

<u>Location:</u>	Land West Of Tuthill House Kelshall Tops Therfield Hertfordshire
<u>Applicant:</u>	Mr And Mrs Bullard
<u>Proposal:</u>	Erection of three detached dwellings (1 x 3-bed, 1 x 4-bed and 1 x 5-bed) and with associated infrastructure and landscaping
<u>Ref. No:</u>	24/02606/FP
<u>Officer:</u>	Anne McDonald

Date of expiry of statutory period : 24.01.2025

1.0 **Policies**

1.1 **Target Determination date: 24/01/25**

1.2 **Extension of time date: 30/04/25**

1.3 **Reason for delay**

1.3.1 Committee timetable, work load and consideration of the validity of the application.

1.4 **Reason for referral to committee**

1.4.1 The application site area at just over 0.5ha requires that this planning application for residential development must be determined by the Planning Control Committee under the Council's constitution and scheme of delegation.

1.5 **Supporting documents**

Plans

1. 01.001-A3-P02 – site location plan.
2. 01.002-A3-P03 – proposed site layout plan.
3. 10.001-A3-P01 – proposed plot 1 plans and elevations.
4. 10.001-A3-P01 – proposed plot 2 plans and elevations.
5. 20.001-A3-P01 - proposed plot 3 plans and elevations.
6. 10.001-A3-P01 – proposed plot 3 roof plan.
7. 20.010-A3-P02 – proposed street scenes.
8. 01.003-A3-P02 – site block plan.
9. 196661-001 – site visibility tracking plan.
10. 196660-005C – internal tracking plan.
11. 20360-d1-v2 – BNG – figure 1, Baseline habitats.
12. 20360-d2-v2 – BNG – figure 2, proposed habitats.

Supporting documents

1. Ecological Assessment Report.
2. Planning Statement v.2.
3. Design and Access Statement.
4. Heritage Statement.
5. Flood Risk Assessment.
6. Preliminary risk Assessment and Geo-Environmental Ground Assessment.
7. Arboricultural Impact Assessment.
8. Transport Assessment.
9. Statutory BNG Assessment.
10. Copy of press notification.

1.6 Policies

1.6.1 National Planning Policy Framework December 2024:

1. Section 2 – Achieving sustainable development.
2. Section 5 - Delivering a sufficient supply of new homes.
3. Section 11 – Making effective use of land.
4. Section 12 – Achieving well designed places.
5. Section 14 – Meeting the challenge of climate change, flooding and coastal change.
6. Section 16 – Conserving and enhancing the historic environment.

1.6.2 North Hertfordshire Local Plan 2011 - 2031

1. SP1 - Sustainable development in North Hertfordshire.
2. SP2 - Settlement Hierarchy.
3. SP5 – Countryside and Green Belt.
4. SP6 – Sustainable Transport.
5. SP8 – Housing.
6. SP9 - Design and Sustainability.
7. SP11 - Natural resources and sustainability.
8. SP12 - Green infrastructure, biodiversity and landscape.
9. SP13 - Historic Environment.

Development Management Policies:

1. CGB1 – Rural areas beyond the Green Belt.
2. T1 - Assessment of transport matters.
3. T2 – Parking.
4. HS3 - Housing mix.
5. D1 - Sustainable design.
6. D3 - Protecting living conditions.
7. NE1 – Landscape.
8. NE4 – Biodiversity and geological sites.
9. NE7 - Reducing flood risk;
10. NE8 - Sustainable drainage systems.
11. NE11 – Contaminated Land.
12. HE1- Designated Heritage Assets.
13. HE4 -Archaeology.

1.7 Supplementary Planning Documents:

1. Vehicle Parking at New Development Supplementary Planning Document (Sept 2011)
2. Design Supplementary Planning Document (July 2011)

2.0 **Site History**

2.1 This site has a complex planning history summarised below.

2.2 92/00143/1 – application to use the land for open storage of agricultural vehicles and as operating depot for 4 HGV. This was approved subject to a S106 agreement.

2.3 93/00543/1TD - application for a 15m telecommunications mast was accepted as permitted development subject to an amendment to the S106 agreement.

2.4 93/01303/1 - application for a small storage building approved.

2.5 05/00355/1 - application for use of site for storage and distribution of building materials. Refused at the Royston and District Area Committee on 21 April 2005.

2.6 18/02846/S106A - application to vary/remove the S106 agreement was submitted in 2018 but subsequently withdrawn.

2.7 20/00118/OP - outline planning application for 18 dwellings. Refused at the meeting of the Planning Control Committee held on 16 July 2020.

2.8 20/00117/OP - outline planning for a 6 dwellings. Refused at the meeting of the Planning Control Committee held on 16 July 2020.

