ITEM NO:		
	Location:	**Land Opposite Heath Farm Briary Lane Royston Hertfordshire**
	Applicant:	**Mr S Barker**
	Proposal:	**Outline planning application for the erection of up to 107 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Briary Lane. All matters reserved except for means of main site access.**
	Ref. No:	**18/00747/OP**
	Officer:	**Melissa Tyler**

Date of expiry of statutory period: 17/01/2019

Reason for Delay

Extension of time given to resolve planning issues and reconsultation of amended scheme

Reason for Referral to Committee

Due to the site size of over 5 ha's means it must be referred to Planning Committee

Submitted Plan Nos

Location Plan; 7407-L-03 C; 7407-L-02 F

1.0 **Policies**

1.1 **National Planning Policy Framework**

In general and with regard to:

Section 2 – Achieving sustainable development
Section 5 – Delivering a sufficient supply of homes
Section 8 - Promoting healthy communities
Section 9 - Promoting sustainable transport
Section 11 – Making effective use of land
Section 12 – Requiring good design
Section 15 - Conserving and enhancing the natural environment

1.2 **North Hertfordshire District Local Plan No.2 with Alterations (Saved 2007)**

Policy 6 - Rural Areas beyond the Green Belt
Policy 9 - Royston's development limits
Policy 14 – Nature Conservation;
Policy 21 - Landscape and Open Space Patterns in Towns
Policy 26 - Housing Proposals;
Policy 29a – Affordable Housing for Urban Local Needs
Policy 51 - Development Effects and Planning Gain
Policy 55 – Car Parking (SPD Car parking);
Policy 57 – Residential Guidelines and Standards.

1.3 **Supplementary Planning Document.**

Design SPD
Vehicle Parking at New Developments SPD
Planning Obligations SPD

1.4 **North Hertfordshire District Local Plan 2011-2031 'Submission Local Plan and Policies Map – Modification Report received**

Policy SP1 Sustainable Development in North Hertfordshire
Policy SP2 Settlement Hierarchy and Spatial Distribution
Policy SP5 Countryside and Green Belt
Policy SP6 Sustainable Transport
Policy SP7 Infrastructure Requirements and Developer Contributions
Policy SP8 Housing
Policy SP9 Design and Sustainability
Policy SP10 Healthy Communities
Policy SP11 Natural Resources and Sustainability
Policy SP12 Green Infrastructure, landscape and biodiversity
Policy CGB1 Rural Areas beyond the Green Belt
Policy T1 Assessment of Transport Matters
Policy T2 Parking
Policy HS2 Affordable Housing
Policy HS3 Housing Mix
Policy HS5 Accessible and adaptable housing
Policy HE4 Supported, sheltered and older persons housing
Policy D1 Sustainable Design
Policy D3 Protecting living conditions
Policy D4 Air Quality
Policy NEx Strategic green infrastructure
Policy NE1 Landscape
Policy NEx Biodiversity and geological sites
Policy NE4 Protecting open space
Policy NEx New and improved open space
Policy NE6 Designated Biodiversity and geological sites

Policy NE7 Reducing Flood Risk
Policy NE8 Sustainable Drainage Systems
Policy NE9 Water Quality and Environment
Policy NE10 Water conservation and Wastewater Infrastructure
Policy NE11 Contamination land
Policy NE12 Renewable and low carbon energy development
Policy HE4 Archaeology

2.0 **Site History**

2.1 **18/02797/SO (screening opinion)** Residential development for the erection of up to 107 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Briary Lane. The screening opinion concluded as follows:

"***The Local Planning Authority recognises that the EIA Planning Practice Guidance states that only a very small proportion of Schedule 2 development will require an assessment. The Planning Practice Guidance (2014), states that the exclusive thresholds offer only a broad indication of the scale of development which is likely to be a candidate for EIA, but that the requirements need to be considered on a case-by-case basis. In terms of urban development projects (Column 1 10 (b)) the guidance states that EIA assessment is unlikely unless the new development is on a significantly greater scale than the previous use or the types of impact are of a markedly different nature. In this case, although the proposed development would be on a greater scale than the existing agricultural use and would be of a markedly different nature, it would not be of a scale or a nature to justify the need for an EIA. This view is reinforced by the sub threshold nature of the number of dwellings (significantly less than 150) and the limited extent of the built form (less then 5 Ha). The requirement for screening rests solely on the amount of open space included within the application red line area."***

2.2 **16/02109/1PRE** Residential development including diversion of existing bridleway. This advised in Dec 2106 as follows (summary):

"In accordance with the provisions of paragraph 216 of the NPPF, the determination of an application on this site will likely centre, primarily, on its compliance with the Submission Local Plan. Policy CGB1 of this plan is a rural restraint policy drafted to protect the countryside, beyond settlement boundaries, from development of type proposed except in the case of rural needs housing which can be shown to meet the requirements of Policy CGB2.

