

**3/13/1399/OP – Residential development (up to 56 dwellings) and open space, including vehicular/cycle/pedestrian access to Aspenden Road, alterations to levels, footpath / cycleway, landscaping and related works at Land East of Aspenden Road, Buntingford, Herts for Wattsdown Limited**

---

**Date of Receipt:** 31.07.2013

**Type:** Major – Outline

**Parish:** BUNTINGFORD / ASPENDEN

**Ward:** BUNTINGFORD / MUNDENS AND COTTERED

**RECOMMENDATION:**

That, subject to the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990 to cover the following matters:

- A financial contribution towards Nursery, Primary and Secondary Education, Childcare, Youth and Library services to Hertfordshire County Council in accordance with the residential type and mix as approved in any subsequent planning application and the Planning Obligations Guidance – Toolkit for Hertfordshire 2008;
- A financial contribution towards Sustainable Transport to Hertfordshire County Council in accordance with the residential type and mix as approved in any subsequent planning application and the Planning Obligations Guidance – Toolkit for Hertfordshire 2008;
- A financial contribution towards Outdoor Sports facilities to East Herts Council in accordance with the residential type and mix as approved in any subsequent planning application and the Planning Obligations Supplementary Planning Document 2008;
- The provision of 40% affordable housing - 75% to be social rented and 25% to be shared ownership;
- The provision of 15% lifetime homes;
- A detailed management scheme for the future maintenance of the proposed open space, and where appropriate, any financial contribution that may be required towards this maintenance;
- The provision of a footbridge across the river Rib to provide access to

### 3/13/1399/OP

the western area of Open Space;

- The provision of a Local Area of Play (LAP) on site and where appropriate, any financial contribution that may be required towards future maintenance;
- Monitoring fee of £300 per clause.

The Director of Neighbourhood Services be authorised to **GRANT** outline planning permission subject to the following conditions:

1. Outline permission time limit (1T03)
2. Approved plans (2E10 – 100 rev A, 101 rev A, 102 rev A, 104 rev B, 106 rev B, 3260-D-1, 3260-D-2, G402 rev B, 46381022/1/001 rev A, PP/2900/WATTSDOWN/2011/1/F2, PP/2900/WATTSDOWN/2011/2/F2)
3. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") of the development shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 4 of the Town and Country Planning (Development Management Procedure) Order 2010.

4. Programme of archaeological work (2E02)
5. Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and agreed in writing by the Local Planning Authority and the approved scheme shall be implemented prior to first occupation of the development. The scheme shall be based on the submitted Flood Risk Assessment (Jubb Consulting Engineers report no. P9633/G201/D May 2013) and shall include a restriction in run-off rate and surface water storage as outlined.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with policies ENV20 and ENV21 of the East Herts Local Plan Second Review April 2007.

6. The development hereby permitted shall not begin until a scheme to

### 3/13/1399/OP

deal with contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority, and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically in writing.

1. A site investigation scheme, based on the Desk Study and Ground Investigation Report (GEA, May 2013) shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with national planning policy guidance set out in Section 11 of the National Planning Policy Framework.

7. No infiltration of surface water drainage into the ground, or the use of piling or any other foundation design using penetrative methods shall be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect groundwater from contamination in accordance with policy ENV21 of the East Herts Local Plan Second Review April 2007 and Section 11 of the National Planning Policy Framework.

8. Before first occupation of the approved development all access and junction arrangements serving the development shall be completed in accordance with the approved in principle plan, drawing number 46381022/1/001 rev A to the standards outlined in Roads in Herts, and constructed to the specification of the Local Planning Authority.

### 3/13/1399/OP

Reason: To ensure the provision of an access appropriate for the development in the interests of highway safety and convenience.

9. Prior to the commencement of development a construction management plan covering delivery and storage of materials, on-site parking during construction, wheel washing facilities and construction vehicle routing and access shall be submitted to and approved in writing by the Local Planning Authority, and thereafter implemented in accordance with the approved details.

Reason: To minimise the impact of construction vehicles on the local road network.

10. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted with the submission of any subsequent Reserved Matters application for approval by the Local Planning Authority and the proposed measures shall be implemented to an agreed timetable.

Reason: To promote the use of non car modes of transport in accordance Policy TR4 of East Herts Local Plan Second Review April 2007.

11. Tree/hedge retention and protection (4P05)
12. Prior to the commencement of development, Aspenden Road shall be widened to 4.8m kerbed carriageway on either side of the site access in accordance with indicative drawing 46381022/1/001 rev A and to the satisfaction of the Local Planning Authority.

Reason: To ensure that the carriageway width is adequate for a heavy goods vehicle and car to pass one another in the interests of highway safety.

13. Construction hours of working- plant and machinery (6N07)
14. Notwithstanding the submitted indicative layout drawing 106 rev B, a Local Area of Play (LAP) shall be provided on site within the residential part of the development east of the river, and the land identified for a Local Equipped Area of Play (LEAP) shall be landscaped and maintained in accordance with details to be submitted in a reserved matters application.

Reason: To provide appropriate open space facilities on site in accordance with policy LRC3 of the East Herts Local Plan Second Review April 2007 and the Council's Open Space, Sport and Recreation

### 3/13/1399/OP

Supplementary Planning Document.

15. The dwellings hereby approved shall be fitted with whole house ventilation systems and an acoustic through frame vent prior to occupation.

Reason: In the interests of the amenity of future residents to minimise noise disturbance from the A10 in accordance with policy ENV25 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

16. Prior to the commencement of development a badger survey shall be undertaken by a suitably qualified ecologist and a report submitted to and approved in writing by the Local Planning Authority. The report shall include mitigation measures for the protection of any badgers identified within the site and the development shall be carried out in accordance with the approved report and mitigation measures.

Reason: To conserve protected species and their habitats in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007.

17. The development shall be carried out in accordance with the recommendations of the submitted Phase 1 Habitat Survey, Otter and Vole Survey, Reptile Survey, Bird Survey, and Bat Activity Survey unless otherwise agreed in writing by the Local Planning Authority.

Reason: To conserve protected species and their habitats in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007.

18. Prior to the commencement of development, a detailed Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority, and shall include details of no dig constructions, and foundation designs within root protection areas. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing.

Reason: To minimise the impact of the development on trees in accordance with policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

#### Directives:

1. Other Legislation (01OL1)

## 3/13/1399/OP

2. Highway Works (05FC)
3. Planning Obligation (08PO)
4. Unsuspected contamination (33UC)
5. Protected Species (36PS)

### Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies and the Council's housing land supply is that permission should be granted.

\_\_\_\_\_ (139913OP.HI)

#### **1.0 Background:**

- 1.1 The application site is shown on the attached OS extract and comprises a Greenfield site of approximately 2.9 hectares located to the south of Buntingford with access from Aspenden Road. The River Rib runs through the site and divides the site into two main parts – the eastern part is generally open and currently used for some storage of topsoil and construction materials, whilst the western part of the site is more enclosed. The site is not in active agricultural use.
- 1.2 The site is bordered by existing residential developments to the east, including the London Road Barratts site now known as Olvega Drive and Crouch Gardens. To the north lies a smaller vacant site under separate ownership, to the west is Aspenden Road with the Watermill Industrial Estate, civic amenity site, and waste water treatment works beyond, and to the south lies the A10 on a raised embankment with a bridge over Aspenden Road. The site is well screened by existing mature vegetation.
- 1.3 The application is in outline form with all matters reserved except for access, and proposes a development of up to 56 dwellings with amenity space and play area, and vehicular access from Aspenden Road. The indicative layout drawing proposes 5 no. 2 bed, 28 no. 3 bed, 17 no. 4

### **3/13/1399/OP**

bed and 6 no. 5 bed houses with 40% affordable housing.