2.9 20/03071/FP – application for 3 dwellings. Withdrawn 23.03.21.

2.10 21/01349/FP - application for 3 dwellings. Withdrawn 06.01.22.

2.11 21/03533/FP – application for 3 dwellings. Refused on 13.02.23 and subsequently appealed and dismissed at appeal. The decision letter for this appeal is attached at Appendix 1.

2.12 24/01986/FP – application for 3 dwellings. Application was found to be invalid and was not proceeded with.

3.0 **Representations**

3.1 **HCC Historic Advisor** – no objection subject to conditions.

3.2 **HCC Highways** – no objection subject to conditions.

3.3 **Historic England** – no comment.

3.4 **NHDC Ecology Officer** – no objection subject to BNG conditions.

3.5 **NHDC Environmental Health** – no objection subject to conditions.

- 3.6 **NHDC Conservation Officer** – no objection subject to conditions, which are recommended.
- 3.7 **Environment Agency** – we have significant resource pressures and do not currently have the capacity to technically review this application.
- 3.8 **Conservators of Therfield Heath** – no response.
- 3.9 **Therfield Parish Council** – objects for the following reasons:
1. Development on this site has been rejected a number of times.
 2. It was rejected by the Inspector in 2024.
 3. The site was rejected from the Local Plan as an allocated housing site.
 4. It is outside of the development limits of the village and in a sensitive location on the top of a ridge.
 5. Its development would result in ribbon development along Kelshall Road.
 6. It does not satisfy any of the criteria of Policy CGB1 and should not be permitted.
 7. To ignore the Local Plan's clear terms and approved a development which is contrary to its new policies and which will actually cause harm would be clearly irresponsible and potentially unlawful.
 8. This development is contrary to the existing S106 legal agreement. We continue to object to any release or waiver of these covenants.
 9. This is not Previously Developed Land and should not be regarded as such.
- 3.10 The application has been advertised twice with neighbour notification letters, letters sent to consultees and a site notice posted. The reason for the re-consultation was that a corrected application form was submitted removing the incorrect grid references stated on the original planning application form. Responses have been received from 12 neighbours or third parties. Two are in support, 7 are objecting and 3 are general representations. Key points raised include:
- 3.11 Support:
1. I have no objection to the application, only request that swift boxes are used in the development.
- 3.12 Object:
1. The land is agricultural green belt land outside of the village boundary.
 2. Development on this site has been previously refused.
 3. Does not comply with the criteria of Policy CGB1.
 4. Local covenants on the site prevent this development.
 5. There is no need for this type of development.
 6. The access will be dangerous on the 60 mile per hour limit road.
 7. A S106 requiring this land to be returned to agricultural land still exists and should be enforced.
- 3.13 Other:
1. The application is currently not valid as incorrect grid references have been stated. Officer note – as noted in the report that was published for the Planning Control Committee (PCC) meeting on 25/02/25, an issue regarding the validity of this application has been raised. Whether it is valid is a legality issue or planning administrative matter, or both, and sometimes both will be relevant. In this instance a local resident raised the issue of legality and therefore consideration of this application

was deferred previously for officers to obtain legal advice. We have now received this, and it is the view of officers that the application is valid.

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site comprises an enclosed and gated area of land which is largely down to concrete hardstanding. The site occupies a position on the south side of the Kelshall Road, on the part of the road forming a ridge (hence the road name Kelshall Tops) and the site has a slightly elevated land level in comparison to the lane with a belt of trees running along the boundary with lane.