However, in the event that the Council will not be able to demonstrate a 5 year supply of housing land after Spring 2017, an argument for development on this site may be available under paragraph 14 of the NPPF. However, it is my view that the environmental harm of developing this site as proposed would be likely to significantly and demonstrably outweigh the benefits, as the proposed development would have an adverse impact on the rural character of the area. Given the proximity of the site to Therfield Heath SSSI and following consultation with Natural England on any application it may be the case that specific policies in

the NPPF relating to sites designated as SSSI indicate that development should be restricted (paragraph 118).”

3.0 **Representations**

Statutory Consultees

3.1 **Royston Town Council**

Members of Royston Town Council raised an **OBJECTION** to this application for the following reasons:

- ***The land is outside both existing and proposed development boundaries.***
- ***Achieving a suitable access is a major issue in addition to developing an acceptable scheme with the topography as well as the potential impact on Therfield Heath SSSI and the proximity to Therfield Heath.***
- ***The pinch point in the access road is in the wrong location and would cause access problems.***
- ***Lack of connection between the site and adjoining land uses for pedestrians. The site is a considerable distance from the station and town centre.***
- ***Existing landscape, character and value and visual sensitivity.***
- ***Visual impact of any form of development on the site.***
- ***The gradient of the slope is of concern and is a danger to users.***
- ***The application is incorrect stating that the access will be off Briary Lane when it will in fact be off Wicker Hall.***

3.2 **North Herts Planning Policy**

Policy context outlined in relation to the Nation Guidance (NPPF) and both the saved and emerging local plans

3.3 **North Herts Environmental Heath – Contamination**

Conditions and informatives recommended.

There is no objection to the proposal in terms of land contamination and local air quality. However, planning conditions will be necessary should permission be granted.

3.4 **North Herts Environmental Health – Noise**

“I reviewed the Environmental Health’s records pertinent to this proposed development and I have no objections to make in relation to this application. I have read the report by Wardell Armstrong LLP dated 6th March 2018 which provides commentary on potential noise impacts for prospective occupiers of the dwellings and I agree with everything that has been said. I do not think there are any significant noise sources and London Road is a sufficient distance away such that noise mitigation measures will very likely not be required. The developer is welcome to submit a noise assessment at the reserved matters stage although it is not something I will be requiring.”

3.5 **North Herts Affordable Housing Officer – S106 Heads of Terms**

"Based on 107 dwellings overall and a 40% affordable housing requirement, in accordance with the Proposed Submission Local Plan, this equates to the provision of 43 affordable dwellings.

Within the overall 40% affordable housing requirement a 65%/35% rented/ other intermediate tenure (including affordable home ownership) split is required, in accordance with the council's Planning Obligations SPD and the 2016 Stevenage and North Hertfordshire Strategic Housing Market Assessment (SHMA) Update. Therefore of the overall 43 affordable units: 28 rented units and 15 intermediate tenure units should be provided to meet housing need."

3.6 **North Herts Waste**

Further details required through recommended condition if permission is granted.

3.7 **Landscape Consultant appointed by North Herts – Landscape Partnerships**

"***The revised proposals submitted in September 2018 as assessed in the LVA and set out in the DAS respond to comments made by TLP in their report of June 2018. The quantum of development has reduced from up to 120 to 107 dwellings and additional areas of open space and planting to help counterbalance the effects of introducing residential development on the relatively sensitive sloping site on the scarp slopes have been included.***

On balance TLP consider that in landscape and visual terms the proposed development would still result in some localised significant adverse effects. Effects on landscape character would be most notable on the Site and immediate area extending up to Therfield Heath (c 250m distance). Notable visual effects in the medium term from Year 15 are from Therfield Heath (Viewpoint 10) and along Briary Lane /Bridleway Royston 13. These effects result from placing built development at an elevation higher than the adjacent residential areas. However, the scheme includes a generous provision of open space that would be accessible to the public and provide for green infrastructure benefits. The proposed planting would also help to assimilate the development in the medium to long-term from the adversely affected locations on Briary Lane and Therfield Heath.

Notwithstanding the information provided within the DAS due to the sensitive location on the upper scarp slopes there is still a good case for a more innovative design solution to the design for the units to help assimilate a scheme within the landscape setting, while still respecting the parameters set out in the DAS relating to the extent, height and mass. "

3.8 **HCC Highways**

"Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority recommends that permission be refused for the following reasons:

There are no bus stops within 400m of the proposed development and to be considered sustainable any new or re-routed service to the proposed housing must have a good chance of being commercially viable after developer pump-priming contributions have been exhausted. The Highway Authority has examined the options for servicing the development route by route in order to establish the viability of the public transport options in the longer term. It has concluded that it is unlikely that a satisfactory route would be available in the longer term. Accordingly, it is considered that the proposed development would be unlikely to benefit from a satisfactory bus service beyond the short term with residents being denied access to high quality public transport contrary to the aims of the NPPF, Policy T1 (assessment of transport matters) of the Local Plan and HCC's Local Transport Plan 4."

3.9 **HCC Rights of Way**

"At present the access route to the development is Royston bridleway 13, which has no public rights for vehicles. In order to adopt Royston Bridleway 13, to all-purpose highway, agreement will need to be made with the underlying landowner, as recorded through Land Registry Title deeds. At present there is no landowner recorded with Land Registry.

