

Development Management Committee
29 September 2022

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the DEVELOPMENT MANAGEMENT COMMITTEE held on Thursday 29 September 2022 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors J.Boulton (Chairman)
R.Trigg (Vice-Chairman)

J.Broach, J.Cragg, C Juggins, N.Pace, D.Panter,
J.Ranshaw, D.Richardson, P.Shah, S.Tunstall and
J.Weston

ALSO PRESENT: Legal Advisor, Trowers (J. Backhaus)

OFFICIALS PRESENT: Development Management Services Manager (D. Lawrence)
Senior Development Management Officer (R. Lee)
Career Grade Development Management Officer (A. Ransome)
Career Grade Development Management Officer (E. Mugova)
Senior Democratic Services Officer (C. Francis)
Democratic Services Assistant (V. Mistry)

21. SUBSTITUTIONS

The following substitution of Committee Members had been made in accordance with Council Procedure Rules:

Councillor D. Jones for Councillor J.P. Skoczylas.

22. APOLOGIES

Apologies of absence were received from Councillors J.P Skoczylas.

23. MINUTES

The minutes of the meeting held on 28 July 2022 were approved as a correct record.

24. THE BUNGALOW GREAT NORTH ROAD HATFIELD HERTFORDSHIRE AL9 6DB - 6/2022/0598/OUTLINE - OUTLINE APPLICATION FOR THE ERECTION OF TWO DETACHED DWELLINGS (BUNGALOW DESIGN) WITH ALL MATTERS RESERVED

Report of the Assistant Director (Planning) on the outline application for the erection of two detached dwellings (Bungalow Design) with all matters reserved.

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This application was presented to DMC because North Mymms Parish Council submitted a Major Objection.

The application site comprises a piece of land sited within the Green Belt. Regard is had to the appeal of 6/2021/0237/OUTLINE for one dwelling which was deemed appropriate development within the Metropolitan Green Belt. Whilst this current application proposes two dwellings, the Inspector's assessment is very relevant.

The application is assessed again exception e) of Paragraph 149 of the NPPF which allows for limited infilling in villages. The proposal falls within the definition of 'limited', as it involves the erection of two dwellings.

Bell Bar has been found to be a village by the Inspector. The Inspector also states that 'the proposed dwelling would be located within a continuous built-up frontage, which would be contained within the village envelope and not extend the built form into open countryside and would not result in the loss of a view or vista which makes a significant contribution to the character of the settlement.' This is the case for this application.

The proposed development constitutes limited infilling as set out within Paragraph 149 e) of the NPPF and thus is not inappropriate development in the Green Belt.

The application is for outline permission for all matters reserved, therefore all other considerations would be addressed under a reserved matters application in the event of the application being recommended for approval.

Officers summarised that there is no conflict with any current or emerging policies or national policy and therefore the application is recommended for approval, subject to conditions.

A discussion followed with a summary of the main points raised shown below:

Members asked if the planning application includes sufficient access, as this appears to lie outside of the applicant's boundary. Officers said that as this is an outline permission all matters are reserved apart from the location, and therefore the application can still be granted. The Legal Advisor confirmed planning permission can be granted in these circumstances.

This development falls between section e (limited infilling) so is an appropriate development within the green belt. It also provides two dwellings which helps towards our housing targets. There is no five-year housing land supply which is a material consideration, and this would help towards those numbers.

Following discussion, it was proposed by Councillor N. Pace and seconded by Councillor R. Trigg to approve the application.

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RESOLVED:
(13 in favour - unanimous)

That planning permission be approved subject to the conditions in the report.

25. CARRAMORE HOUSE 50 VINEYARDS ROAD NORTHAW POTTERS BAR EN6 4PD - 6/2022/0293/OUTLINE - OUTLINE PERMISSION FOR THE ERECTION OF 1 X DWELLING WITH ALL MATTERS RESERVED

This item was withdrawn from the agenda.

26. 4 STRAWBERRY FIELD, HATFIELD, AL10 8LS - 6/2022/0061/FULL - CHANGE OF USE FROM A RESIDENTIAL DWELLING (USE CLASS C3(A)) TO RESIDENTIAL CARE HOME TO ACCOMMODATE 3 X CHILDREN (USE CLASS C2)

Report of the Assistant Director (Planning) on the change of use from a residential dwelling (use class C3(A)) to a residential care home to accommodate 3 x children (use Class C2).

