

Development Management Committee
20 October 2022

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the DEVELOPMENT MANAGEMENT COMMITTEE held on Thursday 20 October 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, D.Panter, J.Ranshaw,
D.Richardson, J.Skoczylas, P.Shah, S.Tunstall,
J.Weston, Thusu and T.Travell

ALSO Legal Advisor, Trowers (R. Walker)
PRESENT:

OFFICIALS Executive Director – Place (C. Barnes)
PRESENT: Assistant Director – Planning (C. Carter)
Development Management Services Manager (D. Lawrence)
Senior Development Management Officer (R. Lee)
Career Grade Development Management Officer (E. Stainer)
Senior Democratic Services Officer (C. Francis)

23. SUBSTITUTIONS

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

Councillor Sunny Thusu for Councillor Nick Pace.
Councillor Teresa Travell for Councillor Caron Juggins.

24. APOLOGIES

Apologies of absence were received from Councillors Nick Pace and Caron Juggins.

25. MINUTES

The minutes of the meeting held on 29 September 2022 were approved as a correct record.

26. DECLARATIONS OF INTEREST BY MEMBERS

Councillor T. Travell declared a non-pecuniary interest in Item 7 of the agenda as the Parish Council have made representations. Legal advice is that the Council didn't attend the Parish Council meeting in question and haven't expressed a view on the application. Therefore, provided Cllr T. Travell is happy then she can consider the application with an open mind and there is no

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requirement under the constitution to exempt her from this item. Cllr T. Travell confirmed that she is attending this with an open mind.

Councillor S. Thusu declared a non-pecuniary interest in items on the agenda as appropriate by virtue of being a Member of Hertfordshire County Council.

27. 6/2020/3451 - WELLS FARM NORTHAW ROAD EAST CUFFLEY POTTERS BAR EN6 4RD - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 14 DWELLINGS

Following concerns that were expressed after the previous development management committee meeting regarding the level and consistency of member engagement in the item, and after officer review and legal advice, officers have recommended that the item is reconsidered by members of the committee, with an open mind, in order to ensure that any decision is ultimately defensible to challenge. Any member who feels unable to consider the matter afresh was asked to excuse themselves for this item.

RESOLVED:
(13 in favour, unanimous)

That the previous resolution be rescinded, and the application be reconsidered afresh by the Committee today.

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.

Officers shared images to help show the site and the proposed development within the surrounding context. The site is located to the south of Cuffley outside the settlement boundary and within the Green Belt.

The Committee report includes a thorough assessment of the planning history for each building at paragraphs 11.5 to 11.18. Officers have looked in detail at the evidence, and at the site itself, and concluded that none of the buildings remain in agricultural use and the site comprises previously developed land.

The submitted Design and Access Statement, demonstrates the scale and massing of the development. The proposal would replace buildings that have a large individual footprint with much narrower, proportioned buildings which helps to break down the scale and more closely replicate the linear barn aesthetic of traditional farmsteads. The proposed scheme demonstrates well-considered layouts and reflects rural typology. There is a formal Manor House at the centre of the site presenting a central focus to the development.

In terms of the visual impact, views of the development from publicly accessible vantage points would be predominantly partial and glimpsed, this is because the site is situated close to the bottom of a steep valley and is well screened by

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landform, existing mature trees, and hedgerows. The only clear view of the site from a public right of way is directly opposite the site entrance, although this is a short glimpse view and the site is set well back from the road, with the principal building visible being the existing cottage lying just outside the development boundary.

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. HS30, together with several other parcels of land were combined for assessment, and cumulatively, their release from the Green Belt was 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. 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. In order 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. The Council is to consider its next steps following the receipt of the Inspector's 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.

In terms of 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 previously used or developed land, these objectives are consistent with the NPPF which supports the development of under-utilised land and buildings.

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 (PDL).

An application involving PDL must not have a greater impact on the openness of the Green Belt than the existing development; or 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.

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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. 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.

The impact of the proposal on the openness of the Green Belt requires a judgement based on 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 was acknowledged that there are strong objections from neighbouring occupiers and the Parish Council based on Green Belt harm, 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. The application must be assessed on its merits against the development plan policy. Speculation in relation to future development proposals which may or may not come forward is not considered sufficient justification to withhold planning permission.

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

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

The delivery of housing represents a benefit, and this development would boost the supply within the borough. The 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 will be subject to the standard three-year time limit for commencement of development, therefore there is every prospect that the dwellings will be delivered within five years and this factor is afforded significant weight. It is acknowledged within the report that the redevelopment would result in the loss of an employment site, in conflict with Policy EMP8 of the District Plan. However,

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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.

