

DEVELOPMENT MANAGEMENT COMMITTEE – 7 FEBRUARY 2024

Application Number	3/19/1237/FUL
Proposal	Residential development for 50 dwellings comprising of one-to-four-bedroom dwellings, including affordable homes, surface water balancing facility, access roads and footpaths and associated landscaping
Location	Land between Hazel End Road and Farnham Road, North of (and Accessed From) Morbury Avenue, Bishop's Stortford, Hertfordshire, CM23 1JJ
Applicant	Countryside Properties and Hertfordshire County Council
Parish	Bishop's Stortford Town Council
Ward	Bishop's Stortford North

Date of Registration of Application	11 June 2019
Target Determination Date	10 September 2019
Reason for Committee Report	Major application
Case Officer	Jade Clifton-Brown

RECOMMENDATION

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

1.0 Summary

- 1.1 Countryside Properties obtained outline planning permission in 2016 for up to 329 dwellings and a site for a one-form entry primary school on an allocated housing site in Bishop's Stortford (ASR 5) under application (3/13/0886/OP). The number of houses was uplifted to 479 under application reference 3/18/0652/OUT. Most of the approved development has been completed or is under construction (Phases A-D). This is called the 'St Michaels Hurst' development.
- 1.2 The application site relates to Phase E which comprises a 1.2ha parcel of land which was identified in the original outline application as a reserve site for a one-form entry primary school at the request

of Hertfordshire County Council (HCC), as the local education authority.

- 1.3 On 4th December 2018, HCC served a notice on Countryside Properties that it would not require the primary school site as the education needs generated by the development would be provided elsewhere (on Farnham Road). This notice triggers clause 2.12 at Schedule 4 of the Section 106 agreement accompanying the outline permission. This clause requires Countryside Properties and HCC to jointly prepare and submit, within 6 months of the notice being served (i.e. 4th June 2019), a planning application for residential development on the school site. Should this planning permission be granted, Countryside Properties will instead pay HCC the market residential land value, which can be used towards the alternative development of school places.
- 1.4 This application was submitted in 2019 but was put on hold whilst the wider development was progressed.
- 1.5 The main issues to be assessed in the determination of this application are as follows:
 - Principle of Proposed Development
 - Design and Landscaping
 - Amenity
 - Parking and Highways
 - Sustainability
 - Ecology
 - Affordable Housing and Infrastructure Requirements

2.0 Site Description

- 2.1 The application site is located in the St Michael's Hurst development which is an allocated housing site (ASR5) covering an area of approximately 25.4ha on the north-western edge of Bishop's Stortford.
- 2.2 The application site comprises 1.2ha in the northern section of the development. It is a vacant plot surrounded by newly built

residential development to the east, south and west with the A120 to the north.

- 2.3 The wider area includes Bat Willow Country Park which was provided by the applicant as part of the wider development, and the Bishop's Stortford North development to the west which has planning permission for 2,200 homes, secondary and primary schools, employment land and neighbourhood centres.

3.0 Planning History

Reference No.	Proposal	Decision	Decision Date
3/13/0886/OP	Outline Planning Permission- 'Urban extension comprising 329 new dwellings (of a range of sizes, types, and tenures, including affordable housing), including a site for a one--form entry primary school, and public open and amenity space, together with associated landscaping, access, highways (including footpaths and cycleways), parking, drainage, (including a foul water pumping station), utilities and service infrastructure works' -	Granted	01.06.2016
3/16/1897/REM	Reserved matters relating to Phase A housing development for 69 dwellings and 22 affordable units, to include access, landscaping and parking	Granted	21.12.2016
3/17/1716/REM	Reserved matters relating to Phase B housing development for 128 dwellings, including details of access, landscaping, parking provision and 33 affordable units pursuant to	Granted	19.12.2017

	Conditions 1, 2, 4 (a), (b), (c), (d), (e), (f), (g), (h), 5, 8, 10, 11, 12, 22 and 24 of outline planning permission 3/13/0886/OP		
3/18/0652/OUT	Uplift of dwellings - Outline planning for up to 260 Granted dwellings (of a range of sizes, types and tenures, including affordable housing) and a care home (Use Class C2) of up to 66 beds together with public open and amenity space, associated landscaping, highways (including footpaths and cycleways), parking, drainage, utilities and service infrastructure works- all matters reserved	Granted	21.10.2020
3/20/0683/REM	Reserved matters relating to Phase C housing development for 53 dwellings (incorporating 20 affordable units), including details of access, appearance, landscaping, layout, and scale	Granted	08.03.2021
3/21/2339/REM	Reserved matters application relating to Phase D housing development for 207 dwellings (incorporating 84 affordable units), and including details of access, appearance, landscaping, layout and scale, following grant of outline consent (3/18/0652/OUT)	Granted	18.03.2022

4.0 Key Policy Issues

- 4.1 The District Plan, together with the Minerals and Waste Local Plans for Hertfordshire and any adopted Neighbourhood Plans, form the Development Plan for the district. The relevant adopted Neighbourhood Plan is Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards.
- 4.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the Development Plan unless there are material considerations which indicate otherwise.
- 4.3 The Local Planning Authority must also have regard to the Public Sector Equality Duty under the Equality Act 2010.
- 4.4 A number of other policy documents and guidance are relevant material considerations in the determination of the application including the National Planning Policy Framework, Planning Practice Guidance and Supplementary Planning Documents (SPD). The following adopted SPDs are relevant: Sustainability SPD, Vehicle Parking SPD, Planning Obligations SPD and Affordable Housing SPD.
- 4.5 The Written Ministerial Statement published on 24 May 2021 is also relevant which sets out the minimum requirements a housing unit must meet to qualify as a First Home.
- 4.6 The main policy issues and corresponding policies are set out below.

