framework and Policy GBR1 of the EHDP, insofar as these aim to ensure the openness of the Green Belt is preserved.

Character and appearance

15. The appeal site building is set within a largely rural and landscaped backdrop. It is also viewed in the context of buildings to the south and west of varying age and style, such as historic brick and tile buildings within the WSCA, more modern brick and render properties at Willowdene and the corrugated Scout and Guide building. On the whole, the prevailing character is one of generally traditional forms but some varied materials in an informal landscaped setting.
16. The character, appearance and significance of the WSCA derives from the variety of generally well-preserved historic and period buildings of differing origins, styles, construction and materials, off the historic High Street, the verdant open spaces including part of the wooded river valley and open field surrounds to the south. Within the vicinity of the appeal site, it is characterised by tightly knit high-quality historic buildings and private garden valley side spaces.
17. The setting of the WSCA includes a number of later buildings reflecting settlement growth and a significant section of the river valley lined by buildings, and wooded and open land sloping down to and up from the river. This setting contributes to the significance of the WSCA by virtue of the historic and verdantly landscaped parkland, agricultural, private and informal spaces with scattered buildings and uses, within which the historic settlement was formed, has evolved and can be viewed.

18. Its flat roof form and limited height, position over and adjacent to the river courses, set back from Mill Lane, means the appeal site makes a limited contribution to the significance of the WSCA. The 'existing' form shown on the plans, suggests its contribution would have been a largely neutral one.
19. The limited areas of cladding as shown on the plans before me would result in some degree of unity between the extension and the host building, by use of a traditional material visible on buildings on parts of the High Street. Being limited to three specific parts of the elevation, including one clearly recessed section it would maintain a relatively simple appearance, which would aid limiting the massing of the building. Therefore, I do not consider it would appear incoherent or intrusive. The details of the materials treatment could be the subject of a planning condition with consideration given to ensure they reflect complement materials visible in the WSCA and the host building. Though it would not be an exceptional design referenced in NP Policy WAS5, on-balance the effect upon the setting and significance of the WSCA would be neutral.
20. For the reasons set out above, the proposal would not adversely affect the character and appearance of the host building, the street scene, or the setting of the WSCA. It would not conflict with Policies DES4, HA1 & HA4 of the EHDP and Policy WAS21 of the NP. Amongst other things these require development is of a high standard that reflects local distinctiveness, the host building, and that preserves the historic environment including its character, appearance and special interest. I also do not find a conflict with the overarching design objectives and the criteria of relevance to this proposal in the NP design code and therefore Policy WAS6.

Highway safety

21. From High Street and from the rights of way, towards the appeal site those sections of Mill Lane are two-way with some on-street parking available. However, they narrow towards the two bridge crossings with no designated footway, and I am given little certainty as to when a new footbridge would be installed. Around this section of Mill Lane, there are two site accesses, a Scout and Guide premises, rights of way, residential accesses, and open spaces.
22. Traffic flows in this area were limited at the time of my visit, although there was at times notable vehicle and pedestrian traffic from users of the open spaces and rights of way. There is nothing to suggest what I saw was untypical at that time. Based upon what I saw and the evidence before me, at certain times there may be some more concentrated highway use associated with the Scout and Guide premises, although its use and operation are unclear.
23. The proposal would result in an additional approximately 202 sqm of additional floorspace. There is nothing before to demonstrate the operation of this internal space could be secured by any consent, and it would have a potential, to increase in the number of people based at the appeal site with increased vehicle movements and parking needs. The Appellant's Transport Note (TN) explains the scope for access to the site by train, bus, walking, cycling or any combination thereof, and there would be an over provision of cycle spaces. These may well encourage sustainable transport modes and help limit vehicle generation. However, it is by no means certain how many of those within the suggested catchments would use non-car modes. To manage a 5 – 10km

- journey cyclists would have to be fit and confident, and journeys may well lack appeal when daylight is less and/or the weather is inclement.
24. Notwithstanding the discussion of non-car modes, no explanation is given of either the potential existing, or proposed traffic type and flows that would be generated by the development. Though the TN states the site and local highway network can accommodate the traffic generated, it does not actually explain and demonstrate how, or what this would typically be expected to be. Given the potential for increased use and highway conditions nearby I cannot be certain there would not be an increased potential for highway user conflict prejudicial to highway safety.
 25. The site is expected to provide 75% - 100% of the 23 parking spaces in the Vehicle Parking at New Development Supplementary Planning Document (2008) (the SPD), for which this proposal proposes 17. If parking needs were assessed to be markedly greater, it is by no means clear this could be satisfactorily achieved on the site, or that any on-street displacement, would not detrimentally affect highway safety nearby.
 26. Visibility from three parking spaces on the southwest corner of the site is restricted due to the alignment and height of a bridge. On-street parking and vegetation on third party could further hinder visibility. However, the current site layout suggests the spaces can already be used.
 27. A revised layout might be able to move them to the rear. This together with shelters over cycle parking in accordance with development plan and SPD requirements, might be addressed by suitably worded conditions. However, I have concerns that, in combination with any further spaces that might be assessed as necessary, such an amendment would be to the point where it would constitute a significant and material change from the plans, falling outside the scope of this appeal scheme. Moving the three spaces could result in some form of benefit compared to the existing arrangement, but I am not satisfied this would adequately mitigate, or outweigh, the other potential harm to highway safety.
 28. For the reasons set out, I cannot be certain the proposal would not be prejudicial to highway safety, in conflict with Policies TRA2 and TRA3 of the EHDP, which expects development should ensure safe access can be achieved, is acceptable in highway safety terms, and should ensure a safe environment.

Flood risk

29. The majority of the appeal site is within Zone 3 for fluvial flood risk. The Environment Agency (EA) has objected because the appellant has not adequately demonstrated the additional loading would not affect the structural stability of the culvert under the building, resulting in the potential its collapse and/or blocking resulting in flood risk, so it is unlikely the necessary permit would be granted for the works.
30. The Council has suggested a pre-commencement condition which could secure certain details. I acknowledge the strongly held objection of the EA and that this matter is of fundamental importance to the acceptability of the scheme. It would not be appropriate to allow the development to commence without it being addressed, and the evidence gives little detail of how and when this would be addressed by the Building Regulations regime. However, I see no

substantive reason why a pre-commencement condition could not secure the necessary evidence and if necessary, a detailed scheme of works to the culvert and building construction. If it was not demonstrated the scheme could be undertaken in an acceptable manner, then it could not lawfully commence.

31. Therefore, subject to the imposition of a suitably worded pre-commencement condition, the proposal could be made compliant with policies in respect of flood risk. On this basis it would not conflict with Policies WAT1 of the EHDP or paragraphs 165 and 173 of the Framework which aim to ensure proposals should neither increase the risk, likelihood or intensity of any form of flooding.

Other considerations

32. The recent renovation of the building has brought a once derelict building back into use. The appeal proposal would result in further a temporary economic benefit during construction. Once complete, it could accommodate further employees or businesses using the premises, or support existing business occupation, either of which would result in a sustained economic benefit, a local source of employment and support for rural services and facilities for the local community and economy. I attribute these benefits significant weight.
33. Subject to the imposition of a pre-commencement condition the proposal could avoid adversely affecting the culvert, which would be a neutral matter. The proposals and evidence indicate the potential for further landscaping, biodiversity enhancements, and sustainable drainage measures. Having regard to the suggested site layout, construction and the scope possible within the site, it is possible the proposal could achieve a limited landscape benefit, biodiversity enhancement and improved drainage by conditions. However, there is nothing before me to demonstrate these would be anything other than limited benefits of limited weight. No further details are provided of how the site could secure improved access to green areas, so I give this little weight.
34. I am not provided with substantive evidence to demonstrate that subject to the imposition of suitably worded planning conditions, the proposal would result in harmful living conditions to neighbouring occupiers in respect of matters such as daylight, overshadowing, outlook, privacy or noise and disturbance. On this basis, compliance with related policies would be a neutral matter. The proposal would have a neutral effect upon the character and appearance of the area including the setting of the WSCA. Preserving the status of the River Beane and the setting of listed buildings would also be neutral matters. From the limited evidence it appears the proposal might have been able to secure a limited benefit to energy efficiency and renewable energy, of limited weight.

Other Matters

35. The EA objected because car parking would be within an 8-metre buffer of the River Beane (as a rare chalk stream and local wildlife site) which has the potential to result in a deterioration of, or prevent the achievement of, a good ecological status. Such a situation would be contrary to the requirements of the Water Framework Directive, to development plan policies and Framework objectives. Were I to have been minded to otherwise allow the appeal, I would have sought further evidence on this matter.
36. Though filtered by intervening vegetation, there would be some intervisibility of the extension with listed buildings on the High Street, thereby falling within

their setting. The evidence suggests one of these in particular is Grade II* listed, requiring consultation with Historic England. However, given my overall conclusions on the main issues, I have not considered this matter in detail.

Planning and Green Belt Balance

37. The appeal development would be inappropriate development that would, by definition, harm the Green Belt, and would also result in harm to the visual openness of Green Belt. In accordance with the development plan and the Framework, substantial weight should be given to any harm to the Green Belt. I also cannot be certain the proposed development, overall, would not be prejudicial to highway safety.
38. The factors and benefits set out, in-combination, attract significant weight in favour of the scheme. However, they do not clearly outweigh the harm identified to the Green Belt and the other harm. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposal conflicts with Policy GBR1 of the EHDP and paragraphs 142, 152 and 153 of the Framework, which seek to preserve the openness of Green Belt and protect it from inappropriate development, unless very special circumstances exist.

Conclusion

39. The proposal would be contrary to the development plan and the National Planning Policy Framework taken as a whole, and there are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/J1915/W/23/3332220

The Grange, Swades Farm, Wareside restricted Byway 024, Hertfordshire SG12 7QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Holman against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1092/FUL.
 - The development proposed is described as conversion of barn at Swades Farm to form a residential dwelling, demolition of an existing outbuild and erection of new garaging.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of barn at Swades Farm to form a residential dwelling, demolition of an existing outbuild and erection of new garaging at The Grange, Swades Farm, Wareside restricted Byway 024, Hertfordshire SG12 7QG in accordance with the terms of the application, Ref 3/23/1092/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. The appellant has made an application for an award of costs. This is the subject of a separate decision.

Preliminary Matters

3. The Council, with the agreement of the appellant, revised the description of development. I will use this for the purposes of my decision.
4. There is no dispute between the parties that the proposal would not be inappropriate development within the Green Belt. From the evidence before me I have no reason to reach a different view in this regard.
5. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

6. The main issues are:

- i) whether the appeal site is a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities;
- ii) the effect of the proposed development on the living condition of the occupants of neighbouring properties, with particular regard to noise;
- iii) whether appropriate measures to mitigate against climate change are proposed; and
- iv) whether the proposed development would preserve the setting of the Grade II listed building known as 'Swades Farmhouse'.

Reasons

Location

7. Policy DPS2 of the East Hertfordshire District Plan 2018 (District Plan) sets out a broad development strategy in the form of a hierarchy. Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. The other policies in the development plan flow from this overarching strategy
8. Policy TRA1 of the District Plan relates to sustainable transport and requires that development proposals should be primarily located in places which enable sustainable journeys to be made to key services and facilities by a range of sustainable transport options.
9. The appeal building lies outside of a settlement within open countryside. However, in the context of a rural setting the site is not isolated in that it would be located within a small cluster of existing properties and the site is within approximately 1km distance of the settlement of Ware, one of the districts main settlements, which is noted as providing a comprehensive range of local services and employment opportunities. Furthermore, the appeal site is located a similar distance to Wareside, which is identified as a Group 2 village which has limited facilities.
10. The Framework promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. It also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
11. In terms of accessibility, the appeal site is located relatively close to Ware, which contains a variety of services to meet day-to-day needs of residents. However, from the evidence before me and from my site visit, access to the nearby settlements and their services are limited. The B1004, which links the appeal site to Ware, is an unlit road with no pavement and is subject to the national speed limit. Whilst my attention has been drawn to a number of public rights of ways (PROWs) linking the appeal site to Ware and Wareside, this is across fields and would not be a realistic choice for many users, including those with prams, mobility issues and neither in poor weather or hours of darkness.

12. Given the limitations of the immediate rural roads, PROWs and limited public transport, the future occupants of the proposed dwelling, particularly in periods of inclement weather or darkness, would be unlikely to walk or cycle and would be reliant upon private vehicle use to meet their basic day-to-day needs. In these circumstances the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location.
13. Both parties refer to a number of appeal decisions and applications stating that they provide support regarding their stance on the location of the site. It is acknowledged that great weight should be applied to a Decision granted by the Secretary of State or an Inspector, and the Planning Practice Guidance (PPG) which refers to the importance of determining similar cases in a similar manner.
14. Whilst the application at Mardocks Farm¹ may have similarities to the appeal site in terms of a similar location, from the evidence before me the proposal related to a larger quantum of development and designated heritage assets. It is understood that in this circumstance the preservation of heritage assets outweighed the harm identified in terms of its location. Accordingly, the circumstances of this case are not comparable to the appeal scheme before me.
15. The development at Elbow Lane² related to a larger quantum of development, including new build elements and located a greater distance from a settlement than the appeal scheme. As such it is not comparable to the proposal before me. From the limited information available to me, the context of the case at Stelfox House³ differ to those before me.
16. The appellant refers to an appeal decision at The Courtyard⁴ and Fryars Farm⁵. It is understood that in The Courtyard case the existing building had an established use within the D Use Classes Order. Accordingly, the proposal is not directly comparable to the scheme before me. The decision at Fryars Farm has some similarities to the appeal before me in that it related to an extension and alteration of an existing building. However, I have limited information regarding the site context. In any event, as the site location differs, I cannot be certain that the circumstances are directly comparable.
17. My attention has also been drawn to the planning history of the appeal property, which included a previous permission⁶ for the building to be converted into four residential dwellings. However, it is understood that this permission has lapsed and is therefore not determinative to the appeal scheme before me.
18. Having regard to the above appeal decisions and planning permissions, I consider the material considerations in those particular instances differ from this appeal proposal. As a result, I have dealt with this appeal on its own merits.

¹ 3/23/1872/FUL

² APP/J1915/W/23/3320083

³ APP/J1915/W/20/3252334

⁴ APP/J1915/W/20/3256475

⁵ APP/J1915/W/22/3313115

⁶ 3/21/2949/ARPN

19. For the reasons stated above, the proposal would not provide a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities. I therefore find conflict with Policies DSP2, INT1 and TRA1 of the District Plan and the Framework. Collectively, these policies seek to direct development to be located in places that enable sustainable journeys to be made to key services and facilities.

Living conditions

20. In the absence of sufficient information, the Council had concerns regarding the acceptability of the air source heat pump (ASHP) proposed.
21. The appellant asserts that an ASHP could be installed under permitted development. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed ASHP requires planning permission. If the appellant wishes to ascertain whether the development would be lawful, they may make an application under section 192 of the Act.
22. Notwithstanding the above, from the evidence before me the applicant withdrew the ASHP from the proposed development, with the submission of a revised plan, prior to determination of the application by the Council. The Council's Decision notice references the amended plan (485.23.07 B) within its list of considered plans. In this respect the Council has not provided any clarity, nor have they stated that they no longer wish to defend this reason for refusal.
23. On the basis that the ASHP was withdrawn from the proposed development I find no conflict with Policy EQ2 of the District Plan, which amongst others seeks to minimise the potential impact of development on human health, including by reason of noise.

Climate change measures

24. Amongst other things policies CC1 and CC2 of the District Plan require all new development proposals to demonstrate how carbon dioxide emissions will be minimised across the development site, taking account of all levels of the energy hierarchy and that the energy embodied in construction materials should be reduced through re-use and recycling, where possible, of existing materials and the use of sustainable materials and local sourcing.
25. Policy WAT4 of the District Plan relates to the efficient use of water resources. This policy outlines that development must minimise the use of mains water by incorporating water saving measures and equipment.
26. The appellant submits that the building would be designed to align with modern standards, and that Part L of the Building Regulations require energy performance greater than the requirements of the development plan policy and the Council's SPD on such matters. The appellant updated the Renewable features/climate control measure report (Rev A) which provides some detail of measures that would be taken in order to reduce energy. However, the Council maintains that the information is not sufficient. Nevertheless, I note that the Council has suggested a number of conditions should the appeal be allowed, including one in relation to water consumption.
27. The appellant submits that the property will have an EV charger, so car usage need not have a negative impact. While the use of electric vehicles is becoming

more commonplace, there is no mechanism before me to guarantee that occupants of the proposed dwelling would only use electric vehicles, and so I can only give this possibility limited weight.

28. Nevertheless, whilst I have found the evidence before me to be inconclusive in demonstrating that the proposal would have compliance with the development plan policy, I am satisfied that such matters could be satisfactorily dealt with by condition. Therefore, subject to condition, the proposed development would be in accordance with the relevant provisions of policies DES4, CC1, CC2 and WAT4 of the District Plan. Collectively, amongst others, these policies seek to incorporate high quality innovative design, new technologies and construction techniques, including zero or low carbon energy and water efficient, design and sustainable construction methods.

Setting of listed building

29. The appeal site is proximate to a Grade II listed building known as Swades Farmhouse (List entry no 1341432). Accordingly, I have had regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of this building.
30. Swades Farmhouse is a late 17th or early 18th century timber frame weatherboarded farmhouse which derives its significance from its architectural and historic merit as an example of local vernacular and its association with the agriculture.
31. The appeal building forms part of a U-shaped modern range of buildings to the north-east of the listed building. Its modern form, combined with the separation between and its relationship to the listed building is such that it currently has a neutral effect on the setting of the listed building.
32. The proposed residential use would be accommodated within the existing building with limited changes to its external appearance.
33. The Council has concerns regarding the lack of detail regarding the height and finish of the solar panel installation. The solar panels would be located behind the appeal building and would be of a limited height and scale. From the evidence before me, and as observed at my site visit, I am satisfied that the proposed solar panels would be positioned far enough away from the listed building, and screened by the existing buildings, such that there would be no loss to the special interests and setting of the listed building. Whilst a cross section of the panels has been provided in the interests of certainty, a condition for the precise specification of the panels would be reasonable and necessary.
34. In respect of the external finish of the proposed garage/outbuilding these are indicated to be of painted timber boarding under a tiled roof. Having regard to the site context, including materials of existing buildings and structures, and the ancillary nature of the proposed outbuilding this would be an appropriate finish. In the interests of certainty, a condition for the precise materials is necessary to preserve the character and appearance of the area.
35. Accordingly, having regard to S66(1) of the Act I am satisfied that the proposed development would preserve the setting and any features of special architectural or historic interests which the listed buildings possess.

36. For the reasons stated, I therefore conclude that the proposal would preserve the setting of the Grade II listed building known as Swades Farmhouse. It therefore accords with Policies DES4 and HA1 of the District Plan, which amongst others requires development proposals to be of a high standard of design and layout to reflect and promote local distinctiveness and preserve, and where appropriate enhance, the historic environment of East Herts. I also find the proposal would accord with the heritage aims of the Framework in this regard.

Planning Balance

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise.
38. The Council cannot demonstrate a five-year housing land supply. However, the extent of the shortfall is not before me. Nevertheless, in such circumstances the titled balance at paragraph 11 of the Framework is engaged. The Framework goes on to state that the application should be approved unless the application of Framework policies that protect areas or assets of particular importance (as defined by the Framework) provide a clear reason for refusing permission or the harm caused by the application significantly and demonstrably outweigh its benefits, when assessed against policies of the Framework as a whole. In this context, the policies considered to be out of date include those relating to the development strategy and delivery of housing.
39. I note the benefits of the re-use of the building for residential purposes in making a positive contribution towards the supply of housing where there is an identifiable housing land supply deficit. It is a government objective to significantly boost the supply of homes. Whilst the proposal is of limited scale the Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services from future occupiers.
40. It is not disputed between the parties that the appeal building is of substantial and permanent construction and has an established residential use, albeit ancillary to the existing dwelling. The appeal proposal would make effective use of an existing building which is very much domestic in its appearance. Despite policy conflict because of the unsustainable location of the site I give significant weight to the re-use of the building that is supported by the green belt policies of the development plan and the Framework.
41. Having considered the benefits and adverse impacts, and associated policy conflict, of the scheme before me I conclude that any adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. As such, the presumption in favour of sustainable development, as set out in the Framework applies.

Conditions

42. The Council has provided a list of conditions, which the appellant has agreed to. I have considered these in line with the relevant tests set out in the Planning Practice Guide and the Framework. In the interests of precision, conciseness, and enforceability the wording of some of the conditions has been amended.
43. I have imposed the standard time limit condition for commencement of the development and a condition listing the approved drawings for the avoidance of doubt.
44. A condition for the submission and agreement of the external materials of construction, the solar PV installation and the bin storage are reasonable and necessary in the interests of character and appearance. A condition regarding energy and water efficiency is necessary to ensure the development supports the efficient use of resources in accordance with local plan policy. A condition for tree protection measures is necessary to ensure existing landscape features are retained.
45. The Council has suggested a condition for the provision of infrastructure for electric car charging. However, the requirement for such is now secured under another regime.

Conclusion

46. Notwithstanding the identified conflict with development plan policy, there are material considerations, including the Framework, that indicate that the proposal should be determined otherwise than in accordance with the development plan in this case. As such the appeal should be allowed.

R. Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 485.23.00 A, 485.23.06 B, 485.23.07 B, 485.23.10a and 485.SP01.
3. Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
4. Prior to installation, details of the specification of the solar PV panels shall be submitted to and approved in writing by the Local Planning Authority, and

thereafter the development shall be implemented and maintained in accordance with the approved details.

5. Prior to first occupation of the development hereby approved, details of the bin storage shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details.
6. The development hereby approved shall not be first occupied unless and until a Water Efficiency Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall detail how the development will ensure that the potential water consumption by occupants of the new dwelling does not exceed 110 litres per person per day. The development shall be carried out in accordance with the approved details and any measures shall be implemented, installed and operational prior to its occupation.
7. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development.

In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented.