#### **2.0 Site History:**

- 2.1 There is no planning history for the main part of the site. An application was refused in 1987 (reference 3/87/1383/FP) for the change of use of the parcel of land between Aspenden Road and the river to allow for the parking and storage of heavy goods vehicles in association with the industrial estate. This was refused on the grounds of inappropriate development in the Rural Area, visual impact and highway impacts.
- 2.2 There have been numerous applications for residential development on land north of the site in the 1960s and 1970s, all refused on the grounds of inappropriate development in the Rural Area and impact on proposals for the Buntingford bypass. Application 3/1369-75 was also dismissed at appeal in 1975 on the grounds that the development would not form a natural extension or rounding off of the built-up area of Buntingford, and that the development would be “an intrusion into the countryside to the detriment of the rural character of the quite narrow gap between Buntingford and the small, separate hamlet of Aspenden to the southwest.” He also commented that “I do not consider the use of the appeal site for residential purposes would be justified unless there was a pressing and overriding local need for additional land for housing in the area.”

#### **3.0 Consultation Responses:**

- 3.1 The Environment Agency initially objected to the proposal on the grounds that the applicant had not demonstrated that infiltration will be feasible on site or that sustainable drainage systems will be used to provide storage and water quality treatment. Additional soakage tests have now been undertaken and the EA have now removed their objection. They recommend consent subject to a number of conditions related to contamination, surface water drainage, and details of a buffer zone to the river. They also comment that any footbridge proposed in a reserved matters application would need to minimise impact on the river in accordance with the Water Framework Directive.
- 3.2 The Highway Authority do not wish to restrict the grant of permission subject to a number of conditions, including widening Aspenden Road to 4.8m kerbed carriageway on either side of the site access (this is the minimum width for a car and an HGV to pass one another). They comment that the existing traffic flow along Aspenden Road is very low and the proposed development is residential with all car trips being new trips on the local road network. It is therefore reasonable to require road

### 3/13/1399/OP

widening to maintain the free and safe flow of traffic from the development. They consider the submitted indicative drawing of the road widening to be acceptable, subject to detailed design and safety audit.

- 3.3 Highways also request an accessibility contribution to be set aside towards implementing sustainable transport measures. This is calculated in accordance with the 'Planning Obligations Guidance – a Toolkit for Hertfordshire' (January 2008). They comment that car parking is in accordance with EHDC parking standards. The nearest bus stop is within 450m walking distance of the site and there is a footway along the west side of Aspenden Road. In general the bus service in Buntingford is poor and there is no railway station, but there are a number of facilities in Buntingford within walking distance of the site. They comment that the surrounding local roads have a good road safety record and the proposed visibility splays are acceptable. The proposal is below the threshold of 80 units which require a Transport Assessment (TA) and Capacity Analysis, but the submitted TA demonstrates that the morning peak could generate 27 two-way car trips and the evening peak some 32 two-way car trips. They conclude that although the site is not in a suitable location for passenger transport, the applicant has agreed to pay financial contributions towards promoting sustainable transport measures.
- 3.4 Hertfordshire Biological Records Centre (now Hertfordshire Ecology) comment that they do not have any biological data for the site but they do have records of major bat roosts to the north of the site. A bat survey has since been undertaken and no roosts were found; however a small number of common species were recorded flying over the site and may be affected by disturbance to their flight-lines, future lighting levels and predation. They therefore recommend a condition to secure the mitigation measures set out in section 4.5 of the Bat Report. HBRC also agree with the conclusions and recommendations of the Bird Survey Report and recommend conditions. They recommend a number of other conditions in order to conserve protected species including badgers, reptile, otters, water vole, and the river corridor.
- 3.5 Natural England advise that the proposal is unlikely to affect any statutorily protected sites, landscapes, or bats. They recommend that the Council secure measures to enhance the biodiversity of the site and landscape.
- 3.6 Planning Policy comment that given that multiple proposals have been formally submitted to the Council, it is appropriate to consider each scheme and the scale of development proposed in the light of the other



### 3/13/1399/OP

proposals around the town. The cumulative impacts of each individual scheme in conjunction with others cannot be fully tested through the planning application process – this is the role of the District Plan. Without a full evaluation of the impacts, development is premature and has an impact on the ability to plan properly for the future growth of Buntingford. They comment that when compared to other proposals around Buntingford, this site is comparatively small and its impacts will be less. But they raise concerns over flood risk and the site not being well connected to the existing built up area of the town.

- 3.7 The Council's Housing Development and Strategy Manager comments that the scheme would provide 40% affordable housing which is in line with policy. The tenure split should be 75% social rented and 25% shared ownership. She would expect to see a mixture of unit sizes, and the affordable housing should be 'pepperpotted' in accordance with the Affordable Housing and Lifetime Homes Supplementary Planning Document (SPD).
- 3.8 Environmental Health raise no objection subject to conditions on traffic noise mitigation measures, construction hours of working, air quality, contamination and piling works.
- 3.9 The Council's Landscape Officer recommends consent. He comments that a detailed Arboricultural Method Statement and Tree Protection Plan can be provided under reserved matters to include ground protection measures, 'no dig' surfaces, access facilitation, and pruning specifications. He raises no objection to the Landscape and Visual Assessment or indicative layout which includes significant areas of open space and landscaping, but he shares concerns over the lack of natural surveillance for the play area.
- 3.10 The Council's Environment Manager comments that the proposal has been designed without apparent consideration for young people. Both open spaces have been located away from the housing and near surrounding roads presenting potential traffic safety issues and away from natural surveillance, and likely to attract anti-social behaviour problems. The play area does not therefore meet the recommendations of the Fields in Trust guidance 'Planning and Design and Outdoor Sports and Play'. On a positive note, the space allocated is good and likely to be in excess of the recommended 400m<sup>2</sup>. The problems could easily be resolved if the play area and some housing were swapped.
- 3.11 The Council's Engineers comment that the layout of the site shows that very little room is available for above ground sustainable urban drainage systems (SuDS) features due to the high density/configuration

### 3/13/1399/OP

of the residential units. It may be possible to provide green roofs for these houses which would allow for high quality SuDS and also allow high density development. The alternative option could be to reduce the number of residential units in order to include a retention pond ideally in a central amenity area. In addition, in order to provide high quality SuDS infrastructure, bio retention areas and rainwater harvesting water butts should also be incorporated.

- 3.12 The Hertfordshire Constabulary Crime Prevention Design Advisor does not support this proposal. He is disappointed that the applicant has made little reference to the issues regarding crime, disorder and the fear of crime. In addition at no point in the pre-application stage have the police design service been consulted regarding these issues. They have substantive concerns regarding the location of the children's play area. This has been located away from the housing across a stream that has fairly steep banks and in an area that has very poor natural surveillance. This has great potential to become a crime generator and needs to be re-designed.
- 3.13 County Planning Obligations confirm that they would seek financial contributions towards Nursery Education, Primary Education, Secondary Education, Childcare, Youth and Library services as set out in the 'Planning Obligations Guidance – a Toolkit for Hertfordshire' (January 2008). Fire hydrant provision is also sought.
- 3.14 Hertfordshire Fire and Rescue comment that access and turning space for fire fighting vehicles should be provided, along with fire hydrant provision.
- 3.15 The County Historic Environment Unit comment that the submitted archaeological desk-based assessment identifies the only heritage asset of archaeological interest as the remaining section of the track bed of the Buntingford railway that runs along its eastern boundary. It also concludes that the potential of the site to contain buried heritage assets of archaeological interest is moderate given that a number of heritage assets of prehistoric, Roman, medieval and post-medieval date are known from the vicinity. The development site, which has remained open land since at least the 18<sup>th</sup> century therefore has the potential to contain currently unknown heritage assets and a condition is therefore recommended to secure a programme of archaeological work.
- 3.16 The Campaign to Protect Rural England (CPRE) recommend that, like other applications around Buntingford, this should be refused as it is contrary to the principles of the National Planning Policy Framework (NPPF) and the East Herts Local Plan. The Council has not yet determined the quantum or location of housing required in Buntingford,

### **3/13/1399/OP**

and cannot consider applications in isolation as they will cumulatively impact on the town. There needs to be a comprehensive assessment of those impacts on local infrastructure and services, community facilities and education, and the correct process is for that assessment to be carried out through the District Plan. The Council is in the process of refining its housing allocations and in that context the development plan is not absent. The Local Plan provides a clear settlement boundary for Buntingford and this proposal falls outside that boundary.