Officers are of the view that the benefits in favour of the proposal outweigh the conflict with Policy EMP8 and the less than substantial harm to Green Belt openness. It was therefore recommended that the Committee resolve to grant planning permission subject to the suggested conditions and the satisfactory completion of a Section 106 agreement, securing planning obligations and the agreement of any necessary extensions to the statutory determination period to complete this agreement.

Jonathan Collins, Agent, stated:

As a local business they take pride in consulting with residents and key stakeholders and have now had an opportunity to listen to members and hear their concerns regarding the potential harm in the Green Belt, the increase in build volume, housing need, and the delivery mechanism for affordable housing. They appreciate that this site is within a large parcel identified by the Council's consultants as high harm. However, the local plan process has concluded that the area in the south-west corner of the 117-acre parcel is well-screened and not high harm. The proposals only cover a small part of this area, which is only 1% of the total parcel and is already occupied by buildings. The site has been rigorously assessed by officers and has been found to be appropriate development allowable within the Green Belt. Members have suggested that an increase in volume of this site would be contrary to design policies. They have listened to Members' and have now measured the increase in volume, which is 60%. Whilst most of this increase in volume would be allowable under permitted development rights for the commercial buildings, this would not result in a well-designed scheme and, as officers note in the report, this proposal would instead replace buildings of large individual footprints with much narrower proportioned buildings which would help to break down the scale and more closely replicate the linear barn aesthetic of traditional farmsteads. They have submitted a visual impact assessment and the report concludes that the only clear view of the site would be a short, glimpsed view down the site entrance and that this would be acceptable, especially given the high quality of design. Councillors have asked whether these new homes are required, given that housing sites will be identified in the emerging Local Plan. It was noted that there is a chronic shortfall in housing supply and that this site will help meet that need. It has been agreed with housing officers to provide nearly £1 million to cross fund affordable housing, because it would be inefficient for the council or registered provider to manage a small number of homes on this site. It was confirmed that they are not expecting this money back and if the Council required longer to spend it, the applicant would be willing to sign a legal agreement to extend this period.

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Paul Singleton, 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. These errors and omissions are very well documented from expert lawyers, not just Clifford Chance, but the opinion of three other submissions from independent experts. 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 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 have been several representations made by experts, including Clifford Chance, highlighting technical defects in the report, with the conclusion that it would be unsafe to give consent based on the report, and that any appeal would fail. He reminded Members that their role is to challenge and probe the officers and hoped that tonight they would. He does not agree that the site is PDL. He finds it strange that very limited visuals have been shown, so members can't really have an appreciation of the scheme and impact. The development is materially higher than the existing buildings but there are no real comparison drawings to show how much higher they will look. The site entrance will be widened to enable more easy access, and that's a requirement of Herts County Council. That will have a material impact on visibility from the road. The overall volume we've heard is a 60% increase and that's material but wasn't referred to in the officer's report. The officer makes reference to the recent successful appeal on Colesdale but fails to mention that the total development volume in that case was actually smaller than the buildings that were on there. There is going to be additional landscaping at the rear the site but there have been no visuals. He reminded Members that HS30 was considered high harm, it was

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taken out a local plan for that reason, this decision would be inconsistent and wrong in fact, law and planning policy so should be rejected.

Councillor B. Sarson, Ward Councillor, stated:

He noted that officers knew the application has problems in July when it was withdrawn from the committee. He promised to support the Council's pledge to prevent development on high harm Green Belt. The Council resolved to maintain this pledge and remove high harm Green Belt sites from the Local Plan. The special motion to keep HS30 in the Local Plan was soundly defeated by members. The stance was fully supported by the borough's MP. The plan was approved for 12,775 homes and this site was not included. The applicant claims this is all previously developed land, but this is challenged by independent experts. Officers have acknowledged that the development will significantly increase the volume of buildings, but this was missing from the officers' conclusions. He feels the application has not met several NPPF criteria. The community has received expert advice that any potential appeal would not be successful. He asked that councillors uphold their commitments to the community and refuse the application on sound and significant planning grounds.

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

The site is within the Green Belt, so absent of any exemptions the proposal would be inappropriate development. However, in this case exemption g) to paragraph 149 of the NPPF can be applied because the site is previously developed land (PDL) and an affordable housing contribution is being made. Accordingly, the proposal would not be inappropriate development as long as it does not cause substantial harm to the openness of the Green Belt. Officers' opinion is that there would be an impact on openness, but this wouldn't amount to substantial harm, therefore, it is judged by officers that the proposal accords with the exception under Paragraph 149 g) of the NPPF and is not inappropriate development in the Green Belt. These are however matters of planning judgement and the decision rest with Members.

