

**3/14/0060/OP - Erection of High Dependency Continuing Care Retirement Community comprising of: 80 Bed Care Home Up to 96 c2 Extra Care/Assisted Living Units Public Woodland Walking Areas. Shared Communal Facilities including Swimming Pool, Gymnasium, Day Centre, Therapy Rooms, Restaurant, Store/Post Office and Surgery located in a central purpose designed care and management facility Shared External Communal Facilities including Tennis Courts, Bowling Green, Gardening Area and Woodland Walking Area at Former brickfields, off Cole Green Way, Hertford, SG14 2LF for Mr L J Elmermann**

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**Date of Receipt:** 13.01.2014

**Type:** Outline – Major  
(All matters reserved)

**Parish:** HERTFORD

**Ward:** HERTFORD - CASTLE

### **RECOMMENDATION**

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

1. The proposed development constitutes inappropriate development within the Metropolitan Green Belt and is therefore, by definition, harmful to it. Other harm would also result from a loss of openness to the surrounding area; an adverse impact on the character and appearance of the area; the isolated and unsustainable location of the site; the adverse impact upon protected trees; and that it fails to achieve a safe means of vehicular access. The material considerations relating to the positive impacts of the development are not considered to be of such weight that they would clearly outweigh this identified harm or amount to the very special circumstances required to justify the inappropriate development in the Green Belt. The development would thereby be contrary to policies GBC1, GBC14, SD1, ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007 and national policy set out in the National Planning Policy Framework.
2. The development would result in the removal of a substantial number of trees subject of a Tree Preservation Order and cause significant harm to the woodland character of the area, contrary to policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.
3. The application fails to demonstrate that a safe means of vehicular access, outside of the floodplain, can be provided to the application site. The access point onto Horns Mill Road is at high risk of flooding to the extent that has required the road to be closed at times. Access into and out of the site for residents and emergency vehicles would, during these times, be impeded to the detriment of the safety of residents. The

proposal would thereby be contrary to policies ENV1 and ENV19 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

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## **1.0 Background**

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

## **2.0 Site History**

- 2.1 Members may recall that in February 2013, an outline planning application (lpa 3/12/1934/OP), for the same proposal was refused on grounds of:-
  - Inappropriate development within the Metropolitan Green Belt
  - Removal of a substantial amount of trees subject of a Tree Preservation Order - harm to the woodland character of area

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- Insufficient information to assess traffic generation and implications on the surrounding highway network and to demonstrate that a safe means of vehicle access onto the public highway at Horns Mill Road can be provided.
- Insufficient information of the proposed access bridge across the River Lee, and any associated earthworks, to assess whether, in principle, a safe and appropriately designed means of access can be provided without causing an increase in flood risk in the area.

2.2 That application followed a previous outline application (3/12/1207/OP) for a similar proposal that was recommended for refusal but was withdrawn prior to the October 2012 committee meeting. Although no decision was made, the Officer's Report identified a number of concerns with the previous proposal and recommended five reasons for refusal relating to; Inappropriate development in the Green Belt; Removal of substantial amounts of protected trees; Insufficient information relating to ecological reports and surveys; Failure to provide a suitable assessment of the flood risk arising from the development and; Insufficient information submitted in relation to traffic generation and failure to demonstrate safe means of access onto the public highway.

2.3 The material changes to the development now being proposed (as compared to the most recent refused application) are in respect of the submission of additional information in terms of the access to the site; floodplain and river crossing design; additional submissions in terms of the Landscape/Arboricultural and Visual Assessment; an updated Transport Assessment and further justification in terms of the land designation to investigate the 'brownfield' status.

### **3.0 Consultation Responses**

3.1 The Environment Agency have removed their earlier objection to the proposals. However, in terms of the proposed crossing, they comment that whilst the proposal does provide for compensatory storage, the access bridge is in the functional flood plain and is a concern which the Council should consider as part of its emergency planning function. They comment that the proposal will meet the requirements of the NPPF with the imposition of conditions for a surface water drainage scheme to be agreed; compliance with the document 'Access Site floodplains and river crossing design information detailed in the FRA; contamination assessments, verification and long term monitoring and that piling or any other foundation designs using penetrative methods shall not be permitted.