#### **4.0 Town/Parish Council Representations:**

4.1 Buntingford Town Council object to the application and comment that this is one of nine sites that are currently under assessment for potential suitability for housing through the District Plan. Planning approval should not be granted unless and until it can be demonstrated through technical study and consultation that it is necessary and preferable to other sites. The Town Council, in partnership with other groups, has undertaken its own technical study which proves that this site is not the most suitable of development sites in the town. They consider that granting planning permission on this land would have an adverse impact on the town when taking into account alternative sites that are coming forward which are far more appropriate and of far more benefit to the town. Development of the town should be considered as a whole through the District Plan process, and granting permission would distort the balance and prejudice the outcome of the District Plan process. They argue that the location of this development in the context of the impact on the local road system constitutes a significant and cumulative effect when added to the large number of recent housing developments. The site lies outside the settlement boundary and represents inappropriate development in the rural area, and fails to comply with a number of other Local Plan policies.

4.2 Buntingford Town Council also object on the following technical grounds:

- The proposed footpath would draw Aspenden village into the site, effectively joining together two settlements and failing to maintain their identities;
- Aspenden Road is narrow with restricted sight lines;
- Development would increase traffic flows to London Road and through town, and the cumulative effect with proposals at Hare Street Road should be considered;
- TRICS data bears no resemblance to Buntingford;
- Recommend a buffer of 100m from the inlet channels and septic

### **3/13/1399/OP**

discharge at the waste water treatment plant;

- Need to mitigate against noise pollution on the dwellings;
- The site provides a habitat for a range of protected species and further surveys should be carried out. The land should be retained as a buffer between Buntingford and Aspenden and as a haven for wildlife;
- The majority of the site is in Floodzone 2 and the sequential test should therefore be carried out – other potential development sites in the town are in areas of lower flood risk.

#### 4.3 Aspenden Parish Council strongly object for the following reasons:

- The site has been prone to flooding in the past, and the highway drainage system has been shown to be inadequate during heavy rainfall. Any development would increase run-off;
- Aspenden Road is not wide enough for a car and lorry to pass, and the pavement on the bend is only 1.5m wide which is inadequate for pedestrians to pass safely. Traffic along this road is not light as suggested - the Transport Assessment fails to mention the Watermill Industrial Estate, the Civic Amenity Site, and Poulton's Builders Merchants, which generate significant levels of traffic including HGVs and delivery vans. The Parish Council challenge the relevance of TRICS data and maintain that the application is contrary to policy TR20. Traffic surveys recently carried out on 2<sup>nd</sup>, 8<sup>th</sup> and 9<sup>th</sup> September revealed one vehicle every 23-36 seconds.
- There is no need for an additional footpath linking the development to Aspenden Parish. The existing footpath along Aspenden Road is entirely adequate. Money should instead be directed to improving pedestrian/cycle access into Buntingford.

#### 4.4 Anstey Parish Council oppose the application on the grounds that Aspenden Road is a narrow country road providing access to two villages, the Watermill Industrial Estate and the Civil Amenity Site. It is often difficult for two vehicles to pass safely, let alone an HGV. The Transport Assessment suggests that traffic will leave the site and travel north to the junction of Aspenden Road using the narrowest stretch of road which needs improvement. The infrastructure of schools and doctors needs to be considered before any development of this size can be approved in the area of Buntingford. Anstey Parish Council rely on these services for their parishioners and stress that a full review of all the infrastructure be made prior to approval of this site.

### 5.0 **Other Representations:**

### 3/13/1399/OP

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

5.2 17 no. letters of representation have been received which can be summarised as follows:

- Development of this site is premature in the absence of a District Plan;
- Concern over the number of piecemeal developments;
- Planning Policy have viewed the land for open space to ensure separation between Aspenden and Buntingford;
- The submitted documents are inadequate in the level of detail;
- Lack of local employment so residents would be dependent on cars;
- Aspenden Road is not able to safely accommodate the proposed vehicular access and traffic movements – the northern section in particular is very narrow and of poor alignment, limiting visibility for road users;
- The vehicular access would be adjacent to the stopping zone north of the bridge – vehicles would therefore obstruct the access;
- Pavements are narrow and dangerous for pedestrians;
- There are frequent collisions and kerb mounting where vehicles are travelling too fast;
- Large commercial vehicles use Aspenden Road, associated with the nearby industrial estate and haulage yard;
- Increased traffic flows would harm the tranquillity of Aspenden village and Conservation Area;
- The proposed housing numbers will not make a meaningful contribution towards the Council's housing shortfall;
- The children's play area is in an unsuitable location;
- No evidence of a need for any more affordable housing in Buntingford;
- The town has already increased by approximately 250 homes with no improved infrastructure, amenity, transportation or services;
- The site is prone to flooding which will be exacerbated by the development;
- Concern over loss of privacy and overlooking, and noise disturbance to neighbours;
- Neighbouring landowners have a right of access north of the site – this should remain open and available for use at all times;
- Query whether traffic lights would be provided at the Co-operative roundabout with a pedestrian crossing?

5.3 Buntingford Civic Society object on the grounds that the site lies in Floodzone 2, Aspenden Road is too narrow and unsuitable to provide

access for 56 dwellings, and the proposal would exacerbate traffic problems in London Road. The development would remove a green buffer between Buntingford and Aspenden that was recognised for value by EHDC in their preparatory papers for the District Plan. Planning permission has already been granted for approximately 200 dwellings in Buntingford over and above those planned in the 2007 Local Plan, and any further large scale development in town should be the result of proper technical study and consultation.

- 5.4 Buntingford Action for Responsible Development (BARD) action group object on the grounds that the site lies in the Rural Area and the application is premature pending the preparation of the District Plan and if permitted could prejudice decisions on the scale and location of development for Buntingford, and the District as a whole due to the cumulative impact of the developments currently proposed. Permission should not be granted unless and until it can be demonstrated through technical study and consultation that it is necessary and preferable to other sites under consideration. BARD, together with the Town Council and Civic Society have produced a technical study which considers the merits of the nine sites put forward for allocation in the District Plan, and concludes that this site is one of the least suitable and sustainable sites. They also object on the grounds that the site lies in Floodzone 2 and should be subject to the sequential test, Aspenden Road is narrow and unsafe for a new access, the proposal will result in the loss of green space between Aspenden and Buntingford, harm from odour from the waste water treatment plant, and harm to wildlife.
- 5.5 An email has been received from Cllr Jim Ranger of Mundens and Cottered ward agreeing with Aspenden Parish Council's objections. He comments that if flooding is not a sufficient reason to refuse the application then the access issues should be a strong reason. The road is very narrow and unsuitable for the traffic that would be generated. If the development were to go ahead, the road should be widened and it would also be desirable for a pedestrian access direct to London Road to be constructed.