Concerns were raised in relation to loss of an employment site. However, 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 specific purposes. As such, it is considered that the delivery of housing, including a financial contribution towards affordable housing outweighs the loss of this employment site.

Members need to take into consideration the housing which would be delivered from this, and the affordable housing provision. Concerns were raised in relation to the fact that affordable housing is not being provided on site. However, in accordance with the Planning Obligations Supplementary Planning Document, a commuted sum has been agreed by the Council's Housing Team. The draft S106 legal agreement includes a clause which prioritises the delivery affordable

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housing in Cuffley for 24 months, after which time the sum can be allocated to a suitable scheme within the wider borough.

Concerns raised about the volume increase. Overall, there would be a 6% reduction in footprint and a 60% increase in volume. However, the concept of openness is not limited to a volumetric assessment and must consider other factors such as the visual impact. Officers are of the opinion that whilst the proposal would have a greater impact on openness, this would not amount to substantial harm.

Concerns were raised in relation to the legal advice provided by objectors and whether or not the Council has taken this into account. Legal advice provided by third parties was not on a reliance basis to the Council, and the points raised have been considered and the officers conclusion remains that the land is PDL.

Concerns were raised in relation to the design of the building. Officers considered this is reflective of the vernacular of the wider area.

Concerns were raised in relation to highways, however, there has been no objections from the Highways Authority. There has also been no objection from the councils refuse collection team.

Concerns raised in relation to density and design. Officers are of the view that the density provides an efficient use of the land and maintains the character of the site and a good standard of amenity for future residents. Methods have also been used to reduce the bulk, and in the officers' view, this is not overdevelopment.

Concerns raised in relation to whether the buildings were deliberately allowed to fall into an unserviceable condition. Officers' view is that they are serviceable for their current use.

Concerns raised in relation to the setting a precedent. Members need to consider this application on its own merits. Land surrounding the site would remain Green Belt in the absence of any changes to the Local Plan. Should any future planning application be submitted to the Council, it will be assessed against the relevant national and local planning policies for land which has not been previously developed, which includes stringent protection of the Green Belt.

It was noted that Members need to take into account that the Council currently has no 5-year housing land supply. The development would contribute 14 market dwellings and £914,000 for affordable housing, along with a number of other s106 provisions.

There is a mixture of parking provision with garages, carports and on and off street parking provided. There are a total of 32 parking spaces, of which two are allocated as visitor bays at the entrance to the site. Every dwelling would have an EV charging point.

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Concerns were raised that Members wouldn't be able to make a lawful decision at this meeting. The legal advisor explained that the officers report sets out the facts and rationale, so there is no reason why Members cannot make a lawful decision tonight.

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

RESOLVED:
(11 in favour, and 2 against)

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

28. 6/2022/1308/FULL - 41 HAWKSHEAD LANE NORTH MYMMS AL9 7TD - SUBDIVISION OF THE PLOT AND THE ERECTION OF A BUILDING HOUSING A PAIR OF SEMI-DETACHED DWELLINGS WITH ASSOCIATED PARKING, BINS AND SHARED ACCESS FOLLOWING THE PART DEMOLITION OF THE EXISTING DWELLING/HOUSE

Report of the Assistant Director (Planning) for the subdividing of the existing plot, demolishing part of the existing property and erecting two semi-detached houses with associated parking and access.

Legal confirmed Councillor Teresa Travell could express a view on the proposal and vote despite being a parish councillor as she did not attend the meeting itself, as long as she approached the application with an open mind.

North Mymms Parish Council have objected on the grounds that the application is inappropriate development in the Green Belt and no very special circumstances (VSC) have been presented, it is not a gap site, it has a constrained access on a bend, it would have insufficient parking, it would not match the design of the existing house with front dormers or be subordinate to the existing property and the previous approval is not material as each application should be judged on its own merits. Objections have also been received from 3 neighbouring properties.

The existing property is a two-storey detached residential dwelling with single storey extensions to the side. The site currently benefits from outbuildings and a partially demolished open air swimming pool.

In 2019, planning permission was granted for the demolition of the existing house and the erection of 2 new detached houses with habitable space in the roof. This would have resulted in a net gain of one new house. The new dwellings were considered to be limited infilling development in the Green Belt. An application was then submitted earlier this year for extensions to the existing property including a part two storey, part single storey side extension, and the erection of 2 new semi-detached dwellings. The new dwellings under the refused application were still considered to be infill development. However, the

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application was refused for 3 reasons: the extensions to the existing house being inappropriate in the Green Belt due to being disproportionate, the design being unacceptable (largely by virtue of the flat roof first floor extension and single storey extension) and inadequate information about highway safety.