In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

*****End of Schedule*****



Costs Decision

Site visit made on 11 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Costs application in relation to Appeal Ref: APP/J1915/W/23/3332220 The Grange, Swades Farm, Wareside restricted Byway 024, Hertfordshire SG12 7QG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Ian Holman for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for conversion of barn at Swades Farm to form a residential dwelling, demolition of an existing outbuild and erection of new garaging.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council had concerns regarding the location of development and conflict with the development plan policies and the National Planning Policy Framework in this regard. Whilst I concluded in a similar vein regarding this issue, I found in my appeal decision that any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This was a matter of planning judgement. The Council has set out its reasoning for reaching a different conclusion in determining the application. While I do not agree with that conclusion, I do not consider that the Council acted unreasonably in refusing permission on such grounds.
4. A number of appeal decisions have been brought to my attention by both parties. In my decision I have set out the reasons why I do not consider any of them to be directly comparable. I therefore do not concur with the view that the Council has acted unreasonably in not determining cases in a consistent manner.
5. In respect of reason for refusal No 2 with regards to the air source heat pump (ASHP) the evidence before me indicates that the Council had received the amended plans removing this element from the development proposal. However, their concerns regarding insufficient noise assessment formed the second reason for refusal. Accordingly, there was no conflict with the development plan as permission was no longer sought for this element of the scheme. As such, this negated the need for additional assessment of noise.

6. The applicant submits that the Council were unreasonable in its stance over the exercise of permitted development rights. However, if the appellant wishes to ascertain whether the development would be lawful, they may make an application under section 192 of the Act. The Council has therefore not acted unreasonably by not having consideration to permitted development rights.
7. Notwithstanding the above, on the basis that the ASHP had formally been requested to be removed from the proposal, and with the submission of a revised plan, I conclude that the Council has behaved unreasonably in the ASHP forming a reason for refusal. This has led to unnecessary wasted expense in having to address this matter in their appeal.
8. On the matter of renewable features/climate control measures, as set out in reason for refusal No 3, regardless of compliance with other regimes, I consider the application of the policy to be reasonable. It is understood that a Planning Guidance Document for Noise Assessments does not exist and was incorrectly referred to by the Council during the processing of the application. Be that as it may, as set out in my decision, I am satisfied that such matters could be secured with via the imposition of a suitably worded planning condition.
9. With regards to concerns regarding the finish of the proposed outbuilding and the solar panels, as set out in reason for refusal No 4, I have concluded that such matters could be secured via the imposition of a suitably worded planning condition. Accordingly, I find that the Council refused permission on a planning ground capable of being dealt with by condition.
10. For the reasons outlined above, the need to deal with the issues relating to the ASHP, the renewable features/climate control measures and the external finish of the outbuilding and solar panels, resulting in unnecessary wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay Mr Ian Holman, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in respect of reasons 2, 3, and 4.
12. The applicant is now invited to submit to East Hertfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

R. Gee

INSPECTOR



Appeal Decision

Site visit made on 4 June 2024

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/J1915/W/23/3329623

25 Temple Court, Hertford, Hertfordshire SG14 3LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mason Bennett against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1281/FUL.
 - The development proposed is a new two bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, with reference to trees adjacent to the site.

Reasons

3. No 25 Temple Court (No 25) is situated at the end of Temple Court and lies adjacent to a group of trees which are within a designated open and play space in the East Herts District Plan 2018 (DP). Collectively, this group of tall, mature trees provides an attractive and leafy backdrop to Temple Court and makes a positive contribution to the visual quality of the area.
4. The site comprises a two-storey end-of-terrace dwelling with a side garden, and the nearby rows of terraces are separated by gaps to the open space. These gaps are an important feature of the character of the area, as they provide a buffer which assists in the gentle transition between the built-up housing estate and the open space beyond.
5. The proposed dwelling would be located within the side garden of No 25, very close to the trees, thereby eroding the gap between the existing dwelling and the open space. Because of the number, size and height of the trees, the dwelling would appear cramped, markedly at odds with the pattern of development in the locality. Consequently, I do not find that the proposal would appear as an original part of the housing estate.
6. The Arboricultural Impact Assessment and Method Statement (AIA) provided shows that there would be seven individual trees and one group of trees adjacent to the proposed plot. Most of these trees are either category A or category B and are estimated to have 20+ or even 30+ remaining years.
7. Although some trees have been pruned, there would be some canopy spread over the garden and, furthermore, there would be canopies very close to the

proposed dwelling. This relationship would likely cause concern to the dwelling's future occupants, including the nuisance of leaf/fruit litter. While the appellant proposed to provide measures to prevent blocking of gutters and drains, it is likely that leaves/fruit from the trees would be shed on to the roof, particularly in windy conditions. Even if future occupants did not consider this matter a nuisance, there may logically be a perceived safety concern for future occupants, as a result of branches overhanging the property.

8. There is no dispute between the parties that the dwelling would be provided with appropriate levels of daylight and sunlight. Nevertheless, for the reasons set out above, I find that the close relationship between the proposal and the existing trees would likely create pressure to remove or substantially prune the trees. The loss or further reduction of the tree canopies would undermine their good landscape value and contribution to the character and appearance of the area.
9. In addition to the AIA, the appellant submitted a Works Method Statement and Piled Raft Design. The Council advises that it is not persuaded that the trees proposed to be retained could be adequately protected during the construction phase of the development or thereafter. However, this is not substantiated by detailed reasoning and, consequently, the weight of the evidence leans in the direction of the appellant. On this basis, I find that the health of nearby trees would be safeguarded in construction terms. Still, this would not overcome the harm in relation to the character of the area and likely pressure to prune the trees in the future, as I have identified above.
10. Taking all the above into account, I conclude that the proposal would be harmful to the character and appearance of the area, with reference to adjacent trees. The proposal would be contrary to DP Policies DES2, DES3 and DES4, where these policies seek to protect existing landscape features of value and support a high standard of layout to reflect and promote local distinctiveness.

Planning Balance and Conclusion

11. The evidence indicates that the Council cannot currently demonstrate a 5 year housing land supply of deliverable housing sites. Consequently, the provisions of paragraph 11d) ii) of the National Planning Policy Framework (the Framework) should be applied.
12. The proposal would be acceptable in relation to other matters, including living conditions of the nearest neighbours and of future occupiers. However, these are neutral factors that neither weight for nor against the development.
13. The proposed development would contribute to meeting the Council's identified housing need and the Framework's objectives of boosting the supply of housing. The site represents a small windfall site that could be built-out relatively quickly. Additionally, the proposal would logically reduce the pressure for development in the Green Belt and within the countryside. The proposal would support the local economy and would be in an existing community. There would be some economic benefits accrued from the construction process. However, given that the scheme is for one dwelling, these benefits attract limited weight in favour of the proposal.

14. The adverse impacts of the proposal on the character and appearance of the area attract substantial weight and therefore significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
15. In conclusion, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR



Appeal Decision

Site visit made on 14 May 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

Appeal Ref: APP/J1915/D/24/3336308

74 Heath Drive, Ware, Hertfordshire SG12 0RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Bellinger against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1567/HH, dated 11 August 2023, was refused by notice dated 13 November 2023.
 - The development proposed is the demolition of existing side garage, construction of new double storey and single storey side extension and front porch.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The amendments of the National Planning Policy Framework were published in December 2023 after the determination of the appeal application. These amendments do not alter the basis upon which this appeal has been assessed.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the host property and the streetscene.

Reasons

4. The appeal scheme is a 2-storey semi-detached dwelling situated within a primarily residential area of similar types of dwellings. Along Heath Drive, the pairs of semi-detached dwellings are set back from the footways to the rear of front gardens which are landscaped and used for parking. Although of varying widths, there is generally a gap between the 2-storey flank walls of each pair of semi-detached dwellings, at least at first floor level, which contribute to the spacious appearance of the streetscene. The gaps between Nos 68/70 and 72/74 are wider because of the single storey garages to the side of these properties and make a positive contribution to the streetscene.
5. As identified by the appellant, some of the dwellings have been extended, including 2-storey side additions. However, although the properties identified by the appellant were visited during the site visit, the detailed planning circumstances of these other schemes have not been provided, including whether they were assessed against Policy HOU11 of the East Hertfordshire District Plan (DP). For this reason, these other schemes are given limited

weight in the determination of this appeal and the proposed extension has been assessed on its own circumstances.

6. DP Policy HOU11 refers to side extensions at first floor level ensuring appropriate space is left between the flank wall of the extension and the common curtilage with a neighbouring property. As a general rule, a gap of 1 metre will be the minimum acceptable and this is sought to safeguard the character and appearance of the streetscene and prevent a visual terracing effect.
7. The proposed development includes a 2-storey side extension which would replace an existing single storey garage. The proposed extension would be of a chamfered design and would occupy a larger footprint than the garage and the 2-storey flank wall would be adjacent to the shared boundary with 72 Heath Drive. By reason of the proposed extension's size, chamfered design and lack of setting back from the shared boundary, the concerns expressed by the Council about the resulting property appearing to be a cramped form of development are well founded. The overall scale of the proposed development would not appear to be subservient to the host property.
8. Further, because of the property being sited at a bend in the road, the massing of the proposed flank wall at first floor level sited adjacent to the shared boundary would be particularly noticeable in the streetscene above the garage of No. 72. Even without the potential for a terracing effect associated with a future side extension at No. 72, the width of the proposed extension would still materially erode the gap between the property and No. 72 at first floor level which would be detrimental to the spacious character and appearance of the streetscene.
9. In undertaking the assessment of the appeal scheme, the setting back of the first floor front elevation and lower ridge height of the proposed side extension have been considered alongside the potential to use matching external materials, the lack of objections from local residents and retaining a garage at ground floor level. However, these matters do not outweigh the failure of the resulting property to be satisfactorily assimilated into the character and appearance of the existing streetscene.
10. For the reasons given, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the host property and the streetscene and, as such, it would conflict with DP Policy HOU11, including extensions being appropriate to the character, appearance and setting of the existing dwelling and surrounding area, and generally appearing as a subservient addition to the dwelling. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR



Appeal Decision

Site visit made on 4 June 2024

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal Ref: APP/J1915/D/24/3337000

Gannet House, Chapmore End, Ware, Hertfordshire SG12 0HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Read against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1590/HH.
 - The development proposed is described as demolish existing rear ground floor kitchen area. Reconstruct rear kitchen area to increased size as shown on attached drawings. New extension to comprise flat roof with roof lights and sliding and bi-fold doors to side and rear.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The appeal site is located within the Metropolitan Green Belt. Policy GBR1 of the East Herts District Plan 2018 (DP) sets out that development proposals within the Green Belt will be considered in line with the provisions of the Framework.

5. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. One of these exceptions is paragraph 154 c), which permits 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.
6. Neither the DP nor the Framework include a definition of what constitutes a disproportionate addition over and above the size of the original building. As such, this assessment is a matter of planning judgement.
7. The original building has been previously enlarged with single and two storey extensions. The officer's report states that the existing extensions to the original dwelling and nearby outbuildings have added approximately 359m² of floorspace to the property, and that the proposed development would increase this to about 380m². As such, the proposal would result in an increase of around 128% in floorspace over and above the original buildings on site.
8. The Council's figures are not disputed by the appellant, but rather the dispute lies on the inclusion of the outbuildings in the Council's calculation. The appellant asserts that removing the outbuildings from the calculations would reduce the cumulative increase in floorspace by some 74m². Even if I were to consider the appellant's stance, the officer report provides the changes in floorspace associated with each extension granted at the property. These figures show that a considerable two storey extension was approved in 1958 and this has subsequently been constructed, in addition to other more recent extensions. As such, it is clear that the original dwelling has been extended substantially.
9. It is reasonable to also consider the cumulative size and scale when assessing whether a proposal would amount to a disproportionate addition. While the extension now proposed is not substantial, of itself, and would increase the overall footprint of the dwelling by a little, it would add to the cumulative impact of the previous extensions to the dwelling, some of which are two storey.
10. As such, the proposal would result in a disproportionate addition over and above the size of the original building. Accordingly, the proposed development would fail to comply with the exception listed at paragraph 154 c) and would amount to inappropriate development, having regard to national and local planning policy.

Openness

11. The Framework notes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of the Green Belt are their openness and permanence.
12. Views from public vantage points towards the extension would be limited, however the absence of a visual intrusion, or the existence of other built elements, does not in itself mean that there would be no impact on the openness of the Green Belt.
13. The openness of the Green Belt has a spatial aspect as well as a visual aspect. By virtue of its footprint, height, overall massing and volume the development would reduce the openness of the Green Belt in spatial terms. The proposal would be seen against the massing of the host dwelling, which would restrict

the effect on the visual aspect of the Green Belt. Still, any harm to the openness of the Green Belt would be contrary to the aims of the Framework and attracts substantial weight.

Other considerations

14. The proposal would be acceptable in relation to other matters, including living conditions of nearest neighbours and it would be sympathetic to the host dwelling. Nevertheless, the absence of harm in regard to these matters does not carry positive weight in favour of the proposal.
15. The proposal would be constructed to meet the current Building Regulations standards with increased thermal insulation capability. Although this is welcomed, I give this matter modest weight, as it is considered under other legislation. The extension would create a larger and more practical kitchen; however, I have not been provided with substantive evidence to demonstrate that the appeal scheme is the only feasible option to achieve the appellant's aims. As such, I afford this matter little weight.

Other Matters

16. Consideration of the five purposes of including land within the Green Belt is not a part of the assessment of whether a proposed extension would result in a disproportionate addition over and above the size of the original building. As such, there is no need for me to consider whether the proposal would conflict with the purposes of including land within the Green Belt.
17. Reference is made to other appeal decisions for householder extensions allowed at appeal elsewhere in the Borough. While I have not been provided with the full details of these cases, I note that the Inspectors considered that the assessment of whether the proposal would amount to a disproportionate addition over and above the size of the original building to be a matter of planning judgement, based on the particular facts in each case. I have taken this into account in my assessment above.

Green Belt Balance

18. The proposal would be inappropriate development in the terms set out in the Framework. Furthermore, there would be a harmful effect on openness. The Framework requires that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
19. The other considerations in this case are not sufficient to comprise the very special circumstances necessary to justify this development. As such, the proposal would be contrary to DP Policy GBR1 and to the Framework.

Conclusion

20. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro INSPECTOR



Appeal Decision

Site visit made on 14 May 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 5TH June 2024

Appeal Ref: APP/J1915/D/24/3338685

128 Ware Road, Hertford, Hertfordshire SG13 7HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Ashley Gray against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/2258/HH, dated 28 November 2023, was refused by notice dated 29 January 2024.
 - The development proposed is described as the resubmission of proposal to demolish an existing garage and annex building, and to erect a two-storey side and rear extension (to provide accommodation for elderly relatives). The footprint and width of the extension has been reduced, and the layout altered.
-

Decision

1. The appeal is dismissed.

Main Issue

2. It is considered that the main issues are (a) whether there is a functional link between the host property and the proposed development and (b) the effect of the proposed development on the character and appearance of the host property and the streetscene.

Reasons

Functional Link

3. The proposed development includes a 2-storey side extension to a detached dwelling located within a primarily residential area. The appellant refers to the proposed development providing accommodation for elderly relatives.
4. The Council's concerns with the scale of the proposed habitable accommodation include that it would be of a similar size to an independent dwelling and it would be more than the minimum level of accommodation required to support the needs of the future elderly occupiers. However, this matter was previously assessed by an Inspector determining an appeal for a similar sized extension at the property which would have provided a similar level of accommodation for elderly relatives (Ref APP/J1915/D/23/3329440).
5. Having considered the previous Inspector's assessment and also the internal layout of this appeal scheme, there are no reasons to disagree with the previous Inspector's judgement that there would be a clear functional link between the proposed extension and the host dwelling. This assessment extends to the type of accommodation proposed, the internal connectivity and

the sharing of the rear garden, driveway and parking area. Accordingly, the proposed extension would be a residential annex capable of being used as an integral part of the host property.

6. On this issue, it is concluded that there would be a clear functional link between the host property and the proposed development and, as such, there would not be a conflict with Policy HOU13 of the East Hertfordshire District Plan (DP). This policy refers to residential annexes providing accommodation forming an extension to the main dwelling and being capable of being used as an integral part of the dwelling. Reference is made by the Council to the Kingsmead Neighbourhood Plan but no specific policy conflict is identified.

Character and Appearance

7. The appeal property is a 2-storey dwelling sited within a large verdant and spacious plot. As with other detached dwellings fronting the south side of Ware Road, the property is elevated above the footway and carriageway. By reason of the setting back of the dwellings to the rear of front gardens, which are landscaped and used for parking, the streetscene has a spacious and verdant character and appearance. Although it is partially screened by the trees and other vegetation within the front garden, the property and the site of the proposed 2-storey side extension are clearly visible along the driveway.
8. The proposed extension would occupy much of the gap between the property's 2-storey flank wall and the side boundary of the curtilage which is defined by vegetation and an access drive. A single storey garage which occupied part of the gap has been demolished. The scale of the proposed extension would increase the width of the host property by about 50% and, as such, the resulting property would have the appearance of occupying almost the full width of this verdant and spacious plot. By reason of the siting and width of the resulting property, the appeal scheme would have a detrimental effect on the positive contribution made by the host property to the character and appearance of the streetscene.
9. Further, because of its scale the proposed extension would not appear to be a subservient addition to the host property. This lack of subserviency is not outweighed by the proposed extension's lower ridge and eaves heights and it being set back from the front elevation of the host property. The design of the appeal scheme would also result in an unbalancing of the host dwelling which has a symmetrical appearance associated with the prominent central projecting gable with similar fenestration either side. The significant harm caused to the character and appearance of the host property would be noticeable from Ware Road.
10. The provision of accommodation for elderly relatives has been carefully considered. However, this amounts to a personal circumstance which may change overtime but the harm which has been identified would have a longer term effect on the character and appearance of the host property and the surrounding area. Accordingly, it is judged that the identified unacceptable harm outweighs the personal circumstances in this case.
11. For the reasons given, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the host property and the streetscene and, as such, it would conflict with DP Policies DES4, HOU11 and HOU13. Amongst other matters, these policies refer to

development being expected to be of a high standard of design with extensions being of a size, scale and design appropriate to the character, appearance and setting of the existing dwelling and the surrounding area. Further, extensions should generally appear as a subservient addition to the dwelling. As with the first issue, there is no specific conflict identified with the Neighbourhood Plan.

Conclusion

12. Although there would be a clear functional link between the host property and the proposed development, this matter is demonstrably outweighed by the unacceptable harm which would be caused to the character and appearance of the host property and the streetscene. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2024

Appeal Ref: APP/J1915/D/24/3340630

7 Carrigans, Bishops Stortford CM23 2SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs N and K Cook against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/2337/HH, dated 5 December 2023, was refused by notice dated 5 February 2024.
 - The development proposed is described on the application form as "Proposed double storey side extension."
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this appeal is the effect on the character and appearance of the host dwelling, locality and streetscene.

Reasons

3. The appeal concerns a split level two storey detached dwelling with a gabled elevation facing the street as it bends. The ridge is towards the western end so that the main roof is significantly narrower to this side of it than the other. Consequently, the property has a particularly distinctive asymmetrical form with the ridge being perpendicular to the front elevation. The street is characterised by similar properties in the vicinity that form a distinct group, giving a pleasant and attractive degree of consistency to this part.
4. The proposal is to extend the dwelling to the eastern side at two storey height. The addition would have a lower ridge height than the main roof of the host dwelling and be set back at the front with a hipped roof. However, it would have a fairly lengthy ridge parallel to the front elevation with a significant amount of roofslope directly facing the street. This would be a particularly unusual feature, providing an unacceptable and jarring contrast with the characteristic roof form within the group of properties.
5. Furthermore, the front wall of the extension would be about half the width of that of the existing property. Moreover, the overall length of the roof of the addition from the westernmost end of its ridge to the eaves of the hipped end would be broadly the same as that of the existing property. In these

- circumstances rather than being subservient to the host dwelling, the extension would be overly dominant.
6. The asymmetric front gable would remain apparent with the pitch of the hipped roof and facing materials matching those of the existing property. However, the detrimental effects I have described would occur anyway, with the original part of the dwelling being seen in a somewhat awkward juxtaposition with the uncharacteristic and unduly extensive roofscape of the addition.
 7. For these reasons, and even though not located within a Conservation Area or concerning a Listed Building, it is concluded that the development would harm the character and appearance of the host dwelling, locality and the streetscene. As a result, there would be conflict with Policies DES4 and HOU11 of the East Herts District Plan 2018 and Policy HDP2 of the Bishops Stortford Town Council Neighbourhood Plan (NP) for Silverleys and Meads Wards 2021-2033.
 8. Taken together and, among other things, these policies intend that development should achieve a high standard of design, reflect and promote local distinctiveness while being of a form, design and size appropriate to the existing dwelling, setting and area. Extensions should also generally appear as a subservient addition to the dwelling. Policy HDP3 of the NP is concerned with matters that are not in dispute in this appeal and is therefore not relevant in this instance.
 9. In the National Planning Policy Framework it is indicated that decisions should ensure that developments satisfy a number of considerations. These include that the proposed development should add to the overall quality of the area, as well as being visually attractive and sympathetic to local character, which would not be achieved in this case.
 10. The Town Council has raised no objections to the proposal. Nevertheless, this does not, in itself, confer acceptability on the proposal and I must consider this appeal on its own merits.
 11. Taking account of all other matters raised and given the harm that would result the appeal fails.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal Ref: APP/J1915/D/24/3340936

33 Wychford Drive, Sawbridgeworth CM21 0HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs M Silvester against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2421/HH.
 - The development proposed is described on the planning application form as "Proposed first floor side extension with hipped roof. All materials to match the existing. The first floor will be cantilevered at the rear to eliminate the need for a column which may have caused damage to the roots of nearby planting situated along the boundary. The existing ground floor side extension brickwork will be obscured by a timber fence with existing planting trained through a trellis to provide a natural soft appearance to the overall side elevation of the property in the streetscene. (This application is a re-submission of refused application ref 3/23/1578/HH, dated 9-10-23)."
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this appeal is the effect on the character and appearance of the locality and streetscene.