4.2 Proposal

- 4.2.1 This is a full application for three detached houses with large private gardens, a central courtyard style parking area and a pond / SUDs drainage area with significant planting and landscaping around the edges of the site and in the western section of the site forming a bio-diversity gain area.
- 4.2.2 The design of the houses is 'rural' in style, with a farmstead style arrangement. The dwellings in plots 1 and 2 would have the external appearance of barns whilst plots 3 would reflect that of a farmhouse. The access to the proposed development would be the same access point as existing, an area of land to the east of the access would form a pond feature area. Plot 1 would be to the west of the access with its private garden would extend down to the lane boundary. Plot 2 would be on the south side of the site and plot 3 would be to the end / west dwelling within the farmstead courtyard area, and have an extensive garden area. All three dwellings would be large houses that would provide generous accommodation and the external materials would include sections of buff brick and black stained weather boarding for the elevations and the roofs would be clad with plain or slate tiles. In detail:
- 4.2.3 Plot 1 would have an 'L' shaped footprint. The base of the 'L' this barn style dwelling would be two storeys high with a single storey rear extension. The house would comprise an extensive kitchen / living / lounge / dining area, utility, W.C., study and en-suite bedroom with a double car port at ground floor level and a master bedroom with en-suite and dressing room, another en-suite bedroom, two further bedrooms and a family bathroom at first floor level. The two-storey part of the house would be 15m by 7.5m with a ridge height of 8.1m. The private garden area for this house would measure 28m by 15m (420 sqm).
- 4.2.4 Plot 2 also would reflect a 'barn' in appearance, with a car port on one side and a single storey rear projection. This house would have an open plan living / dining / kitchen area, a utility and boot room, W.C. and study at ground floor with four bedrooms, three with en-suite and a family bathroom at first floor level. The main two storey part of the house also would have a footprint of 15m by 7.5m and a ridge height of 8.1m. The private rear garden area for this house would be 43m by 10m (430 sqm).
- 4.2.5 Plot 3 would be finished mainly in brick, and would have be a chalet bungalow style dwelling and smaller than plots 1 and 2. It would comprise a hallway with W.C., and open plan kitchen / dining / living room, study, snug and utility at ground floor level with three en-suite bedrooms at first floor level. This house would have a double car port. This dwelling would have a footprint of 17.3m wide by mainly 7m deep and a ridge

height of 7m. The private rear garden for this house would be 30m by 50m (1,500 sqm) and back onto the BNG area which is a further 1,450 sqm of land.

4.2.6 As listed above, documents have been submitted in support of this application. Key points raised include:

4.2.7 Planning Statement:

1. It is important to note that this application is submitted following the previous application 21/03533/FP. The previous application was refused and dismissed at appeal. However, the appeal was only dismissed on design grounds. The Inspector noted: "The site is eminently suitable for a residential development of three houses which would make a contribution to housing supply in the district, consisted with the objective to boost housing supply contained in the Framework".
2. This proposed has been revised with the design of plot 3 amended with a reduction in scale and these amendments address the Inspector's comments.
3. There are considerable benefits from the development. These are:
 - creation of three homes;
 - development on brownfield land as encouraged by the Government;
 - more appropriate use of the site with the removal of the vacant storage depot;
 - no harm to the countryside;
 - contribution to the Council's housing supply;
 - significant BNG enhancement;
 - reduction of hardstanding and increase of green space;
 - improvement drainage;
 - new landscaping will improve the overall appearance of the site;
 - more appropriate land use by removing commercial activities from the site;
 - connection with adjacent PRoW.

4.2.8 Heritage Statement:

1. The assessment provided follows Historic England guidance and has been prepared in accordance with paragraph 200 of the NPPF. It provides an assessment of the heritage assets affected by the proposed development, with consideration given to how their settings contribute to this significance.
2. It demonstrates that the Site does not possess a rural character and has not been in agricultural use since the mid-20th century. However, the boundaries of the Site include dense planting and provide a soft edge to the Site and a rural approach to the conservation area.
3. These will be retained and improved as part of the proposed development.
4. The design and layout of the proposals will ensure the proposed development has a minimal visual impact on the setting of the heritage assets and will not alter the ability to experience or appreciate their significance.
5. The retention and strengthening of the boundaries and provision of landscaped open space within the Site will provide a softer, green edge to the conservation area and the setting of the heritage assets, with no impact to their significance.

6. The proposed development would have no impact on the significance of the scheduled Motte and Bailey Castle, the Grade II listed Tuthill Manor or the Therfield Conservation Area.
7. The proposed development accords with sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act, 1990, in addition to relevant local plan policies and policies provided in the NPPF.
8. The proposed development will conserve the significance of the three designated heritage assets and represents an appropriate form of new development within this commercial site.

4.2.9 Flood Risk assessment:

1. According to the EA flood maps, the Site is located within Flood Zone 1, area deemed to be suitable for development, as defined by the NPPF.
2. As the site is shown to be within Flood Zone 1 and is not susceptible to any fluvial/pluvial/surface water flooding, the Sequential Test will not need to be undertaken.

4.2.10 Arboricultural Report:

1. The site is low quality in landscape and arboricultural terms and the proposal has little negative arboricultural impact.
2. A small amount of suckering blackthorn will be removed and the low-quality hedge coppiced.
3. Trees to be retained will be protected by tree protection fencing during work. This is a simple site to develop in arboricultural terms, with no requirement for bespoke arboricultural method statements.
4. It will be straightforward to avoid the root protection areas for new services and surfacing and all building is remote from the crowns and root protection areas.
5. Five trees will be removed to enable site splay visibility. This will be more than compensated with new planting.