The site is a triangular shaped piece of land which is irregular in shape in comparison to the surrounding plots which are more linear in nature. The new dwellings would be sited closer to the dwelling at No.43 Hawkshead Lane which is set back from the road. The new houses are considered to be limited infilling development in the Green Belt, which is consistent with the previous approval. One additional house would be provided compared to the consented scheme.

Part of the existing building would be demolished to make way for the new development. The combined footprint of the two approved dwellings and detached garages under application 6/2019/0844/FULL equated to approximately 355.6m². The proposed site plan for this application has been measured and the total footprint equates to approximately 358m². There is therefore a minimal increase in the size of the footprint compared to the application previously approved for two dwellings.

The proposed design of the semi-detached pair would be of a similar style to the existing dwelling and consented scheme and would feature flat roof dormers and a crown roof. These images presented for the information of members are indicative to demonstrate the impact of the dwellings in the immediate context of the site. It is acknowledged that the proposal would result in an intensification of the residential uses across the site. However, it is officers view that the addition of one more dwelling compared to the approved scheme would not result in an unacceptably cramped layout or uncharacteristic style within the road.

Numbers 39 and 43 Hawkshead Lane are the properties adjoining either side. The new houses would be situated approximately 27m away from the flank wall of the boundary with No.39, therefore this impact is viewed to be acceptable. On the opposite side, No.43 would be positioned approximately 2.5m away from the boundary at first floor but as the house has a limited number of modest windows on this side elevation and potentially even secondary windows. The new house would also have obscure glazed windows on the side which is recommended by condition, therefore the impact would be acceptable.

County Highways previously objected under the last application as inadequate information had been submitted to ensure the proposed development would enable vehicles to adequately turn on site and leave in a forward gear as required on a classified road. Amended details have now been provided and County Highways are satisfied with these details so have not objected to the proposal. 2 parking spaces would be provided per dwelling and whilst this is below the guidance in the SPG (3 spaces) this is not viewed to be so significant to support a refusal. A condition is also recommended which states that if any additional spaces are proposed in future, this information would need to be submitted via condition.

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Ecology and biodiversity, refuse and recycling, landscaping and contamination are other considerations relevant to the proposal and it is considered that these considerations can be addressed via the recommended conditions. The proposal is also considered to be appropriate development in the Green Belt, would have an acceptable impact on adjoining occupiers, would be of an appropriate design and would not have a detrimental impact on highway safety. Officers therefore recommend the application is approved by the committee subject to the suggested conditions.

Councillor Jacqui Boulton, North Mymms Parish Council, stated:

This is a rural country road in the Green Belt. It seems that Green Belt designation does not matter. In the NPPF paragraphs 147 and 148, State substantial weight must be given to any harm to the Green Belt where there are no very special circumstances (VSC). There are no VSC which would allow this proposal. The reason for the refusal of the previous 2022 application was that the proposal would constitute inappropriate development and no VSC existed to outweigh the harm. Not much has changed just because two detached houses are now a pair of semis, when the vast majority of the houses in the road are bungalows. Whilst Policy SADM 34 allows limited infilling in villages, Hawkshead Lane is not a village but a small ribbon development along a country road. This site is mainly garden with open aspect beyond. It is however raised above the level of the road, so visibility is not that clear. It is a big corner plot, but with a very restricted access. Hawkshead Lane is tricky for many of the houses and this property is no exception, particularly as it has a narrow steep access on a bend on a road taking much of the RVCs traffic. It is not a sustainable location, residents in this part of Welham Green Ward rely on their cars as there are no pavements on this part of the lane, no buses and the train station is remote. Why should two car parking spaces be acceptable for each semi when Welwyn Hatfield Borough Council's own standard is for three spaces for a four bedroomed house. Approval of this application will reinforce the message that the Green Belt is not a consideration for planning applications. The Green Belt does matter, and even so-called windfall sites cannot override the harm over development and inappropriate proposals such as this will cause.

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

Queries raised in relation to whether the test for limited infilling in a village is met. The officers opinion is that it does comply.

Comments raised regarding visibility for vehicles. Officers confirmed the access is existing and there has been no objection from Highways.

The NPPF says the council should give substantial weight to developments that harm the Green Belt. There are exemptions on developments that constitute infilling so officers opinion is that the very special circumstances test is not required in this instance.

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Concerns raised in relation to whether this development is a village or not, it's subjective and although we've had a recent appeal decision, it is for Members of the Committee to decide whether this constitutes a village or not.