Key Issue	NPPF	District Plan Policy	NP Policy
Principle of Development	Chapters 2, 5 and 8	INT1, DPS1, DPS2, HOU1, HOU2, HOU3, HOU7, BISH1, BISH3.	HDP1
Design and Landscaping	Chapters 12 15	DES4, DES5, DES2, DES3	HDP2 HDP3 GIP1 GIP4
Amenity	Chapter 12	EQ2, EQ3, EQ4, DES4	HDP1

Highways and Parking	Chapter 9	TRA1, TRA2, TRA3	TP1 TP7 TP8
Sustainability	Chapter 14	CC1, CC2, WAT1, WAT2, WAT3, WAT4, WAT5, WAT6	CC1 CC4
Ecology	Chapter 15	NE2, NE3, NE4	GIP5
Affordable Housing and Infrastructure	Chapter 4	DPS4, HOU3, DEL1 DEL2	HDP4 CI

5.0 **Summary of Consultee Responses**

- 5.1 EHDC Conservation and Urban Design - No objection subject to conditions.
- 5.2 EHDC Landscape Officer - notes that the general landscape arrangement and Landscape Management Plan are suitable.
- 5.3 EHDC Waste and Recycling – No objection.
- 5.4 EHDC Section 106 Officer – seeks the following contributions towards allotments (£8,843), bowls (£12,043.00), burials (£1,050.00), community centre (£34,643), fitness gyms (£12,719.00), Castle Park (£49,288.00), outdoor tennis (£8,250.00), pedestrian and cycleway links (£82,101.50), recycling and refuse (£3,600.00), studio space (£5,254), swimming pool (£29,267) and legal and monitoring costs.
- 5.5 EHDC Environmental Health – No objection subject to conditions relating to contaminated land and remediation, noise, a Construction Environmental Management Plan, and electric vehicle charging points.
- 5.6 EHDC Housing - No objection in relation to the number of affordable units or the tenure split. However, concerns have been raised in relation to the balance of affordable rent dwellings (with the majority proposed either as flats or 2 bed dwellings), the clustering of affordable dwellings, whether the 2 bed affordable dwellings can accommodate 4 people and whether the 3 bed dwellings can accommodate 5 people.

- 5.7 HCC Highways - No objection subject to conditions relating to the proposed arrangements for the future management and maintenance of the streets, details of the materials of the hard surfaced areas, the submission of a Construction Management Plan, and the updating of the wider Residential Travel Plan.
- 5.8 HCC Archaeology - advise that the development is unlikely to have a significant impact on heritage assets of archaeological interest.
- 5.9 HCC Growth and Infrastructure - seek the following contributions towards primary education (£479, 225), secondary education (£582, 292), childcare services (£454), special educational needs and disabilities (£63, 416), library services (£15, 376), youth service (£9, 585), recycling centre (£1, 179), waste transfer station (£5, 271), fire and rescue service (£19, 030), sustainable transport (£318,600) and monitoring costs.
- 5.10 HCC Minerals and Waste- No objection subject to a condition requiring a Site Waste Management Plan to minimise and divert waste from landfill.
- 5.11 Lead Local Flood Authority - No objection subject to clarification in relation to drainage calculations and updated drainage drawings being submitted.
- 5.12 Thames Water - No objection in relation to the impact of the proposal on foul water sewerage or surface water.
- 5.13 Affinity Water - No objection but advise that the site is within a designated groundwater Source Protection Zone corresponding to North Stortford Pumping Station. This is a public water supply. The construction works and operation of the proposed development site should be carried out in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be undertaken.

- 5.14 Historic England have no comment to make on the proposal.
- 5.15 NHS – No objection subject to a contribution of £35, 390.16 towards GP provision and £129,547 towards mental health and community costs.
- 5.16 National Trust- No objection subject to a contribution of £7,500 towards visitor and botanical monitoring and mitigation works at Hatfield Forest SSSI, and high-quality, informal, semi-natural areas being provided on site.
- 5.17 Natural England- No objection subject to a contribution towards the National Trust to mitigate impacts on Hatfield Forest SSSI, and the provision of substantial on-site accessible natural greenspace of sufficient high quality and size.
- 5.18 Herts Police Crime Prevention Unit – Seeks that the developer achieves Secured by Design accreditation, and the provision of charging points in parking areas to prevent cables being run across footways and the highway.
- 5.19 No comment was received from HCC Ecology or the Environment Agency.

Town/Parish Council Representations

- 5.20 Bishop's Stortford Town Council object to the application as the documentation does not include details of solar panels and lacks green spaces. They seek that the car charging points should be provided in accordance with the plan provided.
- 5.21 Officer comment: Details relating to solar panels can be added as a condition in the event of approval. A condition can also be added to ensure that the development is carried out in accordance with the submitted plans (including the EV charging point plan). In relation to green spaces, the development forms part of a larger development which includes a variety of high-quality green spaces including a country park and a central park.

