

DEVELOPMENT MANAGEMENT COMMITTEE – 8 FEBRUARY 2017

Application Number	3/16/1877/OUT
Proposal	Erection of Low Carbon Continuing Care Retirement Community comprising of: 80 Bed Care Home and up to 96 Class C2 Flexi Care / Assisted Living Units. Shared Communal Facilities including Swimming Pool, Gymnasium, Day Centre, Therapy Rooms, Restaurant, Store/Post Office, and Public Woodland Walking Areas. All matters reserved.
Location	Former Brickfields, Off Cole Green Way, Hertingfordbury
Applicant	Woodlands Retirement Village Ltd
Parish	Hertford CP
Ward	Hertford Castle

Date of Registration of Application	16 August 2016
Target Determination Date	11 November 2016
Reason for Committee Report	Major Planning Application
Case Officer	Lisa Page

RECOMMENDATION

That, had East Herts Council been in a position to determine application ref: 3/16/1877/OUT, it would have **REFUSED** planning permission for the proposed development for the reasons detailed at the end of this report.

1.0 Summary

- 1.1 The site lies within the Metropolitan Green Belt wherein, in accordance with the National Planning Policy Framework (NPPF), redevelopment of 'previously developed land' (PDL) is appropriate. Officers do not, however, consider that the site comprises PDL as the remains of any earlier permanent structures have clearly blended into the landscape in the process of time. Even if the site was determined to fall within the definition, the proposed development would clearly have a greater impact on the openness of the Green Belt, and the purposes of including land within it, than the existing development. The proposed development therefore constitutes inappropriate development in the Green Belt with regard to Policy 89 of the NPPF.
- 1.2 Members will be aware that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF is clear that such circumstances will not exist unless the potential harm to the Green Belt by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 1.3 Additional harm has been identified by Officers in this case and this relates to a significant loss of openness; impact on the character and appearance of the area; the isolated and unsustainable location of the site; the impact on protected trees; inadequate means of safe vehicular access, and proximity to a gas pipeline. 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.
- 1.4 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, 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.
- 1.5 The applicant has lodged an appeal with the Planning Inspectorate against the non-determination of the application and therefore the Council cannot now make a decision on it. However, it is important to establish what decision the Council would have made so that its case can be presented to the Inspectorate in due course.

2.0 Site Description

- 2.1 The application site (around 5.05 hectares) is shown on the attached OS extract. The main bulk of the site, wherein all the buildings would be located, comprises an area of heavily wooded land, covered by a blanket Tree Preservation Order (TPO) and an open agricultural field. This area of 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. The red edge of the application site also indicates that the vehicular access to the proposed development would run to the northern side of the site, under the railway line, and then turning south parallel with the line before crossing the river and accessing onto Horns Mill Road close to the junction with Pearson Avenue. The submitted documents also include provision for a new vehicular access from Mimram Road to provide access to Hertford Town Football Club. However, this access does not link up with the application site and would not provide a second or

alternative access to the proposed development. It is essentially therefore unrelated to the development proposed at the site.

- 2.2 The wider surroundings are of open countryside with occasional buildings and the site forms part of one of the 'green fingers' on the west side of Hertford. 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 of the main site is adjacent to the railway line viaduct – beyond which lies Hertford Town Football Club. To the south lies Brickfields Farm and associated fields.

3.0 Background to Proposal

- 3.1 Outline planning permission is sought for the use as specified within the description of the application, set out above. The concept is to create a Continuing Care Retirement Community (CCRC). A range of accommodation is proposed, including self-contained flats or bungalows and apartments offering personal care and support for those with greater care needs. Activities such as swimming, walking and gardening would also be facilitated on the site. Other communal facilities may include restaurant(s), activity room(s), library, computer suite and consultation room. All matters (access, appearance, landscaping, layout and scale) are reserved. The application has been submitted with illustrative drawings of the layout and design, together with parameter plans indicating limits of scale.
- 3.2 Although access remains a reserved matter, the application submission is clear that vehicular access is proposed from Hornsmill Road and a separate vehicular access is proposed from Mimram Road to the Football Club, but this does not link with the application site itself.