The additional width required to widen the access route to all-purpose highway, includes part of the land of the common land on the corner of Sun hill. This common land, has been the subject of a Public Inquiry regarding its de-registration.

Where width is available, the non-vehicular provision should be more than the minimum specified for "Roads in Hertfordshire", in particular, from the access into the development land, north to the boundary with Therfield Heath.
The parking bay which is used adjacent to Royston Bridleway 13, within the common land boundary, will not be retained as part of this development. Equivalent parking should be made available to the public within the development site, for access to the Heath and the Bridleway."

3.10 **HCC Planning Obligations – Education**

Seeks contributions in line with SPD. See S106 section below (4.3.76)

3.11 **HCC Historic Environment Advisory Team – No objection**

Full survey required pre-determination - Geophys/Trenching completed August 2018

"I can confirm that the trial trenching report submitted by the applicant is of a satisfactory standard and provides sufficient information for me to comment further on the application.

It is apparent from the results of the evaluation that no archaeological features that may be of equivalent significance to a Scheduled Monument are present. The evaluation has also sampled enough of the proposed development area (just over 3%) for me to comment on whether or not any archaeological mitigation will be required.

In this instance the few archaeological features that have been revealed are not of sufficient importance or density to require any form of archaeological mitigation. Therefore I have no comment to make on this application."

3.12 **HCC Ecology**

S106 contributions required to off set loss of biodiversity areas

Full comments can be read on website and the representation has been discussed below in sections 4.3.55 and 4.3.65.

3.13 **HCC Fire & Rescue**

"Based on the information provided to date we would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit.

The operational fire crew from Royston went to go and have a look as to whether they are happy with the access and they have not raised any concerns to us regarding the access."

3.14 **HCC Fire Protection Unit**

"Access for fire fighting vehicles should be in accordance with The Building Regulations 2000 Approved Document B (ADB), Section B5, Sub-section 11.

Access routes for Hertfordshire Fire and Rescue Service vehicles should achieve a minimum carrying capacity of 19 tonnes

Turning facilities should be provided in any dead-end route that is more than 20 m long. This can be achieved by a hammer head or a turning circle designed on the basis of Table 8 in Section B5"

3.15 **Natural England**

Holding objection subject to NE being reasonably assured that the development can take place without impacting on the notified features of the Site of Special Scientific Interest ('SSSI').

"As submitted, the application could have potential significant effects on Therfield Heath Site of Special Scientific Interest ('SSSI'). Natural England requires further information in order to determine impacts on the designated site.

In your email of the 16th of November 2018 you advised that the proposed access to the application site falls within the boundary of the SSSI. We also note from the Aboricultural Assessments that there may also be impacts upon trees within the SSSI as a result of the road construction. There is no acknowledgement of this within in the Ecological Appraisal or within a separate SSSI Impact Assessment and we therefore consider this document to be incomplete. It is extremely important that direct impacts upon the SSSI are accurately quantified and assessed.

Note that any permanent land take from the SSSI is likely to elicit an in principle objection from Natural England."

3.16 **NHS England (East)**

Seeks S106 contributions to mitigate impact of Healthcare facilities

"The proposed development is likely to have an impact on the services of 1 main branch surgery operating within the vicinity of the application site. The GP practices do not have resource capacity for the additional growth resulting from this development and cumulative development growth in the area.

The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England would therefore expect these impacts to be fully assessed and mitigated."

3.17 **NHS Clinical Commissioning Group**

Supports the comments raised by NHS England

3.18 **Environment Agency**

Conditions recommended if planning permission is granted

"The site is located in a Source Protection Zone 1 (SPZ1) and is considered to be of high sensitivity so could present potential pollutant/contaminant linkages to groundwater. According to the submitted documents, the current and former use of the site is predominantly agricultural with two unknown structures noted to have been previously present at the site. The proposed surface water drainage strategy involving infiltration could present a risk to the underlying groundwater. Being located in an SPZ1 (Inner Zone) means the site lies within the immediate catchment of a groundwater abstraction used for public water supply. The groundwater abstraction boreholes are located in close proximity of the site. The site is therefore vulnerable to pollution as contaminants entering the groundwater at the site may contaminate the protected water supply.

Following queries raised by neighbours:

Having re-reviewed the details of the application we remain confident that the proposed development will be acceptable subject to the planning conditions we recommended in our letter of 13 April 2018. Without these conditions we would object to the proposal in line with paragraph 109 of the National Planning Policy framework (NPPF) because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Any unexpected contamination found while the development is taking place is covered in the unexpected contamination condition (condition 1 of our letter of 13 April 2018).

Our recommended condition on surface water disposal (condition 2 of our letter dated 13 April 2018) requests that an appropriate plan will need to be provided and approved by the Local Planning Authority.
We have also provided advice to the applicant on the design of SuDS on site, which should be followed to provide further protection to the controlled waters.
With regards to the flood risk concerns raised, the site falls within flood zone 1 (a low risk fluvial flood zone) and as such we don't have any comments to make on fluvial flood risk. The risk from surface water flooding will be looked at by the Lead Local Flood Authority (Herts County Council)."