**6.0 Policy:**

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

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
HSG1	Assessment of Sites not Allocated in this Plan
HSG3	Affordable Housing

### 3/13/1399/OP

HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
GBC3	Appropriate Development in the Rural Area Beyond the Green Belt
GBC14	Landscape Character
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR7	Car Parking – Standards
TR12	Cycle Routes – New Developments
TR14	Cycling – Facilities Provision (Residential)
TR20	Development Generating Traffic on Rural Roads
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV11	Protection of Existing Hedgerows and Trees
ENV16	Protected Species
ENV19	Development in Areas Liable to Flood
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV25	Noise Sensitive Development
ENV27	Air Quality
BH1	Archaeology and New Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
LRC1	Sport and Recreation Facilities
LRC3	Recreational Requirements in New Residential Developments
IMP1	Planning Conditions and Obligations

6.2 In addition to the above the National Planning Policy Framework is a material consideration in determining this application.

### **7.0 Considerations:**

#### Principle of Development

7.1 The site lies in the Rural Area Beyond the Green Belt wherein Policy GBC3 of the adopted Local Plan states that permission will not be given for the construction of new buildings or for changes of use for purposes other than those specified, which does not include new residential developments. The proposed residential development therefore represents inappropriate development in principle contrary to policy GBC3. One of the determining issues in this case is whether there are any overriding material considerations to outweigh this in principle policy objection, and Members will be well rehearsed in these issues

### 3/13/1399/OP

following the consideration of previous planning applications on land north and south of Hare Street Road, Buntingford.

- 7.2 In terms of national planning policy, the National Planning Policy Framework (NPPF) indicates a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay. However, it goes on to state that where the development plan is absent, silent or relevant policies are out-of-date, 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 Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.
- 7.3 The NPPF was published in March 2012 and, for a period of 12 months after its production, it set out that decision makers could continue to give full weight to relevant policies adopted since 2004. However, that period has now expired, and the NPPF now requires that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. Whilst the policies in the 2007 Local Plan are considered largely to be consistent with the NPPF, there is a recognised deficiency in that the Local Plan does not identify adequate land to enable a five year supply of land for housing development.
- 7.4 The latest housing supply figures are set out in the Annual Monitoring Report for the 2011/12 year. This set out that, depending on the base line figures used, the Council could establish a housing land supply figure of between 3.6 and 4.5 years. This is less than the required 5 years plus 5% buffer set out in the NPPF, and the need for additional housing in the district must therefore weigh heavily in the balance of considerations.
- 7.5 Future housing allocations and a full 5 year's supply of housing land will be determined through the District Plan, which is to replace the 2007 Local Plan. Members will be aware that the District Plan is currently being drafted and will be released for public consultation in the New Year. This document will set out the quantum of housing requirements for the district, and the preferred sites for allocation. Members may be aware that the site that forms the subject of this application (Area 6 Sub-Area C) has not been specified as one of the preferred sites to be carried forward for future allocation in the latest update on the District Plan. In the most recent update report to the District Planning Executive Panel meeting on 3<sup>rd</sup> December 2013, it was stated in draft Chapter 6 that land to the north of Buntingford and the former Sainsbury's distribution site were the Council's preferred development locations for



inclusion in the District Plan, comprising a total of 180 and 300 dwellings respectively. The land that forms the subject of this application was amalgamated in this latest document with a larger plot of land to the west of Buntingford and contained by the A10 bypass. Access was therefore raised as an issue, along with achieving an appropriate buffer to the waste water treatment works. Officers are satisfied that these issues have been suitably addressed in this application (discussed in more detail in later sections).

7.6 Regard is also had to Chapter 4 of the draft District Plan which was presented to the District Planning Executive Panel meeting on 26<sup>th</sup> July 2012 which stated that “In respect of Buntingford South and West Sub-Area C, the land adjacent to the Built-Up Area within the bypass is considered more suitable than land to the south of the bypass since it acts as a southern gateway to the town. However, whilst the land within the bypass is available for development there would be insufficient capacity to accommodate 500 dwellings. Similarly to Sub-Area B, expansion of the town needs to be carefully considered in terms of landscape; whilst viewed as peripheral to the built-up area, this Sub-Area could play a useful role in creating a buffer between the town and the countryside” (paragraph 4.5.3.23). Whilst it is acknowledged that the site could play a useful role in creating a buffer between the town and countryside, Officers do not consider such a buffer to be essential given that the A10 bypass already provides a distinct boundary to the edge of town, and there are other existing developments built in close proximity to the A10. Officers are satisfied that an appropriate scale and layout of development could be achieved on site without compromising the character of the site or surrounding area (this is discussed in more detail in the landscape section).

7.7 Further, in terms of the weight that can be afforded to the emerging District Plan, paragraph 216 of the NPPF states that:

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

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

### 3/13/1399/OP

weight that may be given).”

- 7.8 Given that the Council’s District Plan is still at an early stage of preparation, and has been subject to delays, Officers continue to consider, as with the previous applications at Hare Street Road, that little weight can be given to its content.
- 7.9 Further guidance in respect of prematurity is provided in paragraphs 17-19 of The Planning System: General Principles (2005). This states that:
- “In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A proposal for development which has an impact on only a small area would rarely come into this category.”
- 7.10 Proposals which only impact upon a small area would therefore rarely justify refusal of planning permission on the grounds of prematurity, and where planning permission is refused on the grounds of prematurity, it will be necessary to clearly demonstrate how the granting of planning permission would prejudice the outcome of the District Plan process. As this proposal is only for up to 56 dwellings, Officers do not consider that the District Plan housing allocations process would be prejudiced. Regard is of course had to the potential cumulative effects of development in and around Buntingford and Members are therefore made aware of the following planning applications and appeals at various stages of determination.

Reference	Site	Development	Stage
3/12/1417/RP	Land off Longmead	26 dwellings – details following approval of 3/10/2040/OP	Allowed at appeal 07-Oct-2013
3/12/1657/FP	Land north of Hare Street Road	160 dwellings, allotments and cemetery	Refused 05-Dec-2012 Appeal withdrawn
3/13/0118/OP	Land south of Hare Street Road	Approx 100 dwellings	Refused 22-May-2013 – public inquiry held Dec-2013

### 3/13/1399/OP

			(decision awaited)
3/13/0813/OP	Land north of Park Farm Industrial Estate	13 dwellings, car parking, landscaping	Approved subject to Section 106
3/13/1000/FP	Land north of Hare Street Road	160 dwellings, allotments and cemetery	Refused 11-Sep-2013 – public inquiry held Dec-2013 (decision awaited)
3/13/1183/OP	Land north of Hare Street Road	160 dwellings, allotments and cemetery	Refused 11-Sep-2013 – public inquiry held Dec-2013 (decision awaited)
3/13/1375/OP	Land north of Park Farm Industrial Estate	180 dwellings, school playing fields and 50-60 bed care home	Current application
3/13/1925/OP	Former Sainsburys Distribution Depot, London Road	328 dwellings, small business units (Class B1), and up to 65 bed care home (Class C2)	Current application

7.11 In the case of this application, the numbers are not considered to be significant to harm the infrastructure of the town, and Officers consider that suitable mitigation can be achieved through Section 106 contributions towards education, childcare, library and youth services, along with sustainable transport contributions and outdoor sports contributions. The Local Authority has no evidence of any deficiency in local healthcare provision, and there is no statutory requirement to consult the local Primary Care Trust. In terms of the potential cumulative effects, the amount of development currently under consideration in and around Buntingford is broadly consistent with the figures being proposed through the District Plan process.