4.3 **Key Issues**

4.3.1 Principle and planning history

- 4.3.2 Local Plan Policy SP2 sets out the hierarchy for new residential development within the District, with most housing being provided on allocated housing sites within the adjusted settlement boundaries to towns and then with general development allowed within the category A villages, in-filling within category B villages and development for limited affordable housing and facilities for local community needs meeting the requirements of Policy CGB2 in category C settlements.

- 4.3.3 The application site is located outside the settlement boundary of Therfield, a category A village. It is in an area protected by the designation of Policy CBG1, Rural Areas beyond the Green Belt where there is a presumption against new development. The criteria of Policy CGB1 states:

'In the Rural Areas beyond the Green Belt, as shown on the Policies Map, planning permission will be granted provided that the development:

- a) Is infilling development which does not extend the built core of a Category B village;*
- b) Meets a proven local need for community facilities, services or affordable housing in an appropriate location;*
- c) Is strictly necessary for the needs of agriculture or forestry;*
- d) Relates to an existing rural building;*
- e) Is a modest proposal for rural economic development or diversification; or*
- f) Would provide land or facilities for outdoor sport, outdoor recreation and cemeteries that respect the generally open nature of the rural area'.*

4.3.4 It can be concluded that this proposal fails to comply with the above criteria. However, consideration needs to be given to policies in the NPPF and the planning history for the site. Paragraph 11d) ii. of the NPPF sets out that for decision making, where the policies of the Local Plan are out of date permission should be granted *'unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as whole'.*

4.3.5 Even though the Local Plan is still within its date range of 2011 – 2031, the Council does not have a 5-year supply of deliverable housing land (5YHL). Its current estimate is 3.9 years supply. This means that the tilted balance set out at NPPF paragraph 11d) applies whereby any adverse effects that would arise from a proposed development would need to significantly and demonstrably outweigh the benefits of providing new homes. Paragraph 73 of the NPPF sets out that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and that (criteria d) there is support for the development of windfall sites through policies and decisions. Paragraph 124 states that decisions should promote the effective use of land in meeting the need for new homes and that as much use as possible should be made of previously developed or brownfield land.

4.3.6 It is noted that Therfield Parish Council state in the past it has been concluded that this is not a brownfield site and that no consideration should be given to this issue. However, the NPPF provides a glossary of planning terms. For brownfield land it states:

'See Previously developed land'.

4.3.7 For Previously development land it states (my emphasis in bold):

*'Previously developed land: Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). **It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed'.***

- 4.3.8 The sentence in bold above is an addition to the December 2024 NPPF version. Given that this site comprises a large area of hardstanding with a planning history (as set out above) for its use, it is a previously developed or brownfield site, and the appropriate consideration must be given to this factor.
- 4.3.9 It is acknowledged that this application site is outside of the defined settlement area of Therfield, but that it adjoins it lying outside the west side boundary of the village. As the site is a brownfield site, enclosed by fencing, it is considered that it makes a very limited contribution to the intrinsic value of the countryside. In comparison, the proposed development of three houses with a high degree of landscaping would result in both visual and environmental (removal of the hardstanding) enhancement, as well as contributing to the housing stock. Whilst three new dwellings would only make a modest contribution to the District's housing stock, it is nevertheless a positive contribution that would reduce the current shortfall in housing land supply and a planning benefit. Combined, these factors are considered to be significant planning benefits.
- 4.3.10 Therefore, in conclusion on this matter, the proposal conflicts with Local Plan Policy CGB1. However, as the Council does not have a 5-year supply of deliverable housing land under the provisions of NPPF Paragraph 11(d) this policy is out-of-date. There are material considerations that weigh in favour of this proposal as set out above and on balance no objection is raised to the principle of the proposed development.

Existing S106 Agreement

- 4.3.11 Application 92/00143/1 granted planning permission the use of this land for the open storage of agricultural machinery as an operating depot for 4 HGVs. This planning permission imposed no conditions which would limit the hours when the site could be operational, the number of vehicle movements or the intensity of the activity on the site. Alongside this application a S106 Agreement was completed. This contains three main requirements:
1. not to use any part of the land coloured red on the attached Plan for any purpose other than as a landscaped area.
 2. Not to use that part of the Land coloured blue on the attached plan for any purpose other than the storage of agricultural vehicles machinery and equipment which are used by the Owner in connection with the business carried out on the Land.
 3. Not to use that part of the Land hatched black on the attached Plan for any purpose other than for parking of four heavy goods vehicles owner and operated by the Owner of the Land coloured blue.

(Please note the plan referred to above is not attached to this committee report but is the plan referred to in the S106 Agreement.