Concerns raised in relation to the parking, specifically, that the parking assumes the ability to walk to nearby settlements and to walk to the bus stop however, there is no pavement directly opposite or directly adjacent to this property. The two parking spaces do not meet the recommended three spaces as per the Council's parking standards. Officers confirmed the Council's SPG standards are not consistent with the NPPF therefore an interim policy sets out that applications have to be considered on a case-by-case basis.

Concerns raised that due to the location of the property on a hill, by a very narrow road of two-way traffic, whether this still holds true. There has been no objection from Highways on pedestrian safety due to a lack of a footpath.

Concerns raised in relation to design. Officers were of the view that the road is varied in character and the design of the new dwellings takes into consideration the character of the existing house.

Members need to consider that the council has no 5-year housing land supply, which is a material consideration.

The overall footprint is only circa 3 metres square more than already has been approved.

Matters such as ecology, biodiversity, refuse, landscaping, contamination have been considered and can be secured by decision.

There was a question raised that if this application was to be refused tonight, could the development go ahead with the previous plan. Officers advised that the previous consent expired in June, however the applicant would be able to resubmit should they wish to, and then this would be considered against the relevant national and local planning policies in that scenario.

Following discussion, it was proposed by Councillor James Broach and seconded by Councillor Roger Trigg to approve the application.

RESOLVED:
(7 in favour, 6 against)

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

29. 6/2020/3418/MAJ - SANDYHURST, 1 WELWYN BYPASS ROAD, WELWYN, AL6 9HT - DEMOLITION OF EXISTING SINGLE DWELLING AND REPLACEMENT WITH 37 DWELLINGS (30 APARTMENTS AND 7 HOUSES, INC 12 AFFORDABLE UNITS) TOGETHER WITH LANDSCAPING, AMENITY,

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REVISED PEDESTRIAN ACCESS, VEHICULAR ACCESS, CAR AND CYCLE PARKING

Report of the Assistant Director (Planning) on the erection of 37 dwellings following the demolition of the existing dwelling on the site.

This application is presented to the Development Management Committee because this is a 'Major' application located in the Green Belt and the recommendation is for approval.

The application site currently comprises a large garden serving a single detached dwelling opposite a petrol filling station and is located on the eastern side of Bypass Road between Bypass road and the A1 northbound. The site itself is currently well screened by mature planting along each road frontage and therefore despite its edge of settlement position it does not have a clear countryside character.

On the north side of the site, there is an established residential development of houses and flats up to four storeys in height at Node Way Gardens. On the opposite side of Bypass Road to the west is the petrol filling station, and the junction with London Road is opposite the southern end of the plot

The site is located south of the village boundary within the Green Belt but it is not within a conservation area or close to any heritage asset.

Planning permission is sought for the erection of 37 dwellings following the demolition of the existing dwelling on the site. Seven dwelling houses are proposed in two short terraces of 3 and 4 rows of dwellings, parallel to the site frontage with Bypass Road. Thirty flats are proposed in four blocks, 3 of which are similarly designed and are aligned with the dwelling houses. A fourth block will be perpendicular to the road on the southern side of the site.

A single vehicular access will serve the development, and this would be created at the north-west corner of the site. The existing domestic access at the southwest corner would be retained for pedestrian and cycle access only.

It is noted that 3 neighbour representations have been received, none of which objected to the scheme. The comments concerned the impact of the development on cycling, the number of onsite parking spaces, the provision of bird boxes, the removal of trees and shrubs, and the need for a S106 agreement to upgrade the existing footpath.

In terms of the principle of the development, the site is allocated as a Housing Site in the emerging Local Plan. It therefore follows that the site is situated in a sustainable location. This is evidenced by the site's location adjacent to an established residential area, its' accessibility to bus and cycle routes on its western side and its' proximity to Welwyn Village with its range of services and facilities which are all within walking distance.

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The capacity of existing infrastructure is considered sufficient to be able to accommodate the development but in advance of the Adoption of the emerging local plan, the site remains in the Green Belt.

In terms of the harm to the Green Belt, there is no exception listed in Paragraph 149 of the NPPF that is relevant to this case. Whilst it is argued that the site constitutes previously developed land, the development proposed would clearly have a substantial impact upon the openness of the Green Belt over and above the existing buildings found onsite. As a consequence, the proposal represents inappropriate development. Such development should not be approved except in very special circumstances (VSC) and local planning authorities should not approve inappropriate development unless the VSC clearly outweighs the potential harm to the Green Belt from the proposal which will be discussed in the planning balancing exercise.

In terms of design and appearance, the residential use would be consistent with the adjoining land use and the design and scale of the dwellings would be broadly similar with other homes in the area.