This application was presented to DMC because Hatfield Town Council submitted a Major Objection, and it was called-in by Councillor P. Zukowskyj.

The site is located within the cul-de-sac of Strawberry Field and is occupied by a two-storey detached dwelling. The property would become a long-term home, providing 24-hour care, for up to three vulnerable children (ages 8-16). There will be seven full time staff and two part time staff. None of the staff will reside at the property, but one staff member will stay over-night.

This application follows a similar development at a different address in Hatfield which was approved at DMC in July 2022.

Six objections have been received. The main concerns related to restrictive covenants, the use of the property and the staff. No objections were received from statutory consultees.

No external changes are proposed. In terms of intensification of use, the number of bedrooms would not increase, and the number of future occupiers would not be materially different to the continued use as a four-bed dwelling. The applicants supporting statement explains that the proposed children's home would in many ways be like a family home.

All bedrooms meet the National Technical Housing Standard and the property benefits from a garden to the rear.

With the three children to be cared for by three carers at any one time, the three off-street parking spaces are considered suitable. Concerns have been raised regarding increased visitors parking associated with the proposed use. The use

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will remain residential and with any residential use, there would be the potential for visitors to visit the property.

With the site still being in residential use, there would be no change to the existing waste storage and collection from that of the existing C3 residential use.

Officers summarised that there is no conflict with any current or emerging policies or national policy and therefore the application is recommended for approval, subject to conditions.

John McDougall, Objector, spoke on behalf of neighbours in Strawberry Field and stated:

Residents believe 2 Mulberry Meads has been cited as a precedent and consider this an oversimplification. The Mulberry Meads children were aged 9-18, vulnerable and were to be taken into care due to family breakdown, whereas the Strawberry Field application is for three children aged 8-16 with learning difficulties and probably more specialist needs. Although children's services have not objected, they have made it clear that any facility must meet stringent standards. National minimum standards for children's care homes require there to be rooms in which children can meet privately with visitors, and space for play and recreation. Residents are concerned about the credentials for the applicant to deliver the care and facilities required. Since the objective is to establish a care home in the community there has been no approach from any officers from Light Shine to any residents in Strawberry Field, although residents have made unsolicited offers and given assistance to temporary residents in that time. Residents were concerned when a member of this committee from outside the ward visited residents on 7 September 2022 saying that the care home is not for children with learning difficulties and would be for 8–18-year-old children who had been taken into care because their parents couldn't look after them. He also suggested he had spoken to the applicant, and they already run care homes but did not have any evidence to confirm this. He indicated he would return to at least three of the residents and despite follow ups has failed to do this. Residents believe this committee would fail in their duty to exercise due diligence based on the information available to them and that it is not in the interest of the children that may be involved by approval being granted against what they see are inadequate amenities.

Councillor P. Zukowskyj, Ward member stated:

In principle he is extremely supportive of additional provision of quality children's home places but believes this fails the Welwyn Hatfield Borough Council (WHBC) policy test outlined in the current district plan (D1) on high quality. The updated planning statement states 'the proposal will not make any external or internal physical changes to the building'. Fire safety regulations have been tightened very considerably since Grenfell. In combination with the Children's Home England Regulations 2015, the Building Safety Act 2022 enshrines the steps necessary to ensure fire safety in care homes. The current regulations state bedrooms of residents of care homes must be compartmentalised with a

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fire retardance of 30 minutes, new fire doors will not achieve this. The plans in the application appear to show a wall between bedrooms 2 and 3 and between bedrooms 3 and 4 unsupported by walls below. He believes the assumption must be that these are stud walls built many years before current regulations were in place. He also assumes the loft space and flooring is wooden with little or any fire retarding insulation, yet the applicant proposes no internal physical changes. He stated that our policy on building design says high quality, if a design is presented that clearly fails to demonstrate compliance with all necessary regulations, then it cannot be described as high quality. Also concerns about whether the application meets other requirements such as the Disability and Discrimination Act. Workplace legislation is also a concern, there are just two toilets in the building for seven staff and three users. He believes the response we can do all that under permitted development later should not be an acceptable to this committee, because granting permission could reputationally damage this council. The application should have included all necessary modifications at the start. He urged the committee to refuse this.