- 4.3.12 The committee report for application 21/03533/FP states:

'It has been established that the existence of the controlling legal agreement was not itself a reason for refusal of previous applications for housing. The existing restrictions are intended to control the use of the current authorised land use on the site, not to prevent other forms of development following any other grant of planning permission. If the proposed development is complete the existing authorised use of the site falls away and no longer needs to be controlled by the existing agreement. This matter is not a material consideration that effects the merits of the current planning application for the provision of residential dwellings on the site and therefore does not amount to a reason for refusal of planning permission.'

On the other hand, to develop the site for housing without revoking or changing the controls in the extant S106 agreement would be a breach of it, as currently worded. There is however a mechanism available to ensure that the current controls on the land remain until any new development is occupied and therefore the existing agreement does not prevent the Local Planning Authority from allowing a new, alternative development on this site that it considers acceptable in planning terms’.

- 4.3.13 These paragraphs are replicated in this report as these conclusions still apply. The recommendation for this application to grant planning permission subject to the variation of this S106 Agreement being competed. With a change in land use, from hardstanding for agricultural vehicles to residential development, parts of the S106 becomes obsolete so there is no objection to removing these aspects of the S106 restrictions imposed on the site as existing to allow the development to be constructed. The S106 will be progressed it is resolved to grant planning permission.

4.3.14 Sustainability

- 4.3.15 The NPPF December 2024 version, like the versions before, sets out that the purpose of the planning system is to contribute to the achievement of sustainable development and that to achieve this the planning system has three overarching objectives. These are that development must have an economic, social and environmental objective. These core aims are reflected within the Local Plan Policies SP1 and D1.

- 4.3.16 Regarding economic sustainability, the build process will provide for local jobs and will contribute to the local economy. Socially friendships may form between new neighbours and residents can join in with local groups and activities if they wish. The new houses will have to meet the high environmental code of current building regulations with regards to insulation, double glazing, low energy light fittings, low flow water fittings and an energy efficient boiler and each house will be provided with EV parking provision as required by current building regulations. Solar panels and ground source heat pumps are not included on the plans. Therefore, a condition is recommended to ensure that a scheme of sustainability measures to address the climate change emergency is agreed and implemented on site. On this basis, the development would be sustainable and would comply with the aims of the NPPF and Policies SP1 and D1.

4.3.17 Layout and design

- 4.3.18 Local Plan Policy SP9 states that the Council considers good design to be a key aspect of sustainable development and that we will support new development where it is well designed and located and responds positively to its local context. These aims are supported by Policy D1 which requires for new development to ‘respond positively to a site’s local context’.

- 4.3.19 There is no objection to the layout or design of the development. The external design and materials would be complementary to this rural location. Plots 1 and 2 are the same as proposed under the previous application where the Inspector commented that his only concern was with regards to the size of the house in plot 3. The house at plot 3 has been substantially reduced in height, as this proposed house would be just under 4m lower than the house considered by the Inspector, and therefore have a significantly reduced visual presence in comparison to the refused scheme. It would allow for a better transition to the open countryside in this edge of village location. The footprint of this proposed house has also been reduced in depth. These changes

are considered to overcome the Inspector's concerns regarding the size of the proposed house at plot 3.

4.3.20 The development as a whole is considered to be a high-quality development that can be regarded as positive place making. The houses are designed to appear as a modern farmstead and are set in large plots with significant open space around them. The layout plan shows there would be substantial planting along the site boundaries to enhance the existing tree belts, and a landscaping condition to ensure this is achieved is recommended. The site is in a slightly elevated position in comparison to the lane. Plot 1 has its end elevation set to the lane, but this elevation is set into the site from the lane edge by 11m and with trees planted along the boundary would provide visual screening and setting to the development. Therefore, it is considered that there would not be any adverse visual impact or dominance on the lane from the development.

4.3.21 The houses would provide for one three bed, one four bed and one five bed home so the development would provide for a mix of dwelling sizes as advocated Local Plan Policy HS3. Each house would have car port parking for two vehicles plus two surface spaces, which would also provide for visitor parking, and space on plot for secure bike and bin storage. The dwellings would be large in terms of floorspace, well in excess of the minimum home size as set out in the Nationally Described Space Standards. It can be concluded that these homes would provide for a high degree of amenity for future residents and that the layout and design of the development is acceptable and in accordance with the aims of Local Plan Policy D1.