4.0 Key Policy Issues

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the pre-submission East Herts District Plan 2016 and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy	Pre-submission District Plan policy
Principle of Development	Chapter 9	SD1, GBC1	GBR1

Impact upon landscaping and protected trees		GBC14, ENV1, ENV2, ENV11	DES1, DES2, DES3
Impact upon designated sites and protected species		ENV14, ENV16, ENV17	NE3
Impact on neighbour amenity		ENV1	DES3
Flood Risk and Drainage		ENV19, ENV21	WAT1, WAT2, WAT3, WAT5
Highway matters		LRC9, TR1, TR2, TR7, TR20	TRA1, TRA2, REA3
Benefits of the proposals	Section 6		
Planning balance - whether benefits clearly outweigh harm such that very special circumstances are evident.			

The Council's Supplementary Planning Document – Landscape Character Assessment (2007) is also a material consideration in the determination of the application.

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 Emerging District Plan

The Council resolved to proceed to the publication of its pre-submission version of the District Plan at the meeting of Council of 22 Sept 2016. Consultation on the Plan has recently been completed and the detail of the responses is now being considered by Officers. The view of the Council is that the Plan has been positively prepared, seeking to ensure significantly increased housing development during the plan period. The weight that can be assigned to the policies in the emerging plan can now be increased, given it has reached a further stage in preparation. There does remain a need to qualify that weight somewhat, given that the detail of the responses to the consultation is yet to be considered.

6.0 Summary of Consultee Responses

6.1 HCC Highway Authority comments that:-

As all matters are reserved for future consideration, including means of access, the Highway Authority has indicated that this raises a difficulty in terms of its response. The Highway Authority considers that access arrangements (and other highway related issues) are fundamental to the acceptability of the proposal and it has considered the application on the basis of all matters reserved, and the principle of a single access onto Hornsmill Road. It has noted previously concerns with the detail and feasibility of a second access point via Mimram Road, and the need for further technical evidence work in that respect.

Very detailed comments are made in response to the application and these can be summarised as follows:

- With respect to visibility to the south-west, the applicant will need to provide clarification regarding the visibility, given that the splay to the south-west appears to cross third-party land.
- The application relies on a Transport Assessment prepared for a similar, but nevertheless different development design and application and the details within the Transport Assessment submitted presently would not be acceptable for a full planning application.
- The Highway Authority has undertaken its own assessment which revealed that overall trips rates are very close to those presented by the applicant and peak hour trip rates are of similar levels. With this in mind, the Highway Authority is content that the outputs of the TRICS assessment as shown by the applicant in their Transport Statement are realistic.
- If these facilities are opened up to the wider public, then clearly trip rates will increase, to the possible detriment of the free flow of traffic in the vicinity of the site. They recommend a condition restricting the use of all the facilities on the site to residents and their visitors only.
- The Bullocks Lane / Hornsmill Road / Taverners Crescent / South Street mini roundabout experiences roadside parking on some approaches which affects the free flow of traffic. However, provided the development itself makes provision for sufficient on-site parking, it is unlikely to exacerbate this existing situation. In addition, the predominant flow of traffic at this location is along Hornsmill Road – Bullocks Lane, and as such the capacity of the roundabout is not an issue in itself.

- It is acknowledged that the A414 / Hale Road roundabout often experiences significant queuing during peak hours, any additional increase to the traffic at this location as a result of the development will be marginal when taking into account existing traffic levels.
- The site is not ideally located in terms of sustainable travel opportunities, and a number of measures will need to be implemented.
- The shuttle bus is an essential requirement of this development to ensure it meets current sustainable transport policy, and it should form part of the wider sustainability/accessibility measures for the site.
- It is important to recognise that a footway link alongside the vehicle access road is a lengthy route to take for pedestrians/cyclists wishing to travel to Hertford town centre, and in doing so they will actually be initially routing away from their desired location. However, such a link has other benefits, particularly to allow pedestrians convenient access to the existing bus stops located outside the proposed entrance.
- The most direct pedestrian/cycle route from the site to Hertford town centre will be via the public right of way network to the north of the site, and out onto and along West Street. This is a distance of just under 1 mile and provides a generally flat route for its full length. However, West Street has restricted footway widths on both sides at points and heavy roadside parking at the northern end, which is not an ideal setup for pedestrians and cyclists. In addition, the Hertford 055 footpath and part of the Hertford 054 Byway Open to All Traffic (both of which must be navigated to access West Street) suffers from uneven and soft surfacing which becomes very muddy in wet weather.