Summary of Other Representations

- 5.22 The application was advertised by both site notice and press notice. 203 neighbouring properties were written to.
- 5.23 One objection was received from a neighbouring resident. A summary of the objection is as follows:
- Concern over the proximity of plots 49/50 to their property with regards to sunlight.
 - No details of windows facing their property
 - Existing issues with vehicles not parked in allocated bays and condition of current estate roads.
- 5.24 Officer comment: The impact on neighbouring amenity is assessed in the report below. In relation to road maintenance, the applicant comments that the road in question is a current construction access which is yet to be topped and adopted. A sweeper is used to keep the road as clean as possible during construction. The road will be of an adoptable standard once construction is complete.

6.0 Consideration of Relevant Issues

Principle of Development

- 6.1 The site is no longer required by Hertfordshire County Council for a school. The legal agreement associated with the outline planning permission requires a planning application for residential development to be submitted in this circumstance.
- 6.2 The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes and infrastructure in a sustainable manner.
- 6.3 Paragraph 60 of the National Planning Policy Framework (NPPF) (2023) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is

needed. The overall aim should be to meet as much of an area's identified housing need as possible including an appropriate mix of housing types for the local community.

- 6.4 Notwithstanding the above, a recent appeal decision concluded that the Council cannot currently demonstrate a five-year supply (5YHLS) of deliverable housing sites. The consequence of not having a 5YHLS is that the 'tilted balance' is engaged in the decision-making process. The tilted balance refers to paragraph 11(d) of the NPPF which states that if the most relevant Local Plan policies for determining a planning application are out of date (such as when a 5YHLS cannot be demonstrated), the application should be approved. This is unless NPPF policies that protect areas or assets of particular importance (as defined by the NPPF) provide a clear reason for refusing permission, or the harm caused by the application significantly and demonstrably outweigh its benefits, when assessed against policies of the NPPF as a whole.
- 6.5 The site is not a protected area or asset of particular importance as defined by the NPPF. The application should therefore be approved unless the harm caused significantly and demonstrably outweigh its benefits.
- 6.6 In this case, the main benefits of the scheme include the provision of 50 dwellings including 20 affordable dwellings, on a vacant brownfield site within a residential area. This would create jobs throughout the construction period in the short term, and economically active occupants able to contribute to the economy of the wider area in the long term. The proposal would also result in an 11% net gain in biodiversity.
- 6.7 The proposed residential development could therefore be considered acceptable in principle unless these benefits are significantly and demonstrably outweighed by any harm identified.

Design and Landscaping

- 6.8 Whilst the relevant planning policies are considered out of date according to paragraph 11(d) of the NPPF, it is still considered reasonable to assess the application against the District Plan to

form a basis for decision making.

- 6.9 Policy DES4 of the District Plan requires development to be of a high standard of design which should respect the character of the site and the surrounding area in terms of its scale, height, massing (volume, shape), orientation, siting, layout, density, building materials, landscaping, environmental assets, and design features.
- 6.10 The proposal includes various house types including detached, semi-detached, terraced dwellings and a flat block. The varied typologies would help to promote a varied community and would break up the built form to provide visual interest.
- 6.11 The development includes 2 storey dwellings with a 3-storey flat block. These heights are considered appropriate for a residential area. The dwellings would front the highway to create active frontages and natural surveillance to public areas. It is noted that key marker buildings have been introduced at turning heads and loop roads to assist in wayfinding.
- 6.12 Brick will be the dominant finish, with hues of red and buff being used to reflect the local area. The proposed roof tiles would be slate or red to complement the brickwork. The dwellings would also include light and dark weatherboarding for interest. The proposal includes projections, feature windows, balconies, canopies, and dormer windows for further visual interest. All affordable dwellings would reflect the main design elements of the surrounding private housing. It is considered that the development would blend in visually with the wider residential development.
- 6.13 The balancing pond softens the development and creates a space for an informal play area which will be enhanced with rustic log seats and stones. The proposal also includes trees, front and rear lawns, hedgerows, and ornamental planting. A native hedgerow is proposed along the northern boundary to integrate the development with the adjacent bund. It is considered that the landscaping complements the architecture and wider landscaping.
- 6.14 The Council's Urban Design Officer raises no objection to the proposal subject to conditions which shall be added in the event of

approval.

- 6.15 The Council's Landscape Officer has been consulted and raises no objection to the proposal.
- 6.16 It is therefore considered that the proposal would respect the character and appearance of the area and would include landscaping to complement the development and the wider development, in compliance with policy DES4.