A discussion followed and a summary of the main points raised are shown below:

The chair advised that the committee is quasi-judicial so it can only determine based on planning policy and law.

Concerns were raised in relation to the increase in visitor parking. Officers said this would not increase any more than visitor parking if it were a residential dwelling.

Concerns were raised about the lack of space for private meetings. Officers said bedroom four would be used as an office and there is also a living room. Planning would not be able to determine the internal space usage.

Concerns were raised about the lack of external amenities; officers are of view this is sufficient.

Concern raised in relation to the credentials of the applicants to deliver the facility, but officers advised this is not a planning matter to consider.

Concern raised in relation to the quality of the proposal, particularly in relation to D1. Officers advised the application has been assessed against policies, and in their opinion is acceptable. In relation to care home requirements HCC would have specific regulations that would need to be met.

Concern raised about the lack of internal changes. In particular around there being only one bathroom. Officers said this has been approached as a family home and that bedroom four would be a suitable office space for staff.

Concerns raised into relation of fire regulations, and unsupported walls. As part of HCC requirements there would be a requirement for this to comply with building regulations.

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Concerns raised that if the building doesn't meet all regulations, it can't be high quality. Officers advised this is predominantly in relation to new buildings and extensions, not a facility such as this that has no substantial changes.

Concerns in relation to staff, as seven full time and two part time staff. Officers advised there would only ever be three staff on site at one time.

Need to take into account as a consideration the Mulberry application.

Following discussion, it was proposed by Councillor R. Trigg and seconded by Councillor S. Tunstall to approve the application.

**RESOLVED:
(7 in favour, and 6 against)**

That planning permission be approved subject to the conditions in the report.

27. 22A CHURCH LANE NORTHAW POTTERS BAR EN6 4NX - 6/2021/2754/FULL - ERECTION OF A 5-BEDROOM DETACHED DWELLING

Report of the Assistant Director (Planning) on the erection of a 5-bedroom detached dwelling.

The proposal is for a two-storey detached dwelling on Church Lane in the Village of Northaw. The site is in the Green Belt, an Area of Archaeological Significance and a Landscape Character Area.

The application site is a vacant piece of land which was formerly part of 22 Church Lane. There have been two applications in this location in the last couple of years, one which was withdrawn and another which was refused. The site address for the previous applications was described as 22 Church Lane as the applicant owned all the land associated with that property. However, the plot has since been subdivided and the site which this application relates to is being referred to as 22A Church Lane instead.

The last application was refused due to insufficient information being provided regarding the vehicular access to the property. The Highway Authority objected as the detail which had been submitted was not detailed enough to allow them to fully consider matters relating to visibility and highway safety. This application therefore seeks to overcome these concerns. Northaw and Cuffley Parish Council have submitted a major objection on the grounds that they are concerned about access arrangements for emergency, refuse and delivery vehicles.

In terms of the principle of the development, the site would fall under the bracket of limited infilling in a Village in the Green Belt under exception 149(e) of the NPPF. This is by virtue of it being for a single dwelling, being in a continuous built-up frontage which would continue the building lines on the road, because it would not extend into the open countryside as it would be sited on former

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residential land, and because it would not impact on any important views or vistas in the settlement. It is acknowledged that the dwelling would be located some distance from other settlements where other facilities and services are located. However, it would make effective and efficient use of former residential land in an established residential area. The applicant has sought to incorporate additional measures to improve the sustainability credentials of the dwelling, such as a fabric first approach and EV charging points/cycle storage facilities. These matters can be secured by condition.

The surrounding area is residential in character but there are a wide variety of styles and plot sizes on Church Lane. The site which the land formerly belonged to is one of the largest on the road, so its subdivision is not detrimental to the character of the area in this regard. The new plot size would be comparable to others nearby.

The design would comprise of a two-storey detached dwelling with habitable accommodation in the roof space. It would have a simple pitched roof and two gable ends, as well as a front porch. This design is reflective of a similar style of dwelling elsewhere on the road.

In terms of spacing, the dwelling would maintain a 1m separation distance from the boundary with 22 Church Lane and there would be 2m separation between the flank walls of the properties. The Council's Supplementary Design Guidance does not include a spacing standard for new dwellings. However, the SDG does refer to the need for 1m to be retained between the boundary at first floor to the side of the existing properties, therefore it is considered that this is a reasonable principle to apply here.