Reasons

3. The dwellings within Wychford Drive include a number at corner locations typically having both front and side elevations facing the street. Even in relation to their side elevations, these tend to be set back from the pavement either for their full two storey height or at first floor level. During my site visit I saw those properties in the vicinity specifically referred to by the Appellant and noticed that these all have at least some space between the flank of the dwelling and the pavement. Moreover, it is pointed out that these only comprise three out of ten corner properties so that the predominant character is one of an even more spacious relationship.
4. As a result, the corner plots provide an important degree of spaciousness and openness to the streetscene, preventing an unduly developed appearance. This includes the appeal site where a single storey side projection abuts the pavement. The property on the opposite side of the junction has its front elevation facing the flank of the host dwelling. It therefore contributes more to the openness of the streetscene at this point than the appeal site. However, despite abutting the pavement, the side addition at the host dwelling is of a

- fairly modest scale and is only single storey in height allowing views over it of the sky and vegetation. As a result, it still makes a meaningful contribution to the overall sense of openness at corner locations within Wychford Drive.
5. The resultant double storey projection, abutting the pavement, would be a particularly unusual feature within Wychford Drive, unduly at odds with the general pattern of development. With its eaves height at the same level as that of the host dwelling and full two storey height side wall immediately adjoining the street it would introduce significant additional bulk and mass in this position.
 6. Consequently, it would appear as an unacceptably dominant and overbearing feature at a prominent corner location. It would not therefore reflect a suitably modest increase in height. A new boundary fence, given the lack of any noticeable space between it and the side wall, would tend to highlight the cramped nature of the development rather than significantly mitigate it. Even with a trellis and vegetation trained through, the extension would rise significantly above it anyway.
 7. For these reasons, it is concluded that the development would harm the character and appearance of the locality and the streetscene. Policies DES4 and HOU11 of the East Herts District Plan 2018 are relevant to this appeal. There would be no conflict with Policy HOU11 (b) as the side elevation would not be adjacent to another residential curtilage. However, the policy seeks compliance with other criteria and the siting, size and mass of the extension would not be appropriate to the character, appearance and setting of the dwelling and surrounding area, contrary to Policy HOU11 (a). There would also be conflict with Policy DES4 which, among other things, seeks development of a high standard of design that reflects and promotes local distinctiveness. The proposal would therefore be contrary to the development plan.
 8. In the National Planning Policy Framework, it is indicated that decisions should ensure that developments satisfy a number of considerations. These include that the proposed development should add to the overall quality of the area, as well as being visually attractive and sympathetic to local character, which would not be achieved in this case.
 9. The lack of any concern by the Council over the loss of vegetation is a neutral factor that weighs neither for nor against the appeal. A number of the properties referred to by the Appellant are in other parts of Sawbridgeworth. In consequence, they are not part of the context within which the proposed development would be most readily appreciated and against which its impact should be considered. Local residents support the proposal and the Town Council have raised no objections. Nevertheless, this does not, in itself, confer acceptability on the proposal and I must consider this appeal on its own merits.
 10. Taking account of all other matters raised and given the harm that would result the appeal fails.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 June 2024

Appeal Ref: APP/J1915/D/24/3342992 13 Elmwood, Sawbridgeworth CM21 9NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jeffrey Cousens against the decision of East Hertfordshire District Council.
 - The application Ref 3/24/0290/HH, dated 14 February 2024, was refused by notice dated 10 April 2024.
 - The development proposed is described on the application form as "Proposed second storey extension above an existing porch way, in order to extend a very small bedroom."
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this appeal is the effect on the character and appearance of the locality and streetscene.

Reasons

3. Properties in the part of Elmwood within which the appeal site is located are characteristically semi-detached with single storey front projections such as in the case of the host dwelling. In consequence, the streetscene has a fairly high degree of consistency and uniformity. However, the proposed development would add another storey on top of this. Despite there being no increase in footprint and even if subservient to the host dwelling, in this context the addition, with a street facing gable end at first floor level, would be particularly unusual. As a result, it would be a visually intrusive and incongruous feature unacceptably out of keeping with the rhythm of the street.
4. The Appellant refers to other properties in Parkway and Yewlands and has provided photographs. Nevertheless, these are in other streets and not part of the setting within which the visual impact of the extension would be apparent. In any event, I have not been provided with any background details and do not know why any planning permissions were granted. As a result, no meaningful comparison can be made with the current proposal and there is nothing to show that the Council's decision making has been inconsistent.

5. For these reasons, it is concluded that the development would harm the character and appearance of the locality and the streetscene. As a result, there would be conflict with Policies DES4 and HOU11 of the East Herts District Plan 2018. Taken together and, among other things, these policies indicate that development must be of a high standard of design that reflects and promotes local distinctiveness while being of a form, design and size appropriate to the setting of the existing dwelling.
6. In the National Planning Policy Framework, it is indicated that decisions should ensure that developments satisfy a number of considerations. These include that the proposed development should add to the overall quality of the area, as well as being visually attractive and sympathetic to local character, which would not be achieved in this case.
7. Local residents and the Town Council have raised no objections to the proposal. Nevertheless, this does not, in itself, confer acceptability on the proposal and I must consider this appeal on its own merits.
8. The Council considers that the proposed cladding to the extension would be appropriate. However, this is a neutral factor that weighs neither for nor against the appeal. In this case the enlarged bedroom would be achieved at the unacceptable expense of the quality of the built environment in Elmwood.
9. Taking account of all other matters raised and given the harm that would result the appeal fails.

M Evans

INSPECTOR

EAST HERTS COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE
ITEMS FOR REPORT AND NOTING
JULY 2024

Application Number	3/21/1451/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Barn 2 Gregorys FarmDane EndHertfordshireSG12 0PH
Appellant	Mr. and Mrs M. Stanley
Proposal	Change of use of existing holiday letting accommodation building to single residential dwelling house
Appeal Decision	Dismissed

Application Number	3/22/0714/FUL
Decsn	Refused
Level of Decision	Delegated
Address	The White HorseWare RoadWaresideWareHertfordshireSG12 7QX
Appellant	Sotira Pilikos
Proposal	Change of use from public house (with ancillary accommodation) to single residential dwelling.
Appeal Decision	Dismissed

Application Number	3/22/1180/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Land To The Side Of 3 East RidingTewin WoodTewinWelwynHertfordshireAL6 0PA
Appellant	Mr And Mrs Adamson
Proposal	Erection of 1, 4 bedroomed dwelling with associated landscaping and parking.
Appeal Decision	Dismissed

Application Number	3/22/1222/CLPO
Decsn	Refused
Level of Decision	Delegated
Address	PenrhynLondon RoadSpellbrookBishops StortfordHertfordshireCM23 4BA
Appellant	Mr I Hussain
Proposal	Proposed alterations to single storey detached garage to reduce the height.
Appeal Decision	Dismissed

Application Number	3/22/1555/OUT
Decsn	Refused
Level of Decision	Delegated
Address	Land East Of Upper Green Road Upper Green RoadTewinHertfordshire
Appellant	Mrs Cheryl Cook
Proposal	Outline planning application for erection of 4 three bedroom detached bungalows together with creating two new vehicular accesses - all matters reserved except for access.
Appeal Decision	Dismissed

Application Number	3/22/1870/FUL
Decsn	Refused
Level of Decision	Delegated
Address	236A North RoadHertfordHertfordshireSG14 2PW
Appellant	Edward Pearce
Proposal	Proposed new gates (vehicular and pedestrian), brick piers and railings at vehicular/pedestrian access to 5no. new dwellings.
Appeal Decision	Dismissed

Application Number	3/22/2143/HH
Decsn	Refused
Level of Decision	Delegated
Address	Meesden Corner CottageClassified Road C10 North From B1038 To Mill LaneBrent PelhamBuntingfordHertfordshireSG9 0AR
Appellant	Mr And Mrs Perrin
Proposal	Creation of two single storey rear extensions, porch to the main elevation and creation of sunken terrace
Appeal Decision	Dismissed

Application Number	3/22/2144/LBC
Decsn	Refused
Level of Decision	Delegated
Address	Meesden Corner CottageClassified Road C10 North From B1038 To Mill LaneBrent PelhamHertfordshireSG9 0AR
Appellant	Mr & Mrs Perrin
Proposal	Creation of two single storey rear extensions, porch to the main elevation and sunken terrace along with minor internal arrangement alterations
Appeal Decision	Dismissed

Application Number	3/23/0144/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Land At Woodland GroveWaterfordHertfordshire
Appellant	Mr J Johnson
Proposal	Erection of entrance gates
Appeal Decision	Dismissed

Application Number	3/23/0721/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Stanstead LodgeBriggens Park RoadStanstead AbbotsWareHertfordshireSG12 8LD
Appellant	Angelika Hinton
Proposal	Installation of 3 x rows of freestanding solar panels along with associated cable connection to dwelling.
Appeal Decision	DIS

Application Number	3/23/1036/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Home Farm76 Bramfield RoadDatchworthHertfordshireSG3 6RZ
Appellant	Mr C Bullock
Proposal	Erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping
Appeal Decision	Allowed

Application Number	3/23/1519/HH
Decsn	Refused
Level of Decision	Delegated
Address	41 High StreetBuntingfordHertfordshireSG9 9AD
Appellant	Mr Steven Finney
Proposal	Removal of conservatory. Erection of single storey rear extension with steel balustrade on the roof and an attached external spiral staircase. Loft conversion and insert 4 rear facing rooflight windows. Construction of steel frame open-sided dining area to rear with a clay pantile mono-pitched roof.
Appeal Decision	Dismissed

Application Number	3/23/1520/LBC
Decsn	Refused
Level of Decision	Delegated
Address	41 High StreetBuntingfordHertfordshireSG9 9AD
Appellant	Mr Steven Finney
Proposal	Removal of conservatory. Erection of single storey rear extension with steel balustrade on the roof and an attached external spiral staircase. Loft conversion and insert 4 rear facing rooflight windows. Construction of steel frame open-sided dining area to rear with a clay pantile mono-pitched roof. Install internal staircase from first floor to loft floor.
Appeal Decision	Dismissed



Appeal Decision

Hearing held on 9 July 2024

Site visit made on 9 July 2024

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/J1915/W/23/3326168

Barn 2, Gregory's Farm, Mill Lane, Whempstead SG12 0PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs M Stanley against the decision of East Hertfordshire District Council.
 - The application Ref is 3/21/1451/FUL.
 - The development proposed is use of existing building as a single residential dwellinghouse.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted under appeal¹ for the change of use of the appeal property to a holiday letting unit in 2017. The main parties agreed at the hearing that this permission has been implemented due to alteration works that have taken place, although the appellants state that the building has yet to be actively utilised as holiday accommodation.
3. At the hearing the Council confirmed that a five year housing land supply could be demonstrated, and provided a Five Year Land Supply Position Statement (March 2024) and Addendum (April 2024) which demonstrates a housing land supply of 5.95 years. No substantive evidence has been put before me to conclude to the contrary.

Background and Main Issues

4. The Council confirmed at the hearing that when determining the planning application, it did not assess the proposal in the terms of a rural workers dwelling as this was not outlined within the description of development provided within the planning application form. Notwithstanding, the accompanying planning statement outlines a need for the appellant to be on site in connection with an agricultural enterprise, and this is further expanded within the appellant's appeal statement.
5. Despite not being a stated reason for refusal, the Council has confirmed within a Statement of Common Ground and again at the hearing, that it disputes, along with the other reasons for refusal, whether there is an essential need for

¹ APP/J1915/W/17/3170539

a rural worker to live on site in connection with the needs of the agricultural enterprise.

6. Accordingly, the main issues are:

- Whether the proposal would provide a suitable location for housing, having particular regard to the accessibility of services and facilities; and if not,
- Whether there is an essential need for a rural worker to live permanently at the appeal site; and
- The effect of the proposal on rural employment.

Reasons

location

7. The appeal building is located within a small group of former agricultural buildings that were previously part of the farmstead of Gregory's farm. The site is accessed via a long private track off Mill Lane, which is part of a network of country lanes.
8. Watton-at-Stone, which contains a number of services and facilities, is around a 2-mile journey via Mill Lane and the A602. At my site visit I also observed the smaller settlements of Dane End and Benington are also located within around a 2-to-3-mile journey from the appeal site. There is also a network of public footpaths and bridleway links near the appeal site, with public footpath 05/038/037/06a providing a footpath to Watton-at-Stone.
9. The appellant's 30-minute isochrome diagram indicates that Watton-at-Stone could be accessible on foot within a 30-minute walking distance. However, I observed at the site visit that the public footpath route traverses undulating unmade surfaces on agricultural land which makes the route challenging in places, as well as increasing the travel time for pedestrians. Additionally, the route lacks lighting which would discourage use by pedestrians during hours of darkness.
10. Moreover, although the appellants referred to two crossing points on the A602 at the hearing, the A602 is busy and fast moving and lacks formal crossing facilities along the route of the public footpath. Moreover, even if Watton-at-Stone is within a 15-minute, and Stevenage a 30-minute bicycle ride from the appeal site, the surrounding network of country lanes are narrow, twisty, undulating, and lack pedestrian refuge in places, or street lighting.
11. Given the character of the surrounding road and footpath network, I find they would not provide a convenient route to services and facilities that would encourage travel by foot or bicycle for day-to-day needs, especially in darkness or inclement weather.
12. Although the nearest bus stop at Whempstead or the virtual bus stop associated with the on-demand bus service 'HertsLynx' is within closer walking distance, part of the route to these bus stops would also be via the narrow country lanes. Given the previously described character of the highway network, the route that future occupiers would need to take to bus stops is also likely to discourage the use of public transport.

13. Therefore, while I acknowledge that the appellants stated at the hearing they would use pedestrian or public transport links, I find that future occupants of the proposal, which may not be the appellants, would be likely to travel to other settlements by private vehicle to meet their general day-to-day needs.
14. Moreover, even if provision for Electric Vehicle (EV) charging points were secured by planning condition, a condition could not go as far as to require any future occupiers to solely utilise EV's. Therefore, such a provision would not adequately mitigate the use of private vehicles.
15. Consequently, I conclude the proposal would not provide a suitable location for housing, having regard to the accessibility of services and facilities. The proposal would conflict with policies INT1, DPS2 and TRA1 of the East Herts District Plan 2018 (LP). These policies, amongst other things, outline the Councils approach to sustainable development and seeks to ensure development is directed through a hierarchy towards locations with access to services and facilities and promote sustainable transport to aid carbon emission reduction. The proposal would also conflict with the provisions of the National Planning Policy Framework (Framework) in relation to promoting sustainable transport.

Essential need

16. Paragraph 84 of the Framework seeks to avoid isolated homes in the countryside unless one or more circumstances apply, including where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Planning Practice Guidance (PPG) outlines how the need of isolated homes in the countryside for essential rural workers can be assessed including evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural enterprise; and the degree to which there is confidence that the enterprise will remain viable for the foreseeable future.
17. Similarly, LP Policy HOU5 only permits permanent dwellings for rural businesses where it is demonstrated that the dwelling is essential to the needs of the business, the enterprise has been established for at least three years and should remain financially viable, and there is no accommodation within the site or in the locality which is currently suitable and available.
18. The appellant has argued that the appeal site is not within an 'isolated' location as referenced within the Framework. The Framework or development plan does not define 'isolated'. Nevertheless, the word 'isolated' in the phrase 'isolated homes in the Countryside' simply connotes a dwelling that is physically separate or remote from a settlement. In this case, having regard to the proximity of the site to the nearest settlements, and notwithstanding the surrounding former farmstead buildings, I find that the site is isolated in the context of paragraph 84 of the Framework.
19. The appellants have operated their agricultural enterprise since 2018 which includes a flock of sheep, and as I heard at the hearing, haymaking activities. Although the written evidence indicated that the flock consists of 'over 500 sheep', at the time of the hearing the appellants stated that they currently had around 996 sheep, including around 400 breeding ewes. As well as this enterprise, Mr Stanley also undertakes agricultural contracting work, which I

- was informed equated to approximately 6-8 hours a day a 'few' days a week particularly over summertime.
20. Although the written evidence states that the appellants need to be on site at least 2 or 3 times a day, I heard at the hearing this to be actually 3 to 4 times a day. This is in order to provide feed supplements, vaccinations, check on the flocks welfare and security including sheep turn over and dealing with other medical issues such as mastitis and fly strike.
 21. Although some examples of medical issues were provided at the hearing, no detailed information is before me in relation to the numbers of stock that have required treatment immediately or during the night. Consequently, it is not possible to establish the number of animals that would have suffered or died if they had not been monitored overnight. Therefore, I see no reason why periodic visits to the site for welfare matters could not be undertaken without living at the site.
 22. Notwithstanding, I heard that the appellants need to be on site for continuous 24-hour periods during lambing. Although the written evidence states that lambing months are January through to April, at the hearing the appellants stated that the process starts in September, taking into account the gestation period, with future plans to extend lambing.
 23. There is clearly a seasonal need for an agricultural worker to be permanently present on site to cover the main lambing period. I acknowledge that temporary accommodation in the form of a caravan that has been used may not be fit for purpose due to its condition and prevents the appellant's family staying during lambing periods. Nevertheless, this caravan could be replaced with one providing better living conditions. The submitted evidence does not clearly show that a good quality caravan would not be conducive to meet the temporary needs of lambing.
 24. The benefits of improved security has also been put to me as a justification for the proposal. I heard from the appellants at the hearing of the general potential risk to farms from equipment theft. Furthermore, whilst the appellants confirmed that they have had no instances of theft, I heard at the hearing from Jane Dodson, an interested party, that break-ins have occurred in the locality.
 25. Nevertheless, there are existing neighbouring dwellings which, although in independent occupation and could not be relied upon for help, nonetheless would have a perceptible presence similar to the appeal building to deter potential intruders.
 26. The farm machinery is stored in and around the agricultural buildings, and given the long access track, is out of general view of the highway, although I accept would be visible from users of the surrounding footpaths and bridleways. Nevertheless, no substantive evidence has been provided as to why CCTV, alarms and other measures would not provide further suitable deterrents.
 27. The appellants live around 4 miles away and I heard takes 15-20 minutes to reach the site. I acknowledge that the enterprise results in often long working hours for the appellant, and the impact that this can have on family life. However, both the written evidence or that provided orally at the hearing does

not clearly demonstrate why such a travel time would be unreasonable in any likely emergency, result in risk to livestock welfare or result in significantly harmful effects on the agricultural enterprise.

28. Financial information has been provided including three years accounts. I was informed by the appellants at the hearing that the gross profit is formed from approximately a 50/50 split between the livestock, and haymaking. Although not detailed within the accounts, the appellants confirmed that labour costs formed part of 'other direct costs', and although the net profit is split between three partners of the enterprise, the accounts indicate that the business is capable of making a profit, which has increased yearly. At the hearing the Council confirmed that on the basis of the accounts it considers that the enterprise is financially viable, and I see no reason to disagree.
29. The appellants stated at the hearing that they have an intention to extend the lambing period 52 weeks a year and invest in poultry and undertake a butchery course. However, there is little substantive evidence of the ability to develop the proposed enterprise given seasonal use of the land for haymaking and Mr Stanley's contracting work away from the enterprise.
30. No comprehensive business plan for each year of operation, including detailed profit and investment forecasts with supporting land use commentary has been provided to enable me to conclude that 52 week a year lambing is achievable given the acreage of land available and other activities undertaken by the appellants.
31. Moreover, I was informed at the hearing that all the agricultural land associated with the enterprise, including the lambing sheds are rented. Whilst I am informed that there are contracts in place securing the rented land and buildings, and this has been ongoing for many years, these have not been provided to me and there is no guarantee that tenancies would continue. I am therefore unable to establish the likelihood of the land and buildings being within the appellant's control into the future.
32. If the land and building were lost, the enterprise would have no grazing capacity and stocking levels would not be maintained. Such a scenario would clearly significantly impact on any operational need for a full-time worker and resultant long-term enterprise viability. Therefore, given the available evidence before me, the future prospects and viability of the enterprise are uncertain.
33. In terms of the availability of alternative accommodation, the appeal building is well related to the agricultural land currently used by the enterprise. Whilst no evidence has been provided in relation to the availability of other suitable accommodation in the locality, If I were to find a necessity for a rural worker to live at the enterprise, I see no reason why the appeal building would not be appropriate.
34. However, to conclude on this main issue, an essential need for a rural worker to live permanently at the appeal site has not been demonstrated. The proposal would therefore be contrary to LP Policy HOU5. The proposal would also conflict with the provisions of the Framework which seek to avoid isolated homes in the countryside.

Rural employment

35. LP Policy ED2 seeks to support sustainable economic growth in rural areas and to prevent the loss of vital sources of rural employment. The policy supports proposals that consist of a change of use of employment generating uses in the rural area to other employment generating uses, subject to other policies within the LP. However, where a proposal results in the loss of employment in a rural area, the policy requires, amongst other things, evidence to demonstrate that the current employment use is no longer needed or viable.
36. No substantive evidence has been provided to demonstrate that a holiday let in this location is not viable and whilst not currently in use, the appeal property would generate some employment if fully utilised by way of tasks such as cleaning. The appellant estimates this to be around 3 hours per week. Notwithstanding, this would be partially dependent on occupiers' length of stay and the amount of turnovers in a week.
37. Moreover, further employment could also be created through such tasks as property and grounds maintenance, as well as occupiers supporting the local economy and resultant employment in areas such as hospitality and tourism.
38. Nevertheless, at the hearing the Council agreed that a rural worker was a form of employment that supports the rural economy, and this would be an appropriate alternative employment supporting use of the appeal property which would also benefit the rural economy.
39. However, I have found in the previous main issue that an essential need for a rural worker to live at the site has not been demonstrated. Consequently, with no other substantive evidence before me to demonstrate a holiday let is not viable, the loss of the holiday let, would inevitably result in a loss of rural employment.
40. To conclude, the employment associated with a holiday let, whilst modest, would still be of benefit to the local rural economy. Without a demonstrated essential need for a rural worker to live at the site, the proposal would have a harmful effect on rural employment. The proposal would therefore conflict with LP Policy ED2.

Other Matters

41. LP Policy GBR2 relates to the rural area beyond the Green Belt and is permissive of certain types of development, provided they are compatible with the character and appearance of the rural area. Section (d) relates to the replacement, extension or alteration of a building.
42. the appellant argues that alterations of existing buildings to facilitate a change of use would constitute an alteration for the purposes of this policy and has referred me to other examples of decisions made by the Council in this respect. However, it is common ground between the parties that the proposal does not require any internal or external alterations and I have reached the same finding.
43. Moreover, even if a change of use would occur and this constitutes 'alterations' as envisaged within the policy, I have nevertheless found conflict with other policies within the development plan which I give significant weight given their direct relevance to the proposal.

44. The Grade II listed Gregory's Farmhouse lies to the north of the appeal site. From my observations, the significance of this heritage asset arises from its age and architectural features. The setting of this heritage asset is the immediate surrounding area of the building in which it is experienced and contributes to its significance.
45. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting, or any features of architectural or historic interest which it possesses. In view of the separation distance, and intervening built form and boundaries, I find that the proposal would have a neutral effect on, and thereby preserve, the heritage asset.
46. The proposal would support rural business and rural employment in accordance with the general aims of the Framework. It would also provide social benefits by contributing to the housing needs of the district and supporting the local community by future occupiers' involvement in the community. I also heard from the appellants at the hearing of the importance of attracting young people into farming, and the role the enterprise can play in providing work experience.
47. Nonetheless, any benefits would be modest given the scope and scale of the proposal. Moreover, the holiday use of the building would in any case also provide some benefits, particularly to the local economy and services and facilities by their use by future holiday occupiers.
48. An active use of the building is likely to improve its general appearance and I acknowledge paragraph 84 of the Framework supports isolated homes in the countryside if the development would re-use redundant or disused buildings and enhance its immediate setting. However, given the lack of alterations proposed, general maintenance and its operation as a holiday let would also have a similar outcome and I therefore afford this minimal weight.
49. The appellants have strong links with, and are well integrated in the local community, and I note the letters of support for the proposal. However, if the appeal were to be successful, the proposal could nevertheless be occupied by other rural workers which met any occupation condition that may be imposed, and the appellants community links do not override the identified conflict with the development plan.