7.12 It has been suggested by a number of third parties that other sites in Buntingford would be preferable for development; however Members will be aware that there is no sequential process for assessing residential proposals within the planning application process. The application should instead be determined on its own merits. A more detailed comparison of each potential development site and its merits/constraints is carried out through the District Plan allocation

### 3/13/1399/OP

process. It is also noted that a study has been prepared by the Town Council in respect of potential development sites in and around Buntingford; however little weight can be given to this document as it has not been formally adopted as a Neighbourhood Plan.

- 7.13 Overall, at the heart of the NPPF is a presumption in favour of sustainable development 'which should be seen as a golden thread running through plan-making and decision-taking'. The issue of sustainability is discussed in more detail below, but for decision-taking this means that "where the development plan is absent, silent, or relevant policies are out of date", 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 this Framework taken as a whole, or specific policies in this Framework indicate development should be restricted."
- 7.14 In the case of the East Herts Local Plan, the adopted housing allocations and settlement boundaries relate to housing growth figures and allocations up to 2011, and are now considered to be out of date. Therefore in respect of the NPPF, planning permission should be granted for sustainable development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 7.15 A number of planning appeal and legal decisions made elsewhere in the country have tested similar issues, and decision making is indicating that, where a development proposal by itself is not of such a scale that it is likely to significantly prejudice the outcome of local planning policy formulation, and the stage reached in that planning policy formulation is an early one, then proposals for development are being supported through these appeal and legal decisions. Members will be aware that independent legal advice had been sought in relation to the sites north and south of Hare Street Road, and that advice confirmed that the context that now prevails is such that a decision not to support residential development in principle is not one that is likely to be supported at appeal and, indeed, may be seen as one which is unreasonable and subject to an award of costs.
- 7.16 On the basis of the above factors, Members are therefore advised that this application warrants a complex balance of considerations. It is acknowledged that this application preempts the housing allocations process in Buntingford and lies within the Rural Area and outside the defined settlement boundary. However, considerable weight must be given to the Council's lack of a five year housing supply, the current status of the District Plan and delays in its preparation, and the requirements of the NPPF. The legal advice previously sought by the

### 3/13/1399/OP

Council in respect of sites north and south of Hare Street Road, and the number of developments being granted at appeal or by the High Court are also indicative that a decision not to support this proposal on the grounds of prematurity is not one which is likely to be supported at appeal. Therefore, provided that there are no adverse impacts arising from the development that would significantly and demonstrably outweigh the benefits, then Officers consider that a residential development of this site should be considered acceptable in principle.

#### Highway Impacts

- 7.17 Vehicular access is proposed from a new access to Aspenden Road and full details of this access have been submitted for consideration at this stage. Aspenden Road provides access to Aspenden village from London Road/Station Road, Buntingford. It is a narrow road at this point but serves the Watermill Industrial Estate, waste water treatment works, and civic amenity site, all located south of a single track Grade II listed bridge.
- 7.18 A number of objections have been received from local residents regarding the width of this road and existing highway and pedestrian safety issues that would be exacerbated by this proposal. Highways have raised no objection to the proposal but have acknowledged that the road is too narrow at this point and would not be wide enough to allow an HGV and a car to pass. They therefore recommend a condition to require the road to be widened to 4.8m minimum to the north of Aspenden Bridge. In response to this suggested condition, the applicant has submitted a drawing which indicates how this could be achieved within land owned by the applicant and/or the Highway Authority. Highways are satisfied that the drawing is acceptable in principle, but the final detail will need to be agreed. A condition is therefore recommended to require this road widening and is considered to be reasonable and necessary to make the development acceptable in planning terms. A pedestrian footpath would be retained on the western side of Aspenden Road which provides a continuous link to London Road.
- 7.19 The proposal will result in increased vehicular movements along this part of Aspenden Road but this is not considered to be significant enough to cause highway safety issues or result in harm to the character of this part of the road. Adequate visibility is proposed in accordance with the Manual for Streets and Highways have confirmed that the surrounding roads have a good safety record. A Transport Statement has been submitted which estimates trip rates equating to 28 morning peak two-way trips north of the access, and 1 south (across

### 3/13/1399/OP

- Aspenden Bridge), and 30 evening peak time two-way trips north and 2 south.
- 7.20 To the south of the access is the Grade II listed Aspenden Bridge which only allows for single file traffic with priority for vehicles heading north. Vehicles heading south past the new access must therefore give way to traffic coming in the opposite direction. Whilst it is acknowledged that the new access is within close proximity of this waiting area, adequate visibility will be provided and Highways have raised no objection to highway safety at this point. Further, given that the number of dwellings proposed is not excessive, and that the majority of traffic would be expected to head north on Aspenden Road towards Buntingford, the proposal will have limited impact on the structure of the Grade II listed Aspenden Bridge.
- 7.21 Highways have therefore recommended consent subject to a number of conditions and a sustainable transport contribution based on the Council's Planning Obligations Supplementary Planning Document. The exact figure would be calculated on a reserved matters application. This is considered to be both reasonable and necessary to mitigate the impact of the development and promote more sustainable modes of travel in accordance with the Community Infrastructure Levy Regulations 2010.
- 7.22 In terms of sustainability there is no railway station in Buntingford but there are a number of bus services along London Road to the north of the site. These buses (numbers 331, 354 and 700) provide a regular service to Royston, Hertford, Hatfield, Stevenage, Letchworth, Baldock, Bishop's Stortford and Stansted Airport, and a Saturday service to Harlow. The nearest bus stops are located approximately 450m away from the site which is not considered to be an unacceptable walking distance. The site is also within walking distance of a range of services and infrastructure in the town centre. Officers therefore consider the site to be in a sustainable location; however contributions to improve alternative modes of transport in the area are essential.
- 7.23 In terms of parking, the indicative layout proposes an adequate level of parking provision and Officers are satisfied that an acceptable level of parking could be provided on site in accordance with policy TR7 of the Local Plan. Full details will be required through a reserved matters application. No cycle parking provision has been identified on the indicative drawings but Officers are satisfied that adequate space could be accommodated on site and could be controlled through a reserved matters application.

### Landscape and Visual Impacts

- 7.24 From a landscape perspective, the site is well screened and contained from wider views. The site is bordered by existing residential developments to the east, a vacant site to the north, Aspenden Road and the industrial estate to the west, and the A10 on a raised embankment to the south. The site is well screened by mature vegetation and there are therefore limited wider views of the site. The visual impact of the development is therefore considered to be limited. The site lies in Landscape Character Area 142 'High Rib Valley' which is characterised by "the last section of the River Rib that retains a distinctive valley form and associated land uses" (Landscape Character SPD). Regard is also had to the latest District Plan reports which state that "this sub-area could play a useful role in creating a buffer between the town and countryside." However, whilst the development will result in the loss of a small remaining part of the River Rib valley, the site is well enclosed and contained by existing features. This minimises the impact of the development on the wider landscape character area. Officers consider that the A10 provides a clear barrier to development on this side of Buntingford, and that an adequate buffer would be retained between Buntingford and Aspenden, and therefore between the town and countryside. Regard is also had to the previous appeal decision related to land north of the site in 1975 where the Inspector considered a residential development to be harmful to the rural character of the area. However, the surrounding area has changed significantly since this previous refusal by the construction of housing to the east of the site, and the construction of the Buntingford bypass which runs along the southern boundary of the application site.
- 7.25 A Landscape and Visual Impact Assessment has been submitted with the application to assess the impact of the proposal on the surrounding landscape. This concludes that the site is of low to medium landscape quality, and its sensitivity to development is also low to medium. No significant or valuable landscape features would be lost, and the visual impact of the development will be restricted by mature vegetation. The report concludes that the overall landscape effects would be slight to moderate adverse at their greatest during the winter soon after completion when the development will be at its most visible. The Landscape Officer has raised no objection to this assessment and considers that the indicative layout is acceptable with significant areas of open space. He does raise concerns however over the location of the play area which is discussed in more detail below in the 'Open Space Provision' section.
- 7.26 The development will have limited impact on the more rural character of Aspenden Road due to the layout of the site and retention of a green

### 3/13/1399/OP

buffer along the river. Only a few plots to the north of the site would be readily visible from Aspenden Road but still retain a distance of at least 10m from the road with planting in-between. It is noted that part of the roadside hedge would need to be removed to accommodate the vehicular access; however this is not considered to be significant or harmful to the character of the road which will remain largely vegetated on both sides of the road. The landscape and visual impact of the development is therefore not considered to be harmful.