The Highway Authority further comments that although parking is a matter for the local planning authority, there is concern that during evening hours, apart from staff parking, there will be parking demand from visitors and people using the communal facilities and the demand/impact this will have with limited bus services operating. The predicted trip generation does not reflect the level of parking provision and the travel plan does not set targets and mitigations if the level of trips exceed.

They conclude by highlighting that the National Planning Policy Framework states that development can only be refused on highway grounds when a severe cumulative impact can be demonstrated. Whilst there are elements to this proposal which are not ideal from a highways aspect, the Highway Authority considers that it would be difficult to argue that any of these would result in a severe impact to the public

highway and its users, so long as recommended conditions are compiled with, and the Section 106 agreement implemented to secure; a shuttle bus between the development and Hertford; upgrading of the existing Hertford 054 ByWay Open to All Traffic; a Green Travel Plan to include that the bus stops either side of Hornsmill Road become DDA compliant and a monitoring fee of £6000; together with a number of conditions.

They comment that should a planning application be submitted where transport is not reserved, then the Highway Authority would not accept the documentation in its present form, and consider that it needs updating to provide clarity regarding highways and transportation matters to the Highway Authority.

- 6.2 Lead Local Flood Authority raises no objection and comments that the site can be adequately drained and any potential existing surface water flood risk mitigated if the development is carried out in accordance with the overall drainage strategy.
- 6.3 Environment Agency raises an objection on grounds of an inadequate Flood Risk Assessment (FRA). They state that the revised FRA still does not comply with the requirements set out in the NPPF and NPPG and does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to; provide detailed hydraulic modelling; demonstrate the method used for flood plain calculations; demonstrate the risk of blockage and cutting off flow routes on the raised access road; detail how people will be kept safe from flood hazards identified on access and egress routes. They have further concerns that the assessment and mitigation of the risks to nature conservation are inadequate. In particular the applications fails to: provide details of the proposed river crossings; provide a revised Phase 1 Habitat Survey; provide any information on the long term ecological management plan as suggested in Phase 1 habitat survey; provide details of the section named "Compensation regrading area" alongside River Lee; include adequate information about the measures proposed to protect water voles and/or otters.
- 6.4 EHDC Engineering Advisor comments that the site is within Flood Zone 1 and is currently permeable. He advises that the Sustainable Urban Drainage System (SUDS) are reasonably good quality to help reduce flood risk, improve water quality and improve biodiversity but the application lacks sufficient details of the size and nature of the SUDS.
- 6.5 Thames Water comments that surface water drainage is the responsibility of the developer. In respect of sewerage it comments that

connection to the public sewer will require approval from Thames Water. It comments further in respect of swimming pool discharge.

- 6.6 EHDC Landscape Advisor recommends refusal and comments that there are several mature oaks along the line of the proposed section of access road east of the railway viaduct and embankment, albeit just outside the boundary for the protected woodland. Substantial regrading works are likely to be required to construct the access road along this section and unless heavily engineered retaining walls are constructed, embankments will need to be cut back into the protected woodland resulting in the loss of at least some planting. Sections to show the extent of the earthworks will be needed before the precise impact on trees can be assessed. A topographical survey together with existing and proposed sections at various points as well as a long section for existing and proposed finished ground levels are required.

In addition, the nature, scale and proximity of the proposed care home residential units will cause increased demand for access to the woodland for walking and other outdoor pursuits. Although the defined footpaths shown in the indicative layout (as a means of directing increased amenity use through the protected woodland along specific routes) would help to mitigate some of the potential adverse effects on the woodland unit and/or its ecology, it would not be able to completely offset changes to the landscape character of the area due to the scale and magnitude of the proposals.