4.3.22 Residential Amenity

4.3.23 Local Plan Policy D3 seeks to protect the living conditions of existing and future occupiers. No objection is lodged against the application on this basis. The three proposed houses are well spaced from each other, with front elevations looking towards side elevations so there are no opposing windows that could cause an unacceptable loss of privacy between these homes

4.3.24 Due to the location of the site, set to west of the existing PRoW, and due to the neighbours on the east side of this PRoW having large gardens, Plots 1 and 2 are set well away from existing neighbouring homes. The tree line along the east site boundary would be enhanced providing for significant screening, and there would not be any adverse overlooking or loss of privacy to nearby neighbours. Furthermore, whilst neighbours would see the roofs of the new houses in long range views, these new dwellings will not appear adversely over dominating or over bearing to these neighbours. It is concluded that the proposal would not materially adversely affect the living conditions of occupiers of nearby residential properties and would provide high-quality living accommodation for future occupiers. Therefore, the proposal complies with Local Plan Policy D3 and paragraph 135 of the NPPF, which requires amongst other things to create places with a high standard of amenity for existing and future users.

4.3.25 Heritage considerations

4.3.26 Local Plan Policy HE1 requires for designated heritage assets or their setting to be considered as part of the application process. The application site is set outside of, but neighbours the boundary of the Therfield Conservation Area and the listed building Tuthill Manor and its grounds are positioned to the south east of the application site. Due to the PRoW the application site does not immediately neighbour Tuthill Manor.

- 4.3.27 As set out above a Heritage Statement has been submitted with the application. This concludes that due to the existing and proposed landscaping along the east boundary of the site combined with the good design and layout of the development, there will be minimal visual impact and no adverse harm on the setting of the Conservation Area and listed Tuthill Manor. This conclusion is agreed with, and no objection is lodged against the application with regards to any harm to these two nearby heritage assets. The Council's Conservation Officer considers the chimney and long velux rooflights to plot 3 are not typical features of agrarian style development. However, given the spacing of this proposed house to the site's edges and the high degree of tree screening proposed, there will be minimal views of these features from outside the site, so these are considered to be unobjectionable and not cause harm in the locality.
- 4.3.28 The Motte and Bailey castle and associated earthworks are a Scheduled Monument and are positioned to the south of Tuthill Manor. Whilst this Scheduled Monument is nearby, it is not within the immediate setting of the application site and no impact from this proposal is considered to arise on the Schedule Monument from the proposal.
- 4.3.29 Local Plan Policy HE4 Archaeology states that planning permission for proposals that affect heritage of archaeological interest will be granted planning permission subject to the appropriate site investigation and survey work being undertaken. The HCC Historic Advisor has commented that it can be concluded that under the existing hardstanding the ground is likely to be largely undisturbed, and that there is the possibility for archaeological artefacts to be on site. Therefore, a condition requiring the appropriate site investigation work is recommended. This is in accordance with the aims of Policy HE4 and no objection is raised on this basis.
- 4.3.30 Highways, Public Rights of Way (PRoW) and parking
- 4.3.31 Local Plan Policy T1 seeks to ensure that the development does not result in highway safety problems or to cause unacceptable impacts on the highway network, whilst Policy T2 requires that new development meets the car parking requirements. The Highways Authority has raised no objection to the application subject to conditions, which are recommended.
- 4.3.32 The Local Plan in Appendix 4 sets out the car parking standards for new residential development. This states that new dwellings with 2 or more bedrooms must have 2 spaces per dwelling (minimum) and one secure cycle space per house and a visitor allocation of 0.25 spaces per dwelling as the houses all have a car port / garage. As set out above, each house has four parking spaces which allows for visitor parking for each house and cycle parking is provided on plot for each dwelling. As the parking spaces are minimum standards no objection is raised to the over provision of parking spaces in the scheme and the car and cycle parking requirements are considered to be met.
- 4.3.33 A public footpath runs along both the east side and west side boundaries of the application site. However, this proposal is contained within the application site and proposes no changes or modification to either PROW.
- 4.3.34 Bio-diversity and landscaping
- 4.3.35 Local Plan Policy NE4 seeks to ensure that there is a net gain of bio-diversity on site. Furthermore, the provisions of the Environment Act are now in place which requires for the development to achieve a 10% gain in on site bio-diversity. The documentation submitted with the application shows that this is to be a significant uplift in on site bio-diversity with a gain in habitats of 117% and hedgerows of 167%. The layout plan

shows that the western end of the site is to be a habitat protection area, and the securing of this in the long term is to be achieved via a clause in a S106 Agreement. The Senior Ecology Officer has raised no objection to the application subject to conditions, which are recommended. The recommended Biodiversity Method Statement condition requires for the details of how the protected area will be managed, and by who, in the long term to be submitted and agreed and for the development to proceed on this basis. Another condition requires for an Ecological Enhancement Plan to be submitted and agreed and delivered on site. This will require for bat and bird boxes / bricks to be included in the development and thus satisfies the neighbour concern regarding the provision of swift bricks in the development. Finally, a further condition requires for the details of the access to and boundary treatment for the protected area to be agreed and implemented on site. Together these conditions and the clause in the S106 will ensure that this area is protected and managed appropriately.