- 7.27 In terms of trees, there are a number of unprotected trees along the field and road boundaries. A full tree survey and tree constraints and protection plan have been submitted, and identify that there are currently 4 no. Category A trees (high quality) within the confines of the survey, 19 no. Category B trees (modest quality), 47 no. Category C trees (low quality or young trees), and 2 no. Category U trees (unsuitable for retention) which will be felled regardless of the development for health and safety reasons as they are largely dead. It is proposed to fell part of the roadside hedge along Aspenden Road to achieve access to the development, and to carry out some crown lifting and pollarding to accommodate the development. However, all important trees and features will be retained and subject to a condition to secure retention, the development will not have a significant impact on these landscape features.
- 7.28 Three of the plots (8, 18 and 31), along with some hard-surfaced areas, are shown on the indicative layout to encroach into the root protection area of trees to be retained. Some linear root pruning or specialist foundation design will therefore be required if this layout is retained, and a detailed Arboricultural Method Statement has therefore been requested by the Landscape Officer to accompany any reserved matters application. This can be considered through the reserved matters application and secured by condition and is considered to be acceptable in accordance with policies ENV2 and ENV11.

#### Scale, Layout and Design

- 7.29 A layout drawing has been submitted as part of the application, but is only indicative at this stage as the application is in outline form. It is noted that since 31<sup>st</sup> January 2013, it is no longer necessary for applicants to submit the approximate location of buildings, routes or open spaces where layout is reserved, or for upper and lower limits for the height, width and length of each building where scale is a reserved matter.
- 7.30 The indicative layout proposes an overall housing density of 19.3



### 3/13/1399/OP

dwellings per hectare; however the residential development is concentrated on the eastern part of the site in an area of lower flood risk. The density of the residential part of the development is therefore approximately 27 dwellings per hectare. This is considered to be lower than existing neighbouring developments and acceptable given the nature of the site and surrounding area as a transition between urban and rural.

- 7.31 The proposal includes extensive planting and amenity space, including open space at the frontage of the site to mitigate the visual impact of the development in Aspenden Road, and extensive open space and a river corridor to the west of the site. Landscaped frontages are proposed for each dwelling and Officers therefore consider that the indicative layout provides for a well-landscaped site that will assimilate well with the site and surrounding area.
- 7.32 Levels vary across the site from just over 90m AOD (Above Ordnance Datum) along the eastern boundary to just below 85m AOD close to the river. This level difference is not considered to be significant and the residential development is concentrated on the higher levels to the east of the site away from the river. The applicant has confirmed that any difference in levels would be unlikely to be more than plus or minus 1m compared to existing levels. Full details of proposed levels and ridge heights would be required in a reserved matters application to control the height and scale of development. The eastern boundary of the site comprises a former railway embankment, and the neighbouring dwellings at Crouch Gardens and Olvega Drive are at a higher level.
- 7.33 The housing is proposed as a mix of 2, 3, 4 and 5 bed detached, semi-detached and terraced dwellings, including a provision of 40% affordable housing. Although the layout is only indicative at this stage, Officers consider the general layout to be acceptable with dwellings arranged in attractive well landscaped and spacious streets with private rear gardens backing onto each other. All footpaths and roads will benefit from good natural surveillance and the layout is considered to be well-connected with proposed footpaths and cycleways to encourage walking and cycling through the site and the surrounding area. There are no existing public footpaths on site, but Footpath 027 runs from the western side of Aspenden Road along the river and into town, and is unaffected by this proposal.
- 7.34 The main issue with regards to the indicative layout relates to the location of the open space and play area on the western part of the site. This land is of higher flood risk and therefore not suitable for residential development. However, the open space is isolated from the housing

### **3/13/1399/OP**

and well-screened by vegetation therefore lacking in natural surveillance. Objections have been received from the Hertfordshire Constabulary Crime Prevention Officer and the Council's Landscape and Environment team. These objections are noted and it is agreed that this location is not suitable for a children's play area. The requirements for play space are discussed further below, but it is your Officers' opinion that a smaller Local Area of Play (LAP) should be provided within the residential part of the site (which will require an amended layout and potential reduction in housing numbers). The area to the west of the river could therefore be landscaped and maintained as a wildlife area for informal recreation.

- 7.35 In terms of scale, the buildings are proposed to be two storeys in height with some two and a half storeys and possibly some single and one and a half storey buildings. Indicative building heights of 7.5m to 9m are proposed and are considered to be generally acceptable in relation to the site and the scale of neighbouring developments. Detailed scale, design and appearance of the dwellings will be considered through a reserved matters application. It will also be important to control details of external illumination through a reserved matters application given the location of the site on the edge of Buntingford and adjacent to the countryside.
- 7.36 In terms of sustainability, Officers consider that the site is located within an acceptable walking distance to bus services and a range of town centre shops and services. The indicative layout also proposes good connections for pedestrians and cyclists. The new dwellings are proposed to incorporate a number of sustainable features, and full details of the dwellings, layout, orientation and use of materials will be considered through a reserved matters application.
- 7.37 A cycleway/footpath is proposed to run alongside the river throughout the site and under an existing bridge of the A10 to emerge at the Aspenden Recreation Ground to the south of the site. A number of concerns have been raised regarding the need for this new cycleway, and Aspenden Parish Council have objected on the grounds that the existing footpath along Aspenden Road is adequate and that money should instead be directed to improving pedestrian/cycle access into Buntingford. Whilst Officers understand these concerns, it is considered that this pedestrian/cycleway would provide a convenient alternative route away from Aspenden Road and make good use of an existing link under a bridge of the A10. Whilst this will provide a connection to Aspenden and the recreation ground, Officers do not consider this to result in a merging of the two settlements which will remain clearly defined by the A10 as a physical barrier.

7.38 Finally, Officers had previously suggested at pre-application stage that a pedestrian footpath should be provided to link the development to London Road and the former Sainsbury's distribution depot (the largest employment site in town) through the new development to the east now known as Crouch Gardens and Olvega Drive. Whilst the applicant has offered to make a connection available up to the site boundary, it is understood that the developer of the neighbouring site is not willing to enable such a connection. It would not be possible to require the neighbouring developer to provide such a connection by condition or planning obligation and Officers therefore no longer recommend that this issue be pursued. Further, the benefits of such a pedestrian link by providing access to this large employment site have been reduced following the purchase of the former Sainsbury's distribution depot by Fairview and the submission of a predominantly residential redevelopment scheme. Pedestrian access to Buntingford will therefore be solely along Aspenden Road to the north.