There are areas of trees and hedgerow that will need to be cleared to make way for New River Crossing points and so an arboricultural Impact Assessment is required before a balanced view can be taken as to the level of adverse impact likely to be incurred.

This is a site with high landscape sensitivity and low landscape capacity for the type of development proposed without it losing its essential character. This site is not capable of 'absorbing' the proposed development while retaining its landscape, woodland character and because the woodland unit is not compatible with, or able to adapt to the change of use proposed, which will have significant adverse impact on the landscape character of the site and surrounding area.

- 6.7 Herts Ecology comments with no objections, subject to the imposition of a condition to ensure that ecological surveys and mitigation will be undertaken in accordance with the Phase 1 Report.
- 6.8 HCC Development Services comments that it seeks the provision of fire hydrants.

- 6.9 HCC Minerals and Waste comments that it seeks to promote sustainable management of waste. It comments that the site lies within the sand and gravel belt as identified within the Hertfordshire Minerals Local Plan, which seeks the opportunistic extraction of mineral use on site prior to non-mineral development where significant mineral resources would otherwise be made unavailable.
- 6.10 EHDC Environmental Health Advisor advises that any permission shall include conditions for contaminated land and remediation.
- 6.11 EHDC Environmental Services comment with advice on the number, size and location of bin provision required on any reserved matters application.
- 6.12 Herts Fire and Rescue Service detail the required access for firefighting vehicles and comments that it seeks the provision of fire hydrants.
- 6.13 NHS England requests a financial contribution of £621 per dwelling for general medical services, commenting that GP surgeries in the area do not have the capacity to absorb the additional requirements for general medical services. It further requests £3083.63 per dwelling for mental health, acute and community healthcare costs.
- 6.14 Health and Safety Executive advises that permission should be refused on safety grounds, due to the proximity of the development to a major hazard pipeline.

7.0 Town Council Representations

- 7.1 Hertford Town Council responded with the following comments:-

'Objection: The Council was again very disappointed to see a further similar application for this site, which again did not address the Councils fundamental objections to the previous applications. The isolated nature of the site remains a major issue as well as the proposed large scale development which is likely to cause coalescence between Hertford and Hertfingfordbury. Furthermore, the proposal is for development on Green Belt land on one of Hertford's important Green Fingers, which has huge significance in terms of ecology with its corridors of flora and fauna. The site entrance onto Hornsmill Road is also unsustainable, is liable for flooding and not able to cope with extra traffic and the proposed new access would involve building on green fields which also regularly flood. For the reasons give above, the Council strongly objects to this proposal'.

8.0 Summary of Other Representations

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

8.2 240 letters of objection, including one from the Campaign to Protect Rural England (CPRE) have been received, commenting:

- Is on attractive greenbelt land. Inappropriate. Urban sprawl
- Harmful impact to the character and appearance of the landscape and wider area
- Loss of trees and planting
- Previous use as brickworks no longer apparent
- Will increase traffic movements on a dangerous road. Danger to other vehicles and pedestrians
- Will have an adverse impact upon wildlife and ecology
- In an area that floods. Will exacerbate flooding
- Is there a need for more elderly person's accommodation/care homes. Already others in the area.
- Will put pressure on GP services and other infrastructure

8.3 306 letters of support have been received, commenting that the development:

- would be good for Hertford Town Council Football Club with less parking on West Street
- would meet a need for elderly and release their houses for sale

8.4 Nearly all of the letters in support of the proposals appear to be from people associated with the Football Club and their comments relate principally to the benefits that would accrue to the Club from the improved access to it from Mimram Road.

8.5 The Campaign to Protect Rural England (CPRE) object to the application and comment that the site is part of the designated Green Fingers within the Local Plan. They comment that the site cannot be classified as brownfield land in accordance with the NPPF and highlight that the Councils inability to demonstrate a 5 year land supply cannot amount to very special circumstances.