Conclusion

50. The proposal would conflict with the development plan, read as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

S Harrington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alison Young	Planning Consultant
Alison Stanley	Appellant
Matt Stanley	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jade Clifton-Brown	Deputy Team Leader
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INTERESTED PARTIES:

Chris Childs	Local resident
Jane Dodson	Local resident

DOCUMENTS SUBMITTED AT THE HEARING:

East Herts Five Year Land Supply Position Statement (March 2024);
East Herts Five Year Land Supply Position Statement Addendum (April 2024);
Official List Entry – Gregory’s Farmhouse.



Appeal Decision

Hearing (Virtual) held on 25 June 2024

Site visit made on 27 June 2024

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/J1915/W/23/3330386

The White Horse, Ware Road, Wareside SG12 7QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) as amended against a refusal to grant planning permission.
 - The appeal is made by Sotira Pilikos against the decision of East Hertfordshire District Council.
 - The application Ref: 3/22/0714/FUL, dated 13 April 2022, was refused by notice dated 16 May 2023.
 - The development proposed is described as change of use from public house (with ancillary accommodation) to single residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Listed building consent was granted on 16 May 2023¹ for internal alterations to strip out toilet facilities and the public bar at the appeal building. These works had not been undertaken by the time of my site visit.
3. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990). Also, a variety of views about heritage matters were submitted to the appeal. These included objections to the proposed change of use from the Council's Conservation and Urban Design Team², and a local resident on heritage grounds. In the light of these considerations, notwithstanding that heritage factors were not among the Council's reasons for refusal of the change of use application, it is relevant to assess heritage matters, as per the second main issue below. This main issue was discussed at the hearing.

Main Issues

4. The main issues in this case are:
 - Whether the proposal would result in an unacceptable loss of a community facility;
 - Whether the proposal would a) preserve the Grade II listed building, the White Horse Public House, or any features of special architectural or

¹ Application Ref: 3/22/0715/LBC.

² In their consultation responses dated 28 April 2022 and 5 May 2022.

historic interest that it possesses, and b) preserve or enhance the character or appearance of the Wareside Conservation Area (CA); and

- Whether the proposal would make suitable provision for sustainable transport, vehicle parking, and safe and suitable highway access.

Reasons

Community facility

Need

5. The appeal site comprises the White Horse public house building, several outbuildings, its carpark, and yard and garden areas. It is situated within Wareside parish, which has population of almost 800 people. The White Horse is a Grade II listed building dating from the late seventeenth century. It is situated in the Wareside village CA. One of two public houses in the village, the White Horse has been closed since Spring 2022.
6. Supporting text paragraphs 19.8.4 and 19.8.8 of the East Herts District Plan October 2018 (DP) together set out that public houses play an important role in rural communities, providing a social venue, local employment opportunities and adding to the vitality of a village, and that their loss can substantially impact on the local community.
7. Policy CLFR8 of the DP sets out criteria for assessing proposed loss of community facilities. Within Policy CLFR8, focus falls in this case on criterion (a), namely whether an assessment clearly shows that the public house is no longer needed as a community facility in its current form. DP supporting text paragraph 19.8.3 explains the requirement for proposals for change of use of community facilities to evidence that the facility is no longer viable, and investigation of options to maintain the service to the community.
8. Judging by the appellant's account of running the pub from 2016 to 2022, estate agents' listings of the property in recent years, various local residents' comments, the reported experience of the previous landlord of this pub prior to the appellant's ownership of it, and what I saw on my site visit, the following are aspects of the White Horse as a venue. Its location next to the B1004, at the southern entrance to the village of Wareside, is a short drive from the town of Ware, and Widford and Hunsdon villages. It has on-site car parking for up to around 23 cars. And there is a bus stop next to the pub that provides some further connectivity for customers from Ware and Babbs Green.
9. Also, within this historic Grade II listed timber-framed village pub building are characterful bar areas. It has a kitchen in which a variety of meals, including traditional pub 'classics' and more recently various Greek dishes, have been prepared over the years. Its substantial pub garden space includes facilities for children's play, and opportunities to appreciate the attractive views of the historic pub's exterior, and its village and countryside setting.
10. With these facilities, the White Horse, has at various times over the last couple of decades and before, provided a venue for people of various ages in the local community to drink, eat meals and socialise. Also, it has reportedly been a venue for a range of family parties, and events associated with baby showers, christenings, weddings and funerals. And with its substantial garden space, the

- pub has previously provided a venue for outdoor family and musical events, and firework displays.
11. Also, within recent decades, the White Horse has apparently hosted local events and group meetings including for a food club, quiz team, drama group, pool and petanque teams, golf society and church and has sponsored local sports teams. Also, it has apparently catered for groups of walkers using the network of walking routes in the locality, cyclists, local estates' shoot breakfasts and dinners, and local business events and parties. Furthermore, the White Horse has provided employment, including for some local people, and helped support other local businesses in its supply chain, including food producers and suppliers.
 12. In these ways, the White Horse at Wareside has, at various times over the last couple of decades and before, helped meet a range of social, leisure, cultural and economic needs for communities in Wareside village and parish. Also, it has catered for people visiting the locality from the surrounding area including Ware, for rural recreational purposes.
 13. This is within the context of a mix of community facilities in Wareside village that also includes another pub the Chequers Inn, Wareside Village Hall and Holy Trinity Church. The White Horse differs as a venue from these other facilities in several ways. It has its own distinctive character, with its individual listed building architecture. Also, it has a large, lawned pub garden, with attractive rural views beyond, and associated scope for events and family play and interaction, and volume of outdoor custom on milder days. This space differs in amount and character to the smaller amount of paved roadside space with picnic benches in front of the Chequers. This distinctiveness is reflected in several residents' emphasis of their past enjoyment of the family appeal of the White Horse's beer garden, with associated contribution to social cohesion within the local community.
 14. Also, the White Horse differs from these other facilities in the village in the prominence of its 'gateway' location at the southern entrance to the village, with its carpark which is visible from and adjacent to the B1004. And unlike the Village Hall and Church, the White Horse provides pub architecture, atmosphere and, when it was open, pub experience and opening hours. As such, in its use as a pub, the White Horse has contributed to the overall mix and vitality of the village's community facilities, and brought its own distinctive attributes as a venue to that mix.
 15. Also, the appeal property was designated as an Asset of Community Value (ACV) in 2022. Judging by the listing of the White Horse as an ACV, and the volume and passion of objections to the appeal proposal, seeking to preserve the property's use as a pub, the White Horse is still perceived as a valued community facility in Wareside and the local area.
 16. The level of local community patronage of the White Horse pub has apparently considerably reduced during its operation by the appellant between 2016 and 2022. As set out in my viability analysis later in this decision, friction between some members of the local community and the appellant appears to have been a factor in this reduction. However, this does not negate the identified substantial local event and social use of the pub in recent decades, or the volume of expressions of enthusiasm from local residents for the continuation of the venue to provide this in the future.

17. As such, the apparent deterioration in relations between some local residents and the most recent operator of the White Horse does not erase the longstanding needs of the local community that the pub has served, or the likelihood of those needs continuing to exist in the future. Also, for reasons set out in the below viability analysis, I see potential for future rejuvenation of the pub's trade, and patronage of it by the local community. Even with the local village school's recent closure, I expect that with a parish population of around almost 800 and, its proximity to population in Ware, a range of community needs would likely exist for the White Horse, as a pub to potentially meet in the future. That a community group has not come forward to put in an offer to buy the pub since its ACV designation does not negate these identified needs.
18. Furthermore, while Covid had some dampening economic effects in relatively recent times, including on the hospitality sector, it also amplified the need for outdoor leisure, and opportunities for interaction to tackle social isolation. These are among important community needs which, as a pub restaurant in an attractive village location with generous pub garden space, the use of the White Horse as a public house would help meet in future.
19. For the above combination of reasons, I find that the White Horse's use as a pub has made and would potentially make a valuable contribution to the community's ability to meet its day-to-day needs for social facilities, local employment, and recreational and cultural facilities and services, thus adding to the vitality of village and parish life. As such, there is a need for the White Horse pub in Wareside as a community facility. I therefore find that it is not clearly shown that the White Horse is no longer needed as a community facility in the form of a village public house. As such, the proposal does not satisfy criterion (a) of Policy CLFR8 of the DP.

Viability

20. The appellant's Financial Summary and Account indicates the White Horse running at an operating loss after a number of years of trading. Pressures during the appellant's time of operating the pub from 2016 until it closed in 2022 have included Covid. Also, during this most recent period of the pub's operation, there has apparently been a fall-off in local trade from the village, with a resident describing villagers as having 'voted with their feet' and used the other pub in the village, the nearby Chequers Inn, in more recent years.
21. From what I have seen and heard in this case, this reduction in village trade apparently arose from factors including some residents' unhappiness with the pub's food concept/offer, and personality clashes. Also, community opposition to rear extension proposals at the White Horse for a restaurant, enlarged kitchen and toilet facilities, and extended carpark has reportedly played a part. Thus, apparent friction between some members of the local community and the most recent pub operator has been a factor in more recent trading difficulties.
22. Several aspects of the period of Greene King's previous involvement with the White Horse have been commented on by several parties, regarding the financial performance of the pub in that period, and previous sale of the pub. However, as no detailed documentary evidence from Greene King is presented on these matters, I attach limited weight to these considerations.
23. The White Horse has been advertised for sale over several years recently, with submitted marketing brochures indicating use of at least three estate agency

platforms, including one that focuses on pubs. Also, another estate agent described their more recent marketing of the property, at the hearing. Judging by the evidence of various parties, there has been some variation in the property's asking price during the marketing period. As agreed in the Statement of Common Ground as having been confirmed, the property has been viewed by a number of prospective purchasers over several years. The majority of interest in the pub has, judging by the estate agents' accounts, reportedly been from people seeking residential use/development of the property.

24. That said, according to a more recently engaged estate agent, an offer to purchase the White Horse as a pub was made by a 'potential restaurateur', albeit funding issues apparently contributed to sale of the pub not being completed. Also, a number of people with knowledge of the village and pub have made written submissions in this appeal case, emphasising their interest in purchasing the White Horse to run it as a pub. The explanation they have given for why their interest has not resulted in them making offers for the pub relate to procedural matters around viewing, following up a viewing, and questioning of the asking price.
25. As such, while the marketing of the White Horse pub by the appellant's estate agents has not resulted in a sale thus far, there has nevertheless been a number of expressions of keen interest in purchasing the pub, from people with local area knowledge, who see the White Horse's potential to operate successfully as a pub in the future.
26. Also, the following factors further indicate the White Horse's potential to operate successfully as a pub in the future, and help meet identified community needs. The appellant's evidence and some local residents' comments together indicate that within the last couple of decades, the customer base for this village public house, serving food has included the following mix of people. This has included car-borne trade from outside the village, for example from the nearby town of Ware. It has also included local village residents including families, and various local teams, groups and business parties, albeit with an apparent reduction in local trade during the appellant's operation of the pub. Also, it has attracted cyclists, and visiting walkers.
27. Given the following attractions of this historic village pub, I anticipate that a mix of these types of customers would potentially be part of a future customer base for the pub. And, also that there is realistic potential to further increase the customer base of the public house.
28. The White Horse has its own traditional character and attractive location. With its historic timber framework, fireplaces and timber flooring, the pub's interior provides a number of cosy bar spaces for drinking, eating and socialising. Also, its attractive historic village pub exterior includes plastered walls, gable chimneys, old tile roof, and characterful arrangement of windows and pub sign, which contribute to its distinctive 'kerb appeal'.
29. Furthermore, the White Horse provides a country pub building with traditional charm, and a distinctively large and useable lawned garden space with attractive rural views at this gateway location in Wareside village and CA. This is a short journey time from Ware and other residential areas. This substantial pub garden adds to the potential for the community to come together to socialise, for example for events, family play and interaction in the future. Also,

the White Horse has its own off-road parking area for around 23 cars. These attributes are noticeable at the appeal property's prominent gateway location on the B1004 road from Ware, at the southern entrance to the heart of this charming village.

30. Thus, while there are a village hall, church and another pub in the village, and other pubs in other towns and villages within a five mile radius of the appeal property, the White Horse has a distinctive set of selling points that I expect would help it 'hold its own' commercially within this mix of venues in the area.
31. The property is a short walk or drive from the residences of the around almost 800 residents of Wareside parish. The village's mix of historic cottages and more modern family accommodation of varying sizes, including some semi-detached and larger detached properties indicates some diversity of local resident customer base from which to draw. Furthermore, the visitor economy potential of the public house is indicated by the following. With stretches of the Harcamlow and Hertfordshire Ways in the locality, the White Horse can be accessed by users of the area's network of attractive rural walking routes.
32. Also, judging by descriptions in various marketing brochures advertising the premises for sale, the White Horse has, among other things, space for around 60 covers, a high grade commercial catering kitchen and plenty of storage facilities. And is a desirable village pub-restaurant, set in around an acre of land in an affluent village location.
33. This combination of factors points to future scope for walkers, cyclists, weekend break visitors and other 'staycation' and tourist visitors in the area to use the pub. Furthermore, the expressions of passionate local community support in the village for retention of the public house use, including for various social and community activities and meetings, and the asset of community value listing further indicate likely future customer interest in the White Horse. Together, these factors indicate that as a public house the White Horse has been and has potential to in future be a valued community facility for socialising, recreation in the form of dining and drinking out, community meetings and events.
34. Thus, I am not persuaded that the White Horse's current closure and apparent trading difficulties at some times in the past reliably indicate a lack of future pub potential. Also, given the abovementioned attractions of this historic village pub, I expect the potential for future custom at the White Horse to be greater than the appellant's CAMRA Public House Viability Test analysis suggests.
35. I recognise that past proposals to enlarge restaurant, kitchen, toilet and carpark facilities at the White Horse have been investigated and refused planning permission. That said, this does not automatically preclude potential for exploring whether there might be scope for sympathetic evolution of this listed building, to help bring in additional custom, in the future. In any case, even in its existing form, the abovementioned combination of attractions of, and expressions of community enthusiasm for the White Horse as a pub, indicate the potential for the retention and reopening of the White Horse as a viable pub, to positively and distinctively contribute to the diversity and vibrancy of Wareside's hospitality offer. Therefore, I anticipate that future use of the White Horse as a public house would likely be economically viable.

Community facility conclusion

36. In conclusion, it is not clearly shown that the White Horse is no longer needed as a community facility in its form as a village public house. Furthermore, I anticipate that future use of the White Horse as a public house would likely be economically viable. Therefore, the proposed change of use would result in unacceptable loss of a community facility. As such, the proposal would fail to satisfy criterion (a) of Policy CLFR8 of the DP, and conflicts with this policy.

Heritage assets

37. The CA centres around the historic heart of Wareside, culminating in the convergence of the lane leading to Tatlingtown and the B1004 main road through the village, onto which the appeal premises face. A number of pretty, listed buildings are clustered in this historic heart, including the White Horse, which occupies a gateway location at the southern entrance to the CA. This cluster of listed buildings reflects the CA's evolution through the seventeenth to the nineteenth centuries.

38. The White Horse is one of two public house buildings in Wareside village. Dating from the late seventeenth century, the White Horse is a two-storey building with attics and cellar. It is a timber-framed building with internal and external gable chimneys, old tile gambrel roof, plastered walls, and characterful combination of sash, casement and dormer windows. Its charismatic historic architecture and location is emphasised by its prominence at the southern entrance to the CA, alongside the B1004 road from Ware. This listed building's longstanding presence here articulates the history of there being a village public house at this gateway location in the CA. Also, as a quintessential village community attribute, the White Horse's historic function as a public house contributes positively to Wareside's historic identity, and announces this at the southern entrance to the CA.

39. Consequently, the listed building embodies historical, communal, evidential and aesthetic values, which contribute to both the building's special interest and the significance of the CA.

40. Given the above, the CA's heritage significance, insofar as it relates to this appeal, lies in its illustration of the village's architectural evolution and historic community character through the seventeenth to nineteenth centuries, as manifested in its characterful mix of historic buildings, and community facilities. The special interest of the White Horse listed building, insofar as it relates to this appeal, is primarily associated with the legibility of its historic public house architecture, and its historic public house function and identity in this Hertfordshire village.

41. Under the appeal proposal, the historic fabric of the listing building would remain, and its pub sign could be retained by planning condition. Thus, its historic public house architecture would endure. However, the proposed change of use of the White Horse from public house (with ancillary accommodation) to single residential dwelling would end its historic role as a prominent gateway public house in the CA. With this change to a solely residential property, and likely associated increased domestic paraphernalia in its external areas, the White Horse would discordantly read as no longer an operational historic village pub facility. This would be noticeable to local residents and visitors. Judging by stated previous community enjoyment of, and desire for future pub use of the

- White Horse, this would result in a sense of erosion of historic village identity which would be keenly felt within the local community.
42. This erosion of legibility of historic public house function and identity at this prominent gateway location in the historic heart of the village would harm the special interest of the White Horse listed building, and so harm the character of the CA. Therefore, I find that the proposal would fail to preserve the special interest of the listed building and the significance of the CA. I give this harm considerable importance and weight in the planning balance of this appeal.
43. Paragraph 205 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale and substance of the proposal, I find the harm to the listed building and CA to be less than substantial, but nonetheless of considerable importance and weight. Under such circumstances, Framework paragraph 208 advises that this harm should be weighed against public benefits of the proposal, including any contribution to securing optimal viable use of listed buildings.
44. The proposal would likely stimulate a fresh source of finance and enthusiasm, arising from residential occupation of the whole building, to contribute to future upkeep of the historic fabric of the listed building. Also, it would contribute additional residential space within the existing building to the local supply of housing accommodation. Albeit this would be tempered by socio-economic detriment from loss of the pub use and community facility, and associated reduction in local employment opportunity and village vitality.
45. As established earlier under the first main issue, future use of the White Horse as a public house would likely be an economically viable use of the property. I accept that the proposed change of use of the White Horse to solely residential would also likely be an economically viable use of the appeal property. However, given a) my finding of likely viability of future pub use in this case, and b) the identified harm to designated heritage assets that would result from the appeal proposal, I find as follows. The future use of the White Horse as a public house would be the one likely to cause the least harm to the significance of the designated heritage assets. As such, future use of the White Horse as a public house would be the optimum viable use of the listed building, and the proposed change of use would not. Thus, optimum viable use of the listed building is not a benefit that would be realised by the appeal proposal.
46. Also, within this context, it is not conclusively shown that the proposed change of use would be the minimum necessary intervention to secure the fabric and special interest of the listed building in future.
47. Given the single dwelling scale of the proposal, the benefit of the proposed development would be limited and not outweigh the less than substantial harm to the listed building, and the character of the CA. Accordingly, I attach limited weight to the benefits of the proposal, and find that its public benefits do not outweigh the great weight given to the conservation of designated heritage assets and the less than substantial harm to their significance identified.
48. I therefore conclude that the proposal would fail to preserve the special interest of the Grade II listed building, and the character of the CA. This would conflict with Policies HA1, HA4 and HA7 of the DP, which together seek to ensure that

proposals conserve and where possible enhance the historic environment. Furthermore, this would fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act, and the Framework in respect of the desirability of sustaining and enhancing the significance of heritage assets, with great weight given to the asset's conservation.

Transport, parking and highway access

49. It is undisputed that the proposed single dwelling use would have policy compliant parking provision. Also, it would utilise the existing crossover and entry point onto the public highway that has previously been used by patrons of the pub. And, given the anticipated decrease in vehicle movements that would result from the change of use from public house (with ancillary accommodation) to single residential dwelling, traffic generated by the site would be reduced.
50. Furthermore, at the hearing the Council confirmed that following further consideration, and in the light of agreement between the parties that boundary treatment and highway verge provision could be suitably addressed by planning condition, the second reason for refusal regarding highways and transport has been resolved. For the above reasons, I agree on this point, and find that the proposal would not adversely impact on highway safety or the free flow of traffic.
51. Therefore, I conclude that the proposal would make suitable provision for sustainable transport, vehicle parking, and safe and suitable highway access. As such, it would not conflict with DP Policies TRA1, TRA2 and TRA3, which together seek to achieve promotion of sustainable transport, safe and suitable highway access, and adequate vehicle parking.

Planning Balance and Conclusion

52. As set out above, I have determined that the public benefits of the proposal are insufficient to outweigh the less than substantial harm that would be caused to the significance of heritage assets. Accordingly, I confirm that overall the benefits of the proposal are insufficient to outweigh the totality of harm that I have identified in relation to the main issues.
53. Going forward, the White Horse is likely to require fresh energy and product innovation to sustain its future operation as a public house. While I do not expect this would be easy, judging by the potential identified above, and the strong community passion expressed for it to remain as a pub, I find that it would be premature and unjustified to 'call time' on the White Horse's role as a charismatic country pub in this attractive East Hertfordshire village location, a short journey from the town of Ware, through the appeal proposal.
54. The proposed development would be contrary to the development plan and Framework and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Karen Crowder-James
Sotira Pilikos
Ray Wilson

Contour Planning Ltd
Appellant
Prestige & Village Estate Agents

FOR THE LOCAL PLANNING AUTHORITY:

Diane Verona

Principal Planning Officer

INTERESTED PARTIES:

William Dunn
Claire Fennelow

Local resident
Local resident



Appeal Decision

Site visit made on 4 June 2024

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/J1915/W/23/3328900

3 East Riding, Tewin Wood, Tewin, Hertfordshire AL6 0PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Adamson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1180/FUL.
 - The development proposed is the erection of 1x new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As a part of their submission the appellant has provided a Proposed Site Ecology Plan. This plan shows the additional trees that would be planted on site as a part of the proposed development and, therefore, it would not involve a fundamental change to the application. A Preliminary Ecological Assessment (PEA) and Biodiversity Net Gain Assessment (BNG) have also been submitted with the appeal and provide further clarification in relation to the reasons for refusal, so I am satisfied that they would not result in a fundamental change to the application.
3. The Council has had the opportunity to comment on these details as part of the appeal process and, as such, I am satisfied that no prejudice would occur were I to consider the information in my determination of the appeal. Nor would my acceptance of the additional information cause procedural unfairness as it does not give rise to the need for re-consultation of interested parties. I have proceeded on this basis.
4. During the late stages of this appeal the Council brought to my attention that it published a new 5 year housing land supply position statement. As this is of relevance to the appeal before me, and the appellant has been given the opportunity to comment on this matter, I have accepted this late evidence and considered it, as well as any comments received, as a part of my assessment.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including its effect on protected trees; and
 - biodiversity.