The materials used would consist of red-multi bricks with timber cladding and tiled roofs, further details can be secured via condition. Notwithstanding the site's location in Green Belt, the proposed development would not appear out of place in this edge of settlement location.

The mix of apartment blocks and short terraces of dwellings combined, show a development with visual interest and a reasonable mix of buildings and private spaces, all within a mature landscape setting. It is considered that with the imposition of planning conditions, the development is of a suitably high standard of design that would fit within its' immediate setting.

In this case, the nearest neighbours are on the north side to the development. Due to the separation distance of at least 17 metres, the orientation of the dwellings, and the presence of mature landscaping, the neighbouring homes would not be significantly affected in terms of overlooking or loss of light and outlook. The amenity of the existing occupiers is therefore considered to be maintained and it should be noted that no amenity concerns have been received.

Each of the proposed dwellings is designed to achieve the national Internal Space Standards. The seven dwellinghouses have individual garden spaces for external amenity and the flats each have either balcony space or, in the case of ground floor flats, patios and small gardens. All residents would therefore have access to some private external amenity space and the entire development would be within a landscaped setting with mature trees.

Due to the site's location adjacent to the A1 motorway, there is potential for relatively high levels of noise on the site. To address this constraint, the three apartment blocks are orientated parallel to the road and so provide a physical barrier screening the proposed homes to the west from noise.

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Internally the rooms that face towards the motorway comprise of kitchens and lobbies, with living rooms and bedrooms located on the quieter sides of the flats.

The Council's Environmental Health Officer did not raise an objection subject to noise related conditions being imposed. It is however recommended that the wording of the condition be amended to require only the private/communal amenity spaces and habitable rooms to meet the minimum noise standards instead of the requirement of all rooms and outdoor spaces. This will ensure the noise condition can be achieved without the potential need for the noise mitigation to involve tall acoustic barriers.

Subject to such a condition, the internal and external living conditions would be considered to meet a reasonable standard.

In terms of highway impacts, following revisions made, there were no objection from the Highway Authority subject to conditions including those securing some localised off-site road improvements. These conditions would ensure that the development would not adversely impact the local road network in terms of capacity or safety. No concerns were also raised with regards to the proposed access arrangement or visibility splays.

The proposal would provide a total of 56 car parking spaces and one secure cycle parking space for each dwelling which is considered sufficient for the development proposed.

The existing site already contains extensive tree and shrub cover, some of which would be lost as a result of the development. However, it is proposed to retain the key trees onsite and the proposal would include new planting designed to reinforce the landscaped character of the site in particular along its southern side which will include new tree and hedgerow planting. Details of the species, the size of specimens and the density of planting can be secured by condition.

The Council's Landscaping Team did not raise any objections provided a detailed landscape plan is secured via condition in addition to a Tree Protection Plan and Arboricultural Method Statement to minimise the impact on the remaining trees.

It is noted that there is also no harm subject to conditions to flood risk, drainage, ecology, and refuse facilities.

Turning to the planning balance, the proposal constitutes inappropriate development in the Green Belt in addition to a resulting in substantial loss of Green Belt openness. The scheme therefore conflicts with the development plan and significant weight is attached to this harm.

Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, with the exception of land within the green belt. The policies most important for the determination of this application are deemed to be out of date as the Council cannot demonstrate a five-year supply

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of deliverable housing sites, and the delivery of housing is substantially below the housing requirements over the previous three years. However, because land designated as Green Belt is an asset of particular importance, the tilted balance is not engaged in this instance.

Notwithstanding this, in accordance with Paragraph 148 of the NPPF, where there is identified harm to the Green Belt, it is necessary to establish whether there are VSC that would outweigh the harm to the Green Belt and any other harm resulting from the proposal.

The site has been designated as a New Site for housing in the Emerging Local Plan and has been classified as not making a significant contribution to the Green Belt designation.

Currently the Examination of the Emerging Local Plan has been concluded. Whilst there are still unresolved differences between cabinet and the Inspector, there are no significant objections to the allocation of this site for housing. Members are therefore advised that the draft Local Plan policies in relation to this site should carry significant weight given that these have been thoroughly considered by the examination.

In light of the clear and convincing need for additional appropriate housing sites in the borough and the borough's acute affordable housing shortage, the delivery of, a not insubstantial 25 market homes, 12 onsite affordable homes and £42,000 in commuted sums towards off site affordable housing would be a substantial positive benefit of the development.