3.19 **Lead Local Flood Authority – No objection – Conditions recommended**

"Following a review of the Flood Risk and Surface Water Drainage Assessment carried out by MLM reference 618540-MLM-ZZ-XX-RP-C-0001 Rev 3 dated March 2018, we can confirm that we the Lead Local Flood Authority (LLFA) have no objection in principle on flood risk grounds and can advise the Local Planning Authority (LPA) that the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the submitted drainage strategy.

The proposed drainage strategy is based on infiltration and infiltration tests have been carried out to ensure the feasibility of the proposed scheme. We note that there are watercourses or public sewers within the vicinity of the site. A number of infiltration basins have been proposed across the site with an assumption of 55% of developable area to be impermeable. We note that total contribution area will be confirmed at reserved matters stage. As the site is split by a ridge line the drainage networks have been split into two catchments; area 1 (north) which falls to the north-west and area 2 (south) which falls to the south east. The northern area shows two attenuation basins, while the southern area shows one, these basins have been utilised to achieve the discharge of surface water via infiltration.

***As the proposed scheme for Outline permission has yet to provide the final detail and in order to secure the principles of the current proposed scheme we recommend the following planning conditions to the LPA, should planning permission be granted.*"**

3.20 **Anglian Water**

"***Wastewater Treatment***
The foul drainage from this development is in the catchment of Royston Water Recycling Centre that will have available capacity for these flows.

Foul Sewerage Network
The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal
From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented."

3.21 **Affinity Water**

"You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone (GPZ) corresponding to Therfield Heath Pumping Station. This is a public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.
The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be undertaken.
For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

Other Representations from non-statutory consultees

3.22 **CPRE**

Campaign to Protect Rural England object to the proposed development

- Inappropriate residential development
- Outside settlement boundary
- Common land judgement should be taken into consideration
- Conflicts with policy
- High agricultural value land
- Landscape features - will change due to development
- Upgrading of bridleway – significant value and upgrade is inappropriate

3.23 **Icknield Way Association**

"Although not encroaching directly onto the Path and Trail the proposed development would, nevertheless, butt up to it in one corner, adversely affecting the character and environment of this historic route.

Should planning permission for this development be granted, it is the view of the Icknield Way Association that it must carry a formal requirement to preserve the

ability of walkers and riders to pass freely along the route at all times during the building process and that screening work should be instituted to preserve the health and safety of both human and animal users of the Icknield Way Path/Trail. Any screen planting along the edge of the development should consist of substantial native hedgerow species and mature trees and should take place early in the construction schedule, rather than at the end.

Should a temporary diversion of the Icknield Way Path/Trail prove to be necessary during the actual construction works, reinstatement of the original route must occur as soon as that construction work is finished. The Association would also wish to be consulted on any proposals for temporary re-routing of the Path/Trail during construction works."

3.24 **The Conservators of Therfield Heath and Greens**

"The additional footfall from the proposed development of up to 120 houses in proximity to Therfield Heath will further increase the pressure on Therfield Heath to the detriment of the heath and the SSSI. If the Application were to be approved, the Conservators of Therfield Heath and Greens request significant S106 provision to mitigate the effects. The 106 provision to be used towards upkeep of the Heath and visitor facilities."

3.25 **Neighbour Representations**

All consultation responses are available on our website.

At the time of writing we have received 257 Objections, 1 Supports and 2 comments.

The issues raised by neighbours and the Say No to Gladmans Action Group have been summarised below:

- Site not identified in the Local Plan
- Outside the town boundary
- Negative impact on the Heath
- Impact on the SSSI – access goes through SSSI
- Visual impacts from the Heath and surrounding areas
- Impact on trees along proposed access route
- Water source risking contamination - Major Aquifer
- Water supply issues
- Flooding and sewage risks - gradient of the site
- Topography – steep scarp
- Detrimental impact on wildlife/ecology - skylarks/grey partridge/brown hares/leverets/lizards/butterflies
- Access is currently a bridleway
- Ownership issues of the Bridleway
- Impact on Highway – extra traffic use and road safety issues and pedestrian routes
- Car park is an important feature for users of the bridleways
- Infrastructure in Royston not able to cope with new dwellings

- Access for emergency services will be impeded
- Loss of privacy /overlooking – noise and pollution
- Dominance on dwellings in Echo Hill
- Impact on heritage assets - Wimpole Hall/Royston Cave

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site is located on the edge of the current settlement boundary to the south of Royston. The site is currently arable fields with an area of approximately 9 hectares. There is a residential area, Echo Hill, to the north of the site, with Layston Park to the north east and a residential road, Royse Grove, to the east of the site.

4.1.2 The site is close to Therfield Heath, which is a SSSI, to the west. A Bridleway (public right of way) runs along the western and southern boundaries of the site and the proposed access is currently the bridleway leading from Briary Lane which is part of the SSSI. The section of Bridleway that would be subject to the upgrade to public highway is approximately 200 metres long. A number of car parking spaces are located on the Bridleway and used by people using the Heath and the Common Land on the corner of Briary Lane and Sun Hill.