- 4.3.36 As stated above, extensive landscaping is shown on the proposed layout plan. However full landscaping details are not included. A condition is therefore recommended to ensure planting across the site is achieved. On this basis, no objection is raised with regards to bio-diversity or landscaping.

4.3.37 Other matters

- 4.3.38 A condition is recommended removing permitted development rights to prevent extensions to the dwellings, that could harm the design integrity of the development, but more importantly as these houses have large rear gardens it is considered prudent to control the ability of future occupiers of being able to erect large garden outbuildings without a planning consideration, which could adversely affected the design integrity of the site and the character and appearance of the area including the setting of nearby heritage assets.

- 4.3.39 As stated above, there is space on plot for each house to store waste and recycling bins and each home owner will be able to drag the bins out to the frontage of the site on collections days. This drag distance is a factor for future occupiers to be aware of and is not considered to be a material objection to the scheme.

4.4 **Conclusion**

- 4.4.1 In accordance with the advice set out in paragraph 11d of the NPPF, the application is recommended for conditional permission on the basis that the proposal would make a modest but positive contribution to the Council's housing supply and that the benefits of the proposed development are not significantly and demonstrably outweighed by the adverse impacts that would arise, including conflict with Local Plan Policy CGB1. Whilst the site is outside of the existing village boundary, it is adjacent to the village edge. Moreover, the site is previously developed land that does not contribute to the intrinsic character and beauty of the countryside. Whereas, the proposed development would deliver a high-quality layout and design with a large area of the site laid out to soft landscaping which will result in both bio-diversity and visual enhancement of the site. The application is considered to be acceptable and on balance would comply with policies of the Local Plan and NPPF as a whole and is recommended for conditional planning permission subject to the completion of the S106 Agreement.

4.5 **Alternative Options**

- 4.5.1 None applicable

4.6 **Pre-Commencement Conditions**

- 4.6.1 I can confirm that the applicant agrees with the pre-commencement conditions that are proposed.

5.0 **Legal Implications**

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 **Recommendation**

- 6.1 That planning permission be **GRANTED** subject to:

- a) The agreement for further extensions of time as needed;
- b) The completion of the a variation to the existing S106 Agreement;
- c) The recommended conditions and informatives.

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. Precise details or actual samples of materials to be used on all external elevations and the roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031.

4. Prior to the commencement of the development hereby permitted full details of a comprehensive hard and soft landscaping, planting scheme and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority.

All approved hard standing shall be completed prior to the first occupation of the development and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

The approved soft landscaping / planting details shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To ensure that the full landscaping scheme set out in the application is improved and implemented in full in a timely manner in the interests of phasing and to ensure the development is comprehensively landscaped in the interests of visual amenity. Local Plan Policies D1 and N2.

5. Prior to the commencement of the development hereby permitted a full management plan and method statement (including a timetable for the works) to achieve the break up and safe and sustainable disposal of the concrete apron on the site shall be submitted to and approved in writing by the Local Planning Authority, Such works shall thereafter be carried out in complete accordance with the approved details or particulars unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the correct phasing of the development and to enable a comprehensive soft landscaping plan to be delivered on this site in association with the development hereby permitted. Local Plan Policy NE2

6. In the event that contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken by a competent person, in accordance with BS10175:2011. A written report of the findings should be forwarded for approval to the Local Planning Authority. Following completion of remedial measures a verification report shall be prepared that demonstrates the effectiveness of the remediation carried out. No part of the development should be occupied until all remedial and validation works are approved in writing.

Reason: To protect human health and to ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990.

7. No gates shall be provided across the access to the site.

Reason: In the interests of local visual amenity and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area and to comply with Policy D1 and/or Policy D3 of the North Hertfordshire Local Plan 2011 to 2031.

9. Before commencement of the development hereby permitted, additional plans must be submitted and approved in written by the Local Planning Authority in consultation with the Highway Authority for modification to the existing vehicular access as indicated on the drawing number (RefTHSYD-SCN-XX-XX-DR-A01. 002.A3, Rev PO3) and these works including footpath link to PROW-34 shall be completed prior to first occupation of the development hereby permitted.
Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway. These works shall be secured and undertaken as part of the s278 works.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018)

10. Prior to occupation the development hereby permitted vehicle to vehicle inter-visibility splays of 2.4 metres by x 57 metres to the eastern direction and 2.4 metres by x 59 metres to the western direction shall be provided and permanently maintained as shown on the drawing (Ref-196661-001), Within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

11. The gradient of the main access from the adjacent Kelshall Road shall not exceed 1 in 20 for the first 12 metres from the edge of the carriageway into the site as measured from the near channel edge of the adjacent carriageway.