9.0 Planning History

9.1 The following planning history is of relevance to this proposal:

Ref	Proposal	Decision	Date
3/14/2132/OP	Outline consent for the erection of a Low Carbon Continuing Care Retirement Community comprising of: 80 Bed Care Home and up to 96 c2 Flexi Care / Assisted Living Units and ancillary uses.	Refuse	16.09.2015
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 and ancillary uses.	Refuse	30.04.2014
3/12/1934/OP	High Dependency Continuing Care Retirement Community comprising of up to 144 C2 extra care/assisted living units and ancillary uses.	Refuse	06.02.2013
3/12/1207/OP	High Dependency Continuing Care Retirement Community of up to 144 C2 extra care/assisted living units and ancillary uses.	Withdrawn after Committee report for refusal published.	

10.0 Consideration of Relevant Issues

Principle of development

- 10.1 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 and any other identified harm, thereby constituting 'very special circumstances' for permitting the inappropriate development in the Green Belt.

- 10.2 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 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'.
- 10.3 Officers have consistently considered that this site cannot be classed as previously developed land (as will be discussed later in this report), and even if it were, the proposed development would clearly have a greater impact on the openness of the surrounding area than any existing development. In either case then, the development would constitute inappropriate development, and the proposal would therefore, by definition, be harmful to the Green Belt. In addition, Officers consider that other harm would result from the development (which is set out below).
- 10.4 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.
- 10.5 The Planning Statement and 'Previously Developed (Brownfield) Land Statement', submitted by the applicant outlines that the site was previously used for mineral extraction, with clay extraction and waste landfill by F.W Berk and Co London and gravel extraction and landfill by A Grubb and Sons of Waterhall Quarry, and then subsequently local people used the site for gravel extraction on a smaller scale. The Report outlines that the structures on site and embankments are clearly visible and their view is that they have not 'blended into the landscape'.
- 10.6 The NPPF, within Annex 2, defines 'previously developed land', (DPL) and excludes that where 'the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time'. The site was once occupied as a brickworks with associated buildings. However, this use was ceased a long time ago and there is now no obvious outward appearance of the site being anything but established and protected woodland.

- 10.7 There are a limited number of semi derelict and modest structures associated with a 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 woodland.
- 10.8 Even if the site were considered as previously developed land then the NPPF, at Para 89 and 111, states that redevelopment of previously developed land would only be permitted where any new development would not have a greater impact on the openness of the Green Belt and the purposes of including land within it. The proposal would clearly not comply with this criterion and would have a harmful impact in relation to the identified purposes of green belt land in terms of encroachment of the countryside. The proposal would therefore amount to inappropriate development within the Green Belt.
- 10.9 It is necessary then to consider whether, in addition to the harm by inappropriateness, any other harm would result from the proposals.

Other harm

Openness, character and appearance

- 10.10 The proposal would result in a significant 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.
- 10.11 The site falls within Area 66 of the Landscape Character Assessment SPD – it states that the area is remote and tranquil, whilst the scale of the landscape is small and confined, although the strong impact from the railway viaduct is noted. The strength of the Cole Green Way is also highlighted. Overall, the area is classed as strong in strength of character and moderate in condition, where proposals should ‘conserve and restore’. A proposal of this scale would inevitably result in a change in the character and the appearance of the site, resulting in a more urban character which would be detrimental to the rural surroundings.
- 10.12 Significant weight is assigned in the planning balance to the harm caused to openness and to the rural character and appearance of the site.

Isolated location

- 10.13 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. Although the applicant considers the site is well located on the edge of Hertford, there are very limited convenient passenger transport services to the town and little opportunity for them. In addition, Officers consider the site too remote, in terms of walking distance, to genuinely enable residents of the retirement centre to walk to Hertford town centre to access its facilities and services or to enable the use of other sustainable transport measures. As such, the site is considered to be in an unsustainable location. This is contrary, of course, to the general thrust of national planning policy in the NPPF and further significant harm is attributed to this in the planning balance.