4.1.3 A pumping station is located in the south-western corner and not part of the application site. Layston Park is covered by a group TPO which includes the boundary trees along the north east section of the site. Hedgerows border the site on the, north, south and west and a section through the site. A number of trees flank the east boundary.

4.2 **Proposal**

4.2.1 Outline planning permission is sought for up to 107 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point from Briary Lane. All matters are reserved except for means of main site access.

4.2.2 Means of access covers accessibility for all routes to the site, as well as the way they link up to other roads and pathways outside the site.

4.2.3 An indicative layout plan has been submitted outlining the areas of housing, internal roads, and the illustrating the extent of the open space provision.

4.2.4 The following documents have been submitted alongside the application that are to be considered as part of the application:

- Illustrative Master plan
- Development Framework Plan
- Planning Statement
- Socio-Economic Report
- Sustainability Appraisal
- Affordable Housing
- Design and Access Statement
- Landscape Appraisal

- Ecology Report/Reptile Report and Mitigation Strategy/Bat Report
- Arboricultural Report an Site Investigation Report
- Heritage and Archaeology Report
- Soils and Agricultural Quality
- Flood Risk Assessment
- Foul Drainage Analysis
- Utilities Appraisal
- Air Quality Assessment
- Noise Report
- Transport Assessment and Travel Plan

4.3 **Key Issues**

4.3.1 The key planning considerations have been divided into the following sections:

- Policy background and principle of development
- Planning issues – discussing the range and harm and benefit of each planning issue
- Planning balance and conclusion

Policy Background and Principle of Development

4.3.2 The application site has not been identified in the emerging local plan (ELP) as a housing site.

4.3.3 The application site lies within the rural area beyond the green belt and is identified under Saved **Policy 6** and **21** of the Saved Local Plan 2007 and Policy **CGB1** of the emerging (submission) Local Plan (ELP). Part of the access to the site lies within the Therfield Heath SSSI. Paragraph 48 of the NPPF advises that the emerging plan can be afforded weight according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

4.3.4 The ELP is now well advanced and the local plan Inspector has issued modifications which do not substantively challenge the key policies in this case, notably **CGB1** and its related policies (**SP5, NE1**), aimed at recognising and protecting the intrinsic value of the countryside. Further, Saved **Policy 6** (Rural Area beyond the Green Belt) and **Policy 21** (Landscape and Open Space Patterns in Towns) are broadly compliant with the NPPF, specifically but not exclusively paragraph 170 (b) in its aim to promote this principle and paragraph 127 as it relates to design principles and the need to respect landscape setting. Given this general alignment with the NPPF and the advanced stage

of ELP preparation (modification), significant weight is attached to both saved Policy 6 and 21 and the equivalent ELP policies in this regard. This conclusion is reinforced in three recent appeal decisions in which the respective Inspectors placed significant weight on polices (emerging, saved and NPPF) seeking to recognise and protect the intrinsic value of the countryside. It should be noted that while recent, none of these decisions post-dates the issue of modifications now published (19th Nov, 2018). Accordingly, ELP policies now attract increased weight in the planning balance.

25. Concluding on this main issue, the development would have a negative effect on the character and appearance of the surrounding area. Therefore, it would not accord with ALP Policy 6 as it would not maintain the character of the existing countryside. It would conflict with ELP Policies SP5 and NE1, which recognise the intrinsic value of the countryside, require proposals to respect the sensitivities of the relevant landscape character area, and seek to avoid detrimental impacts on the appearance of the immediate surroundings and landscape character unless there are suitable mitigation measures.

26. The development would also conflict with NPPF paragraph 170(b) which recognises the intrinsic character and beauty of the countryside, NPPF paragraph 124 which seeks high quality places, and NPPF paragraph 127(c) which requires proposals to be sympathetic to local character, including the surrounding built environment and landscape setting. The Council also considers there to be conflict with NPPF paragraph 20(d), but this relates primarily to plan-making.

(Barkway, 25 dwellings, APP/X1925/W/18/3194048)

7. The appellant indicates that Policy 6 is out of date and inconsistent with the NPPF and so should be afforded little weight. The NPPF states at paragraph 170, amongst other things, that planning decisions should contribute to and enhance the natural and local environment, including recognising its intrinsic character and beauty. In my judgement, when taken with other policies in the LP, Policy 6 is consistent with this part of the NPPF and would enable a balanced view of sustainable development to be undertaken. I therefore attach weight to it. In addition, I note that the general aim is taken forward in SLP Policy CGB1, although I fully recognise that it has not been adopted and could be the subject of modifications.

(Ashwell, 46 dwellings, APP/X1925/W/17/3192151)

29. Overall therefore, I find that the landscape and visual effects of the proposal would have a significantly adverse impact on the character and appearance of the site and surrounding countryside. As such, the proposal would conflict with LP Policy 6 and with ELP Policy SP5 to the extent that it seeks to recognise the intrinsic value of the countryside.