It is the view of officers that these factors, when considered collectively, demonstrate that VSC do exist in relation to this planning application and this site to justify inappropriate development in the Green Belt. When assessed against the policies in the emerging Local Plan and in the NPPF when taken as a whole, it is considered that there are no significant disadvantages that would demonstrably outweigh the benefits of the scheme. As such the proposed development within Green Belt is considered to be acceptable in this instance.

It is therefore recommended that the Committee resolves to grant planning permission, subject to the suggested conditions and completion of a S106 Agreement.

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

The site is allocated as a housing site in the emerging Local Plan and is in a sustainable location. Officers advised that, as the site is in the emerging local plan with no significant objections to the site for housing, it should be given significant weight alongside the delivery of affordable houses. Officers are therefore of the opinion that this specific site, VSC do exist.

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Dwellings achieve national space standards, and suitable amenity space in a landscape setting. The design is broadly similar to other homes in the area. There's no significant impact on neighbour amenity.

Parking meets the Council's SPG, with 10% electric charging.

Need to take into account the lack of the Council's five-year housing land supply.

Concerns were raised in relation to noise. Conditions are being secured to ensure that the internally habitable rooms and designated amenity areas will have appropriate noise levels. There's also been no Environmental Health objection subject to further assessment to be secured via condition.

There will be some loss of greenery. However, there are no objections provided a landscape plan and further Arboricultural details are provided. There's no actual harm to ecology, subject to conditions.

Some questions in relation to highway safety, but there have been no objections from the Highways Authority and there was no request for further speed restrictions as part of the scheme.

No Environmental Health objections were raised in relation to air quality subject to condition for green methods of travel to be incorporated into the scheme which will be via onsite cycle parking and electric vehicle charging provision.

Following discussion, it was proposed by Councillor Pankit Shah and seconded by Councillor Drew Richardson to approve the application.

RESOLVED:
(13 in favour - unanimous)

It is recommended that subject to the completion of a Section 106 agreement planning permission be granted subject to the conditions set out in the officer's report

30. 6/2022/1911/FULL - LAND ADJACENT TO 1 CROMER HYDE LANE
LEMSFORD HERTFORDSHIRE AL8 7XE - ERECTION OF 1 NO.
AGRICULTURAL STORAGE BUILDING AND ACCESS ROAD

Report of the Assistant Director (Planning) on the erection of an agricultural storage building and internal access road for a site which is located adjacent to 1 Cromer Hyde Lane.

The proposed building would be located to the northeast of the application site. The supporting information states that the existing land was formerly part of a larger agricultural unit, but this has since been subdivided and the land has been sold separately. It also states that the landowner intends to use the land to grow local food for local people and plant meadow grass to encourage bees and other insects and invertebrates. The application has been called in by Cllr Kasumu as it is green belt land, the overall size of the proposed development may infer a

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wider use than is suggested and because there are concerns around the road access.

Since the committee report was published the Highway Authority have identified a concern about loose surface materials from the existing gravel entering the carriageway over time, therefore officers have drafted a condition to include as part of the recommendation which requires the first 5 metres of the access driveway to be constructed using bound materials. Furthermore, since the publication of the report it has been agreed with the applicant that a condition for materials samples will be recommended to allow the Council to consider the exact colour and manufacturer of the external materials. The full list of conditions will be listed at the end of the presentation again for members information.

The application site is located on Cromer Hyde Lane, a road which is accessed off of Marford Road, a classified B-road. The land to the north side of Marford Road is part of the Brocket Hall Estate. Immediately to the north of the application site is a listed public house called the Crooked Chimney. There are residential properties to the south-west of the site further along the lane and open countryside lies beyond that to the east and south.

Cromer Hyde Lane itself is a narrow country lane which is tree lined. The application site is accessed from an existing shared vehicular access with 1 Cromer Hyde Lane and is located approximately 65m from the entrance to Marford Road.

The Crooked Chimney Pub is separated from the application site by a small parcel of land which comprises mature hedges and trees that are located along the boundary, providing some screening.

The applicant has already erected a fence along the boundary and a sliding gate to the entrance of the site, as well as laid down some hard surfacing. The agricultural land lies beyond the part of the site which has a hardstanding. The principle of the agricultural building is considered to be acceptable in the Green Belt under exception 149(a) of the National Planning Policy Framework, which states that buildings for agriculture and forestry are not inappropriate development. Where a building meets one of the Green Belt exceptions such as this, the courts have held that an assessment on openness and the purposes of the Green Belt are not required.