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- 3.2 Hertfordshire Ecology consider that the proposals will have a degrading impact on the site due to the loss of woodland, fragmentation of the remaining woodland, loss of scrub, degrading of the nature of the river crossing and potential impact on the tree in Horns Mill Road. They comment that they have no reasons to consider that the site supports an ecological interest of sufficient importance to represent a fundamental constraint on the development. However, they consider that approval should not be given until a satisfactory approach to the above issues have been addressed, which should include biodiversity offsetting. In regards to protected species, they comment that further surveys should be undertaken to ensure that protected species are properly dealt with and future management addressed.
- 3.3 The Herts and Middlesex Wildlife Trust endorse the recommendations made in the Ecology Report, including the need for further survey work to inform appropriate mitigation, habitat compensation and precautionary approaches. This should be secured through an Ecological Management Plan, drawn up by a suitably qualified ecologist and submitted and agreed with the LPA.
- 3.4 Hertfordshire Highways comment that they do not wish to restrict the grant of permission, subject to a legal agreement to secure the following:-
- A 'Shuttle Bus' service between the development and Hertford town centre, for residents and employees of the development
  - Upgrading to the surface of the Hertford 054 Byway Open to All Traffic, for a distance of approximately 65 metres, measured from the viaduct in an eastbound direction, and upgrading the surface of the Hertford 055 footpath, measured from the viaduct in a westbound direction, for a distance to be determined at the Development site layout reserved matters application stage. A minimum path width of 2 metres shall be treated along the identified stretches.
  - A Green Travel Plan
  - Bus stops outside the site on both sides of Hornsmill road to become DDA compliant through the provision of shelters and Kassel kerbing.

They also then recommend the inclusion of conditions in respect of: details of the proposed access visibility splays and the width of the Hornsmill Road carriageway based on a full topographical survey; all highway works to be completed in accordance with the approved detailed plans (based on the topographical survey); closure of existing accesses; visibility splays; wheel washing; Construction Traffic

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Management Plan to be agreed; provision for construction materials, on-site parking and turning spaces to be provided; the existing public right of way abutting the site to remain undisturbed and unobstructed at all times unless legally stopped up or diverted; all recreational facilities and residential services shall be for the exclusive and sole use of residents and their visitors only; and that detailed plans submitted in connection with approval of reserved matters shall illustrate all on-site vehicular areas including parking areas, estate roads, footways, footpaths and all other connections with the public highway and public right of way network.

- 3.5 The County Planning Obligations Unit seek obligations towards library facilities and fire hydrants.
- 3.6 National Health Services (NHS) England have commented that they do not have the capacity to absorb the additional requirement for general medical services (GMS). They outline that out of the existing 5 GP surgeries in the locality, 1 is approaching constrained, 2 are constrained and 2 are severely constrained. A Practice in this situation would usually need to be extended or even relocated to absorb a significant number of new registrations. They confirm that Hertfordshire and South Midlands Area Team of NHS England will not be commissioning a GP service from Woodlands Retirement Village and will be expecting its local GP practices with open list and in the catchment area of the home to register patients. Patients in the home will be treated equitably to patients in the wider community.

The specialist cohort of patient registrations for a home offering dementia care will be put pressure on the practices. The GP practices are commissioned to provide primary medical services for all patients. If the home wants to enter into a private contract with a GP practice to provide services outside the practices' core contract that would be a private arrangement between the home and the practice. However the home will still have to ensure they are offering their residents choice of GP. For all the above reasons a S106 contribution is requested to support those practices most impacted and to make this scheme favourable to NHS England.

- 3.7 The Campaign to Protect Rural England (CPRE) has recommended refusal and commented that the remains on site are fragmented and no longer remain the dominant feature on site. The fact that the Council do not have a five year land supply does not outweigh the presumption against inappropriate development in the Green Belt.

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- 3.8 The Councils Environmental Health Section advise that any permission shall include the conditions for soil decontamination and directives for contaminated land, dust, asbestos and bonfires.
- 3.9 The Councils Landscape Section has commented that the Arboricultural Impact Assessment fails to take into account the protected status of this woodland site or to recognise the restrictions upon land use that this imposes. The site is covered by a Tree Preservation Order 366 (TPO) and is designed to protect the trees and woodland as an amenity for the local community. The nature, scale and type of this proposal will cause significant and irreversible harm to this woodland and/or prevent regeneration of the woodland unit and have adverse impact on the landscape character of the area.

They note that although there are remains of the site's former use, it is now more fitting to describe the site as secondary woodland. It is nevertheless being argued by the applicant that this woodland should be classified as being previously developed land and therefore considered as an exception to regarding the construction of the proposed new buildings as inappropriate in the Green Belt. Even if supposing that a remnant brick kiln were to define the site as "existing development" the proposed type of development will still obviously have a greater landscape impact on the Green Belt.