Amenity

- 6.17 Policy DES4 of the District Plan seeks that proposals do not result in detrimental impacts to the amenity of future occupiers or neighbouring residents.
- 6.18 The main source of noise would be from traffic associated with the A120 which borders the north of the site. A full noise report has been submitted alongside the application. The proposed development would be separated from the A120 by parking courts at a minimum distance of 10 metres. Noise will be attenuated using several methods such as a 1.8m high noise bund, acoustic glazing and acoustic trickle vents to units facing the A120.
- 6.19 It is considered that the layout, orientation, and design of the housing would help to ensure that they do not impact each other by becoming overbearing or causing overshadowing or loss of light or privacy. In addition, the houses and gardens are considered appropriately sized and fit for purpose.
- 6.20 It is noted that one objection has been received from a neighbouring property in relation to the impact on sunlight and overlooking from plots 49/50 (semi-detached dwellings). The garden of no.50 would be positioned to the rear of this neighbouring property. The angle, positioning and separation of the proposed dwelling from the neighbouring property would prevent it from becoming overbearing or causing overshadowing or loss of light to this neighbour. There is one window proposed on the side elevation which is a stairwell window which would limit opportunities for overlooking. It is not therefore considered that significant

detrimental impacts to this neighbouring property would occur.

- 6.21 The proposed dwellings are considered to be sufficiently located away from other neighbouring dwellings to prevent detrimental impacts from occurring.
- 6.22 The Council's Environmental Health team raise no objection subject to conditions relating to noise attenuation, a Construction Environmental Management Plan, electric vehicle charging points and contamination. These conditions shall be added to any consent.
- 6.23 Subject to conditions, it is considered that a satisfactory level of amenity would be achieved for the existing occupiers of the wider development and the future occupiers of the proposed development, in accordance with policy DES4.

Parking and Highways

- 6.24 Policy TRA2 of the District Plan outlines that development should ensure safe and suitable access. Policy TRA3 outlines that suitable parking provision must be provided in line with the Council's Parking SPD.
- 6.25 The site is accessed via the primary road running through St Michael's Hurst which is considered acceptable. The proposed cycle and pedestrian routes circulate through the site and connect with the existing infrastructure.
- 6.26 The Council's Parking Standards require that the development provides 114 car parking spaces (including visitor spaces). However, the standards allow a 5% discount on sites nearby to public transport/cycle links.
- 6.27 A Residential Travel Plan was granted for the wider development which included improved walking and cycling links, free bus travel, cycle schemes, and the provision of a bus service to Bishop's Stortford Town Centre, the railway station, and Stansted Airport. This document has been updated to include the proposed development to ensure the occupants are encouraged to travel sustainably. The applicant has also agreed to a contribution towards

a pedestrian and cycleway link from Rye Street to further encourage sustainable travel.

- 6.28 It is therefore considered that a 5% discount to the standards can be applied in this circumstance. This was agreed on Phases A to D of the wider development. The parking requirement would therefore be 108 spaces (including visitor spaces).
- 6.29 The proposed development includes 113 spaces (including visitor spaces) mainly provided through on plot parking, which is considered acceptable.
- 6.30 Cycle storage would be provided either in garages or sheds within the curtilage of the property, with a cycle store provided for the flats.
- 6.31 Hertfordshire County Council's Highways team have been consulted and raised no objection subject to conditions requiring the provision of the access and parking arrangements, and compliance with the updated Residential Travel Plan. These conditions can be added to any consent granted.
- 6.32 It is therefore considered that the proposal would provide a safe and suitable access with suitable parking provision, in compliance with policies TRA2 and TRA3.

Sustainability

- 6.33 Under policies CC1 and CC2 of the District Plan, all proposals must demonstrate how the design, materials, construction, and operation of the development would minimise overheating, reduce the need for heating, integrate green infrastructure and minimise carbon dioxide emissions.
- 6.34 Under policy WAT4 of the District Plan, development must minimise the use of mains water through water saving measures, the recycling of grey water, and reducing mains water consumption.
- 6.35 An Energy and Sustainability Statement has been submitted. The development would reduce energy usage through the installation of

highly efficient fabric, ventilation, and heating systems, together with passive solar gains and an air-tight build. The Statement confirms that the proposal would meet Building Regulations L and O which require developments to conserve fuel and power and prevent overheating.

- 6.36 A range of potentially appropriate low carbon or renewable technologies have been considered in the Statement and it has been concluded that solar PV constitutes the preferred and most viable technology for the site.
- 6.37 It is considered reasonable to request conditions to ensure that the development is carried out in accordance with the Energy and Sustainability Statement and requiring details of the solar panels to be submitted to and approved by the Local Planning Authority
- 6.38 Low and reduced water demand fittings such as taps, showers and water consuming appliances will be provided to individual homes helping to reduce water demand from the development. All dwellings on the site shall achieve a water conservation standard of 110 litres per person per day (as required by policy WAT4). A condition can be added to secure this.
- 6.39 It is therefore considered that sufficient information has been submitted to demonstrate compliance with policies CC1, CC2 and WAT4 of the District Plan.

Flooding and Drainage

- 6.40 Policy WAT1 of the District Plan states that development proposals should neither increase the likelihood or intensity of any form of flooding, nor increase the risk to people or property on site and to neighbouring land or further downstream. Policy WAT3 of the District Plan states that development proposals will be required to preserve or enhance the water environment.
- 6.41 The site is within flood zone 1 (lowest probability of flooding). A Surface Water Drainage Strategy has been submitted which notes that the site would utilise the drainage network serving the wider development. The Strategy concludes that the development can be

suitably drained to prevent flooding risks. The proposal also includes permeable paving, landscaping, and an attenuation pond to further reduce surface water.