Impact on Protected Trees

- 10.14 The site is covered by a woodland Tree Preservation Order (TPO) and the development and the resulting impact of the subsequent change in land use would cause damage to existing trees and/or prevent regeneration of the woodland unit as a whole. Although the plans have indicated that the majority of the buildings and access could be sited outside of the TPO area (notwithstanding that this would of course raise significant issues with the buildings being on open land), not all of the development would fall outside of it and in any event, any required levelling works for the access and buildings are likely to adversely impact upon protected trees. Overall, this site does not have the landscape capacity to accommodate the proposed development without losing protected trees and its essential woodland character. Significant harm is therefore attributed to this element of the scheme.

Flood risk and means of safe access

- 10.15 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 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).

- 10.16 The application is accompanied by an FRA and a Drainage Strategy. Matters in relation to drainage are considered acceptable as will be discussed later. However, the revised FRA still does not comply with the requirements set out in the Planning Practice Guidance (PPG) and the National Planning Policy Framework (NPPF), and the application fails to provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.
- 10.17 The previous planning application was partly refused as the application failed to demonstrate that a safe means of vehicular access, outside of the floodplain, can be provided to the application site. (The access point onto Horns Mill Road is at high risk of flooding to the extent that has required the road to be closed at times). This LPA is the competent authority on matters of evacuation or rescue and the information submitted does not demonstrate that adequate access into and out of the site for residents and emergency vehicles during times of flood would be satisfactory or safe for 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.
- 10.18 Further significant harm is therefore attributed to this element of the scheme.

Safety

- 10.19 The main site area is within proximity of a major hazard pipeline. Whilst major hazard sites and pipelines are subject to the requirements of the Health and Safety at Work etc. Act 1974, which specifically includes provision for the protection of the public, the possibility remains that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity. The advice from the Health and Safety Executive is that there is sufficient reason on safety grounds for advising that permission for this type of development be refused. Further significant harm is attributed to this issue therefore.

Highway matters

- 10.20 It is clear from the extent of the identified application site, and the transport submissions, that the proposed vehicular access for the development would be from Horns Mill Road and the response from Hertfordshire Highways is based on this. The Highway Authority has concerns regarding the level of information submitted with the outline application but considers, on balance, that subject to a legal agreement and suitable conditions, the proposal would provide for adequate

junction arrangements and visibility onto Horns Mill Road and that other highway capacity and safety matters would be acceptable.

- 10.21 It is important to note that one of the suggested conditions relates to the need to restrict the use of the facilities on the site to residents and their visitors only. Whilst this would have the effect of limiting traffic to the site, it would also have the impact of limiting any positive weight that can be given to the provision of sporting and recreational facilities within the development.
- 10.22 Overall, and subject to the provision of a shuttle bus to the town centre, and the other planning obligations and conditions suggested by the Highway Authority, it is considered that highway matters would have a neutral impact in the balance of considerations.

Impact on Designated Sites and Protected Species

- 10.23 An Ecology Report accompanies the application, the findings of which indicate the following protected species and/or habitats that would support them: Badgers, Hedgehogs, Bats, Invertebrates, Breeding Birds, Otters, Water Voles, Great Crested Newts and Reptiles. The report also notes that the Cole Green Way and Terrace Wood are County Wildlife Sites. In light of the findings, the report recommends that further presence or absence surveys are undertaken to inform appropriate and proportionate mitigation, compensation of habitats or precautionary principles to prevent harm to identified species.
- 10.24 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 endorses this assessment. In Officer's view, the proposal would be compliant with policies ENV14 and ENV16 of the East Herts Local Plan Second Review April 2007 in respect of this issue.
- 10.25 The objections from the Environment Agency on grounds of an inadequate assessment and mitigation of the risks to nature conservation are note. However, Officers are satisfied that suitable conditions could be imposed to deal with the issues, raised and this therefore is a neutral impact.