In summary they state that the woodland is an irreplaceable resource, and in dealing with an application in woodlands, the LPA must grant consent so far as accords with good forestry practice unless they are satisfied this would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. The proposed type of development would fail to secure the special character of the woodland or the woodland character of the area. This is a site with high landscape sensitivity and low landscape capacity for the type of development proposed without it losing its essential character. The woodland unit is not compatible with, or able to adapt to the change of use proposed, which will have significant adverse impact on the landscape character of the site and surrounding area.

- 3.10 Historic Environment Unit have not commented on this application, but previously comments that the site should be regarded as likely to have an impact on heritage assets of historic archaeological interest and that any planning consent granted should include a condition to secure a programme of archaeological work in accordance with a written scheme of implementation to be submitted to and approved by the LPA.

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- 3.11 National Grid comment that they have apparatus in the vicinity of the application site that may be affected by the proposal and that there is an obligation that they are contacted prior to any works being carried out.
- 3.12 Affinity Water have commented that the site lies within the groundwater Source Protection Zone of Port Hill Pumping Station and that the construction works should be undertaken in accordance with the relevant British Standard.
- 3.13 At the time of writing this report, no comments have been received from The Council's Housing Unit; The Councils Policy Section; The Councils Engineers Section; Hertfordshire Constabulary Crime Prevention Design Advisor; Natural England; The Woodland Trust; Hertfordshire Health and Wellbeing Board; the Plant Protection Team; EDF Energy Networks; the Passenger Transport Unit; the Ramblers Association. Any further responses received will be reported to members at the meeting.

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

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

The Committee is appalled that this second application has been submitted following the refusal of the previous application. Whilst the proposed provision could possibly be seen to be useful, there does not appear to be a particular need for such a development and the location is considered wholly inappropriate for such use.

The site is neither derelict nor a wilderness and has in fact become highly significant for Hertford in terms of ecology and the railway banks have become corridors for both flora and fauna. The site is one of the designated Green Fingers surrounding Hertford and separates the Town and Village of Hertford and Hertingfordbury. To build on this land would have a detrimental effect on the ability to maintain the separate identities of the town and village. The land abuts Cole Green Way which many people use as a rural, peaceful place to walk and cycle and the application seeks to replace this area of woodland and open space with a large residential development.

The proposed site entrance between the viaduct and Harts Horn Public House is on a road not designed for heavy traffic use and additional traffic on the junction is considered both dangerous and inappropriate. The road has also been closed as a result of flooding in the last few days. The isolated nature of the development from the town centre is also considered both unsustainable and inappropriate given the proposed use of the land. Walking into town would be unlikely to be possible in many cases. In conclusion, the proposed development is

considered highly inappropriate in the green belt location’.

## **5.0 Other Representations**

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

5.2 91 letters of representation had been received at the time of writing, including from the Hertford Civic Society. The comments raised can be summarised as follows:-

- Site is within the Green Belt. Inappropriate development. No very special circumstances demonstrated. Not a brownfield site. Development more impacting on openness.
- Whilst there is a need for this type of accommodation it should be assessed as part of the Local Plan process to examine Green Belt boundary changes.
- Unsustainable development and location for this use. Facilities proposed not suitable for retirement home.
- Highway safety concerns with increased traffic generation, new junction is unsafe, poor visibility.
- Loss of wildlife habitats, biodiversity could be irreparably degraded.
- Could be hazardous materials on site that should not be disturbed.
- Removal of trees subject to Tree Preservation Order unacceptable. Harm to character of the woodland and the adjacent Terrace Wood which is an Ancient Woodland.
- Insufficient information relating to disposal of sewage. Could result in use of the River Lea for discharging sewage.
- Flood risk. Access road would be built on a flood plain.
- Existing utilities dealing with treatment of waste are already overloaded.
- Could put a strain on other local services.
- Noise and light pollution.
- Development will ruin a tranquil location.
- Loss of visual amenity. Will look totally out of place in a rural location.
- Domestic water supply may become contaminated.
- Disruption to grazing horses. Could compromise their security.
- Adverse impact on neighbouring residential amenity, noise, overlooking, overshadowing and light pollution.
- Could set a precedent.
- Could destroy tourism in the area