In terms of neighbour impacts, No.22 is the most likely to be affected due to the location of the property being the closest to the side elevation of the proposed dwelling. No.21 is opposite the site on the other side of the road. No.26 is located to the south and there is a private access drive separating the houses. No.28 is located to the south-east, to the rear of the dwelling, which is accessed via the private drive.

All side windows to the new dwelling would be obscure glazed to prevent overlooking to the sides and there would be approximately 2m distance retained between the house and No.22. The new dwelling would be visible from the side windows at No.22 but several of these are already obscure glazed, including the central first and second floor windows which serve the stairs/landing and the ensuite bathroom. The remaining windows on this side of No.22 are viewed to be secondary windows to the rooms due to their narrow width and location on the side of the property. There is also a fence which currently separates the two houses. As the side windows on the ground floor of the neighbour's property appear to be secondary windows or serve non-habitable spaces, it is considered that although there would be some impact on sunlight and daylight, as the habitable rooms would benefit from other windows to the front or rear of the dwelling, this would not amount to substantial harm to amenity. The other neighbouring properties nearby are considered to be located a sufficient distance

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away from the site to prevent undue impacts from occurring, subject to the suggested conditions.

In terms of addressing the previous reason for refusal, a transport statement has been submitted which includes a plan with visibility splays and a swept path analysis for the three car parking spaces on the frontage. The Highway Authority are satisfied that the parking layout will be acceptable as the swept path demonstrates all three parking spaces will be accessible, even with some spaces requiring vehicles to reverse. This is because the road is a minor access road with a 30mph speed limit, and several vehicles are already required to do this at existing properties. Furthermore, due to the minor scale of the development on an existing residential road, the access will be acceptable for refuse vehicles and emergency vehicles. A pre-commencement condition has been suggested for a construction method statement which would set out how construction vehicles and parking would be managed if the application was approved.

In conclusion officers said the application is considered to be appropriate development in the green belt, it would be of an appropriate design in the street scene and surrounding context, it would not have an unduly significant impact upon the living conditions of adjoining residents and the highway safety and access matters have now been resolved. It is therefore considered that any adverse impacts of granting permission due to the location of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Officers therefore recommended the application be approved by the committee subject to the suggested conditions.

Stuart Cunliffe, Agent, stated:

He has read the report and fully agrees with the officers' conclusions. Approval of this would provide a much-needed policy compliant new dwelling to add to the councils housing site requirements. The Parish Council remain concerned about access for emergency, refuse and delivery vehicles and further seeks a viable traffic management plan. Report item 9.52 notes that no concerns have been raised regarding emergency access. Items 9.64 and 9.65 confirm that the proposals comply with the council's refuse requirements. The transport note page 5 states that in terms of deliveries, a Ford Transit or Mercedes Sprinter would be able to access the site similar to existing properties along Church Lane. He believes the proposed condition 1 will fully address the concerns of the Parish Council. In his opinion safe and sound access can be achieved for construction and ongoing access. He acknowledges that the temporary site fencing is not precisely located but it will be and believes that the proposed development is shown accurately. The applicant wishes to inform the committee of his work and family connections as follows "I am a building contractor working for many years in the Hadley Wood area. I lived at 22 Church Lane for 12 years until last year. Personal family circumstances required the sale of number 22 which I sold last year in good faith. I still own the proposed plot 22a I would like to build this family house and live here with my son and daughter".

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Councillor Paul Singleton, spoke on behalf of Northaw and Cuffley Parish Council (NCPC) and stated:

Residents of 10 properties on Church Lane made objections; 8 relate to overdevelopment and its visual impact on the streetscene; 7 relate to highway safety concerns. NCPC believe that the proposal to construct a 5-bedroom house on 11.5-metre-wide plot and two metres from number 22 is over development. The approach from the 3.6-metre-wide carriageway to the 22A building line is approximately 8.5 metres on a slope. Three parking bays are required, and the report acknowledges that vehicles may be required to enter and leave the site in reverse. The sight lines for reversing vehicles will be from further back and at a lower level and they will be obstructed by the boundary wall of number 28 and the fence and hedges of number 22. The north approach is by a blind right angle bend and vehicles can appear quickly. There are no footpaths along Church Lane. NCPC therefore believe the potential for an accident involving a young child or cyclist is significantly increased, and do not believe the parking scheme is safe. They cannot envisage how HGVs serving the site during construction works can access this narrow site. Their concern is that they will be routinely unloading on Church Lane. Church Lane is narrow and delivery vehicles will not be able to carry out a three-point turn and they likely to attempt to turn on private frontages or reverse back to main roads. They refer to condition 1 stating prior to commencement no development should take place until the construction method statement has been approved by the local planning authority. They disagree to 9.42 and on visiting 21 church Lane confirm the residents garden and facing windows will be overlooked by the clear first floor windows of 22A. They also disagree to 9.38, the ground floor habitable area of number 22 does not benefit from north facing windows. A flank wall constructed 2 metres away from their flank windows can cause a loss of natural light. NCPC request these issues are reviewed before planning consent is given.

A discussion followed and a summary of the main points raised shown below:

Officers are of the view this would be an efficient use of land.

Members to consider as a material consideration that the council has no five-year housing land supply.

Concerns were raised over emergency and refuse vehicle access, but Highway Authority, who are the Council's statutory consultees for assessing matters relating to vehicular access and road safety/traffic have not raised an objection to the proposed development.

Concerns were raised in relation to the over development of the plot. Officers advised that the surrounding plots vary in size and shape and the proposal is of a comparable size to the footprint of other dwellings therefore, the proposal is not considered to be over development.

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Concerns were raised in relation to the impact on the streetscene. Officers are of the view that as there is a variety of styles and designs in the area, therefore, the proposal does not affect the character and appearance of the surrounding area

Concerns were raised about reversing vehicles onto the road, but Highways have no objections, they have advised that vehicles are entitled to reverse into a minor access road and are also entitled to stop on the road and reverse into the driveway. It is not a requirement for vehicles to be able to turn around on site on a 30mph residential road like there would be on a high-speed road.

Concern also raised about the lack of a footpath, but again Highways haven't raised any concerns in relation to this.

Concerns were raised over the impact of HGVs during construction works. A pre commencement condition has been prepared to address the potential impacts during construction whereby larger vehicles will need to gain access and park on the road.

Concerns were raised in relation to overlooking and loss of light. Officers are of the opinion that the proposal would not cause any undue loss of privacy or light to neighbouring occupiers.

Following discussion, it was proposed by Councillor N. Pace and seconded by Councillor J. Broach to approve the application.

RESOLVED:
(13 in favour - Unanimous)

That planning permission be approved subject to the conditions in the report.

28. WELLS FARM NORTHAW ROAD EAST CUFFLEY POTTERS BAR EN6 4RD - 6/2020/3451/MAJ - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 14 DWELLINGS

Report of the Assistant Director (Planning) on the demolition of existing buildings and erection of 14 dwellings.

This application is presented to DMC because Northaw and Cuffley Parish Council submitted a Major objection.

The application site is located south of Cuffley, outside of the settlement boundary and within the Metropolitan Green Belt. The application site forms part of a larger parcel of land, known as HS30, which was proposed for allocation in the emerging Local Plan submission in 2016. Its release from the Green Belt is considered to constitute high harm. For that reason, in late 2020 the Council, in response to submitting additional sites to the Examination sought to remove the proposed allocation from the draft Local Plan.

Since the publication of the officer's report, the Local Plan Inspector has responded to the strategy put forward following a decision of full Council in July.

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The Inspector is supportive of a plan that seeks to provide a ten-year post adoption supply that is linked to a commitment to a review of the Local Plan within 5 years. He has set out the requirement to meet the first ten years. To meet the requirement, he considers it is necessary for the plan to include sites submitted that have been found sound and are not in the supply put forward following the decision of full Council in July. This includes site HS30, a much larger parcel of land than the current application. The Council is to consider its next steps following the receipt of the Inspectors response. Notwithstanding the Inspector's response, HS30 is not within the strategy agreed by full Council in July. Also, as stated in the officer's report the release from the Green Belt and allocation of development of HS30 as part of the Local Plan relates to a much larger parcel of land compared to the current application. Members are advised that in relation to the Green Belt assessment and the planning balance in this case, no positive weight should be afforded to the proposed allocation of HS30.