The proposed design would be quite typical of an agricultural storage building of this nature as it has been designed to be functional and secure, in order to protect the machinery and equipment which it will house. The building would be approximately 4.1m in height to the ridgeline and would have an eaves height of approximately 3m. It would be finished with zinc cladding, the details of which can be reviewed in more detail as part of the proposed materials sample condition. As a result of its limited size, position in the landscape and the presence of similar buildings at farms nearby, it is not considered it would have a negative impact on the surrounding countryside or landscape. Due to the separation distances from adjoining occupiers and the building's limited height, it

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is considered that it would not impinge on neighbouring amenity by way of overbearing impact, loss of light, loss of privacy or a significant increase in noise or external lighting.

The proposal would utilise an existing access off Cromer Hyde Lane. When the officer report was published the Highway Authority had not responded with any comments and the conclusion was that the access would be acceptable on the basis that it was an existing access. Whilst no concerns have been raised about the access itself and the proposed plans indicate the use of grasscrete for the internal access road, the Highway Authority have since advised that the use of gravel at the entrance presents a skid and safety risk as it could enter the carriageway. A condition is recommended to overcome this, which will require the first 5 metres of the internal road to be finished using a bound material.

Officers' view is that the proposed building would be appropriate development in the Green Belt and there would not be any adverse effects on the landscape, highway, surrounding area or the amenity of adjoining occupiers. Officers therefore recommend the application is approved by the committee subject to the suggested conditions.

Daniel Gender-Sherry, Agent, stated:

He is representing the applicants, Mr. And Mrs. Hunt. Due to their age and some of the personal remarks made by neighbours written representations, they didn't wish to be here in person as it has been quite an upsetting process for them. The application proposes a small agricultural storage building on an agricultural parcel of land, approximately 1 hectare in size had this parcel formed part of a wider agricultural land this building would be permitted development and falls within these parameters. The design will incorporate high quality materials to respect its setting and represents a modern take on an agricultural building with the use of zinc cladding. Members have made a suggestion regarding colour, which is welcomed, and the applicants are more than happy to change to a greener colour if this alleviates concerns. Whilst the site is located within the Green Belt, agricultural development of this type falls within one of the exceptions to what is otherwise inappropriate development. Local Plan Policy RA1 is considered to provide in principle, policy support for agricultural buildings of this nature. The hardstanding proposed is to be grasscrete, which would help reduce the visual and environmental impact to reduce the level of impermeable hardstanding. The full perimeter of the site will be laid with a new native hedgerow, that both enhances biodiversity through native species, and also to act as windbreak for new plantings because the plot has been subdivided, so is very exposed, especially to the south and East. External lighting is to be limited only to the southern elevation, which is where the hardstanding serving the access doorway will be. The external lighting, although to be controlled by condition, is proposed to be controlled by motion sensor and also on a timer, so it will only be on for a short period of time and not face the residential properties to the southwest. All the proposed conditions, materials, lighting, drainage and access material, have been discussed with the applicants and all welcomed in the attempt to deliver a better and appropriate development.

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

This site is in the Green Belt; however, the principle of agricultural development is appropriate under paragraph 149a of the NPPF.

Highways raised some concerns in relation to gravel getting thrown onto the main highway, and this is going to be dealt with via a condition to use bounding materials for the entranceway directly adjacent to the highway,

There's no significant impact on landscape or neighbour amenity and other matters can be secured by condition

In relation to the objection of whether this could be used for other uses. Matters should only be considered for the application in front of us. Should the applicant not abide by planning conditions, there is a range of enforcement powers available to the Council, and any change of use would be subject to its own separate application.

Following discussion, it was proposed by Councillor Drew Richardson and seconded by Councillor Julie Cragg to approve the application.

**RESOLVED:
(13 in favour - Unanimous)**

That planning permission be approved subject to the full list of suggested conditions presented at the meeting.

31. APPEAL DECISIONS

Report of the Assistant Director (Planning) detailing recent appeal decisions for the period 26 July to 7 October 2022.

Notable decisions include:

Biopark - appeal allowed. The application was refused by the Council at DMC contrary to officers' recommendation. An application for costs to be awarded against the Council was not allowed by the Inspector.

73 Bridge Road East – appeal allowed with conditions. An application for costs to be awarded against the Council was partially allowed by the Inspector.

The Chair said that Members need to think really hard if they reject an application against officers' recommendations. This will need to be done on sound planning grounds.

RESOLVED:

That appeal decisions during the period be 26 July to 7 October 2022 be noted.

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32. 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.

33. DEVELOPMENT MANAGEMENT PERFORMANCE REPORT (JULY - SEPTEMBER 2022)

Report of the Assistant Director (Planning) relating to the performance of the Development Management Service over a six-month period April to September 2021 (Quarters 2 and 3).

RESOLVED:

Members noted the content of the report.

Meeting ended at 10:36pm
CF