Reason: To ensure construction of a satisfactory access and in the interests of highway safety and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

12. Before first use of the development, all onsite parking areas as shown on the drawing (Ref-196660-005, Rev C) shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimize danger, obstruction, and inconvenience to users of the highway and of the premises.

13. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- o Construction vehicle numbers, type, routing.
- o Traffic management requirements.
- o Construction and storage compounds (including areas designated for car parking);
- o Siting and details of wheel washing facilities.
- o Cleaning of site entrances, site tracks and the adjacent public highway.
- o Timing of construction activities to avoid school pick up/drop off times.

- o Provision of sufficient on-site parking prior to commencement of construction activities.
- o Post construction cleanliness.

Reason: In the interests of highway safety and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan.

14. Prior to the commencement of the development, a detailed construction management plan shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
- a) The demolition construction programme and phasing
 - b) Hours of operation, delivery and storage of materials
 - c) Control of dust and dirt arising from demolition and construction
 - d) Waste management proposals
 - e) Mechanisms to deal with environmental impacts such as noise, air quality, light and odour during construction.

Reason: In the interests of environmental impacts and local amenity. Local Plan Policy D3.

15. A) No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:
- 1. The programme and methodology of site investigation and recording
 - 2. The programme and methodology of site investigation and recording as required by the evaluation results
 - 3. The programme for post investigation assessment
 - 4. Provision to be made for analysis of the site investigation and recording
 - 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - 6. Provision to be made for archive deposition of the analysis and records of the site investigation
 - 7. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation

B) The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (A)

C) The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis and publication where appropriate.

Reason - to comply with the provisions of Local Plan Policy HE4.

16. Prior to the commencement of development, a site-wide sustainability strategy shall be submitted to the Local Planning Authority for approval addressing renewable energy, reducing carbon emissions and water conservation. The approved measures must be implemented on site for each dwelling hereby approved prior to its first occupation.

Reason: To reduce carbon dioxide emissions and promoting principles of sustainable construction and the efficient use of buildings in accordance with Policies SP9 and D1 of the North Hertfordshire Local Plan 2011 to 2031

17. The roofs of all three buildings shall be constructed with exposed rafter feet (open eaves) unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to the character and appearance of the area and to the setting of Tuthill Manor under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031.

18. All windows/external doors/glazed screen framing shall be manufactured in timber and the windows shall receive flush as opposed to stormproof casements unless otherwise agreed and approved in writing by the Local Planning Authority. Added as condition 19.

Reason: To ensure that special regard is paid to the character and appearance of the area and to the setting of Tuthill Manor under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031.

19. All rainwater goods are to be cast-iron effect (i.e. Floplast, Brett Martin, Lee Jones products).

Reason: To ensure that special regard is paid to the character and appearance of the area and to the setting of Tuthill Manor under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy HE1 of the North Hertfordshire Local Plan 2011 - 2031.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Informative/s:

1. Highways Informatives:

1. Construction Management Plan (CMP): The purpose of the CMP is to help developers minimise construction impacts and relates to all construction activity both on and off site that impacts on the wider environment. It is intended to be a live document whereby different stages will be completed and submitted for application as the development progresses. A completed and signed CMP must address the way in which any impacts associated with the proposed works, and any cumulative impacts of other nearby construction sites will be mitigated and managed. The level of detail required in a CMP will depend on the scale and nature of development. The CMP would need to include elements of the Construction Logistics and Community Safety (CLOCS) standards as set out in our Construction Management template, a copy of which is available on the County Council's website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

2. Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

2. Environmental Health Informative:

During the construction phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.

3. Environmental Health Informative:

During the construction works phase no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00hrs and Sundays and Bank Holidays: no work at any time.

4. External materials informative:

Further to condition X (external materials), with regards to submitting details to the Council when an application to discharge the condition is made, in the first instance please provide a website link / photographs / brochure details of the proposed material choice. If it is necessary to submit an actual sample, this Council will only accept a single brick or tile or sample panel without prior agreement. If you need to submit a sample larger than this, please contact the named case officer for your discharge of condition application to determine if the materials are to be viewed on site or if it / they can be delivered to the NHDC Council Offices. In the event that a larger sample is delivered to the Council Offices please ensure that you arrange

collection / removal of the sample once the discharge of condition application is agreed.

7.0 **Appendices**

7.1 Appendix 1 – appeal decision letter for application 21/03533/FP.