Reasons

Character and appearance

6. East Riding comprises detached houses of various designs which are normally set back from the road. Mature boundary hedges and trees provide a leafy and attractive setting for dwellings and are prominent features within East Riding, thereby making a positive contribution to the visual quality of the road and verdant character of the area.
7. The appeal site comprises an area of land which is part of the garden of No 3 East Riding. There is a substantial number of trees within the site which are covered by a Woodland Tree Preservation Order (TPO). Given its tree coverage, the site makes an important contribution to the natural environment and to the pleasant character of the road.
8. The proposed development would introduce new residential built form within the site with the associated loss of a significant number of trees. The Arboricultural Impact Assessment Report advises that all trees proposed to be removed are category C trees, most of them with at least 10+ years of life expectancy, with some having at least 20+ years.
9. Even though most of the trees that would be lost cannot be easily seen due to their location, they have value as a part of the collective unit. As such, regardless of their individual merit and condition, or of the outcome of any tree works application, their loss would weaken the visual quality of the green infrastructure within the site as a whole, and harm the character of the area.
10. The Proposed Site Ecology Plan shows that ten additional trees would be provided within the site as part of the proposed development. However, a substantial amount of green infrastructure would be lost through the development and, additionally, any replacement planting would take time to reach maturity and make a similar contribution to the street scene. As such, I am not persuaded that the additional planting would successfully mitigate for the tree loss associated with the proposal.
11. The appellant asserts that the woodland designation is incorrectly applied, as this classification is inappropriate for use in gardens. However, the TPO is in place and therefore this is not a matter for my consideration.
12. The appeal proposal would therefore be harmful to the character and appearance of the area. Given the scale of the loss of protected trees and the contribution which they make to the area, the magnitude of harm would be significant. The proposal would therefore conflict with Policies DES3, DES4 and HOU2 of the East Herts District Plan 2018 (DP). Collectively, these policies seek to protect existing landscape features of value, retain existing site features such as mature trees and support a high standard of layout to reflect and promote local distinctiveness. Furthermore, the proposal would be contrary to the Framework, where it supports development that is sympathetic to local character and seeks to conserve the natural environment.

Biodiversity

13. The PEA concludes that there are no ecological features that would preclude the proposed development and provides a number of recommendations to improve the ecological value of the site, as well as a precautionary approach to

be taken during construction. The BNG assessment sets out that the proposal would generate a net gain of area-based habitat units and of linear-based habitat units.

14. There is no evidence before me to contradict the findings of these reports and, as such, the weight of the evidence leans in the direction of the appellant. On this basis, the proposal would not have a harmful effect on biodiversity, in accordance with DP Policy NE3. This policy supports development that enhances biodiversity.

Planning Balance and Conclusion

15. The proposal would be acceptable in relation to other matters, including living conditions of the nearest neighbours. However, these are neutral factors that neither weigh for nor against the development.
16. As set out above, the proposal would be harmful to the character and appearance of the area given the scale of the loss of protected trees and the contribution which they make to the area. The magnitude of harm would be significant.
17. The Council can currently demonstrate a 5 year housing land supply of deliverable housing sites, which is not disputed by the appellant. Even so, the proposed development would contribute to meeting the Council's identified housing need and the Framework's objectives of boosting the supply of housing. The site is located near bus stops that serve larger settlements capable of providing access to services and facilities. The appeal site is small, so it could be built out relatively quickly. Ecological enhancements would be delivered and there would be some economic benefits accrued from the construction process, as well as longer term expenditure in the local economy. However, given that the scheme is for a single dwelling, these benefits attract limited weight in favour of the proposal and do not outweigh the harm that I have identified.
18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR



Appeal Decision

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/J1915/X/22/3305228

Penrhyn, London Road, Spellbrook, Hertfordshire CM23 4BA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr I Hussain against the decision of East Hertfordshire District Council.
 - The application ref 3/22/1222/CLPO, dated 12 June 2022, was refused by notice dated 9 August 2022.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended (the Act).
 - The development for which a certificate of lawful use or development is sought is construction of garage with brick walls and pantile roof.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Mr I Hussain against East Hertfordshire District Council, and by East Hertfordshire District Council against Mr I Hussain. These applications are the subject of separate decisions.

Preliminary Matters

3. In the appeal form the appellant stated that it was essential for the Inspector to enter the site to see the height of the ground immediately adjacent to the garage. However, at the site visit scheduled for 16th April 2024 neither the appellant nor a representative for him were present to provide access to the land. Neither did he nor a representative attend a revised visit scheduled for 30th April 2024, or a third on 4th June 2024. I have therefore determined the appeal without a site visit, on the basis of the written evidence put before me.
4. The appellant has constructed a garage, similar to that proposed but with a higher roof, for which planning permission has been refused, and an appeal has been dismissed.
5. The appellant's LDC application, as submitted, was for confirmation of whether a garage similar to that constructed, but with a lower roof, would have been lawful at the time the application was submitted.
6. The Council amended the description of the proposed development to, "Proposed alterations to single storey detached garage to reduce the height" and determined the application on those terms. However, I have not seen any evidence that that change was made with the appellant's agreement.

7. As the Council's description of development is distinctly different to that applied for by the appellant, and would not determine whether the resulting garage building as a whole was lawful, I have considered the application on the basis of the appellant's description of development, as stated on the application form.

Main Issue

8. The main issue is whether the decision of the Council to refuse the application for an LDC was well founded.

Reasons

9. Appeals relating to a LDC are confined to the narrow remit of determining whether the Council's refusal was well founded. The planning merits of the proposal are not for consideration.
10. Appellants are required to provide evidence that is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'. The burden of proof is with the appellant to demonstrate that the proposed development would have been lawful on the date the application was made (the relevant date).
11. Section 191(2) of the Act states that operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development, or require planning permission, because the time for taking enforcement action has expired, or for any other reason); and, (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
12. I have not seen any evidence of any enforcement notice being in force on the relevant date, and there is no dispute that the proposal amounts to development for which planning permission is required.
13. The primary consideration is therefore whether, at the relevant date, the development would have been granted planning permission by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), on the basis that it would have constituted 'permitted development' under Class E of Part 1, Schedule 2 of the GPDO.
14. Among other things, Class E of Part 1 of Schedule 2 sets out that the provision of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse, and within its curtilage, is permitted development. But development is not permitted if any of the criteria set out in paragraph E.1 are met.
15. The criterion in dispute between the parties is: E.1.(e)(ii), which states that, "the height of the building, enclosure or container would exceed ... (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse".
16. There is no definition of 'height' in the GPDO itself, but the 'Permitted development rights for householders - Technical Guidance' 2019 (the Technical Guidance) defines it as "... the height measured from ground level". A qualifying note states, "... ground level is the surface of the ground immediately adjacent to the building in question, and would not include any addition laid on

top of the ground such as decking. Where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building.)”

17. In the *McGaw v the Welsh Ministers*¹ Court of Appeal judgement, where the building abutted a boundary wall, the surface of the ground immediately adjacent to the building was considered to be the land immediately beyond the wall, in the neighbouring garden, rather than the wall itself, or the narrow gap between the building and the wall. In coming to that judgement, Sir Timothy Lloyd stated, “‘ground’ must be open, not under a built structure”². Even if those comments are considered *obiter*, and not directly part of the precise matter at issue before the Court, they accord with the approach of the Technical Guidance in excluding additions laid on top of the ground.
18. In the case before me, the plans show the garage proposed would abut the boundary with the neighbouring garden. From its eastern, southern and northern sides the building would be a height of 3.28m. On its northern side, the plans show a patio between the garage and the house, which is shown 0.78m higher than the garage floor, and level with the rear of the house. The plans appear to depict a narrow gap between the patio and the garage, but one that is smaller than that considered in *McGaw v the Welsh Ministers*, and not sufficiently large to constitute the ground immediately adjacent to the building for the purposes at hand.
19. The appellant’s case is that the patio is the highest point of the land immediately adjacent to the proposed garage building and that, measured from its surface, the proposed garage would be 2.5m in height. He states there is no requirement for ground to be defined as earth, and refers to ‘concrete ground’. That is not necessarily consistent with the Technical Guidance and Sir Timothy Lloyd’s comments in the *McGaw v the Welsh Ministers* judgement.
20. The patio is not open ground, and could be considered a built structure, or at least an addition laid on top of the ground. The appellant advises that the patio retains the natural profile of the ground, and that earth has been removed and replaced with concrete. However, comments from the adjoining neighbour suggest it is a recently constructed raised structure, that the ground immediately adjacent in the neighbouring garden demonstrates that, and that the garage would exceed 2.5m in height above the highest immediately adjoining ground level in the neighbouring garden.
21. The appellant also states that the land naturally slopes from the front to the rear of the property, but the plans provided depict all ground levels as flat ground, even those beyond the house and garden. They clearly show stepped level changes and a retaining wall, but provide very limited information in and around the location of the proposed garage. I am therefore able to rely on the plans only to a limited extent insofar as they relate to ground levels in the vicinity of the proposed garage.
22. Without the benefit of a site visit, photographs or a survey plan showing the levels of the land and its context, it is therefore difficult to say whether, or the extent to which, the patio is or reflects the ground level. There is a reasonable

¹ *McGaw v the Welsh Ministers & the Council for the City and County of Swansea* [2020] EWHC 2588 (Admin), [2021] EWCA Civ 976

² Paragraph 24

prospect that the patio is a built structure, or an addition laid on top of the ground, and therefore not the highest level of the ground immediately adjacent to the proposed building.

23. The appellant has referred to another LDC decision made by the Council relating to a development elsewhere. I am not bound by decisions of the Council, but that case relates to Class A rather than Class E of Schedule 2 Part 1 of the GPDO and concerns a development to be constructed on an existing patio set lower than surrounding land levels. That case is therefore distinguishable from the development proposed in this case.
24. It has therefore not been demonstrated that it is more likely than not that the highest adjacent ground level would have been the adjacent patio. With the evidence before me, there is a realistic prospect that the highest surface of the ground immediately adjacent to the proposed garage would have been the land immediately beyond the boundary, in the neighbouring garden.
25. Consequently, the height of the proposed garage would have exceeded 2.5m from the highest surface of the ground immediately adjacent to the building, and the development would therefore not have met the requirements of Schedule 2, Part 1, Class E of the GPDO. It would therefore not have constituted 'permitted development', and planning permission would not have been granted by Article 3(1).
26. Therefore, although the development would not have been a contravention of any of the requirements of an enforcement notice then in force, it would have been development without planning permission. Enforcement action could therefore have been taken at the relevant date. Consequently, the development would not have been lawful under Section 191(2) of the Act.

Conclusion

27. For the reasons given above I conclude the Council's refusal to grant an LDC in respect of construction of garage with brick walls and pantile roof was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Peter White

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/J1915/W/23/3328566

Land east of Upper Green Road, Tewin, Welwyn, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Cheryl Cook against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1555/OUT.
 - The development proposed is described as erection of 4no three bedroom detached bungalows together with creating two new vehicular accesses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with approval sought at this stage for access only, with layout, appearance, landscaping and scale reserved for future approval. Whilst the submitted proposed block plan shows how the site might be developed, I have treated details other than access as indicative and not formally as part of the scheme.
3. My attention has been drawn to an appeal decision¹ relating to the site, which was dismissed. The primary difference between the proposal and the previous scheme is the description of development, with the previous proposal for 3no affordable houses and 1no market house and new vehicular access.
4. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

5. The main issues are:
 - i) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - ii) the effect of the proposal on the openness of the Green Belt;

¹ APP/J1915/W/19/3226976

- iii) the effect on the character and appearance of the area; and
- iv) if the proposal would be inappropriate development, 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 proposal.

Reasons

Inappropriate Development

6. The appeal site is a relatively flat undeveloped parcel of land on the east side of Upper Green Road which lies within the designated Green Belt. The site lies immediately adjacent to terraced properties and a small cluster of dwellings lie to the north of the appeal site, separated by a wedge of undeveloped land either side of the public footpath. Opposite the appeal site are dwellings set back from the highway. The appeal site frontage is bound by mature vegetation which contributes to the verdant appearance of the street scene in the locality.
7. The Council's development strategy, as set out within Policy DPS2 of the East Herts District Plan (EHDP), sets out a hierarchy of locations where new development will be focussed, including limited development in the villages of the district.
8. Tewin is a Group 2 Village, as defined by EHDP Policy VILL2. This policy supports limited infill development and small-scale development identified in an adopted Neighbourhood Plan. It is understood that there is no Neighbourhood Plan which encompasses the appeal site.
9. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions as set out in paragraph 154 of the Framework.
10. The appellant submits that the appeal site forms part of the village and suggests that it represents an infill plot, which in their view establishes that the proposal would accord with the development plan and Framework.
11. The EHDP does not define infill, nor is there a definition in the Framework. Whilst my attention has been drawn to other Council's definition of infill, whether the proposal would represent infill is a question of planning judgement based on an assessment of the site and its surroundings.
12. Although the site is well related to the existing settlement boundary, I am not convinced that the proposal constitutes infill development. The appeal site would be separated from the cluster of dwellings to the north by an undeveloped area of land. I understand this is to allow access to the remainder of the land, that does not form part of the appeal site, and a public footpath. Whilst I do not disagree that infill generally refers to development between existing development, to my mind despite the site having built form either side the proposal would not result in the completion of a gap between an otherwise continuous and contiguous frontage.

13. I concur with the appellant that infill is not necessarily limited to a single dwelling. However, irrespective of the detailed design, scale and form of development, given the width and extent of the appeal site it appears relatively substantial, and by no means limited.
14. I recognise that there is a disagreement over whether or not the appeal site lies within the village. This is a matter of judgement having regard to the location of the application site and its relationship to other existing development adjoining and adjacent to it. Even if I were to accept the appellants assertion that the appeal site is within the village, for the reasons outlined above it does not constitute infill development.
15. As the appeal site is not identified for development within an adopted Neighbourhood Plan, nor can it be regarded as infill, the proposal is not, supported by Policy VILL2 of the EHDP. The proposed development would also be contrary to EHDP Policy GBR1 which states that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
16. In support of their view that the appeal site should have been considered to be part of the village, and accepted as an infill development, the appellant has drawn my attention to a number of proposals and appeal decisions including sites at Spellbrook² and Little Hallingbury³. While the full details of the other cases are not before me, I recognise that there may be some similarities. However, the site locations differ, I therefore cannot draw any direct comparisons to the appeal scheme before me. In respect of the site at Bricket Wood⁴ from the evidence before me this related to a different description of development. As a proposal for nine supported housing units used by people with learning disabilities, including a staff facility, I do not consider the proposal to be comparable to that before me. Similarly, it is understood that the proposal at Orchard Road⁵ related to a smaller quantum of development which limits the equivalence of the case to the current proposal.
17. In respect of the proposal at the junction of Tewin Hill⁶, north of the appeal site, the Inspector did not conclude whether the appeal site was within the village as it had been established that the proposal would be inappropriate development for the purposes of the Framework and development plan policy.
18. The appellant refers to the appeal site forming part of a larger site known as Site 8 which was considered by the Council in 2005 for the purpose of the Local Plan Inquiry. From the evidence before me the site was omitted due to sufficient housing coming forward. This previous assessment of the site therefore carries no more than limited weight in the determination of the appeal before me.
19. For the reasons stated above, I conclude that the proposal would not represent limited infilling in a village. It would therefore comprise inappropriate development in the Green Belt that would, by definition, be harmful to the Green Belt. It would fail to meet the exceptions set out in paragraph 154 of the Framework. There would also be conflict with Policy GBR1 of the EHDP which,

² Planning ref.no. 3/18/0959/FUL

³ APP/C1570/W19/3241822

⁴ APP/B1930/W/20/3249093

⁵ Site between 28-40 Orchard Road planning ref. no. 3/24/0018/OUT

⁶ APP/J1915/W/19/3226976

amongst other things, requires that planning applications within the Green Belt are considered in line with the provisions of the Framework.

Openness

20. Openness is an essential characteristic of the Green Belt. There are spatial and visual aspects to the assessment of the openness of the Green Belt. The appeal site forms part of a larger parcel of land which is enclosed by tall, mature vegetation.
21. The outline proposal does set the quantum of development proposed for the site. The appellant has indicated 4no single storey properties. Irrespective of the height of the proposed dwellings, and the presence of vegetation, the bulk and mass of the dwellings would erode the openness of the Green Belt in both visual and spatial terms.
22. I acknowledge the case made by the appellant, that the site is not wholly open as it is related to existing residential development to each side and the presence of substantial vegetation, including trees and a substantial hedgerow fronting the road. However, even though I am only considering the access as part of this appeal, it is apparent from the indicative drawings submitted that each of the dwellings would likely occupy a notable footprint and be of fairly considerable width. Therefore, the openness of the appeal site would be curtailed by the proposal such that I find that the openness of the Green Belt would be reduced by a significant degree.
23. Accordingly, for the reasons stated the development of the site would significantly harm openness.

Character and appearance

24. The terraced properties to the south of the appeal site do not have direct vehicular access from Upper Green Road. However, vehicular accesses along Upper Green Road are commonplace. With vegetation present to the frontages of many dwellings Upper Green Road has a verdant appearance.
25. Landscaping is reserved for subsequent approval. Some vegetation would be required to be removed, and engineering works to the raised roadside verge, to facilitate vehicular access to the site would result in some urbanisation of the land. However, I am satisfied that the insertion of two vehicular access points would not appear unduly conspicuous within the street scene.
26. For the reasons stated, I conclude that the proposed access drives would not be harmful to the character and appearance of the streetscene. Accordingly, the proposal would comply with policies DES2 and DES4 of the EHDP. Collectively, these policies seek to respect or improve upon the character of the site and surrounding area, including, amongst other things in terms of landscaping.

Other Considerations

27. The Framework advances that substantial weight be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

28. The appellants have set out a series of benefits which are argued in support of the case for approval, and I have considered and taken them all into account. In particular, the development would result in additional dwellings which would make a positive contribution to local housing supply, including adding to the variety of house types. The Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirements of an area and are often built out relatively quickly.
29. The appellant submits that there is a shortfall of bungalows both nationally and in East Hertfordshire. I have no evidence before me to contradict this assertion. The proposal is further advanced as being designed for the elderly and impaired for local people to purchase. However, I have not been presented with a robust mechanism that would secure it as such and therefore this is a point that carries no more than limited weight.
30. The Framework promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. It also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
31. It is not disputed that the appeal site is well related to the settlement which provides for a variety of services, including a village shop with post office, public houses, café, bowls club and village hall and that future occupiers could assist in supporting these facilities. It is also noted that Tewin has public transport links, albeit infrequent. I note the intended environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures for the dwellings to be constructed to Passivhaus standards and be as near to zero carbon as possible. However, these factors carry limited weight in favour of the development.
32. Views of the appeal site may be limited due to the presence of mature landscaping to its boundaries. Landscaping is reserved for subsequent approval and whilst the securement of biodiversity net gain is supported by the Framework this would not overcome the harms identified.
33. Limited information has been supplied regarding the site's former use. Having regard to the Framework's definition of previously developed land, I have little evidence to substantiate that the appeal site comprises such.
34. The appellant asserts that the site has become neglected due to vandalism. I have no evidence before me to contradict this assertion. However, I am not satisfied that the proposal is the only means of securing the land from anti-social behaviour and its long-term maintenance. This is therefore a neutral factor in the determination of the appeal.
35. There is no robust evidence before me regarding the assertion that there are no other suitable sites in the defined village boundary or abutting it that could provide for any form of residential development. I therefore attribute this little weight.
36. I acknowledge that the proposal would make a direct and indirect contribution to the local economy through an increase in spending power, and through increased employment opportunities and the purchase of materials during construction. These are matters to which I attach moderate weight.

37. I note the absence of objections from consultees on highway safety grounds and based on the evidence before me I have no reason to form a different view in this regard. I have no reason to doubt that the dwellings would satisfy the sustainable design and construction requirements of the development plan policies at the reserved matters stage.
38. I have had regard to the concerns of interested parties including, but not limited to, pressure on services, highway concerns, precedent for future development, effect on wildlife, loss of view and privacy. The Council did not conclude that these concerns would amount to reasons to justify withholding planning permission. I have been provided with no substantive evidence which would prompt me to disagree with the Council. I am, therefore, satisfied that these matters could be appropriately considered and controlled at reserved matters stage and/or through the imposition of planning conditions.
39. Support for the proposal from residents is noted, however, this does not overcome the harms I have identified.
40. I note the evolution of the proposal from a previously refused scheme. However, I have considered the appeal proposal on its own merits based on the evidence before me. Whilst the appellant has raised concerns regarding the Council's processing of the application, I can only deal with the planning merits of the case.
41. Taking all these considerations into account, I conclude that cumulatively the benefits and arguments in favour of approval merit moderate weight in favour of the appeal proposal.

Planning Balance and Conclusion

42. The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, I have found that the development would lead to a loss to the openness of the Green Belt, which would be harmful. In these respects, the proposed development would not accord with the development plan policies.
43. I have examined all the benefits and arguments in favour of the appeal proposal above, and cumulatively these other considerations should merit moderate weight in favour of approval. For the reasons I have explained, the harm to the Green Belt should afford substantial weight. Therefore, the substantial weight to be given to the Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances.
44. The Council is unable to demonstrate a five-year supply of deliverable housing sites. In such circumstances paragraph 11 d) of the Framework indicates, in summary, that where the policies which are most important for determining the application are out-of-date, permission should be granted, unless the application of policies in the Framework to protect areas or assets of particular importance provide a clear reason for refusing the proposal. Footnote 7 identifies the Green Belt as such a protected area. For the reasons I have explained above, the harm to the Green Belt should form a clear reason for refusing the development proposed.
45. The development is contrary to the Framework policy approach for the protection of the Green Belt. I have considered all other matters raised,

including the policies of the development plan, but none clearly outweigh the conclusions I have reached that the harm to the Green Belt is not outweighed by other planning considerations.