(Offley, up to 70 dwellings, APP/X1925/W/17/3187286)

4.3.5 In most circumstances, where an Authority can not demonstrate a 5 year supply of housing land and the adopted plan is out-of-date, (or otherwise silent or absent) **paragraph 11** of the NPPF sets out a presumption in favour of sustainable development for decision makers on planning applications as follows:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

4.3.6 At the time of reporting this matter, the Council's submission plan (ELP) is subject to the local plan Inspectors modification and therefore well advanced. Accordingly, significant weight can be attributed thereto, specifically in respect of planned housing delivery. Both the Inspectors at Offley and Barkway (cited above) concluded, pre-modification, that unplanned housing should now be afforded diminished weight:

40. The ELP looks to allocate around 170 homes for Barkway across three sites which would contribute significantly to housing supply in the village and the district overall. The appeal site would provide additional choice and availability in the local housing market, but would only contribute a moderate amount of market and affordable housing even with the current shortfall. Based on the steps being taken to address the shortfall and the likely timescales involved, along with the amount of housing proposed, I afford moderate weight to the benefits of housing provision. In this respect, I concur with a recent appeal decision following a public inquiry for development on a site at Offley.

(Barkway, 25 dwellings, APP/X1925/W/18/3194048)

4.3.7 Given the amount of ELP housing already delivered in Royston and the views expressed by the Inspectors above (pre-modification), it is arguable in my view that policies in the ELP can now be regarded as up to date insofar as the Council may credibly be able to demonstrate a 5 year supply of housing land. This notwithstanding, part of the site is within the SSSI and paragraph 11 of the NPPF is clear at d) i that:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;

4.3.8 The other policies in the Framework which would be operative in this regard would be those centred on habitat and biodiversity, principally paragraph 175 b) which reads:

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

4.3.9 The proposed access to the site crosses the SSSI boundary as it follows the alignment of the existing bridleway up Briary Lane. While this incursion would be relatively minor, it would undoubtedly occasion an urbanising effect in terms of traffic activity, lighting and general appearance etc. Accordingly, there would be some 'adverse' effect. This is a concern expressed by Natural England in its representation:

"As submitted, the application could have potential significant effects on Therfield Heath Site of Special Scientific Interest ('SSSI'). Natural England requires further information in order to determine impacts on the designated site."

In these circumstances the decision maker is required to consider whether the benefits of the proposed development outweigh the likely adverse impact. This is not a tilted balance as set out in paragraph 11 rather a neutral evaluation (see 4.3.8 above).

Summary

4.3.10 **At the time of determination, the Council's ELP has not yet been formally adopted but has reached an advanced stage, being currently subject to consultation on proposed modifications. Given this advanced stage, significant weight can be attributed to the policies in the ELP, specifically those which seek to recognise and protect the countryside for its own sake (SP5, NE1 and CGB1). In addition, Saved Policies 6 and 21 may also be afforded weight insofar as they clearly act to protect the intrinsic beauty of countryside and the sensitive edges of the town – aims consistent with the NPPF. Further, the advanced stage of the ELP and the steps therein to address any housing shortfall dictate that less weight can now be attributed to the benefit of housing delivered on unallocated sites such as this.**

4.3.11 **The specification of an access up Briary Lane which would trespass onto the SSSI requires that the decision maker consider whether the benefits of the proposal outweigh likely impacts. This is a neutral balance evaluation rather than the tilted balance test as set out under paragraph 11 of the Framework.**

4.3.12 **Accordingly, the determination of this application rests on the resolution of a balance between the harm occasioned by the proposal, principally in terms of its conflict with policies seeking to protect the intrinsic character of the countryside and the SSSI and any other harm, and the now diminished benefits associated with the delivery of unplanned housing and associated infrastructure. The resolution of this neutral balance is set out later in this report.**

Planning Issues

4.3.13 The following section discusses the planning issues that are relevant to this proposed scheme. I have separated the key issues into seven sections, whereby I will discuss both the harm and benefits and conclude with a separate planning balance:

- Site Constraints and landscape impacts including SSSI
- Access and Highways – bus routes and connectivity
- Proposed scale of development and housing mix
- Open Space Provision

- Environmental Issues - including noise, drainage and contamination and waste, ecology, archaeology
- Impact on neighbouring properties and future living conditions
- S106 and mitigation
- Discussion, Planning Balance and conclusions.

Site constraints/Landscape impacts

4.3.14 The site is located on the scarp slope to the south of Royston adjacent to Therfield Heath. The land slopes steeply northwards with contours ranging from about 120 metres down to 95 metres. The upper slopes are likely to be visible from longer views to the north.

4.3.15 The site would be accessed from what is currently a Bridleway 13, which has no public rights for vehicles. The Bridleway is part of the Icknield Way which is a nationally recognised historic route. This footpath currently provides a direct route from the town into the countryside and appears to be well used. There are also links to Therfield Heath from this Bridleway. Therfield Heath is also designated as a Site of Special Scientific Interest (SSSI). The boundary to the SSSI covers the bridleway and the existing parking spaces adjacent to the common land for people who are using the Heath and the Common Land on the corner of Sun Hill and Briary Lane.