#### Residential Amenity

- 7.39 The development is located at an adequate distance from existing residential dwellings to the east in order to prevent any harm by way of overlooking, overbearing or loss of light. The nearest dwellings are Nos. 38 and 39 Crouch Gardens, which are located approximately 23m from the flank elevation of plot 8. However, given the distance, extensive screening, and a lower land level, no harm will arise to neighbouring occupiers.
- 7.40 Within the development and indicative layout the units appear to be designed to minimise overlooking and overbearing. Further, the units appear to offer an adequate level of amenity for future residents in terms of room and garden sizes.
- 7.41 The site lies approximately 150-300m east of the waste water treatment works, and it is therefore important to have regard to any potential odour nuisance although there are no statutory standards in the UK regarding odour. An odour assessment has been carried out and identified detectable sewage odours within the development site. The report therefore recommends a minimum buffer of 100m between the waste water treatment works boundary and any residential development. It is noted that a buffer of only 60m is proposed between the development and some inlet channels and septic discharge located to the south of the waste site near Aspenden Road; however this area of development is less sensitive to odour impacts as it lies much further away from the primary odour sources. There is also significant

vegetation screening to aid dispersion of odours. The report concludes that for 73% of the time there is no, or very little chance of odour affecting the proposed residential properties. Further, Officers are not aware of any complaints from existing residential properties located at a similar distance from the waste plant. On this basis it is not considered that the development would be at risk of experiencing significant odour impacts harmful to amenity.

- 7.42 Regard is also had to potential noise disturbance to future residents from the A10, which is located within 20m of the nearest residential dwelling. An Environmental Noise Assessment has been submitted which identifies some potential road traffic noise exposure across the site. The report defines a number of Noise Exposure Categories which are based on the former PPG24. These categories have not been repeated in the NPPF; however Officers are satisfied that the potential impact of noise has been properly assessed, and that a condition recommended by Environmental Health is reasonable and necessary. This requires that all dwellings be fitted with an acoustic through frame vent, and mechanical ventilation systems so that future occupiers have the option to shut windows to reduce internal traffic noise without compromising indoor air quality. Whilst this will have some impact on amenity, it is not considered to create a poor standard of living or to justify a refusal of planning permission. Officers therefore consider the proposal to comply with policy ENV25.
- 7.43 Regard is also had to air quality because a condition has been recommended by Environmental Health to require an air quality report assessing the impacts of the development on air quality objectives. However, the site does not lie in an Air Quality Management Area and the level of pollution arising from the development is not considered to be significant given the number of units and the proposed residential use. Such a condition has not been attached to any other residential developments in the area and is not considered to be necessary to make the development acceptable in planning terms. Such a condition would therefore not meet the tests set out in Circular 11/95.

#### Affordable Housing

- 7.44 The application is in outline form but proposes 22 units as affordable housing which represents 40% in accordance with policy HSG3. This will comprise of a tenure split of 75% social rented and 25% shared ownership with details of the size and siting of the units to be agreed at the detailed application stage. No objection has been raised by the Council's Housing Manager subject to a mixture of unit sizes, and the affordable housing being 'peppercotted' across the site in accordance

### 3/13/1399/OP

with the Council's Affordable Housing SPD. This states that on sites incorporating 30 or more residential units, affordable housing should be provided in groups of no more than 15% of the total number of units or 25 units, whichever is the lesser. In this case, 15% of the maximum number of units amounts to 8 units, hence the affordable units should not be clustered in groups of more than 8 in any reserved matters application.

- 7.45 Policy HSG6 requires that 15% of new dwellings are constructed to Lifetime Homes standards and this can be secured through a planning obligation.

#### Open Space Provision

- 7.46 Given the scale of development proposed, the Council's adopted Open Space, Sport and Recreation SPD requires that for developments of 50-199 dwellings, parks and gardens, amenity green space, Local Areas of Play (LAPs) and a Local Equipped Area of Play (LEAP) be provided on site, along with Green Corridors.
- 7.47 The indicative layout proposes amenity green space across the site, along with a LEAP on land to the west of the site, between Aspenden Road and the river. The play area is considered to be poorly located in relation to the proposed residential dwellings and the road, and will not benefit from any natural surveillance. Objections to the siting of this play area have been received from Hertfordshire Constabulary, and the Council's Environment Manager. However, given that the Open Space SPD only requires a LEAP on-site for developments of 50 or more dwellings, and that this development is for up to 56 dwellings, the requirement is considered to be at the lower end of the threshold. The application also offers a large amount of open space for informal recreation and Officers are therefore satisfied that only a LAP should be provided on site, but incorporated within the residential layout. This will require some amendments to the indicative layout but is considered to be a reasonable approach to be adopted by the developer. The area of land identified for play space could then be restored and landscaped for wildlife and/or informal recreation.
- 7.48 In terms of parks and gardens, the SPD highlights a 7.02 hectare deficit in the Buntingford area. However, this application proposes extensive open space to the north and west of the site that far exceeds the open space requirements set out in the SPD. A total of 0.82 hectares of open space is proposed in the application, compared to the on-site requirement of only 0.15 hectares. Further contributions towards parks and gardens in Buntingford would therefore not be considered

### 3/13/1399/OP

reasonable or necessary.

- 7.49 In terms of outdoor sports facilities, the SPD highlights a surplus of provision in Buntingford. However, the Council commissioned a Playing Pitch Strategy and Outdoor Sports Audit in 2010 which identified issues around the quality of provision and access. A financial contribution towards outdoor sports facilities in the town is therefore considered reasonable and necessary in accordance with the Community Infrastructure Levy (CIL) Regulations 2010 – this has been calculated at £61,552.74 based on the indicative housing numbers, but would vary depending on the exact dwelling numbers in any reserved matters application.
- 7.50 Finally, Green Corridors are defined as including towpaths, cycleways, rights of way and disused railway links. This application proposes a new pedestrian and cycleway adjacent to the river and extending to the south of the site which is considered to contribute to the aim of providing Green Corridors, although it is only limited in extent. There is a disused railway line on a raised bank running along the eastern boundary of the site, but again its extent is limited and there is no potential to provide connections into town due to existing residential developments to the north of the site. However, the indicative layout drawings show the bank to be retained and planted and will provide for informal recreation, including dog walking.

#### Flood Risk and Drainage

- 7.51 The majority of the site lies in Floodzone 2 with a small section along the eastern boundary being within Floodzone 1. The River Rib runs through the western part of the site and is Floodzone 3. A Flood Risk Assessment (FRA) has been submitted and extensive discussions have been held with the Environment Agency. The FRA identifies that although the majority of the site lies in Floodzone 2, the modelled extent of the floodzone is considerably less. Hydraulic modelling indicates that the site is at a low probability of flooding due to the extreme 0.1% annual probability flood staying within the River Rib's banks, and therefore within the classification of Floodzone 1. On this basis no objection has been raised by the Environment Agency to the flood risk of the site, and it is therefore not necessary to apply the Sequential Test as set out in the NPPF.
- 7.52 The indicative layout of the site applies a sequential approach by locating the residential part of the development on higher land of lower flood risk, and the open space on areas of higher flood risk. This reduces the flood risk to the development and Officers are therefore

### 3/13/1399/OP

satisfied that the proposal will result in no harmful flooding to people or property in accordance with policy ENV19.