- 6.42 The Lead Local Flood Authority (LLFA) raise no objection subject to clarification in relation to drainage calculations and updated drainage drawings being submitted.
- 6.43 Affinity Water raise no objection subject to the construction works and operation of the proposed development site being carried out in accordance with the relevant British Standards and Best Management Practices. This can be recommended via an informative.
- 6.44 Thames Water raise no objection in relation to the impact of the proposal on sewerage.
- 6.45 No response was received from the Environment Agency.
- 6.46 It is therefore considered that the proposal would not have an unacceptable impact with regards to flooding and drainage or the water environment, subject to conditions and the clarification and updated drawings required by the LLFA.

Ecology

- 6.47 Policies NE1 and NE3 of the District Plan indicate that proposals should not result in detrimental impacts to biodiversity and should seek to enhance biodiversity and create opportunities for wildlife. Policy NE2 of the District Plan outlines that all proposals should achieve a net gain in biodiversity.
- 6.48 The site is currently a construction area having formerly been used as an agricultural field and as such provides limited opportunities for wildlife.
- 6.49 The proposal includes bird and bat boxes, new trees, hedgerows, wildflower, native and ornamental planting, and a pond, to support biodiversity.

- 6.50 A Biodiversity Net Gain Design Stage Report (BNG) has been submitted. This recommends that a biodiversity net gain of 11.7% can be delivered through the enhancement of approximately 0.94 hectares of poor condition grassland within the country park. This can be secured via a legal agreement.
- 6.51 The BNG report also recommends a Construction and Environmental Management Plan (CEMP) for Biodiversity to be submitted to and approved in writing by the Local Planning Authority. This should describe how retained habitats will be protected during the construction phase. The BNG report also recommends the submission of a Landscape and Ecological Management Plan (LEMP) which would detail the long-term management objectives, management prescriptions, timetable and monitoring of the off-site provision. The CEMP and LEMP can be secured via conditions.
- 6.52 The application site is approximately 5km from Hatfield Forest, which is a Site of Special Scientific Interest, a National Nature Reserve area and an ancient woodland. The National Trust raise no objection to the proposal subject to a financial contribution of £7.5k being provided to mitigate against the potential recreational pressure on the forest caused by the development. The National Trust and Natural England also seek that the proposal includes semi-natural areas to further reduce the pressure on the forest.
- 6.53 The applicant has provided a country park and open space as part of the wider development which would reduce pressure on the forest. The combination of the country park and financial contributions are considered sufficient mitigation in this circumstance.
- 6.54 Subject to conditions and the enhancement of grassland in the country park, it is considered that the proposal would not result in detrimental impacts to ecology, in compliance with policies NE1, NE2 and NE3.

Affordable Housing

- 6.55 Policy HOU3 of the District Plan requires that major developments provide 40% affordable housing. The Council's Affordable Housing SPD (2020) seeks that 84% of the affordable housing are properties for affordable rent with 16% being for intermediate affordable housing.
- 6.56 Policy HOU7 of the District Plan seeks that the development includes accessible and adaptable dwellings to meet Building Regulations Requirement M4(2) with a proportion of the dwellings provided for wheelchair users to meet Building Regulations Requirement M4(3).
- 6.57 The proposal includes 20 affordable homes (40%) with 15 units for affordable rent (84%) and 5 for shared ownership (16%) which is compliant.
- 6.58 It should be noted that the First Homes requirement is not being sought in this circumstance as the Council currently prefers to seek the provision of affordable rented properties in line with its Affordable Housing SPD, which are proposed. This provision is considered to better address the local housing need for affordable housing in the District.
- 6.59 It is noted that the Council's Housing Officer raised concern in relation to the balance of the affordable rent units:

Property Type	Affordable Rent
1 bed flat	4
2 bed flat	2
2 bed house	7
3 bed house	2
4 bed house	0
All	15

- 6.60 The key concern is the general over-provision of affordable rented flats and under-provision of larger affordable rented properties across the wider development and the District. Whilst these

comments are noted, a meeting was held prior to the submission of the updated plans (in 2023) in which the mix was agreed by the Council's Housing Officer. This included a reduction in affordable flats from 10 to 6. It is therefore considered that the applicant responded positively to the feedback and progressed on this basis. It is not therefore considered that this would be a reasonable reason for refusal.

- 6.61 The Council's Affordable Housing SPD (2020) states that to ensure that the design, layout, and size of affordable housing provides a dwelling that suits the needs of the household it is providing for and delivers the greatest opportunity for longevity within the unit; developers should consider the number of people a unit can accommodate. Where possible, 2 bed units should be suitable for 4 people, and 3 bed units should be suitable for 5 people. The proposed 2 bed units are suitable for 3 people and the proposed 3 bed units are suitable for 4 people. This is not compliant with the SPD.
- 6.62 As per paragraph 11(d) of the NPPF, the application should be approved unless the harm significantly and demonstrably outweighs its benefits. In this case, it is noted that the wider development includes affordable rented properties able to accommodate 4 and 5 people. The proposed units are also considered to be fit for purpose for the number of people they can accommodate with space to work from home if necessary. Taking these matters into consideration and that the proposal would provide a policy compliant number of affordable dwellings with an appropriate tenure mix, the proposed size of the units is not considered to outweigh the benefits of the scheme and would not be a justified reason for refusal in this circumstance.