## **6.0 Policy**

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

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

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

## **7.0 Considerations**

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

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

Principle of development

- 7.2 The site lies within the Metropolitan Green Belt, wherein permission will not be given for inappropriate development unless there are other material planning considerations to which such weight can be attached that they would clearly outweigh any harm caused to the Green Belt by inappropriateness or any other identified harm, thereby constituting 'very special circumstances' for permitting the inappropriate development in the Green Belt.
- 7.3 Any proposal for new residential development and other associated buildings in the Green Belt is contrary to Local Plan policy GBC1. The National Planning Policy Framework at Paragraph 89 states that the construction of new buildings in the Green Belt is inappropriate, with one set exception being, 'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development'. Officers do not consider this site to be previously developed land (as will be discussed later in this report), and even if it were, the proposed development would clearly have a greater impact on the openness of the surrounding area than any existing development. In either case then, the development would constitute inappropriate development, and the proposal would therefore, by definition, be harmful to the Green Belt. In addition, Officers consider that other harm would result from the development (which is set out below).
- 7.4 The main issue to consider in the determination of this application is therefore whether, taking all the material issues into account, weight can be assigned to the positive impacts of the development such that the harm in Green Belt terms and any other harm, is clearly outweighed. If that is the case then very special circumstances are demonstrated and planning permission could be granted.
- 7.5 The Planning Statement and 'Review of Land Status as it Pertains to Previously Developed Land Designation' considers that the site is considered as a brownfield site being previously developed land, and the Report includes references to legal interpretations as to what constitutes brownfield land. The Report outlines that the structures on site and embankments are clearly visible and have not 'blended into the landscape'.
- 7.6 The National Planning Policy Framework (NPPF), within Annex 2, states that 'previously developed land' excludes that where 'the remains of the

permanent structure or fixed surface structure have blended into the landscape in the process of time'. The site was once occupied as a Brickworks with associated buildings. However, this use was ceased a long time ago and there is now no obvious outward appearance of the site being anything but established woodland. There are a number of semi derelict and modest structures associated with the former use, but these are limited in size and are not a prominent feature from within or outside of the site. The embankments formed from the former use can be seen from within the site as obvious changes in land levels but their character still reflects that of a woodland. The site therefore, in the view of Officers, cannot be considered brownfield or previously developed land.

- 7.7 Even if the site were considered as previously developed then the NPPF, at Para 89 and 111, states that redevelopment of previously developed land would only be permitted where the land is not of a high environmental value and where any new development would not have a greater impact on the openness of the Green Belt and the purposes of including land within it. As will be outlined within this report, the proposal is not considered to comply with either of these criteria.

#### Other harm

- 7.8 Openness; character and appearance: The proposal would, in Officers view, result in a significant material loss of openness to the Metropolitan Green Belt and would be detrimental to the established woodland character and appearance of the area. Whilst the site has established landscaping, a development of this scale would nevertheless materially erode openness and would be harmful to the landscape character of the area. There would inevitably be a change in the character and the appearance of the site, resulting in a more urban character which would be detrimental to the rural surroundings.
- 7.9 Isolated location: Additional harm is identified due to the isolated location of the site, being relatively inaccessible to nearby settlements (except by private vehicle) and to their services and amenities, which would be against the justification put forward by the applicant as to why it is sited on the edge of Hertford. Officers consider the site too remote in terms of distance with a poor quality of footpaths, to genuinely enable residents of the retirement centre to walk to Hertford town centre or to enable the use of other sustainable transport measures and as such, the site is an unsustainable location. This is contrary, of course, to the general thrust of national planning policy in the NPPF.

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- 7.10 Impact on Protected Trees: The site is covered by a woodland Tree Preservation Order (TPO) and the development and the resulting impact of the subsequent change in land use would cause damage to existing trees and/or prevent regeneration of the woodland unit as a whole. This site does not have the landscape capacity to accommodate the proposed development without losing protected trees and its essential woodland character. Significant harm is therefore attributed to this element of the scheme.
- 7.11 Means of safe vehicular access: Although the proposal is for outline planning permission, it is clear from the submissions that the proposed vehicular access for the development is proposed at Horns Mill Road, and indeed there has been recent pre-application discussion for the design of the bridge at this location. The location of the bridge is within the functional flood plain (Zone 3b) and there is regular flooding of this area to an extent where Horns Mill Road is closed. The Environment Agency has highlighted this concern and states that the Council should give further consideration to this matter. Officers acknowledge and concur with these concerns and it is considered that when this area floods vehicular access to the site is very likely to be prevented. In addition to the inconvenience that this would cause to residents, there are significant concerns that access would be impeded. This is of particular concern given the nature of accommodation proposed.