Turning to the application before Members this evening, and the principle of development, District Plan Policy R1 states that in order to make the best use of land in the district, the Council will require development to take place on land which has been previously used or developed. These objectives are consistent with the NPPF which supports the development of under-utilised land and buildings (Para.120).

Notwithstanding this, as Members will be aware, a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, unless one of the limited exceptions apply. Exception g) is relevant to applications involving redevelopment of Previously Developed Land which I will refer to as PDL going forward. An application involving PDL must:

- (a) not have a greater impact on the openness of the Green Belt than the existing development; or
- (b) not cause substantial harm to the openness of the Green Belt, where the development would re-use PDL and contribute to meeting an identified affordable housing need within the area of the local planning authority.

In this case, as an affordable housing contribution is being made, the Planning Application is assessed under the second limb of exception g, meaning it must not cause substantial harm to the openness of the Green Belt.

The definition of PDL in the NPPF excludes land that is or was last occupied by agricultural buildings. The site supports a number of buildings identified A-G on the plan currently displayed on the screens.

It is reasonable for Officers to exercise judgement to conclude on the basis of the evidence available that all buildings within the site meet the definition of PDL. In addition, Officers have conducted a site visit which supports this conclusion. The late representation circulated to Members points to some potential uncertainty, and the report acknowledges that lawful uses for every part of the

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site have not been confirmed. Nevertheless, it is judged, based on the evidence provided, that all buildings are considered to meet the definition of PDL.

The objector has stated that it is possible that parts of the wider site, such as grassed areas, may not be PDL. It is the view of Officers that a conclusion that all of the site is within the curtilage of the buildings which have been assessed as PDL is reasonable. Furthermore, the case law referred to by the objector (Lee Valley Regional Park v Broxbourne Borough Council) gives some support here, as it was accepted in that case:

- that the flexibility in the NPPF for PDL may not require every part of the application site to have been PDL; and
- that where PDL is so large a proportion of the whole site, it could make the distinction... 'one which could reasonably be ignored'.

The impact of a proposal on the openness of the Green Belt requires a judgment based on the circumstances of the case. In this case the report acknowledges that the proposed development would have a greater impact on the openness of the Green Belt compared to the existing situation. However, the proposal is not considered to cause substantial harm to the openness of the Green Belt and it would contribute to an identified affordable housing need within the area of the local planning authority. Therefore, it is judged by officers that in principle, the proposal accords with the exception under Paragraph 149 g) of the NPPF and is not inappropriate development in the Green Belt.

It is acknowledged that there are strong objections from neighbouring occupiers and the Parish Council based on harm to the Green Belt. In particular there is concern that the determination of the application would inevitably lead to development of the wider parcel of land, and further land beyond. However, the application before Members this evening must be assessed on its merits against Development Plan Policy. Speculation in relation to future development proposals, which may or may not come forward, is not considered sufficient justification to withholding planning permission.

In terms of supporting facilities a comprehensive package of planning obligations are set out under sub-heading 6 of the Officer's assessment at paragraph 10.117. These include financial contributions to mitigate the impact of the development on services, such as education, libraries and youth services. Contributions are also required towards sustainable travel, play facilities and Green Space, among others.

The impacts of the proposal have been considered and found acceptable in terms of transport, access, and traffic; environmental impacts; heritage, landscape and visual impacts; residential amenity and impact on neighbouring occupiers; supporting facilities and other material considerations.

Turning to the planning balance, it is considered that the presumption in favour of sustainable development (also known as the tilted balance) does apply in this case.

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The delivery of housing represents a benefit, and this development would boost the supply within the Borough. This proposal would provide a significant contribution towards affordable housing via a commuted sum which is afforded substantial weight. This application is for full detailed planning permission and, if granted, would be subject to the standard three-year time limit for commencement of development. Therefore, there is a good chance that the dwellings will be delivered within 5 years. This factor is afforded significant weight.

It is acknowledged within the report that the redevelopment of the site would result in the loss of an employment site in conflict with Policy EMP8 of the District Plan. However, more recent advice under paragraph 123 of the NPPF, encourages local planning authorities to take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. As such, it is considered that the delivery of housing, including a financial contribution towards affordable housing outweighs the loss of this employment site.