Infrastructure Requirements

- 6.63 Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 57 of the NPPF states that planning obligations

must only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

- 6.64 A range of contributions have been requested by this Council to ensure that the infrastructure in the town can support the additional residents. The applicant has agreed the following contributions: allotments (£8,843), burial space (£1,050.00); community centre (£34,643); parks and gardens and amenity green space (£49,288.00); recycling and refuse (£3,600.00) and monitoring costs.
- 6.65 It is noted that a contribution towards a pedestrian and cycleway link was requested by the Council's Section 106 Officer. It is not considered that this would be fair or necessary in this case as it has been requested separately by the County Council. The outdoor tennis contribution was also not considered to be directly relevant to the scheme and has been removed.
- 6.66 The bowls, gym, pool, and fitness studio contributions are considered on balance to constitute desirable provisions but are not all necessary (with reference to the CIL tests) in order to mitigate the impact of the development. The applicant has agreed to provide £29,267 which contains flexibility to contribute towards a local leisure project which could include enhancement towards bowls, gym, pool, and fitness provisions. The scale of the contribution is considered proportionate to the scale of the development, reasonable and necessary to facilitate the development whilst providing the necessary supporting infrastructure to mitigate the increased demand for these services. This is considered acceptable in this circumstance when taking into consideration the green spaces and country park already provided by the applicant in the wider development.
- 6.67 The applicant has also agreed to pay all of the planning obligations requested by Hertfordshire County Council towards primary education (£479,225), secondary education (£582,292), childcare services (£454), special educational needs and disabilities (£63,416), library services (£15,376), youth service (£9,585), recycling centre

(£1,179), waste transfer station (£5,271), fire and rescue service (£19,030), sustainable transport (£318,600) and monitoring costs.

- 6.68 The NHS contributions of £35,390.16 towards GP provision and £129,547 towards mental health and community costs, have also been agreed.
- 6.69 The National Trust also requested £7.5k to mitigate the impact on Hatfield Forest, which has been agreed.
- 6.70 All the above contributions (totalling over £1.8 million) are proposed to be secured by heads of terms within the legal agreement.

Other matters

Waste

- 6.71 Waste storage is to be kept on plot and brought to the front of the houses or within retrieval distance of collection vehicles. Turning heads have been provided to allow refuse vehicles to turn. The Council's Waste team raise no objection to the proposal.

Equality

- 6.72 Section 149 of the Equality Act (2010) requires the Council to consider the equality impacts on all protected groups when exercising its functions.
- 6.73 The policies and guidance referenced in the committee report have all been subject to an equalities impact assessment (EqIA) and therefore, the planning policy framework is considered to meet the first stage in the process.
- 6.74 The application proposes new housing, including affordable and adaptable units. It is not considered that the proposal would harm those with protected characteristics defined by the Act.
- 6.75 It is the case that during construction works there may be impacts due to the building works taking place however these would be temporary in nature and would be outweighed by the positive

benefits of the resultant scheme.

- 6.76 Officers have duly considered the equalities impacts on protected groups in the context of the development proposals. As such it is considered that the Council has fulfilled its requirements to consider the equality impacts on protected groups.

7.0 Conclusion

- 7.1 The Council cannot currently demonstrate a five-year supply (5YHLS) of deliverable housing sites. The consequence of not having a 5YHLS is that the 'tilted balance' is engaged in the decision-making process. As per paragraph 11(d) of the NPPF, the application should be approved unless the harm caused by the application significantly and demonstrably outweigh its benefits.
- 7.2 In this case, the proposal would provide 50 dwellings within a residential area including 20 affordable dwellings. It would also create economic benefits during and after the construction period and would result in an 11% net gain in biodiversity. It is considered that any harm identified would not significantly and demonstrably outweigh its benefits, with any harm identified mitigated via conditions or contributions.
- 7.3 In addition, the proposed development is considered acceptable with regards to design, the impact upon neighbouring amenity, highways, landscaping, flooding and drainage, climate change and water resources, ecology, and biodiversity, subject to conditions and planning obligations.
- 7.4 The application is therefore considered to be in overall compliance with the relevant policies within the East Herts District Plan, the NPPF and the Neighbourhood Plan. The application is therefore recommended for approval subject to conditions and a legal agreement.

8.0 **RECOMMENDATION**

8.1 That planning permission be GRANTED subject to a legal agreement and the draft conditions/reasons set out below at the end of this report.

Draft Legal Agreement

Financial contributions set out below:

HCC Contributions

- **Primary Education** towards the expansion of Richard Whittington Primary School including nursery provision, and/or provision serving the development (£479, 225).
- **Secondary Education** towards the delivery of the new 6FE secondary school at the BSN development and/or provision serving the development (£582, 292)
- **Childcare Service 5-11 years** towards Windhill Primary School and/or provision serving the development (£454)
- **Special Educational Needs and Disabilities** towards the delivery of new Severe Learning Difficulty special school places and/or provision serving the development (£63, 416)
- **Library Service** towards increasing the capacity of Bishop's Stortford Library or its future re-provision, and/or provision serving the development (£15, 376)
- **Youth Service** towards increasing the capacity of Bishop's Stortford Young People's Centre or its future re-provision, and/or provision serving the development (£9, 585)
- **Waste Service Recycling Centre** towards increasing the capacity of Bishop's Stortford Recycling Centre and/or provision serving the development (£1, 179)
- **Waste Service Transfer Station** towards the new Eastern Transfer Station and/or provision serving the development (£5, 271)
- **Fire and Rescue Service** towards increasing the capacity of Bishop's Stortford Fire Station and/or provision serving the development (£19, 030)
- **HCC Monitoring Costs** towards HCC costs (£340)
- **Sustainable Transport** towards a cycleway from Rye Street into Canons Mill Lane (£318,600).