46. For the reasons set out above, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR



Appeal Decision

Site visit made on 13 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal Ref: APP/J1915/W/23/3320496

236A North Road, Hertford, Hertfordshire SG14 2PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Edward Pearce against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1870/FUL.
 - The development proposed is new gates (vehicular and pedestrian), brick piers and railings at vehicular/pedestrian access to 5 No. new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.

Main Issues

3. The main issues are:
 - Whether the development would be inappropriate development in the Metropolitan Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the development upon community cohesion and inclusion; and
 - If the development is inappropriate development in the Metropolitan Green Belt, whether the harm, by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development would be inappropriate development

4. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless it constitutes one of the exceptions set out in paragraph 154. The appellant refers to the exception at paragraph 154 (g) which sets out that new buildings would not amount to inappropriate development where they would constitute the following:

“limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”
5. To determine whether a development amounts to inappropriate development, paragraph 154 (g) requires a comparison to be made between the openness of the Green Belt with and without the proposed development.
 6. The appeal site was formerly a reclamation yard and landscape nursery. It contained a variety of buildings, including means of enclosure and hard surfaced areas. In December 2020, planning permission was granted for the site’s redevelopment. This entailed the demolition of existing buildings and the erection of 5 dwellings and associated works. Applications to vary this original planning permission have arisen since.
 7. The redevelopment of the site is largely complete – there are 5 dwellings in situ, an access and road serving them, together with hard and soft landscaping. Therefore, the site is now a small residential development, and its former reclamation yard and landscape nursery character has been replaced. Given this, for the purposes of comparing effects upon openness, the site’s former use is not the appropriate baseline, but rather it is the existing development – the group of dwellings.
 8. As an existing small residential development, I acknowledge that the appeal site is located within a part of the Green Belt where built development already has an influence. The site does not have the same degree of openness as, for instance, some of the undeveloped fields and woodland in the surrounding area.
 9. Even so, spanning across the access road, reaching a maximum height of 2.1 metres (m) and constructed of a combination of brick and metal, the proposed development would form a quite significant built feature. As it would be positioned on one road and quite closely beside the heavily trafficked North Road, it would form a clearly visible addition to the area. It would create an enclosing effect upon the existing residential development when viewed from North Road. Therefore, the proposal would result in this particular part of the Green Belt becoming more built-up and having an increased sense of enclosure. This would be sufficient to result in a reduction in the openness of the Green Belt.
 10. This reduction in openness would be modest rather than significant, but it would nonetheless result, and it would be harmful. Consequently, the proposal would have a greater impact on the openness of the Green Belt than the existing development, and it thereby fails to meet the exception at paragraph 154 (g) of the Framework. Furthermore, given the nature of the proposal and all of the evidence put before me in its regard, I have no valid reasons to conclude that the proposal meets any of the remaining paragraph 154

exceptions. Therefore, the proposal constitutes inappropriate development in the Metropolitan Green Belt.

The effect of the development upon community cohesion and inclusion

11. The appellant has drawn to my attention examples of properties in the area which are served by gated accesses. During my visit, I was also able to appreciate that along North Road there are a variety of means of enclosure in place. However, I also noted that within Waterford, just a short distance to the north, there were properties with drives and gardens beside the street which had a more open and inviting character. Therefore, although it is a part of the character of the area for some properties to be situated behind gates, it is not dominant, and plenty of other properties do not address the street scene in this way.
12. Policy HBH2 of the Bengeo Neighbourhood Area Plan (NP) sets out that gated communities will not be supported on the grounds that they do not support the principles of community cohesion and inclusion. I am mindful that this content is very reflective of policies within the Framework which set out that development should promote social interaction, including through street layout, and ensure developments are welcoming places to live.
13. I accept that the site is between Waterford and Hertford rather than a part and parcel of either of them. Despite this, given the proximity of Waterford in particular, and the house just to the south of the site, the existing 5-dwelling development is not so cut-off that it is not part of a wider community. The provision of the gates, piers and railings would serve to separate and shut-in the 5-dwelling development from the land beyond its bounds. This would run counter to the promotion of cohesion and inclusion sought-after by the aforementioned policies.
14. The evidence before me that the proposal is necessary on the grounds of safety and security or to prevent problematic parking and vehicular movements from visitors of Waterford Nature Reserve is not substantive. Consequently, I afford these matters limited weight in my decision.
15. For the above reasons, I find that the proposal would fail to support community cohesion and inclusion, and it conflicts with Policy HBH2 of the NP and advice within the Framework as a result.

Other considerations

16. The appellant submits that gates and piers spanning the access road could be erected through the exercise of the permitted development rights afforded by the Town and Country Planning (General Permitted Development) (England) Order 2015. However, in order to constitute permitted development, those gates and piers could only be a maximum of 1m in height. This would be quite considerably lower than is proposed in the appeal scheme. As a result, there would be differences between the effects wrought upon the openness of the Green Belt. As the larger building, the appeal scheme would have a greater effect upon the openness of the Green Belt than that which could be undertaken as permitted development.
17. Consequently, the appeal scheme would be the more harmful development within the Green Belt. Therefore, even though an alternative form of

development could be undertaken, it would be a less harmful development, and it does not weigh strongly in favour of the appellant.

18. The proposal may not harm the landscape, the living conditions of neighbouring occupiers nor result in effects prejudicial to highway safety. However, the absence of harm in relation to these matters is a neutral factor and does not weigh in the proposal's favour.
19. I have already referred to the variety of means of enclosure in the area and that these form a part of the character of the area. In reaching my planning balance and conclusion below, I have had regard to their presence. However, I must determine this appeal on its own merits having regard to the evidence before me now, my own experience and the particular circumstances of the case.

Planning Balance

20. The proposal amounts to inappropriate development in the Green Belt. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. I attach substantial weight to this harm. Further harm would result from the proposal's failure to support community cohesion and inclusion which conflicts with Policy HBH2 of the NP.
21. Against the harm I have identified, the other considerations in this case are not sufficient, either individually or cumulatively to clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify the development referenced at paragraph 153 of the Framework, do not exist. As Policy GBR1 of the East Herts District Plan requires that proposals are considered in line with the Framework, it follows that the proposal also conflicts with this policy.

Conclusion

22. The proposal conflicts with the development plan as a whole and the material considerations in this case, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

H Jones

INSPECTOR



Appeal Decisions

Site visit made on 5 March 2024

by **O S Woodward BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Appeal A - Ref: APP/J1915/W/23/3325870

Meesden Corner Cottage, Brent Pelham, Hertfordshire SG9 0AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Perrin against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2143/HH, dated 11 October 2022, was refused by notice dated 23 June 2023.
 - The development proposed is the creation of a single storey rear extension and associated sunken terrace and removal of wall and window, a porch to the main elevation, demolition of part of the north extension to be replaced by a new extension, along with a remodelled store room to create a bathroom, the removal of part of a dividing wall between the Piano Room and the store room, and new partition walls within a 1st floor bedroom.
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Appeal B - Ref: APP/J1915/Y/23/3325873

Meesden Corner Cottage, Brent Pelham, Hertfordshire SG9 0AR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Perrin against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2144/LBC, dated 11 October 2022, was refused by notice dated 23 June 2023.
 - The works proposed are the creation of a single storey rear extension and associated sunken terrace and removal of wall and window, a porch to the main elevation, demolition of part of the north extension to be replaced by a new extension, along with a remodelled store room to create a bathroom, the removal of part of a dividing wall between the Piano Room and the store room, and new partition walls within a 1st floor bedroom.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. Since the applications were determined a revised version of the National Planning Policy Framework (the Framework) has been released. The changes were not material to the appeal and I have reflected the revised Framework as appropriate throughout my Decision.

4. The appeal proposal relates to a Grade II listed building located in the Brent Pelham Conservation Area (the CA). I have therefore had due regard to my statutory duties as set out at s16, s66 and s72 of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act).
5. I have amended the descriptions of development to better describe the proposed works.

Main Issues

6. The main issues are the effect of the proposal on the special architectural or historic interest of the Grade II listed building, 'Meesden Corner Cottage'¹ (Appeals A and B), and on the character and appearance of the area including whether or not it would preserve or enhance the character or appearance of the CA (Appeal A).

Reasons

Existing

7. Meesden Corner Cottage is a Grade II listed building. It is a 17th Century cottage. The original part of the cottage is timber framed, rendered and with a thatched roof and timber casement windows. It has been extended and altered, particularly in the 20th Century, with additions to the north and west. The northern extension is single storey, weatherboarded and has a slate roof. The western extension is two-storeys, partly weatherboarded and partly rendered, and with clay tiled roofs.
8. The significance of the building is largely in its original part, with historic external fabric including render, timber framing and a thatched roof. The front elevation is particularly well composed and attractive, as well as retaining significant historic fabric. Internally, this part of the building retains extensive historic fabric and, largely at least, its original plan form. The two extensions are relatively unassuming and subservient, particularly because the two-storey extension is to the rear, and are legible as more modern additions. There is a distinct change in character between the original part of the building and the extensions. They make a neutral contribution to the significance of the building.
9. The CA covers much of the Brent Pelham village. It includes a range of building types and styles, materials and roof forms, dating from the 14th to 20th centuries. Many of the buildings are either listed or are buildings of local merit, and include a manor house and a church. The significance of the CA derives from its pleasing mixture of building types and styles, many of high architectural and historic interest, and from the organic development and growth of the village over time. The cottage is situated on a corner plot and is well-screened by hedgerows from the surrounding roads, but it is still visible including from the main road running through the village. The building contributes positively to the significance of the CA because it is a building of high architectural and historic interest, and particularly from the attractive front elevation and thatched roof.

¹ List entry No 1101917

Proposed

10. It is proposed to: construct a timber entrance porch with reclaimed slate roof to the main front elevation over the existing front entrance door; demolish the northernmost part of the existing north extension and replace it with an extension that projects further back to the rear; and erect a conservatory extension to the existing west extension with associated sunken terrace and steps within the garden.
11. In terms of internal works: the existing utility room within the retained element of the north extension would be remodelled to provide a bathroom; a new entrance door is proposed within the retained element of the north extension; the ground floor window and most of the external wall at ground floor level in the north elevation of the west extension would be removed to provide access to the conservatory; part of an historic wall within the original part of the cottage would be removed to expose the studwork; and, partition walls and a door would be inserted into one of the bedrooms within the 1st floor of the original part of the cottage to create an independent access point to an existing bedroom.

Assessment

12. The proposed conservatory and sunken terrace are not in dispute between the parties. The conservatory would be a lightweight addition at ground floor level to the rear of the property, to be accessed from the modern west extension. The sunken terrace would only involve a fairly shallow excavation to the existing ground levels and is also to the rear of the property. I therefore agree that these elements would not be harmful.
13. The demolition of part of the north extension would also be acceptable in principle. However, the replacement extension would be out of scale with the existing cottage, particularly from its significant projection to the rear. In addition, the existing extension is timber clad with very limited glazing which, in conjunction with its relatively small size, retains its subservience to the original part of the cottage. However, the proposed extension includes fairly extensive glazing, particularly in the return corner but also to the north elevation. Also, the proposed extension would include a relatively large pitched roof with prominent gable ends. These elements would be out of keeping with the character of the cottage and would emphasise the scale of the extension, exacerbating the harm caused.
14. The proposed extension would also harm the character and appearance of the CA, both because the extension would be visible, albeit heavily screened, from the primary road through the village, and from the intrinsic harm to one of the buildings that positively contributes to the character and appearance of the CA.

Conclusion

15. Therefore, the proposed north extension would harm the special architectural and historic interest of the listed building and the character and appearance of the CA. That there are other elements of the proposal that would be acceptable does not mitigate this harm. The proposal therefore fails to comply with policies HA1, HA4, HA7, HOU11 and DES4 of the East Herts District Plan 2018 (the DP). The policies require high quality design, and that proposals preserve or enhance heritage assets in accordance with the provisions of the Framework.

Other Matters

16. Whilst I note that no objection is raised to the proposed porch, I do not share that view because the front elevation of the original part of the cottage is attractive and well proportioned. The proposed porch would harm this by projecting beyond the original front elevation, harming the existing, unassuming and flat profile, and being an overly dominant addition to this important elevation. It would also have an awkward junction with the bottom of the thatched roof because the porch roof would directly abut the thatch.
17. The proposed internal works are also not in dispute between the parties. I largely agree that they would be acceptable. However, it is proposed to remove significant elements of an internal wall between the Piano Room and store room. Although this might reveal studwork which would retain a visual separation and demarcation of the store room from the main living area of the Piano Room, it would result in the loss of fabric in the building. The wall appears to be historic and no substantiated evidence has been provided of the importance or age of this fabric. In addition, the proposed partition walls within the 1st floor bedroom would harm the current layout by introducing a vestibule type area and leaving a bedroom with an awkward L-shape layout.
18. Had the northern extension not been determinative I would have asked the parties to comment further on those matters before coming to my decision on those aspects of the scheme. Given I shall refuse the proposal because of the northern extension little would be gained by delaying this matter to seek further comment on those other elements of the scheme.

Planning Balance

19. I assess the level of harm to be less than substantial. As set out at Paragraph 208 of the Framework, where the proposed development would lead to less than substantial harm to a heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
20. The property is a substantial family home that is currently occupied. There is no indication, or reason to believe, that any of the proposed works are necessary to secure the ongoing viable use of the home. With regard to public benefits, they would be extremely limited, because the proposal would only result in slightly larger house. They would not, therefore, outweigh the harm to both the listed building and the CA that I have identified, and to which I attach great weight.

Conclusion

21. For the reasons above, Appeal A is dismissed.
22. For the reasons above, Appeal B is dismissed.

O S Woodward
INSPECTOR



Appeal Decision

Site visit made on 7 May 2024

by R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/J1915/W/23/3330239

Woodland Grove, Waterford, SG14 3FQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J Johnson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0144/FUL.
 - The development proposed is the erection of a gate.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt
- The effect of the proposal on community cohesion;
- The effect of the proposal on highway safety; and
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Procedural Matter

3. The appeal submissions from the Council and Appellant refer to the 2021 National Planning Policy Framework. An updated version was published in December 2023 which replaced the 2021 version and I have considered the proposal against the most recent publication. References to paragraphs of the National Planning Policy Framework reflect the latest version.

Reasons

Green Belt

4. The appeal site comprises a residential estate of eight properties, accessed off Sacombe Road. There is also access into the rear of the estate from Vicarage Lane and Waterford Heath Car Park. The site is located to the east of Waterford and to the north of the main settlement of Hertford and is relatively detached

from the settlements. The appeal site falls within the Metropolitan Green Belt. The proposal would introduce an electric sliding gate across the main vehicular access.

5. The National Planning Policy Framework (2023) (the Framework) attaches great importance to Green Belts and states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 of the Framework identifies the five purposes of Green Belt land, which includes assisting in safeguarding the countryside from encroachment.
6. The Framework goes on to say that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 152) and paragraph 154 states that the construction of new buildings should be regarded as inappropriate. Exceptions to this are listed in paragraphs 154 and 155. However, these exceptions do not refer to the installation of any gates or boundary treatments and therefore, for the purposes of the Framework and the Green Belt, the appeal proposal should be considered as inappropriate development. Policy GBR1 of the East Herts District Plan October 2018 (District Plan), states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework.
7. I therefore find that as the proposal does not fall within any of the exceptions listed in the Framework it is, by definition, inappropriate development within the Green Belt and therefore harmful, to which I attach significant weight. As such, there should be very special circumstances to justify the proposal. I will return to this later on.

Openness

8. Openness is an essential characteristic of the Green Belt. Whilst the proposal would be a relatively small structure compared to dwellings and other buildings, developments of this scale can have an impact on the openness of the Green Belt.
9. The proposed gate would range from 1.6 and 1.8 metres in height approximately and would comprise a relatively open vertical railing design. Given the scale and design, which would allow for views through into the wider area, as well as the backdrop of the existing residential properties and the existing boundary fencing, I find that the proposal would not result in harm to the openness of the Green Belt nor have a greater impact on the openness than existing development. It would therefore preserve openness in this instance.
10. For the above reasons, the proposal would comply with the provisions of the Framework which seek to keep land permanently open and preserve the essential characteristics of the Green Belt.

Community Cohesion

11. Woodland Grove is a small estate of dwellings, detached from the main village of Waterford, but in proximity to some sporadic properties set in a linear form along Sacombe Road. Policy HBH2 of the Bengoe Neighbourhood Area Plan 2019 – 2033 (Neighbourhood Plan) states that proposals for 'Gated

Communities' in the Plan Area will not be supported. It is considered that they do not support the principles of community cohesion.

12. The proposal would result in a gated estate and would therefore be against policy however, I find that the appeal estate is likely to be a fairly self-enclosed development anyway as a result of its location and level of separation from the nearby main settlements. I consider that the presence of the proposed gate would be unlikely to exacerbate this. Furthermore, there are other pedestrian accesses from the existing estate into the surrounding rural lanes and the community nature park which would remain.
13. The Appellant has referred to other examples of properties and estates with gates. Along Sacombe Road some of the individual properties have gates across their driveways, however these are not directly comparable to the proposal before me as they serve individual properties. I note the other examples of gated estates, however I have limited details as to the considerations behind these and therefore I cannot conclude that these set a precedent for this proposal. Nevertheless, in any event, I find that the proposal would not result in undue harm with regards to matters of community cohesion.
14. Accordingly, whilst the proposal would fail comply with part II of Policy HBH2 of the Neighbourhood Plan, I have not found that harm would arise for the above reasons and therefore material considerations outweigh the policy conflict in this regard.

Highway Safety

15. The proposed gate would be set back from the main highway by about 7.5 metres and would operate by sliding across parallel to the existing fencing. The Appellant advises that the gate would be operated by a key fob for the residents, automatic sensors to open the gate between 6am and 6pm, and would be left open on refuse collection days.
16. Whilst I accept that many vehicles visiting the site would be under 7.5 metres in length, there may be occasions where larger delivery vehicles such as lorries require access into the estate. I note that Sacombe Road is a C road however the speed limit is 60mph at this point along the road and therefore vehicles may be travelling at relatively high speeds. Whilst the gates could be arranged to be open or could open as a vehicle approached, having the gates open for long periods of time would potentially undermine the security objectives of having the gates there in the first place. Furthermore, this arrangement could not be sufficiently controlled as part of the application and appeal and there could be occasions where the gates were not set to open resulting in vehicles potentially overhanging the highway.
17. The Appellant has referred to the guidance referring to a shorter distance of 6 metres in the Section 4 Design Standards and Advice Roads in Hertfordshire Highway Design Guide (3rd edition). However, it appears that this relates to individual driveways to allow cars to pull clear of the highway, and therefore is not applicable in relation to this appeal proposal, which relates to a gate across an estate road.
18. Consequently, it has not been adequately demonstrated that the measures proposed would be sufficient to ensure that there would be no detrimental

impact on highway safety as a result of vehicles accessing and exiting the appeal site. Based on the level of evidence before me, I find that the proposal would therefore fail to comply with Policy TRA2 of the District Plan which seeks to ensure that development proposals should be acceptable in highway safety terms, amongst other things.

Very Special Circumstances

19. When considering any planning application, substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
20. I have found that, whilst the proposed gate would comprise inappropriate development, as a result of the design which incorporates open railings allowing views through to the countryside and the overall size, there would not be harm to the openness of the Green Belt arising as a result of its installation. There would however be harm to highway safety for the above reasons.
21. The Appellant has put forward reasons for requiring the gates in relation to crime and the safety of the residents, including safety for pedestrians and children playing on the communal front area from vehicles travelling at speed and via the blind bend, and security from suspicious visitors at night and during the early hours. It has also been highlighted that there was previously a close boarded fence along the boundary of the site. I accept that this previously impacted further on the openness of the Green Belt. However, in relation to matters of safety, I have limited details before me of the level of crime or likelihood in the area, nor why other methods of security, such as CCTV or video doorbells, are not appropriate or sufficient to provide a deterrent. Furthermore, in relation to pedestrian safety it is unlikely that a vehicle would be travelling at speed having slowed to enter the estate and due to the shape and length of the estate road.
22. Accordingly, given my findings above, I have not been provided with sufficient evidence to conclude that there are very special circumstances in this case which would justify allowing the proposal. This would be contrary to paragraphs 152 and 153 of the Framework.

Other Matters

23. I note that under usual Permitted Development (PD) considerations that the gate could be constructed under these rights. However, the PD rights were removed as part of the permission for the estate in order to control all means of enclosure, including gates, therefore the fallback position of PD rights does not carry weight in this instance.

Planning Balance

24. I have found that the proposal would not be acceptable in highway safety terms and that very special circumstances to justify the development within the Green Belt have not been put forward. Whilst I have identified policy conflict in relation to HBH2 of the Neighbourhood Plan, there would not be harm arising in relation to community cohesion. The proposal would provide some benefits discussed above, however for the above reasons I find these carry limited weight in the planning balance. Inappropriate development in the Green Belt

should be given substantial weight and the proposal would conflict with Policy TRA2 of the District Plan.

25. I therefore find that the benefits and other circumstances identified by the Appellant do not outweigh the harms arising from the proposal and the substantial weight attached to Green belt harm, in this instance and the resulting conflict with the relevant local plan policies and the Framework.

Conclusion

26. For the reasons given above, and having had regard to all matters raised, the appeal should be dismissed.

R Norman

INSPECTOR



Appeal Decision

Site visit made on 13 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2024

Appeal Ref: APP/J1915/W/23/3330457

Stanstead Lodge, Stanstead Road, Stanstead Abbots SG12 8LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Angelika Hinton against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0721/FUL.
 - The development proposed is the installation of 3 x rows of freestanding solar panels along with associated cable connection to dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.
3. The submitted evidence indicates to me that the Stanstead Abbots and St Margarets Neighbourhood Plan (NP) is emerging. I have limited information before me in relation to the NP, but it would not seem to be at an advanced stage in its preparation. The Council's reason for refusal does not rely upon any of the NP's emerging policies and none have been put before me. In such circumstances, the NP is not a matter to which I have attributed any meaningful weight in my determination.
4. The appeal site is within the Metropolitan Green Belt. There is no dispute between the main parties that the development would constitute inappropriate development within the Green Belt, and I have no reason to disagree.

Main Issues

5. In this context, the main issues are:
 - The effect of the development upon the openness of the Metropolitan Green Belt; and
 - Whether the harm to the Metropolitan Green Belt, by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development proposed.