Having regard to all the factors described in detail within the committee report, Officers are of the view that the benefits in favour of the proposal clearly outweigh the conflict with Policy EMP8.

It is therefore recommended that the Committee resolves to grant planning permission subject to the suggested conditions; the satisfactory completion of a S106 Agreement securing planning obligations; and the agreement of any necessary extensions to the statutory determination period to complete this agreement.

Jonathan Collins, Agent, stated:

They have worked through a long and rigorous consultation process with officers, statutory consultees, and local stakeholders since it was submitted in December 2020. As local SME business they take consultation very seriously and welcome genuine feedback on proposals. They are pleased to see praise for these proposals from residents and support from statutory consultees. They have sort to address legitimate concerns with officers. They believe there is nothing new to the late objection received from an objector that does not live in Cuffley. All the points have already been fully addressed during the last 21 months working with the council. They are grateful for the rigour and effort that has been applied by officers and said that winning their support with a strong recommendation for approval has not been an easy process. Officers are clear that this site qualifies as previous developed commercial land and there is no evidence to the contrary. The development of this site predates the settlement of Cuffley itself. This site is suitable for delivery of much needed family housing now and the position would be the same under a new plan as a windfall brownfield site. This is a sustainable site closer to the train station and local amenities of Station Road than many of the existing houses to the north of

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Cuffley. The proposed family homes are arranged around a pinwheel courtyard with a focal manor house surrounded by narrow linear barn like buildings. These homes will include a carbon reduction of 40-55% above the current building regulations, using low carbon and renewable technologies for onsite energy generation. In addition, there will be improvements to pedestrian linkages, a reduction to hard surfacing as part of the sustainable drainage strategy, restrictions to water usage, enhancements to biodiversity, and an electric charging point for every home. The scheme will provide financial contributions to affordable housing, local transport, education, and health facilities. They urged the committee to approve this sustainable development of 14 homes on a brownfield site today without forcing it to appeal.

Barry Knichel, Objector, stated:

He believes this application needs to pass a much more stringent test of rules than are required for a local plan. There also needs to be much more objectivity and balance than has been presented in the officer's report. To correct this, the committee has separately received expert representation advising it doesn't meet the NPPF tests. There will be substantial harm to the green belt if this goes ahead. There are no very exceptional circumstances to justify this. The description that the site is at the bottom of the sleep valley is misleading as is the assertion that large buildings will be designed so they look much smaller. Not evaluating the significant increase in building volume when the data is easily available doesn't make sense. The council have committed to not build on high harm green belt, for sound planning and policy reasons, which hasn't changed in the few months since this decision was ratified. The development will be significantly larger in comparison to the current farm buildings. The officer or the developer has had ample time to give an objective assessment of this significant increase, but they have chosen not to. During the local plan deliberations, the officers warned of planning by appeal, but expert advice is that should it get that far any appeal would likely fail. In Clifford Chance's summation of this application, they say, 'the above points mean any decision granted on the basis of the report would be wrong in planning and at law and thus will be exposed to the legal challenge'. Therefore, he believes the officers report is deficient and any decision to accept the recommendation would be unlawful, and if that was the outcome then a legal challenge would be viable. He asked councillors to uphold their commitment to residents and apply sound planning judgement based on the expert advice provided and refuse this application.

Councillor Bob Stubbs, speaking on behalf of Northaw and Cuffley Parish Council stated:

There is a comprehensive and detailed letter from Clifford Chance which all members of the committee should have received and sets out why the application should be refused. As stated by the officer, their conclusion is the whole site is PDL, but this is a flawed conclusion. Building G does not clearly qualify as PDL. Curtilage on the site is not PDL but has been assessed as PDL. The curtilage is about 50% of the site in question. The whole development site is

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therefore erroneously given PDL status. The terms of the green belt test for a PDL site is no great impact on openness, and not causing substantial harm. The report concludes these tests have been satisfied, in NCPCs view they have not. The proposed development will be significantly higher with a much greater volume. There has been no attempt by officers or the applicant to evaluate what the increase in volume is. There will be, at the rear of the site, additional landscaping which will also have significant impact on openness. HS30 has previously been defined by the council as being high harm but is now considered by officers that development of roughly 50% of the site is not high harm, this is not in line with the council's previous assessment. The inspector has a different view, but too much weight and given to this view. The Councils' preference is for a plan that would exclude this site. Too much weight is being given to the status of a plan, which is still contentious, and in any case omits this site as it is not considered appropriate for development. NCPC believe the application is premature for approval and would set a dangerous precedent. Clifford Chance's conclusions are that if the committee refuses consent, an appeal would most likely be unsuccessful, but if approved it will be based on a flawed officer's assessment and will be wrong both in planning policy and at law, and the council will be exposed to a legal challenge.