4.3.16 It is worth noting that this common land has been subject to a recent planning application (withdrawn) – a renewal of a previous outline planning permission which was granted for 8 dwellings. Following the original decision there was a public Inquiry into the swapping out of the common land (over which the proposed access to this site would have to cross), for land elsewhere, to allow the 8 unit development to go ahead. It was subsequently determined by the Commons inspector that this should remain common land. Further, the Inspector opined on the value of this parcel of land in respect of its value to local people:

40. The objectors draw attention to the different nature of the replacement land which means that it could not be used for certain activities that have occurred on the release land, for instance ball games. Nonetheless the replacement land could be used for other activities and it will have some value. In terms of the availability of land elsewhere on the common for play, this would not mitigate the loss of the release land for local residents. Overall, I find that residents in the immediate locality of the release land will suffer loss from the proposed exchange of common land.

4.3.17 The scheme access would need to take in a part of the Common land and it is my understanding that this would need to be subject to provisions in the Commons Act 2006. Although this is not a planning consideration, I feel that it is worth noting as a potential constraint - this appearing as the only viable access to this site in my opinion and the applicant not demonstrating another viable access.

4.3.18 The site lies within the Landscape Character Area LCA 228 - Scarp Slopes South of Royston. The characteristics identified in the North Hertfordshire and Stevenage Landscape Character Assessment is of incised chalk scarp slopes with long distance views. The Chalk scarp is a comparatively common feature in North Hertfordshire however the openness, lack of development and the history of this character area makes it almost unique in the County.

4.3.19 The site also falls within an area covered by **Policy 21** - Landscape and Open Space Patterns in Towns (Saved Local Plan 2007). The policy identifies the principle feature of the dominating slopes in the south of the town, which are dry valleys, form folds, leading to high ground around the town's southern edges, including Therfield Heath. **Policy NE1** of the ELP states:

"***that planning permission would be granted for development that does not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the site is located, taking into account of any suitable mitigation measures necessary to achieve this."***

4.3.20 The most notable **environmental** issue arising from the development of the application site is its potential to have a significant adverse impact in what is a sensitive area visually, on rising ground near the top of a scarp slope. It is acknowledged that the site is currently cultivated farmland of lower visual value. However context is very important in that it is farmland within a landscape of higher value which, moreover, is highly sensitive to change.

4.3.21 The application was supported by a Landscape and Visual Impact Assessment (LVIA). This was assessed by a consultant appointed by the Council (Landscape Partnership). The consultant's brief was to review the information submitted as part of the planning application in relation to landscape and visual aspects with a view to determining:

- *the accuracy of the information provided, particularly in relation to current guidance and best practice and the methodology used for Landscape and Visual Impact Assessment;*
- *whether there is any missing information or additional information that is required in order to effectively assess the application;*
- *whether there is agreement or not on the assessed effects of the proposed development, based on a professional judgement utilising the submitted information and an assessment on site;*
- *if the submitted scheme is acceptable in landscape and visual terms*

4.3.22 The Council's consultant concluded that:

"On balance TLP consider that in landscape and visual terms the proposed development would still result in some localised significant adverse effects. Effects on landscape character would be most notable on the Site and immediate area extending up to Therfield Heath (c 250m distance). Notable visual effects in the medium term from Year 15 are from Therfield Heath (Viewpoint 10) and along Briary Lane /Bridleway Royston 13. These effects result from placing built development at an elevation higher than the adjacent residential areas. However, the scheme includes a generous provision of open space that would be accessible to the public and provide for green infrastructure benefits. The proposed planting

would also help to assimilate the development in the medium to long-term from the adversely affected locations on Briary Lane and Therfield Heath."

4.3.23 It has been noted above that the SSSI boundary covers the bridleway and the existing car parking spaces. In regards to the SSSI the NPPF paragraph 175(b) states that:

development on land within or outside a Site of Special Scientific Interest (SSSI), and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the feature of the site that make is of special scientific interest.

4.3.24 The ELP has a new policy following the modification report regarding biodiversity and geological Sites (NEx). This states that Ecological Surveys are required to be submitted as part of the application. A Ecological Report was submitted and concluded that the development should seek the opportunity to enhance the biodiversity of the site, through good landscape design, including areas of planting including native trees and shrubs.

4.3.25 Natural England was consulted because of the locality of the proposed development site. In regards to the Ecological Report NE has concluded that:

"there maybe impacts upon trees within the SSSI as a result of the road construction. There is no acknowledgement of this within in the Ecological Appraisal or within a separate SSSI Impact Assessment and we therefore consider this document to be incomplete. It is extremely important that direct impacts upon the SSSI are accurately quantified and assessed. Note that any permanent land take from the SSSI is likely to elicit an in principle objection from Natural England."

4.3.26 Natural England had previously advised that the level of financial contribution towards mitigation needed to be quantified:

"Whilst we welcome clarification from the developers of a proposed amount and repeat our commitment to the principle of mitigation any sum should be proportionate to the impact and relate to a specific form of mitigation which is considered effective and deliverable.

Note, however, that our advice on mitigation at that meeting related only to recreational pressure as the applicant advised at the time that the access road would not cross the SSSI boundary and that their aboriculturalist had confirmed that there would be no risk to the trees present along the road.