EHDC Contributions

- **Affordable Housing** – 40% (15 affordable rent and 5 shared ownership).
- **Allotments**- towards the provision of the allotment site and community growing space within the larger development and/or towards the upgrading of existing allotment facilities in Bishop's Stortford (£8,843).
- **Local Leisure Contribution**- towards the provision of improvements to the clubhouse and/or upgrading of the green at Bishop's Stortford Bowls Club and/or other Bowls Clubs in the vicinity as used by the residents of the development and/or towards the cost of the Council's capital refurbishment programme to include the provision of new fitness gym equipment and/or improvements to the existing fitness gym area and equipment at Grange Paddocks Leisure Centre (the nearest public gym which can be used by the residents of the development and/or towards the cost of the Council's capital programme to include the provision of new studio equipment and/or improvements to the existing studio space and equipment at Grange Paddocks Leisure Centre (the nearest public studio space which can be used by the residents of the development) and/or towards the cost of the Council's capital programme to include the provision of improvements and maintenance to the swimming pool at Grange Paddocks Leisure Centre (the nearest public pool which can be used by the residents of the development) (£29,267).
- **Burial Space Contribution** - towards the provision by Bishop's Stortford Town Council of new burial ground or additional capacity or improvement of burial space to serve Bishop's Stortford (£1,050.00).
- **Community Centre Contribution** - towards the costs of the new Community Centre within the Bishop's Stortford North development (£34,643).
- **EHDC Monitoring** - towards the Council's costs of monitoring the performance of the planning obligations (£300 + £300 for each EHDC obligation).
- **Parks and Gardens and Amenity Green Space**- towards the provision of improvements at Castle Park (Sworders Field) as part of the larger capital improvement project including landscape planting and new access features such as gates, seating, and interpretation

signage and/or other public parks and amenity green spaces used by the residents of the development (£49,288.00).

- **Recycling and Refuse-** towards the Council's costs for provision of recycling and waste containers (bins) at the development contribution (£3,600.00).

Other Financial Contributions

- **NHS-** towards GP provision (£35,390.16) and mental health and community costs (£129,547).
- **National Trust-** towards visitor and botanical monitoring and mitigation works at Hatfield Forest SSSI (£7,500).

Non Financial

- The enhancement of approximately 0.94 hectares of poor condition grassland within the country park to achieve a net gain in biodiversity of 11.7%.

Conditions

General:

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As Amended).

2. The development hereby approved shall be carried out in accordance with the approved plans listed at the end of this Decision Notice.

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

3. The development hereby permitted shall be carried out in accordance with the recommendations set out in section 4 of the submitted Preliminary Ecological Appraisal (undertaken by Ramboll

UK Limited, dated June 2019) and within the Preliminary Ecological Appraisal Supporting Statement Rev A (undertaken by Southern Ecological Solutions, dated October 2023).

Reason: In the interest of ecology in accordance with policies NE2 and NE3 of the East Herts District Plan 2018.

4. Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'. Lighting should be minimized, and glare and sky glow should be prevented by correctly using, locating, aiming, and shielding luminaires, in accordance with the Guidance Note.

Reason: In order to ensure an adequate level of amenity for the occupants of nearby properties in accordance with Policy EQ3 Light Pollution and DES4 Design of Development of the adopted East Herts District Plan 2018.

5. Any trees or plants that, within a period of five years after planting, are removed, die, or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment, and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies DES3 and DES4 of the East Herts District Plan 2018.

6. The development shall be carried out in accordance with section 8 of the submitted Energy and Sustainability Statement and shall include a fabric first approach to sustainable construction including, but not limited to, passive design measures, thermal bridging and air-tight builds as identified within the Statement.

Reason: To minimise carbon dioxide emissions in accordance with Policy CC2 of the East Herts District Plan 2018.

Prior to first occupation:

7. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

Reason: To ensure high-quality landscaping is secured in accordance with Policies DES3 and DES4 of the East Herts District Plan 2018.

8. Prior to the first occupation of each dwelling hereby approved, an electric vehicle charging point shall be provided for the property as shown on approved drawing C00208_015 B.

Reason: To help support improvements in air quality and in accordance with Policy TRA3 and CC2 of the East Herts District Plan 2018

9. Prior to the first occupation of the development hereby approved, measures shall be incorporated within the development to ensure that a water efficiency standard of 110 litres (or less) per person per day is achieved.

Reason: To achieve a reduction in water usage and increased water efficiency in accordance with Policy WAT4 of the East Herts District Plan 2018.

10. Prior to the first occupation of the development hereby approved, the measures and initiatives set out within the updated Residential Travel Plan (dated June 2019) shall be implemented in accordance with the approved details.

Reason: To ensure that the development is as sustainable as possible.

11. Prior to the first occupation of the development hereby approved, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include the location and details of the biodiversity enhancements measures (bird and bat boxes etc) to be provided.