- 7.53 The Environment Agency initially raised an objection in the absence of an acceptable surface water flood risk assessment. However, further information and soakage tests have been submitted to address these concerns and the EA now recommend consent subject to a number of conditions which would be considered reasonable and necessary to mitigate the impacts of the proposed development.
- 7.54 In terms of Sustainable Urban Drainage Systems (SuDS), the indicative layout provides little room for above ground sustainable drainage features. The Council's engineer comments that it may be possible to provide green roofs but alternatively the number of residential units should be reduced to include a retention pond. The submitted FRA proposes soakaways across the site with the potential for above ground swales, an increase in permeable areas through soft landscaping and permeable paving with water retention/infiltration below. Full details of surface water drainage will be required by condition but overall Officers are satisfied that an appropriate drainage scheme could be accommodated on site in accordance with policy ENV21.
- 7.55 In terms of foul drainage, it is proposed to connect to an existing foul sewer on the opposite side of Aspenden Road. No response has been received from Thames Water but copies of correspondence have been submitted by the applicant indicating that Thames Water have no objection to this foul sewer connection.
- 7.56 Finally, in terms of contamination, an initial Desk Study and Ground Investigation Report has been submitted which concludes that the soil has elevated concentrations of a number of contaminants but no objection has been raised by Environmental Health or the Environment Agency subject to a condition requiring a remediation scheme to be submitted and agreed. This is in accordance with the NPPF and is reasonable and necessary to make the development acceptable in planning terms.

#### Ecological Matters

- 7.57 Initial ecological assessments have been carried out and submitted, including a Phase 1 Habitat Survey, an Otter and Water Vole Survey, Reptile Survey, Bird Survey, Bat Activity Survey, and Hedgerow Survey. The reports identify that the site provides a habitat for a range of protected species including breeding birds, reptiles, badgers, otters and water voles, and bats, hence further survey work has been carried out and is discussed below:

### 3/13/1399/OP

- 7.57.1 Otters and Water Vole: No evidence indicating the presence of otters or water voles was recorded and it is considered unlikely that either species is using the site.
- 7.57.2 Reptiles: A good population of slow worms were recorded along the northern, eastern and southern boundaries of the site. The slow worms should be relocated prior to any ground works taking place.
- 7.57.3 Birds: The submitted report states that 33 no. bird species were recorded on or close to the site including 6 Biodiversity Action Plan (BAP) species (although all still relatively common and widespread in southeast England); however the survey also included a large plot of land to the west of Buntingford. Given that the majority of trees and hedgerows will be retained, the development is considered to have limited impact on breeding birds. The proposed open space will also enhance the value of the site for birds.
- 7.57.4 Bats: No roosts were recorded on site, but bats were recorded foraging throughout the site, mainly along hedgerow boundaries. Given that the majority of hedgerows are scheduled for retention it is unlikely that bats will be negatively impacted by the development.
- 7.57.5 Hedgerows: The survey identified one hedgerow on site, along the northern boundary but has not been classed as 'important' under the ecological criteria of the Hedgerow Regulations 1997. However the hedgerow does provide wildlife habitat and commuting routes for bats, and should be retained where possible.
- 7.57.6 Badgers: No further survey has been submitted but would be required by condition prior to the commencement of development.
- 7.58 There are no designated wildlife sites within close proximity of the site and no objection has been raised by Herts Biological Records Centre or Natural England subject to securing mitigation measures and ecological enhancements by condition, along with a badger survey which has not yet been submitted. Officers are therefore satisfied that the development will result in no harm to protected sites or species subject to conditions.
- 7.59 The surveys have also identified Giant Hogweed on site which is listed as an invasive species in Schedule 9 of the Wildlife and Countryside Act 1981 and must be disposed of appropriately. This is controlled through the Environmental Protection Act 1991 and a condition would therefore not be reasonable to duplicate these controls.



Heritage Assets

- 7.60 The site lies approximately 500m south of the Buntingford Conservation Area, and will therefore have no impact on its setting. However it is located within close proximity of the Aspenden Conservation Area which lies predominantly to the south of the A10 but runs part way along Aspenden Road to incorporate a commercial building and storage site to the west of the site. Given the mature tree screening around the site and along Aspenden Road, and that the part of the Conservation Area to the north of the A10 is of little heritage interest, the proposal will cause no harm to the setting of this heritage asset.
- 7.61 There is one listed building in the vicinity of the site, and that is the Grade II listed Aspenden Bridge over the River Rib. The bridge was constructed in 1878 and displays a plaque stating 'Aspenden Bridge built by private subscription AD 1878 W. Watson Esq.' The bridge is located approximately 35m south of the proposed vehicular access and is restricted to single file traffic due to its width. It is acknowledged that the development will result in increased local traffic; however, the majority of traffic is expected to head north to Buntingford, rather than south to Aspenden village over the bridge. Further, given the scale of development proposed, Officers do not consider the additional number of vehicles on the local roads to be significant. The proposal would therefore not result in any harm to the structure of this heritage asset. Further, given the indicative layout and retention/enhancement of vegetation along Aspenden Road to screen the visual impact of the development, Officers do not consider that any harm would arise to its setting in accordance with Section 12 of the National Planning Policy Framework.
- 7.62 In terms of archaeology, an initial desk-based assessment has been submitted and identifies that the only heritage asset of archaeological interest is the remaining section of the track bed of the Buntingford railway which runs along the eastern boundary of the site. The report also concludes that the potential of the site to contain buried heritage assets of archaeological interest is moderate given that a number of heritage assets of prehistoric, Roman, medieval and post-medieval date are known from the vicinity. The development site is therefore considered to have the potential to contain currently unknown heritage assets, but no objection has been raised by the County Archaeologist subject to a condition to secure a programme of archaeological work in accordance with policies BH2 and BH3. The proposal therefore also complies with Section 12 of the National Planning Policy Framework.

Financial Contributions and Obligations

- 7.63 Given the scale of development proposed, the proposal triggers a range of contributions and Section 106 requirements. Herts County Council have requested contributions for all service provisions, however the exact figures cannot be calculated as the application is in outline form. Officers consider the requirement for service contributions to be reasonable and necessary to make the development acceptable in planning terms, and to mitigate its impact on Buntingford town in accordance with the Community Infrastructure Levy (CIL) Regulations 2010.
- 7.64 A financial contribution is also required to improve outdoor sports facilities in Buntingford in accordance with the Council's Outdoor Sport and Recreation SPD as previously discussed above.

#### Other Matters

- 7.65 Questions have been raised over land ownership in relation to the northern corner of the site, and the field gate access to the neighbour's land. The applicant has confirmed that they own all the land identified within the site boundary, and that the neighbour has a right of way across the northern corner to an access gate. This access remains unaffected by the proposal.
- 7.66 There is an area of Common land to the west of Aspenden Road opposite the application site. The proposed development will have no impact on this land.

### **8.0 Conclusion**

- 8.1 As with previous applications considered for land north and south of Hare Street Road, this application raises a complex consideration of issues. The site lies outside the settlement boundary of Buntingford and within the Rural Area Beyond the Green Belt wherein policy GBC3 states that permission will not normally be granted for new residential developments. The proposal also pre-empts the District Plan process of determining the quantum of housing development and necessary infrastructure for the town. It would therefore be preferable for such a development to be considered strategically and cumulatively with regards to its impact on the town.
- 8.2 However, the Council is in a position where it is currently unable to demonstrate a 5 year housing land supply, plus 5%, as required in the NPPF. The need for additional housing in East Herts must therefore weigh heavily in the balance of considerations. Further, the existing settlement boundaries and housing allocation policies in the East Herts

### **3/13/1399/OP**

Local Plan Second Review April 2007 related to housing growth figures up to 2011, and are now considered to be out of date.

- 8.3 The requirements of the NPPF must now be taken fully into account and this states that where a Local Plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Although the development, when taken cumulatively with other development sites in and around Buntingford, will add some pressure to existing services and infrastructure in the town, it is considered that this impact can be satisfactorily mitigated by planning obligations and financial contributions, and that, overall, the proposal will not compromise the future development of the town. No other significant impacts have been identified and therefore Officers consider that, in accordance with national planning policy, planning permission should be granted.
- 8.4 The application is therefore recommended for approval subject to the planning obligation and conditions set out above.