Councillor B. Sarson, Ward Councillor, stated:

He promised to support this council and the government's pledge to prevent development on high harm green belt sites. In late July the council resolved to maintain this pledge and remove high harm green belt sites from the local plan. There was a special motion to keep HS30, the larger of these sites, in the local plan. This was soundly defeated by members, and supported by the MP, and based on sound planning decisions. The Council has approved a plan for 12,775 homes, and this site is not included. This is not a windfall site as the definition of windfall are sites that would not have been envisaged at the time of the plan. Although the applicant claims this is PDL this is disputed by independent experts. What the officer has acknowledged is that the development will significantly increase the volume of buildings. The scale and significance should not be underestimated as it will lead to the whole site losing its openness and thus its high harm rating. Councillors will have received a detailed independent report from a specialist lawyer. This includes a significant increase in volume, and loss of employment, giving too much weight to the argument that this is in the local plan so should be developed. Councillors have also heard from the community, that if this were to be refused the potential appeal would not be successful. The Committee have a commitment based on planning law and government policy to protect high harm green belt; this development will significantly increase the prominence of this site. There are several NPPF criteria that this application has not met. He requested councillors reject this application, not for planning reasons, but to uphold commitments made to the community.

Members discussed the application and a summary of the main points raised are shown below:

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The site is a high harm green belt site however has been previously developed upon. The site therefore falls within exemption G of the NPPF. The test therefore becomes not to cause substantial harm to greenbelt openness. Officers have advised that in their view the development would not cause substantial harm based on the substantial harm test to the green belt.

Concerns were raised in relation to development of the wider plot. Officers advised that each application needs to be addressed on its own merit and because of the specific nature of this being falling within exemption G it wouldn't be going against the council's committed approach in relation to the local plan about not developing on high harm sites.

Concerns were raised in relation to the loss of employment sites. Officers have advised that the council can take a positive approach to land which is currently developed but not allocated for a specific purpose in plans.

Concerns raised in relation to building volumes. Whilst the overall footprint is reducing by circa 100 square metres the properties will be double story so there is an increase in volume overall. However, officers are of the opinion that when taking into account viewpoints, screening from landscaping, etc. this wouldn't cause substantial harm to the openness of the Green Belt.

Concerns were raised in relation to the external legal advice given by Chance Clifford, in particular around the test and the application of the test. Officers have considered this advice in detail and concluded that the correct tests have been applied.

Concerns were raised that the council might be or committing or making an unlawful decision. Legal advice is that based on the information provided to members a legal decision can be made this evening.

Concerns were raised in relation to the medieval farm. An archaeological investigation of the site can be secured by condition.

Members need to consider the council currently has no five-year housing land supply. There would be a committed sum for affordable housing of circa 900,000. The Legal Advisor said this would come through as a section 106 agreement. The length of time this money is available is negotiable within the agreement. The affordable housing would be provided offsite as officers are of the opinion this would be better provided elsewhere in the borough.

Following discussion, it was proposed by Councillor J. Broach and seconded by Councillor C. Juggins to reject the application.

RESOLVED:
(7 in favour, and 6 against)

That planning permission be rejected:

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- On the grounds that the increase from single storey to multi storey would result in unacceptable harm to the green belt and result in over development of the land contrary to D1/D2.*

**Please note that following the committee meeting, the decision notice was not issued whilst a review of the decision takes place.*

29. PLANNING UPDATE - FUTURE PLANNING APPLICATIONS

Report of the Assistant Director (Planning) providing the Committee with a summary of planning applications that may be presented to DMC in future.

RESOLVED:

That future planning applications which might be considered by the Committee be noted.

Meeting ended at 21:37pm
CF

Meeting ended at Time Not Specified