Drainage issues

- 10.26 The application is accompanied by an updated FRA and a Drainage Strategy. The sustainable urban drainage strategy (SuDS) proposes to utilise a management train that includes swales and ponds. The water is then released at a controlled rate into the wider drainage system. The Local Lead Flood Authority has assessed the drainage strategy and concludes that it is acceptable, and this is therefore a neutral factor in the planning balance

Impact on neighbour amenities

- 10.27 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 neighbour's amenity. With regard to the levels of amenity that the development could provide for future occupiers, Officers are 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.
- 10.28 In summary, the proposal is considered to constitute inappropriate development in the Green Belt and additional harm is identified in respect of loss of openness; the impact of the development on the rural character and appearance of the site; loss of trees; the isolated and unsustainable location of the site; flood risk and safe access and safety issues arising from the gas pipeline. It is necessary then to consider whether there are any other considerations which would 'clearly outweigh' this identified harm, such as to provide the very special circumstances necessary to justify the inappropriate development in the Green Belt. These other considerations are identified below.

Benefits of the proposal

- 10.29 The appellant considers that there are other considerations that weigh sufficiently in favour of the application, such as to provide very special circumstances in this case and these relate to:
- The need for the proposal, with an ageing population and the rapid growth of the 'oldest old' who have the highest health and social care needs / government support for this type of proposal;

- The proposal would provide a specialist form of accommodation in the area;
- The existence of wider benefits, including freeing up larger family houses;
- The provision of new employment
- The creation of new public spaces
- Would help to meet the 5 year housing supply
- Improved access to the Football Club

Need for the accommodation and lack of 5 year land supply

- 10.30 The application has been submitted with a document entitled Care Needs Assessment. The document discusses the increasing need for care accommodation in the United Kingdom, and then outlines existing care provision within East Herts and specifically within 5 miles of the proposed development site. The Report then outlines care accommodation needs within the District and again within a 5 mile radius. This Report concludes that there is an unmet need for both care home beds (879) and extra care beds (200+) within 5 miles of the site. Officers have reviewed this information and have no reason to dispute that there is an unmet need for such provision and this unmet need is a factor which weighs in favour of the proposal.
- 10.31 In accordance with the NPPF, Councils should give weight to housing proposals where they cannot demonstrate that a five year supply of deliverable housing sites can be met. (The NPPG makes it clear that 'local planning authorities should count housing provided for older people, including residential institutions in Use Class C2, against their housing requirement').
- 10.32 It is accepted that the Council does not currently have a 5 year housing land supply and that the proposal would be a benefit in terms of contributing towards this. It is also noted that paragraph 49 of the NPPF advises that relevant policies for the supply of housing should not be considered up to date in such situations and that the presumption in favour of sustainable development should apply.
- 10.33 However, paragraph 14 of the Framework makes it clear that the presumption in favour of development does not apply where a proposal would be in conflict with specific policies in the Framework that indicate development should be restricted. Development within the Green Belt is one such specific policy and the unmet need for housing in the District does not result in a presumption in favour of the development nor, in Officers opinion, does it 'clearly outweigh' the harm identified to the Green Belt in this case.

- 10.34 The Government's online Planning Practice guidance (NPPG) confirms this position, stating that 'Unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'very special circumstances' justifying inappropriate development on a site within the Green Belt'.
- 10.35 Only very limited positive weight can be given to the need for the development therefore.

Provision of new employment

- 10.36 The applicant argues that due to the scale of development and applying a phased development of the site, it would take a number of years to be built out and would provide a number of jobs in the short to medium term, as well as employment upon completion of the development in terms of care and facilities. Whilst some moderate positive weight can be assigned to the employment that a development of this scale would generate, it is not considered that this would be of such significance that it would clearly outweigh the harm to the Green Belt.

Improved access to the Hertford Town Football Club

- 10.37 The development includes a new vehicular and assumed pedestrian route from Mimram Road, crossing the river and then routing to the western side of the Football Club, to provide easier access for the Football Club. Whilst the additional access may ease traffic congestion within West Road from the Club use, it raises concerns with the acceptability of crossing the river and impact on the amenity of the Green Belt. Additionally, this new road would not link to the proposed development and is essentially a separate development proposal which could be sought independently of the application proposals. This would have a neutral impact on the planning balancing exercise.

Planning Balance

- 10.38 On balance therefore, having considered all the relevant issues put forward by the applicants, Officers do not consider that they are of such weight that they 'clearly outweigh' the harm caused to the Green Belt by this inappropriateness and any other identified harm. Whilst there may be evidence of a need for this type of accommodation and whilst the Local Planning Authority cannot demonstrate a 5 year housing supply, the NPPF makes clear that this is unlikely to outweigh harm to Green Belt. 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.