Reasons

The effect of the development upon openness

6. Stanstead Lodge is a large house which is served by a spacious and mature garden which is largely enclosed by trees and hedgerows. The proposed solar panels would be sited on a parcel of land currently comprising of grassland to the south of this garden. There is an existing cricket net adjacent to this parcel of land but, that aside, the land upon which the solar panels would be sited forms a part of a quite extensive tract of grassland with trees to its edges and which exhibits a largely open character.
7. The proposal would introduce built development onto a parcel of land where presently there is none. Reaching over 2.3 metres (m) above the ground level, each of the solar panels proposed would be of quite significant height. The panels would be arranged in 3 rows and would cover an area of 462m², albeit there would be gaps of undeveloped land left between them. Nevertheless, the solar array installation as a whole would represent a quite significant built feature. Given this, and how the existing land the development would be sited upon would change, a reduction in the openness of the Green Belt would result.
8. In coming to this view, I acknowledge that the appellant has assessed and discounted alternative locations for the installation. I have no grounds to conclude that the reasons for the other sites being discounted are not valid. Even so, and for the above reasons, in addition to the harm caused by reason of inappropriateness, there would also be harm to the Green Belt as a result of a loss of openness.

Other considerations

9. Stanstead Lodge is a Grade II listed building. The statutory duty contained within section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving listed buildings, their settings and any features of special architectural or historic interest which they possess.
10. Stanstead Lodge is a distinctively designed property which includes sash windows, a red tile-covered hipped roof and a semi-circular moulded porch with columns. Such traditional design features and materials exude architectural interest, and they contribute strongly to its significance as a heritage asset. It was once a farmhouse and so the building is also of historic value – it provides evidence of the area's agricultural heritage. Stanstead Lodge's mature garden, which features some large trees and lawns with planted borders, provides the building with an attractive and leafy immediate setting which contributes meaningfully to its significance. Beyond the garden, there is countryside and parkland which also provides a verdant and attractive wider setting to the listed building.
11. The Grade II listed park and garden of Briggens lies adjacent to Stanstead Lodge. The principal significance of Briggens stems firstly from its architectural and artistic interest which results from the features which remain from its original early 18th Century design. Secondly, it provides historic interest given it was designed by Charles Bridgeman a landscaped gardener of that era of national interest. Briggens includes individually listed features including, at its centre, the Grade II listed Briggens House. It is a mansion house which

exhibits distinguished and ornate design details. For this reason, I find its significance principally stems from its architectural and artistic interest. The remains of the historic park and garden the house overlooks, and is associated with, provides it with a verdant setting.

12. The trees and other soft landscaping which run along Stanstead Lodge's garden boundaries would provide effective screening for the panels in views from within the property and the garden. The trenches dug for the cabling would be filled in and could be appropriately re-landscaped in a manner sympathetic to the garden through which they would run. Details of the precise connection point to the house are not before me, it is proposed that this would be submitted to the Council under a separate application for listed building consent. For these reasons, and on the basis of what is before me, I am satisfied that the development proposed as a part of the appeal would preserve Stanstead Lodge's special interest and setting.
13. Between the listed park and garden and the land upon which the solar array would be sited there is a parcel of land which includes mature landscaping. This separation and the screening that exists would assist in limiting the intervisibility between the proposed development, Briggens and the listed buildings contained therein. Consequently, no harmful effects upon the setting of these designated heritage assets would result.
14. It is submitted to me that the proposed solar array would not only be able to provide for all of Stanstead Lodge's electricity requirements but that there would, in addition, be a power excess which would be exported into the grid and used to power other properties and services. Therefore, despite being a small-scale renewable energy project, the proposal would make a valuable contribution to significantly cutting greenhouse gas emissions. Doubtless it would improve the energy efficiency of the existing property, a matter which the Framework sets out should be given significant weight.
15. These would be benefits of the proposal, and I note that the proposal has attracted some public support as a result. These benefits would also be delivered at a time when East Hertfordshire District Council has declared a climate emergency in recognition of the effects that climate change is having upon residents of the district.
16. As a designated heritage asset, Stanstead Lodge is an irreplaceable resource which should be sustained. However, I have no substantive evidence that this would not occur in the absence of the proposal.
17. My attention has been drawn to appeal decisions for solar installations at East Hanningfield and Digswell. At East Hanningfield, a substantially larger solar installation was proposed. The decision sets out that it would provide power for over 16,000 households. Its contribution to combatting the effects of climate change would be substantially different from that at Stanstead Lodge. The two schemes are therefore not comparable.
18. More akin to the appeal before me, the Digswell scheme was a small-scale solar array project. I note that the power generated by the Digswell scheme was less than would be the case at Stanstead Lodge too. Equally, the solar array at Digswell had a smaller land-take, and the panels had a height of only 1.2m which is quite considerably lower than that proposed in my case. Consequently, the particular effects upon the openness of the Green Belt would

differ. Moreover, not all of the evidence that was before the Inspector in the Digswell case is before me. Appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case. For these reasons, whilst I have had regard to them, neither of the submitted appeal decisions are a strong influence upon my decision.

Planning Balance

19. The proposal amounts to inappropriate development in the Green Belt. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. I attach substantial weight to this harm. The development would reduce the Green Belt's openness, which gives rise to additional harm.
20. Whilst the proposal's benefits of cutting greenhouse gas emissions and improving the energy efficiency of Stanstead Lodge are significant, the other considerations in this case are not so significant that they clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development referenced at paragraph 153 of the Framework, do not exist. As Policy GBR1 of the East Herts District Plan requires that proposals are considered in line with the Framework, it follows that the proposal also conflicts with this policy. National planning policy attaches great weight to the Green Belt. Consequently, Policy GBR1 which relates to it is at the heart of the development plan. By conflicting with it, I find that the proposal conflicts with the development plan as a whole.

Conclusion

21. The proposal conflicts with the development plan as a whole and the material considerations in this case, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

H Jones

INSPECTOR



Appeal Decision

Site visit made on 14 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/J1915/W/23/3327372

Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Bullock against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1036/FUL.
 - The development proposed is the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping at Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ in accordance with the terms of the application, Ref 3/23/1036/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr C Bullock against East Hertfordshire District Council. This is the subject of a separate decision.

Preliminary Matters

3. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would amount to isolated housing in the countryside, having regard to the relevant policy within the Framework, and whether the proposal accords with relevant policies within the development plan which control housing in rural areas; and
 - The site's accessibility to services, facilities and sustainable transport modes.

Reasons

Rural and isolated housing

5. The site is located within the village of Bull's Green, and it is situated beside residential properties. Bull's Green adjoins the village of Burnham Green. Both villages predominantly contain residential properties but include some, albeit limited, facilities. This includes, very near the site, The Horns pub. The surrounding area includes other villages such as Datchworth and Tewin. All of these villages are located within an area which is largely rural in character.
6. As the site is set amongst the built-up parts of Bull's Green, it forms part and parcel of a village. It is not separated nor detached from the houses and other buildings within Bull's Green and, together with the adjoining Burnham Green, the site forms a part of a consolidated tract of settlement. For these reasons, the site is not within an isolated position. Consequently, the Framework's policy on isolated homes in the countryside set out at paragraph 84 is not relevant to the proposal and, in turn, there is no conflict with it.
7. Bull's Green and Burnham Green are each identified as Group 3 Villages by Policy VILL3 of the East Herts District Plan (LP). This policy permits limited infill development within such villages, but only where it is specifically identified within an adopted neighbourhood plan. In this case, no adopted neighbourhood plan identifying such development applies. As a result, the proposal conflicts with this policy.
8. Policy DPS2 of the LP sets out a development strategy. It accepts limited development within villages. However, given that Policy VILL3 requires that development in Group 3 Villages must be identified within a neighbourhood plan, and as that would not be the case here, I find that the proposal does not constitute the type of limited village development advocated by DPS2. Therefore, I also find that the proposal does not accord with the development strategy set out within DPS2.
9. Consequently, although the proposal would not amount to isolated housing in the countryside in the terms of the Framework, for the reasons I have set out, it would, nevertheless, conflict with the aforementioned development plan policies that control the location of housing in rural areas. Amongst other matters, those policies adopt a particular approach to the direction and scale of housing within the District's villages. There is nothing about this approach I find to be inconsistent with content within the Framework. I return to the weight I attribute to the development plan policy conflicts I have identified later in my decision.

Accessibility

10. As Group 3 Villages, I accept that both Bull's Green and Burnham Green contain a limited array of services and facilities. In order to access the typical range of services that they would likely require frequently, the future occupiers of the proposed development would have to travel further afield. I expect that there would be a reliance upon a private car – likely for any commuting requirements and to access the types of services small villages do not have - such as supermarkets for instance.

11. That said, the local area nevertheless contains various services and facilities. Many of these are not very far away from the site. In the context of the rural area the site is within, the site has some accessibility credentials of merit.
12. Firstly, and very near to the site, is a pub and a bus stop. Although the bus services provided are infrequent and it is not served by a formal shelter, it would nevertheless, at particular times in the week, provide an alternative sustainable travel option. The buses run to bus and railway stations in larger settlements such as Hertford – places with many facilities and onward connection options.
13. Burnham Green has a beautician's, a pub and a playground. Bull's Green is separated from Datchworth by only a small tract of countryside through which Bramfield Road runs. Datchworth contains pubs, a coffee shop, a convenience store, a village hall, sports facilities and a playground. For what is quite a small settlement, I consider this to be a good array of facilities. Although the routes along which these facilities in Burnham Green and Datchworth are not all served by streetlights and footpaths, they are each close enough to the site that, on a pleasant day, prospective occupiers of the development may well choose to walk or cycle to them.
14. Consequently, there would be options available to the future occupiers of the development to access services and facilities without being wholly reliant upon a private car. Furthermore, when a car is to be relied upon, given the number of nearby settlements and the collection of facilities within them, only short trips would be necessary at times. Dedicated cycle storage is proposed within the development which would assist in encouraging cycling as a transport option. An electric vehicle charging point is also proposed, albeit, this is a requirement of building regulations anyway.
15. In the round, and in the context of the rural area it is set within, I therefore find the site's accessibility to services, facilities and sustainable transport modes to be acceptable. The proposal complies with Policy TRA1 of the LP which, amongst other matters, requires that development be located in places which enable sustainable journeys to be made to key services and facilities and seeks to ensure that a range of sustainable transport options are available to development occupiers.

Other Matters

16. My attention has been drawn to two appeal decisions for housing in the Bull's Green/Burnham Green area. In each, the extent to which the proposal would or would not comply with policies DPS2, VILL3 and TRA1 and the site's accessibility credentials, were main considerations. One appeal was allowed and one dismissed. There are elements of my decision which align with, but also diverge from, the conclusions of the Inspectors in those cases. However, importantly, appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case.
17. The appeal site is located within the Green Belt. Policy GBR1 of the LP, states that proposals within the Green Belt should be considered in line with the Framework. The Framework identifies that the construction of a new building in the Green Belt should be regarded as inappropriate, unless it would constitute

one of the exceptions set out in paragraph 154. One of those exceptions is limited infilling in villages.

18. The site is within a village. Although the site is presently garden land, it nevertheless constitutes a gap off Bramfield Road between the residential properties north and south of it. Siting a dwelling in the position proposed would be reflective of the generally linear settlement pattern in Bull's Green. Furthermore, 76 Bramfield Road itself is located to the site's west. Therefore, the site has existing buildings to its immediate surrounds. With just a single dwelling proposed, the amount of development to be constructed would be modest. For these reasons, the proposal would constitute limited infilling in a village. It would therefore not be inappropriate development in the Green Belt, which is compliant with GBR1 and the Framework.
19. The nearest residential properties to the site are a mix of two storey houses and bungalows some of which have accommodation within their roof spaces. These properties vary in size, scale and design but lightly-coloured render and brick building materials are common, as are feature gables and dormer windows. Reflective of this, the proposed dwelling would have accommodation across two floors, brick and render are proposed, and it would feature dormers and a pronounced front gable. The existing access drive serving No 76 would remain. This would ensure that a substantial gap would be maintained between the proposed dwelling and No 72. Given these factors, the dwelling's design, size and scale would be sympathetic to the area, and it would not appear squeezed into its plot.
20. Garden land would be built-upon. However, the new dwelling would be served by both front and rear gardens and some landscape features which contribute positively to the character and appearance of the area are proposed to be retained. Consequently, siting the development within the existing garden would not be harmful to the area.
21. The proposed dwelling would flank the blank, side elevation of the detached garage associated with No 72. The bungalow at No 72 itself is set farther back into its plot. The proposed dwelling would therefore have an angled relationship with the neighbouring bungalow. The presence of the access drive, which would serve the proposed dwelling and No 76, provides for separation between the site and No 72's plot. These factors would ensure that any effects of the proposal upon the outlook and sense of enclosure of No 72 would be limited.
22. The first floor windows proposed within the dwelling would be orientated in a south-westerly direction. They would therefore be gently angled away from No 72 which is to the site's north and north-west. This would ensure that the privacy of the occupiers of No 72 would not be unduly infringed upon.
23. As the proposed dwelling would be sited to the south side of No 72, and given its two storey nature, I expect that some reduction in light received within the plot at No 72 would be likely at times. This would also be likely to affect the light received by the solar panels, especially the nearest ones on the garage. By reason of their greater separation from the proposed dwelling, the panels on the bungalow itself, and the windows in the elevation beneath them, would likely be less affected. No 72 has an extensive garden to the west of the bungalow, and I expect that much of this would be unaffected. Therefore, the occupiers of No 72 would be the subject of some harmful light level reduction as a result of the proposal, but the extent of it would be moderated. Relevant

Policy DES4 of the LP sets out that significant detrimental impacts on the amenity of neighbouring occupiers should not arise as a result development. The proposal would comply with this policy as any harm which would arise would not be at a significant level.

24. The occupiers of No 72 express concerns with the comings and goings of vehicular movements associated with the development. However, with only a single dwelling proposed, the number of movements that would take place would be limited. The proposed parking spaces are set away from the bungalow at No 72 and would be partly screened by the existing garage. Consequently, the movements to and from the site associated with the development would not be disruptive.
25. Finally, the Council accepts that they cannot demonstrate a deliverable five-year supply of housing land as required by the Framework. The implications of this I discuss further below.

Planning Balance

26. As the Council cannot demonstrate a deliverable five-year supply of housing land, paragraph 11 d) of the Framework applies. There are no policies in the Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed. I must therefore consider whether the adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits.
27. In my first main issue, I have identified that the proposal would not comply with the development plan's planned distribution for housing development, as established by DPS2 and VILL3. As these policies govern the spatial distribution of development, they are at the heart of the development plan, and by conflicting with them, I find that the proposal is in conflict with the development plan as a whole.
28. However, despite these findings, in my second main issue, I have also identified that the accessibility credentials of the site are acceptable within the context of a rural area. Therefore, the harm that would arise from the conflict with the aforementioned development plan policies and the siting of development at some odds with the plan's development strategy is somewhat mitigated. Therefore, I attribute a moderate amount of weight to the development plan conflict. Some further harm would result upon the living conditions of the occupiers of No 72, but this would be quite modest.
29. Given the housing land supply position, the proposal would make a modest but, nevertheless, valuable contribution in this regard. As a small site, it is likely that the development would be delivered quite quickly too. Paragraph 70 of the Framework points out that small and medium sized housing sites can make quick and important contributions to housing supply. These very circumstances would apply here.
30. Through the provision of the likes of bat, bird and invertebrate boxes and native planting, the proposal would result in some modest biodiversity enhancements. Some modest economic benefits and support to services and businesses in the area would be derived from the construction and operational phases of the development.

31. Collectively, I attribute a significant amount of weight to the benefits of the proposal. When assessed against the policies in the Framework as a whole, the adverse impacts of the development do not significantly and demonstrably outweigh the benefits of the development. Consequently, the presumption in favour of sustainable development applies.
32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. I have identified conflict with the development plan taken as a whole. However, the Framework is an important material consideration, and the outcome of the paragraph 11 d) balancing exercise indicates that permission should be granted. In the particular circumstances of this case, I find that the material considerations are sufficient to outweigh the conflict with the development plan.

Conditions

33. Condition 1 sets out the standard time limitation. Condition 2 is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
34. A condition to ensure parking provision is provided is necessary in the interests of highway safety. To promote sustainable means of travel, a cycle storage condition is required.
35. Although some details of external materials, site enclosure, cycle and bin storage are provided, they are imprecise. In the interests of the character and appearance of the area I have therefore imposed conditions in these regards.
36. Conditions requiring a scheme which ensures the protection of landscape features to be retained, defines proposed landscaping and ensures the final detail of the ecological enhancement and mitigation measures is necessary in the interests of the character of the area and the promotion of biodiversity. These conditions require agreement before the development commences as some mitigation must be in place as a pre-cursor to the construction works.
37. Policy HOU7 of the LP requires that all new homes meet the optional Building Regulations standard for accessible and adaptable dwellings. So that the proposal complies with this policy, I have imposed condition 4. This is a pre-commencement condition as matters such as site levels can be relevant, therefore, the scheme must be devised at a very early juncture.
38. Together with its supporting text, LP Policy WAT4 sets out that East Hertfordshire is an area the subject of water resource stress. So that water is used efficiently, the policy requires that residential development meets the optional Building Regulations water efficiency consumption target of 110 litres or less per head per day. I have therefore imposed condition 8.
39. Condition 13 is necessary in the interests of health and safety and condition 14 in order to protect the living conditions of local residents during the construction phase.
40. Although the site is located within the Green Belt, with residential properties nearby, the Planning Practice Guidance is very clear that the unjustified removal of freedoms to carry out domestic alterations to properties will not meet the tests for imposing conditions. In this case, it has not been shown to

me that there is a clear justification for the removal of these freedoms. I have, therefore, not imposed such a condition.

Conclusion

41. For the reasons I have set out, the proposed development would conflict with the development plan as a whole, but material considerations indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

H Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

P01
P03 B
P04 B
P05 B
P06 B
- 3) No development shall take place until a scheme of ecological mitigation and enhancement measures, inclusive of a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include:
 - a) the measures to be deployed to protect radiating and sheltering mammals during the construction and operational phases of the development;
 - b) details of a low-impact lighting scheme for both the construction and operational phases of the development;
 - c) the measures to be deployed to protect nesting birds; and
 - d) details of the provision of 1 bird box, 1 bat box and 1 invertebrate box.

Thereafter, the development shall be carried out in accordance with the approved details.

- 4) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which details the measures to be included to ensure that the dwelling meets the optional Building Regulations requirement M4(2): Category 2 – Accessible and Adaptable Dwellings. Thereafter, the development shall be carried out in accordance with the approved scheme and the measures thereafter retained.

- 5) No development, nor works to trees or hedgerows, shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) details of all existing trees and hedgerows to be retained and the measures for their protection throughout the course of development;
 - b) details of proposed planting including the species, plant supply sizes, planting locations and plant numbers/densities. The planting shall include native species;
 - c) details of all hard surfacing materials to be provided; and
 - d) a timetable/programme for implementation of the scheme of proposed landscaping which details the trigger points for when the planting, seeding and turfing will take place and be completed and when the hard landscaping works will be provided.

Any trees or plants which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Agreed tree and hedgerow protection measures must be implemented before the development commences and must be retained until the completion of the development.

The development shall be carried out in accordance with the approved details.

- 6) No development involving the erection of any sections of the external walls or roof of the dwelling hereby permitted shall take place until full details or samples of the external wall and roofing materials have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 7) No development involving the insertion of any doors or windows shall take place until full details or samples of the materials and finish of all doors and windows have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 8) The dwelling hereby permitted shall not be occupied until a scheme has been submitted to and approved in writing by the local planning authority which details the measures to be included to ensure that the dwelling meets the optional Building Regulations requirement G2 – Water Efficiency consumption target of 110 litres or less per head per day. Thereafter, the development shall be carried out in accordance with the approved scheme and the measures thereafter retained.
- 9) The dwelling hereby permitted shall not be occupied until the driveway and private vehicular parking spaces proposed to serve it have been implemented in accordance with the approved plans.
- 10) The dwelling hereby permitted shall not be occupied until cycle storage has been provided to serve it in accordance with details that have first

been submitted to and approved in writing by the local planning authority.

- 11) The dwelling hereby permitted shall not be occupied until bin/recycling storage has been provided to serve it in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 12) The dwelling hereby permitted shall not be occupied until any means of enclosure have been completed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 13) If, during the course of development, any contamination is found it shall be reported immediately to the local planning authority, work shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation measures, including timescales for their implementation, shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescales. Thereafter, a validation and verification report shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 14) Construction works, the related operation of plant and machinery and related site deliveries or site despatches shall only take place between the hours of 08:00 and 18:00 on Mondays to Fridays inclusive and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.



Costs Decision

Site visit made on 14 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Costs application in relation to Appeal Ref: APP/J1915/W/23/3327372 Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr C Bullock for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Consistency in decision making is important, and where a Council does not determine similar cases in a consistent manner this can amount to unreasonable behaviour. However, it is also well established that applications should be considered on their own individual merits having regard to their particular circumstances.
4. The Coltsfoot Lane appeal was allowed whilst the Burnham Green Road appeal was dismissed. Although there are some differences between the location of these sites, both are within the Bull's Green/Burnham Green area and near the 76 Bramfield Road site. Some of the views expressed by the Inspectors in these decisions diverged.
5. I find that the Council had due regard to both of those appeal decisions and came to its own conclusion on the present appeal in the light of them. This was entirely appropriate. I cannot agree with the applicant that the Coltsfoot Lane appeal is clearly the more relevant of the two. Appraising the acceptability of the accessibility credentials of a site is a matter of judgement. The Council has provided a detailed appraisal of the appeal site's accessibility credentials and why, in its view, they are deficient. Although in my appeal decision I have concluded that the appeal site's accessibility to services, facilities and sustainable transport modes is acceptable for the development proposed, it was not unreasonable of the Council to have come to the opposing view.
6. The Council have therefore substantiated its views on this matter, even if I have not agreed with them. Furthermore, it can also be seen from my decision

that I agree with the Council in part – there is some conflict with development plan policies.

7. Consequently, I find that the Council appraised the appeal scheme on its own merits with proper regard to planning history in the area. In doing so the Council behaved reasonably. Therefore, an award of costs is not warranted.