Reason: To enhance biodiversity and create opportunities for wildlife and to achieve a minimum 10% net gain in biodiversity in accordance with policies NE2 and NE3 of the East Herts District Plan 2018.

12. Prior to the first occupation of the development hereby approved, full details, plans and elevations of the Photovoltaic Panels to be provided on site shall be submitted to, and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To accord with the measures set out in the approved energy strategy and to minimise carbon dioxide emissions across the site in accordance with Policy CC2 of the East Herts District Plan 2018.

Prior to any above ground construction works:

13. Prior to any above ground construction works being commenced, the external materials of construction set out below shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
- External bricks – all colours
 - External weather boarding- all colours
 - Roof tiles – all colours/types
 - External doors and windows
 - All hard landscaping materials (including specification and extent to be clarified on a plan) of paving and edging treatment to drives, paths and access roads; and boundary treatments including fences, walls, and bollards.
 - Details of Juliet balconies (on apartments), including depth, soffits, railings, and how it is to be attached (scale 1:20)

- Details of projecting box windows, including depth, soffits, roof, and how it is to be attached (scale 1:20).
- Details of porch canopies, including depth, soffits, roof, and how it is to be attached (scale 1:20):

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

14. Prior to the commencement of the development above ground level a scheme shall be submitted for the protection of the dwellings from noise for approval in writing by the Local Planning Authority. The scheme shall follow the recommendations identified in the "St Michaels Hurst Phase E Noise Impact Assessment", report reference 1700003911, dated June 2019 by Ramboll UK Ltd. No dwellings shall be occupied until the scheme providing protection for those dwellings has been implemented in accordance with the approved details and has been demonstrated to achieve the required noise levels to the satisfaction of the Local Planning Authority. The approved scheme shall be retained in accordance with those details thereafter.

Reason: To ensure an adequate level of amenity for residents of the new dwellings in accordance with policy EQ2 of the adopted East Herts District Plan 2018.

Prior to commencement:

15. Prior to the commencement of the development hereby approved, a scheme to deal with contamination of land/ground gas/controlled waters shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:
- i. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites

– Code of Practice.

- ii. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
- iii. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

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 National Planning Policy Framework and in order to protect human health and the environment in accordance with policy EQ1 of the East Herts District Plan 2018.

16. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.

A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

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 National Planning Policy

Framework and in order to protect human health and the environment in accordance with policy EQ1 of the East Herts District Plan 2018.

17. Prior to the commencement of development hereby approved, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
 - a. The construction programme and phasing
 - b. Hours of operation, delivery, and storage of materials
 - c. Details of any highway works necessary to enable construction to take place
 - d. Parking and loading arrangements
 - e. Details of hoarding
 - f. Management of traffic to reduce congestion
 - g. Control of dust and dirt on the public highway
 - h. Details of consultation and complaint management with local businesses and neighbours
 - i. Waste management proposals
 - j. Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour.
 - k. Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.
 - l. Details of construction vehicle numbers, type, and routing
 - m. Details of storage compounds (including areas designated for car parking)
 - n. Risk assessment of potentially damaging construction activities.
 - o. Identification of "biodiversity protection zones"
 - p. Practical measures (both physical measures and sensitive working practices) to avoid or reduce ecological impacts during construction
 - q. Direction of security/construction lighting away from protection zones, and tree canopies
 - r. The location and timing of sensitive works to avoid harm to biodiversity features
 - s. The times during construction when specialist ecologists need to be present on site to oversee works
 - t. Responsible persons and lines of communication

- u. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- v. Use of protective fences, exclusion barriers and warning signs.

All works shall be carried out in accordance with the approved CMP thereafter.

Reason: In the interests of highway safety and the control of environmental impacts on existing and future residents and ecology in accordance with policies DES4, EQ2, NE2 and NE3 of the East Herts District Plan 2018.

18. Prior to the commencement of the development hereby approved, full details shall be submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a Private Management and Maintenance Company has been established.

Reason: To ensure satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard.

19. Prior to the commencement of the development hereby approved, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The content of the LEMP shall include but not be limited to:

- a. Description and evaluation of features to be managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.

- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g. Details of the body or organization responsible for implementation of the plan.
- h. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism (s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/ or remedial action will be identified, agreed, and implemented so that the development still delivers a biodiversity net gain.

All drawings and maps will be produced using the QGIS programme to allow accurate monitoring.

The approved plan shall be implemented in full accordance with the approved details.

Reason: To ensure a net gain in biodiversity and in the interest of ecology in accordance with policies NE2 and NE3 of the East Herts District Plan 2018.

Informatives:

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g., Fire Officer, Health and Safety Executive, Environment Agency (Water Interest) etc. Neither does this permission negate or override any private covenants which may affect the land.
2. East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the

Development Plan and any relevant material considerations. The balance of the considerations is that permission should be granted.

3. The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website:
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highwaysdevelopmentmanagement.aspx>
4. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.
5. It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway.
6. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway.

Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements.

6. The developer is encouraged to achieve Secured By Design accreditation to demonstrate that the fenestration is secure and meets Building Regulations Approved Document Part Q (England and Wales).
7. The construction works and operation of the proposed development site should be carried out in accordance with the relevant British Standards and Best Management Practices. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be discussed with Affinity Water.