11.0 Conclusion

- 11.1 The site lies within the Metropolitan Green Belt wherein in accordance with the NPPF, redevelopment of 'previously developed land' (PDL) is appropriate. In accordance with the definition of DPL in Annex 2 of the NPPF, Officers do not consider that the site would be classified as such as the remains of the permanent structure have clearly blended into the landscape in the process of time. Even if the site did fall within the definition of PDL, the proposed development would clearly have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
- 11.2 The proposed development therefore comprises inappropriate development. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances, which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 11.3 In addition to the inappropriate development, there is further harm in terms of 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; inadequate flood risk assessment and inadequate means of safe vehicular access; and safety concerns regarding major hazard pipelines. In order to support this proposal the Council would need to be satisfied that the benefits of the scheme clearly outweigh the harm caused by inappropriateness and any other identified harm.
- 11.4 Officers have undertaken this balancing exercise and, for the reasons set out above, consider that the matters put forward in support of the proposal relating to the general housing need and particular need for this type of accommodation, 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.
- 11.5 It is therefore recommended that planning permission be refused.

Reasons for Refusal

1. The proposal 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 inadequate information in respect of flood risk and safe access. Weight which can be attributed to the positive impacts of the development is not such that the identified harm to the Green belt and other harm is clearly outweighed. The development would thereby be contrary to policies GBC1, GBC14, SD1, ENV1, ENV2, ENV11 and ENV19 of the East Herts Local Plan Second Review April 2007 and national policy set out in the National Planning Policy Framework.
2. The development is likely to result in the removal of a substantial number of trees subject of a Tree Preservation Order and would cause significant harm to the woodland character of the area, contrary to policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.
3. The application fails to adequately demonstrate how flood risk will be managed and how a safe means of vehicular access can be provided to the application site when the access point onto Horns Mill Road is closed due to flooding. 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.
4. The site is located within proximity of a major hazard pipeline, and insufficient information has been submitted to enable the local planning authority to properly assess the safety risk to future occupiers of the site. The proposal is thereby contrary to policy ENV26 of the East Herts Local Plan Second Review April 2007.
5. The proposal fails to make adequate financial provision for infrastructure improvements to support the proposed development. It would thereby be contrary to the provisions of policy IMP1 of the East Herts Local Plan Second Review April 2007.

Summary of Reasons for Decision

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, East Herts Council has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Policy Framework.

KEY DATA**Residential Development**

Residential density	Bed space	Number of units
Number of existing units demolished		0
Number of new flat units	Unknown – outline application	
Number of new house units	Unknown – outline application	

Affordable Housing

Number of units	Percentage
Unknown	None proposed

Residential Vehicle Parking Provision

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	Unknown – outline application
2	1.50	
3	2.25	
4+	3.00	
Total required		
Proposed provision		

Emerging Parking Standards (endorsed at District Plan Panel 19 March 2015)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.50	Unknown - outline application
2	2/00	
3	2.50	
4+	3.00	
Total required		

Accessibility reduction	None considered appropriate	
Resulting requirement		
Proposed provision		

Legal Agreement – financial obligations

This table sets out the financial obligations that could potentially be sought from the proposed development in accordance with the East Herts Planning Obligations SPD 2008; sets out what financial obligations have actually been recommended in this case, and explains the reasons for any deviation from the SPD standard.

Obligation	Amount sought by EH Planning obligations SPD	Amount recommended in this case	Reason for difference (if any)
Affordable Housing			
Parks and Public Gardens	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Outdoor Sports facilities	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Amenity Green Space	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Provision for children and young people	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Maintenance contribution - Parks and public gardens	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Maintenance contribution - Outdoor Sports facilities	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A

Maintenance contribution - Amenity Green Space	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Maintenance contribution - Provision for children and young people	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Community Centres and Village Halls	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A
Recycling facilities	Unknown as outline application	The contribution based on table 4 in the Planning Obligation SPD	N/A