H Jones

INSPECTOR



Appeal Decisions

Site visit made on 9 April 2024

by **O S Woodward BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2024

Appeal A - Ref: APP/J1915/W/23/3332090

41 High Street, Buntingford, Hertfordshire SG9 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Steven Finney against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1519/HH, dated 5 August 2023, was refused by notice dated 11 October 2023.
 - The development proposed is the removal of existing conservatory, erection of rear single storey extension and loft conversion.
-

Appeal B - Ref: APP/J1915/Y/23/3332095

41 High Street, Buntingford, Hertfordshire SG9 9AD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Steven Finney against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1520/LBC, dated 5 August 2023, was refused by notice dated 11 October 2023.
 - The works proposed are the removal of existing conservatory, erection of rear single storey extension and loft conversion.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matter

3. Appeal B relates to part of the Grade II* listed building, named 'Victoria House, 41 43, High Street'¹, namely No 41 High Street. Because Appeal B relates to a refusal to grant listed building consent, both appeals relate to works that would affect the setting of other listed buildings, and the appeal site is within a conservation area, I have had special regard to Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are the effect of the proposal on the:
 - special architectural or historic interest of the Grade II* listed building, Victoria House (Appeals A and B);

¹ List entry number 1101310

- special architectural or historic interest of the Grade II listed buildings, named '35, 37, 37A, High Street², '39, High Street³, '2 and 4, Baldock Road⁴, and '6 and 8, Baldock Road⁵ in terms of how the buildings are experienced in their settings (Appeals A and B);
- character and appearance of the area, including whether or not it would preserve or enhance the character or appearance of the Buntingford Conservation Area (Appeal A); and,
- living conditions of the occupiers of Nos 39 and 37A High Street, with regard to overlooking and privacy (Appeal A).

Reasons

Victoria House

Significance

5. Victoria House is a former Coaching Inn, from the 15th and 16th centuries. It is Grade II* listed. It is now partly a house (the appeal property) and partly a shop (No 43).
6. The rear elevation of the building has a prominent, large roof with historic tiles. There are two rear projections, both non-original but still historic, the smaller of which is part of the appeal property. To the appeal property, the windows are predominantly timber sash, but in some instances double glazed. The extension to the appeal property is subservient to the original part of the building, due to its relative narrowness and because it reflects the materiality and style of the main building. Although altered, the rear elevation is still relatively attractive and positively contributes to the significance of the listed building. This is with the exception of a small conservatory attached to the rear of the main rear wall, which is an unattractive, modern feature that detracts from the significance of the building.
7. Internally, the appeal property retains significant, important historic fabric, including historic walls to both ground and first floor, and historic timber rafters and support structure in the roof. This fabric positively contributes to the significance of the building. However, the layout has been much altered through the introduction of the rear extension and also through a small side, rear extension directly adjoining the rear elevation of the adjacent building. The layout of the house is therefore of lesser importance to the significance of the building.

Proposed

8. It is proposed to demolish the existing conservatory and erect a new rear extension at ground floor level that would project the full length of the existing rear extension. A separate structure would be erected in the rear garden to provide an outside dining area. There would also be various internal works associated with the new extension and a new loft room.

² List entry number 1101309

³ List entry number 1348022

⁴ List entry number 1347970

⁵ List entry number 1173795

Assessment

9. There is no objection to the removal of the poor quality existing conservatory. However, even though only one-storey, the proposed rear extension would, in conjunction with the existing rear projection, create a full-width extension to the appeal property. It would also be relatively tall for a one-storey structure, accentuated by the proposed balustrading to the roof terrace. It would therefore be too large and bulky. Its height would be disproportionate to the existing rear extension, unbalancing the appearance of the property at ground floor level. The prominent steel balustrading and spiral staircase would introduce an alien form and materiality to the rear elevation, causing further harm. In addition, although open sided, the proposed rear structure would be positioned close to the proposed rear extension and has a large footprint, further overwhelming the existing building.
10. The proposed rooflights would be of acceptable external appearance because they would be relatively small and unobtrusive and because there are existing rooflights to the roof of the existing rear extension to the No 43 part of the listed building. The submitted information states that they could be positioned without the loss of any historic timber rafters. However, whilst some of the rafters might be more modern, no substantiated information or survey work has been undertaken to confirm this, or whether or not the rooflights could be inserted without requiring the removal of historic timber. This cannot be conditioned because it has not been demonstrated that there is any possibility of the rooflights being installed without the loss of important historic fabric. In addition, inserting the rooflights would involve the loss of tiles from the roof.
11. The creation of a loft space would require a new floor and potentially new insulation or other roof material to the under-side of the existing roof. No survey or detailed structural work has been provided to confirm if these elements could be provided without requiring the removal of, or causing damage to, important historic fabric. For example, a tie-beam or other oak support beams to the loft floor. For the same reason as with the rooflights, this cannot be conditioned. Even if material harm could be avoided to the historic fabric, the partitioning of the currently open loft space and covering up of existing exposed historic timber framing would in itself be harmful.
12. Internally, the existing window to be removed and replaced to the rear elevation is a relatively modern double glazed unit. The wall to the bedroom to be removed is a partition wall, and the cupboard is also a modern and lightweight addition. These elements of the proposed works are therefore acceptable. In addition, below loft level, the overall change to the layout of the building would be acceptable, despite the introduction of a substantial, open living room because the layout has already been substantially altered from the original Inn through the rear extension.

Conclusion

13. As set out above, the proposal overall would harm the special architectural and historic interest of the Grade II* listed building. The proposal would therefore be contrary to Policies HA1 and HA7 of the East Herts District Plan 2018 (the DP), which reflect the requirements of the National Planning Policy Framework (the Framework) with regard to the protection or enhancement of listed buildings.

Nearby listed buildings

Setting and significance of the listed buildings

14. Directly to the south of the appeal property is the Grade II listed building, No 39 High Street. It is part of a terrace, albeit of distinctly different buildings, including the appeal property. Part of the first floor of No 39 sits over the most southerly element of the ground floor of the appeal property. The garden to the appeal property therefore partially lies underneath the first floor of No 39. This creates a very close and overlapping relationship between the two properties. The ground floor element of the appeal property is only one-storey, relatively small in footprint, and has articulation through step backs in its footprint. This, in combination with a small closet wing extension to No 39, creates a pleasing composition to the rear that positively contributes to the significance of No 39.
15. Further to the south, is the Grade II listed building, Nos 35 to 37A High Street, also part of the terrace. The rear elevations are appreciated together. There is screening at ground floor level because of a garden wall between Nos 39 and 41. However, there remains some inter-visibility, particularly above ground floor level, or as viewed from windows to first floor level or above. Nos 35, 37, 37A is further away from the appeal property than No 39 and has been more extensively extended and altered to the rear, including a fairly substantial ground floor extension with a terrace and associated balustrading above. Nevertheless, the appeal building is appreciated in the context of the rear of Nos 35 to 37A High Street and contributes positively to its setting.
16. There are further Grade II listed buildings along Baldock Road, at Nos 2 and 4, and 6 and 8. They are houses, from the 17th and 18th centuries. Insofar as is relevant to the appeal proposal, the primary element of their setting is that the rear gardens face towards the garden of the appeal property and the proposed works to the rear. As existing, there is an intimate relationship between the rear garden areas from the proximity of the buildings and that the Baldock Road properties are at right angles to those on High Street. Despite the partial erosion of the breathing space within the gardens by the extensions to the High Street buildings, this area contributes positively to the setting and therefore significance of the Baldock Road buildings. I acknowledge that there are some unfortunate elements in the rear garden areas, such as refrigeration units. However, this doesn't significantly undermine the fundamental relationship.

Assessment

17. The proposed rear extension, due to its bulk and mass, would unbalance the composition of the rear elevation of the appeal property as it relates to No 39. The extension in combination with the large open sided structure would overwhelm the setting of No 39, with the open sided structure to be located directly to the rear of the first floor of No 39. The proposed works would harm the currently pleasing, subservient, and articulated form at ground floor level, in the direct setting of No 39.
18. There would also be some harm to the setting of Nos 35 to 37A from the bulk, mass and footprint of the proposed extension and open sided structure, although this would be to a lesser degree because of the greater separation from the rear of that property, and the intervening existing garden wall providing some screening. For the same reasons, there would also be harm to the setting of Nos 2 and 4, and 6 and 8 Baldock Road.

Conclusion

19. For the reasons above, I have found harm to the special interest and significance of the Nos 35, 37, 37A, High Street, No 39 High Street, Nos 2 and 4 Baldock Road, and Nos 6 and 8 Baldock Road listed buildings in terms of how the buildings are experienced in their settings. The proposal would therefore be contrary to Policies HA1 and HA7 of the DP, which reflect the requirements of the Framework with regard to the protection or enhancement of listed buildings, including their settings.

Character and appearance

20. The appeal property lies in the Buntingford Conservation Area (the CA). As set out in the Buntingford Conservation Area Appraisal and Management Plan, July 2016, the buildings and street scene along High Street are the primary contribution to the significance of the CA. The proposal would not affect the appearance of High Street because the front elevation would be unchanged. There would, nevertheless, be some harm to the character and appearance of the area from the proposed works to the rear, for the reasons as set out above. The rear extension and open sided structure would be visible, albeit obliquely, from Baldock Road, and from private views from surrounding properties.
21. The proposal would, therefore, harm the character and appearance of the area including the CA. It would therefore fail to comply with Policies HA1, HA4, DES4, and HOU11 of the DP. These policies require high quality design and reflect the Framework with regard to the protection of the character or appearance of conservation areas.

Living conditions

22. There are residential properties to the above ground floor levels of Nos 39 and 37 High Street. No 39 has a window to the rear at first floor level that directly overlooks the garden of No 41, ie the appeal property. It also has a further window to the rear, as does No 37.
23. The proposed external dining area underneath the open sided structure could potentially lead to a greater intensity of use of the garden of the appeal property. However, the use of this area would not functionally change and there would not likely be a meaningful increase in noise or disturbance to neighbouring occupiers from the creation of this under cover space.
24. It is unclear if the proposed area on the flat roof of the proposed rear extension is proposed to be used as a terrace, or simply for fire access. However, the extent of balustrading and the over-engineered nature of the spiral staircase indicate that it is likely the intention is for it to be used as a roof terrace. I have given consideration as to whether a condition could be used to limit use of the flat roof for emergency access only. However, this would be difficult to enforce because of the ease of access to the terrace.
25. I therefore consider the effect of the proposal with the flat roof in use as a terrace. This would afford overlooking very close to the existing rear windows at first floor level to No 39. This would create a harmful loss of privacy to the occupants of No 39. Although to a lesser degree, because of the greater distance and more oblique angle, there would also be overlooking at fairly close distance to the rear windows to No 37, also resulting in a harmful loss of privacy.

26. The existing overlooking of the garden of the appeal property by users of the existing terrace to No 37 is not a relevant consideration. This is because, even if this does create a harmful relationship and loss of privacy to the occupants of the appeal property, this would not justify the creation of a harmful relationship in the opposite direction.
27. As such the proposal would unacceptably harm the living conditions of the occupiers of Nos 39 and 37 High Street with regard to loss of privacy. The proposal therefore fails to comply with Policy DES4 of the DP, which seeks to protect living conditions.

Other Matter

28. The appellant alleges that there are numerous breaches of local planning and listed building consent in the nearby area. I have not considered this further because the proposed works must be considered on their own merits.

Planning Balance

29. The harm that I have identified above to the significance of Victoria House would be reasonably significant, and to a Grade II* listed property. I place great weight on this harm, as directed by Paragraph 205 of the Framework. Nevertheless, it would be less than substantial harm. The harm to the settings of the nearby listed buildings and to the CA would be lesser and would also be less than substantial harm. As set out at Paragraph 208 of the Framework, where a development proposal would lead to less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
30. The appeal property is an occupied dwelling of reasonable size and in good condition. There is no evidence before me, or reason to believe, that the proposed works are required to secure its continuing viable use. The public benefits of the proposal are very limited because it would only result in the modest increase in size and useability of the home. The public benefits would not, therefore, outweigh the harm to the significance of the listed buildings and the CA, as set out above. The proposal therefore fails to comply with the Framework and with Policy HA1 of the DP, which reflects the Framework in this regard.

Conclusions

31. For the reasons set out above, Appeal A is dismissed.
32. For the reasons set out above, Appeal B is dismissed.

O S Woodward's
INSPECTOR

NEW PLANNING APPEALS LODGED MAY/JUNE 2024
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/22/0714/FUL	Change of use from public house (with ancillary accommodation) to single residential dwelling.	The White HorseWare RoadWaresideWare SG12 7QX	Refused Delegated	02/05/2024	Hearing
3/23/0981/FUL	Change of use from stables and paddock to C3 residential. Erection of 1 detached 5 bedroom dwelling with detached triple garage. Associated landscaping and parking.	Land Off Poles LaneThundridge	Refused Delegated	24/05/2024	Written Representation
3/23/1233/FUL	Retrospective change of use of 1-6 Ash Tree Barn from Class E (formerly B1) to C3 residential dwellings (resubmission)	Ash Tree Barn 1-6Monks Green FarmMangrove LaneBrickendon SG13 8QL	Refused Delegated	07/05/2024	Written Representation
3/23/1348/FUL	Continued use of land for dog walking activity (Sui Generis), with proposed longer daily hours of operation (07:00 - 19:00), also to be used at weekends, the maximum number of dogs on site to be increased to 20, the private rental of the site for a maximum of 2 members of the public to exercise their dogs, the designation of a portion of the site to agricultural use, and car parking to take place within the site	Land At Brookfield LaneAston	Refused Delegated	12/06/2024	Written Representation
3/23/1500/FUL	Demolition of dwelling and erection of detached four bedroom dwelling with widened vehicular access way. Installation of air source heat pump.	33 Gypsy LaneGreat AmwellWare SG12 9RL	Refused Delegated	19/06/2024	Written Representation
3/23/1557/HH	Demolition of stables and garage building. Construction of replacement new studio, changing facilities, garage and garden store plus adjoining swimming pool.	Little Gobions Stapleford Hertford SG14 2BF	Refused Delegated	12/06/2024	Fast Track
3/23/1857/FUL	Erection of stables with tack room and associated landscaping works and hardstanding	Land East Of London RoadSpellbrook CM23 4AU	Refused Delegated	04/06/2024	Written Representation
3/23/2098/FUL	Erection of office (Use class E) - Commercial, Business and Service, creation of parking and associated landscaping	1 The Old Stables Cannons Mill LaneBishops Stortford CM23 2BN	Refused Delegated	15/05/2024	Written Representation
3/23/2242/FUL	Demolition of garage; erection of detached two-storey, five bedroom dwelling; installation of solar panels and air source heat pump and creation of new vehicular access way and parking.	Land Adjacent To 5 Highfield RoadHertford SG13 8BH	Refused Delegated	04/06/2024	Written Representation
3/23/2260/HH	Demolition of existing conservatory and chimney. Erection of a part single, part two storey rear extension incorporating roof lantern, rear roof lights and terrace at first floor. Alteration of roof to include insertion of dormer windows to front and rear. Alterations and insertion of fenestration. Construction of boundary walls, raised rear patio and external steps, and associated landscaping.	Bluebell Cottage Hare Street SG9 0DY	Refused Delegated	14/05/2024	Fast Track
3/23/2275/HH	Part retrospective for the erection of car port/storage incorporating electric charging points	9 High StreetWalkern SG2 7PD	Refused Delegated	22/05/2024	Fast Track
3/23/2281/FUL	Demolition of existing outbuildings, and erection of 5 dwellings	HeatherdownHare Street SG9 0AE	Refused Delegated	25/06/2024	Written Representation
3/23/2283/OUT	Outline planning with all matters reserved except for access for the erection of four dwellings	Land South Of Levenage LanePriory FarmHigh StreetWidford SG12 8RA	Refused Delegated	17/05/2024	Written Representation
3/23/2284/FUL	Erection of an agricultural straw barn with associated hardstanding	Major Barclay FarmsBeeches ManorBrent Pelham SG9 0HJ	Refused Delegated	29/05/2024	Written Representation
3/23/2409/HH	Construction of single storey side extension, two storey rear extension, two storey front porch addition to first floor windows and a gable roof feature, 1 new first floor side window and alteration to 1 first floor side window. New rear patio, external steps and retaining wall.	High TreesGreat Horstead SG9 0NR	Refused Delegated	09/05/2024	Fast Track
3/23/2460/FUL	Replacement of windows and doors to front elevation - retrospective	59 High StreetWare SG12 9AB	Refused Delegated	28/06/2024	Written Representation
3/23/2461/LBC	Regularisation of replacement doors to front elevation.	59 High StreetWare SG12 9AB	Refused Delegated	28/06/2024	Written Representation
3/23/2463/HH	Erection of single storey first floor rear extension, incorporating Juliet balcony, with gable end and pitched roof.	95 Pye CornerGilston CM20 2RD	Refused Delegated	21/05/2024	Fast Track
3/23/2482/HH	Extension over single storey side/rear extension and erection of front porch	56 Fanhams RoadWare SG12 7DL	Refused Delegated	16/05/2024	Fast Track

3/23/2486/HH	First floor side extension above the garage. Single storey rear extension. Garage conversion, replace garage door with new front window and brickwork. Brick up side door.	25 Hampden HillWare SG12 7JX	Refused Delegated	13/05/2024	Fast Track
3/24/0001/HH	Retrospective erection of two storey side and single storey rear extensions.	36 Pye CornerGilston CM20 2RB	Refused Delegated	05/06/2024	Fast Track
3/24/0018/OUT	Outline planning application for the erection of a detached dwelling. Creation of vehicle entrance/crossover. All matters reserved except access, layout and scale	Land At Orchard RoadTewin	Refused Delegated	18/06/2024	Written Representation
3/24/0059/FUL	Demolition of redundant storage buildings, timber apex shed and concrete walls. Erection of new single storey buildings containing workshops (use class E(g)), together with the creation of parking spaces, the provision of charging points and the extension of existing hardstanding.	A120 Veterinary Hospital Standon RoadLittle Hadham SG11 2DF	Refused Delegated	26/06/2024	Written Representation
3/24/0137/TEL	Mast and associated apparatus comprising 1 x 25 metre high lattice tower, 3 x Commscope antenna mounted on proposed ring head frame, 1 x 0.6 metre transmission dish fixed to proposed dish pole above headframe, 1 x 0.6 metre transmission dish fixed to proposed tower leg offset brackets, 1 x GPS node fixed to proposed antenna pole, 1 x AIRO cabinet (600x600x2100), 1 x MK5B Link AC cabinet (1200x600x1600), Other ancillary equipment and underground cabling.	Land West Of Hallingbury RoadBishops Stortford CM22 7QN	Refused Delegated	26/06/2024	Written Representation
3/24/0290/HH	Erection of second storey front extension above porch	13 ElmwoodSawbridgeworth CM21 9NL	Refused Delegated	15/05/2024	Fast Track

NEW PLANNING APPEALS LODGED JULY 2024
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/23/1983/FUL	Single storey side extension incorporating balcony with balustrade. Two storey and first floor extensions to front/side. Creation of loft room with insertion of rooflights to all elevations. Erection of solar panels and external alterations. Creation of 3, 5 bedroomed dwellings, with the creation of access, parking and landscaping.	12 Thorn GroveBishops Stortford CM23 5LD	Refused Delegated	30/07/2024	Written Representation
3/23/2311/FUL	Retrospective construction of a cabin annexe. Change of use of land from Agricultural land to Use Class C3 residential.	Keepers Cottage Great Munden SG11 1JN	Refused Delegated	09/07/2024	Written Representation
3/23/2427/HH	Erection of single storey rear extension. Alterations to fenestration.	56 St Andrew StreetHertford SG14 1JA	Refused Delegated	11/07/2024	Written Representation
3/23/2428/LBC	Erection of single storey rear extension. Alterations to fenestration. Demolition and insertion of partition walls and doorways.	56 St Andrew StreetHertford SG14 1JA	Refused Delegated	11/07/2024	Written Representation
3/24/0043/HH	Demolition of garage and barn. Erection of two storey rear extension and single storey side extension with 8 rooflights. External alterations and alterations to driveway	White Cottage Aspenden RoadBuntingford SG9 9PA	Refused Delegated	18/07/2024	Fast Track
3/24/0107/ASDPN	Constructing an additional storey above the principal part of the two-storey detached dwellinghouse to increase the height from 6.62 metres to 9.62 metres.	3 Barrells Down RoadBishops Stortford CM23 2ST	Refused Delegated	10/07/2024	Fast Track
3/24/0182/HH	Removal of chimney. Erection of single storey rear extension and front porch. Increase in roof height to accommodate loft conversion, incorporating 6 dormer windows and 7 skylight windows. Alterations to fenestrations.	Camps Hill Bungalow North RoadHertford SG14 1NE	Refused Delegated	31/07/2024	Fast Track
3/24/0216/HH	Two storey and part single storey rear extension to garage / annex and insert side facing rooflight windows.	Rumballs Barn Rumballs CourtBishops Stortford CM23 4DQ	Refused Delegated	09/07/2024	Fast Track
3/24/0238/HH	Demolition of side garage. Construction of single-storey rear extension incorporating roof lantern and two-storey side extension with four roof lights windows. Insert 1 rear first floor window.	211 Stansted RoadBishops Stortford CM23 2AP	Refused Delegated	08/07/2024	Fast Track
3/24/0377/HH	Erection of rear ground floor extension and first floor extension over existing ground floor area. Front extension to form double gable. Demolition of detached garage to form integral garage, Alterations to roof and installation of two rear dormer windows.	29 Bishops RoadTewin WoodTewin AL6 0NP	Refused Delegated	04/07/2024	Fast Track
3/24/0495/HH	Raising roof by half a storey and 7 new dormer windows to create additional storey to existing dwelling	5A Bluebell WalkSawbridgeworth CM21 0JQ	Refused Delegated	04/07/2024	Fast Track
3/24/0568/HH	Erection of single storey rear extension and alterations to rear fenestration.	97 Datchworth GreenDatchworth SG3 6TL	Refused Delegated	19/07/2024	Fast Track
3/24/0570/HH	Demolition of garage. Erection of double garage	Orchard House Westmill SG9 9LL	Refused Delegated	22/07/2024	Fast Track

DEVELOPMENT CONTROL

Major, Minor and Other Planning Applications

Cumulative Performance
(calculated from April 2023)

	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25		
<i>Total Applications Received</i>	181	324	496	661	817									
<i>Percentage achieved against Local and National Targets</i>	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25	National Designation Targets (set by Government)	
Major %	100%	75%	80%	80%	83%								Major %	60%
Minor and Other %	88%	90%	91%	91%	91%								Minor %	70%
	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25		
Total number of appeal decisions (Monthly)	6	5	15	13	11									
Number Allowed against our refusal (Monthly)	2	1	2	1	4									
	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25		
Total number of appeal decisions (Cumulative)	6	11	26	39	50									
Number Allowed against our refusal (Cumulative)	2	3	5	6	10									

AGENDA ITEM NO. 6D