#### Benefits of the proposal

- 7.12 Given that the development, by definition, is harmful and that other harm has been identified as set out above, it is necessary to consider whether these matters are clearly outweighed by other issues. The appellant considers that there are other issues that do weigh in favour of the application, and this is in relation to:-
- The need for the proposal, with an ageing population and the rapid growth of the "oldest old" who have the highest health and social care needs;
  - The proposal would provide a particular form of accommodation not widely available in the area;
  - Recent government support for this type of proposal;
  - There are no sequentially preferable sites;
  - The existence of wider benefits including freeing up larger family houses, the provision of employment and the wider economic benefits for local business;
  - Great social benefit will be provided to the area in the form of high dependency living environment for people with needs.

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- The provision of new employment (up to 50 jobs)
- The creation of new public spaces that will seek to address an existing deficit in the area.

7.13 The application has been submitted with a document entitled Care Needs Assessment. The document discusses the increasing need for care accommodation in the United Kingdom, and then outlines existing care provision within East Herts and specifically within 5 miles of the proposed development site (though I note that this excludes the 85 bed care home nearing completion at Bentley House, Pegs Lane, Hertford). The Report then outlines care accommodation needs within the District and again within a 5 mile radius. This Report concludes that there is an unmet need for both care home beds (879) and extra care beds (289) within 5 miles of the site. Officers have reviewed this information and have no reason to dispute the figures. This unmet need is a factor which weighs in favour of the proposal.

7.14 Within the Planning Statement, it is stated that the Council should give weight to the proposal as it cannot be demonstrated that a five year supply of deliverable housing sites can be met. It is accepted that the proposal would have some benefit in terms of meeting a contribution to the 5 year land supply. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered to be up to date in such situations and that the presumption in favour of sustainable development should apply. In such circumstances paragraph 14 of the Framework advises that planning permission should be granted unless either of the following circumstances apply. Firstly, the adverse impacts of doing so clearly outweigh the benefits when assessed against the policies in the Framework as a whole. Secondly, specific policies in the Framework indicate development should be restricted. In relation to sustainability, the site is considered an unsustainable location, as outlined above, and furthermore the proposal is inappropriate development within the Green Belt; would cause removal to trees subject of a TPO and harm to the woodland character, and also fails to demonstrate that a safe means of vehicular access can be achieved. This is contrary to specific policies of the Framework and as a consequence, the scheme does not constitute sustainable development within the meaning of the Framework, and this clearly weighs against the proposal.

7.15 On balance, having considered all the relevant issues put forward by the applicants, Officers have strong reservations that the considerations put forward in this case are of such weight that they 'clearly outweigh' the harm caused to the Green Belt by this development. Whilst there may be evidence of a need for this type of accommodation and whilst having

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regard to the other associated benefits, Officers cannot agree that those considerations outweigh the significant harm caused in this case such as to amount to 'very special circumstances' for permitting this inappropriate development.

#### Other material considerations

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

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

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

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including a full preliminary risk assessment of the site, remediation strategy and scheme of long term monitoring and maintenance to be agreed with the LPA. Should outline consent be granted, it is Officers view that appropriate conditions would be necessary and reasonable and these could be added to ensure that these measures are put in place.

- 7.23 Provided the conditions as recommended by the Environment Agency are imposed on any outline permission granted, Officers are content that the proposal is acceptable in relation to flood risk and drainage issues on the site itself (as proposed to the flood risk relating to the access) and these therefore form a neutral impact. The potential for flooding of the access, however, is not considered to comply with policy ENV19 of the Local Plan and forms a third reason for refusal.
- 7.24 Impact on neighbour amenities: In respect of the impact of the development on neighbouring properties, it is considered that the layout, design and access arrangements could be planned in such a way as to prevent the development having any unacceptable impact upon neighbours amenity. With regard to the levels of amenity that the development could provide for future occupiers, I am satisfied that this would be acceptable and in compliance with Policy ENV1 of the East Herts Local Plan. No further harm results from this issue and therefore in terms of balancing the harm caused by the proposal with the benefits of the development; Officers consider that this would have a neutral impact on that balancing exercise.
- 7.25 In summary therefore, the additional harm that has been identified by Officers in this case relates to a loss of openness; impact on the character and appearance of the area; the isolated and unsustainable location of the site; the impact upon protected trees; and inadequate means of safe vehicular access. In order to support this proposal the Council would need to be satisfied that the benefits of the scheme clearly outweigh the harm caused by inappropriateness and this other identified harm. That is a balancing exercise therefore between the harm caused and the positive impacts of the scheme. Officers have undertaken that exercise and, for the reasons set out above, consider that the matters put forward in support of the proposal are not of sufficient weight to clearly outweigh the significant harm that would be caused by this development. Officers do not accept that there are very special circumstances in this case to justify this inappropriate development in the Green Belt.



**8.0 Conclusion**

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