If this is not the case the applicant needs to clearly quantify the impact on the SSSI and accurately assess the value of habitats and ecological features that are to be lost or damaged and avoid, mitigate or compensate accordingly following the hierarchy set out in paragraph 175 of the National Planning Policy Framework. This should include consideration of whether equipment, machinery or materials are likely to be stored on the SSSI and whether any works will require any temporary structure or access onto the land dedicated as SSSI during the construction phase. Where there is to be encroachment or direct impacts upon

the SSSI, Natural England strongly recommends that the developer seeks alternatives."

4.3.27 The Conservators of Therfield Heath and Greens have not objected to the application however they would require contributions to mitigate from use of the Heath. This has been outlined in the S106 heads of terms in section 4.3.76. The S106 provision is to be used towards upkeep of the Heath and visitor facilities.

Summary

4.3.28 **The applicant has been cooperative and worked with officers in order to reduce concerns associated with the developments potential to affect visual harm locally and beyond. Despite these attempts however and taking into account the advice offered by the Council's consultant, I remain of the opinion that on balance, that the proposed development of this site as proposed would have a significant localised adverse visual impact on the rural character of the area and would have an adverse urbanising impact on the setting of the Therfield Heath SSSI as well as potentially other adverse effects on this designation..**

Access and Highways

4.3.29 This is an outline application with all matters reserved except for means of main site access. Means of access covers accessibility for all routes to the site, as well as the way they link up to other roads and pathways outside the site.

4.3.30 The proposed access route starts from the junction of Briary Lane with Sun Hill. The unmade section of the bridleway from this junction is proposed to be widened and improved to incorporate a footway. A number of residents have raised concerns regarding the existing tree belt along this section of the bridleway. The applicant has demonstrated that the majority of tree belt would be retained. These trees are not part of the red line and therefore not in the ownership of the applicant. The trees are within the SSSI and under the control of Natural England. Natural England has commented that:

" ***activities such as the removal, cutting or damaging of trees within the SSSI could also require Natural England's consent under section 28E of the Wildlife and Countryside Act 1981 (as amended). Carrying out such activities without Natural England's permission can result in an unlimited fine."***

4.3.31 The vehicle parking requirements for the development would need to meet the standards in the Vehicle Parking at New Development SPD. This aspect of the design could be agreed at a reserved matters application. The DAS has shown a mixture of front access private drives, attached and detached garages.

4.3.32 An important aspect of the scheme is the replacement of the parking spaces that are currently off the bridleway that serve the Common land and access to the Heath. A number of representations have been made with concerns that the loss of the parking spaces would have a significant impact on the usability of the Heath. The illustrative plan indicates that these car parking spaces could be provided on site near the access into the development at the top of the bridleway.

4.3.33 The County Councils Rights of Way Team were consulted. They have not objected in principle but have stated that the bridleway would need to be upgraded to public highway and as it is on common land it would need to be de-registered. This process is yet to be implemented as planning permission is required before submitting to the process of de-registration. The Rights of Way team has also recommended that:

"The parking bay which is used adjacent to Royston Bridleway 13, within the common land boundary, will not be retained as part of this development. Equivalent parking should be made available to the public within the development site, for access to the Heath and the Bridleway. "

This matter could again be picked up at the reserved matters stage should permission be granted in outline.

4.3.34 The access along the bridleway up to the application land as submitted has been considered acceptable 'in principle' from the Highway Authority for adoption and complies with the highway standards for dedication under s278 of the highway act as a general purpose road. The gradients will be aligned with technical approval as within the limits of the guidance in Roads in Herts this is within 1% to 5%. Short private driveways are normally allowed up to 7%.

4.3.35 In regards to the connectivity of the site to services within Royston, the site is near the top of a hill and pedestrian links with local amenities would necessarily involve walking back up a fairly steep slope. If one considers pedestrians such as mothers with push chairs, the elderly and the disabled negotiating this hill, the site could be argued to have poor pedestrian connectivity.

4.3.36 The site is some distance away from a current bus service. Due to the location of the development most of the residents would be more than 900 metres from the existing bus stops in Baldock Street to the north and Barkway Street to the east. To resolve this accessibility problem it would be necessary to route an existing bus service through to within 400 metres (bus stop) of the new residential area. National and local guidance (including DfT's Inclusive Mobility and HCC's Passenger Transport in New Developments) recommends that new developments are located no more than 400 metres walking distance from bus services. Thus far, satisfactory accessibility to public transport to and from the site has not been demonstrated to the satisfaction of the Highway Authority (see below).

4.3.37 The Transport Assessment did not consider the opportunity for a bus diversion in conjunction with passenger transport associated with the development. Following discussions with the developer and the Transport Passenger Unit it was concluded that no commercially viable solution could be achieved due to the small scale development proposed.

4.3.38 The Highway Authority's passenger transport unit (PTU) has commented as follows on the proposal:

For this development no bus stops are within 400m, with the nearest bus stops are located over 800m away at Baldock Road (served only by service 91 – four journeys per day) and Royston Bus Station (served by a wider selection of bus routes).

Any proposed diversion of bus services closer to this development funded by developer contributions, must be considered to have a good chance of being commercially viable to ensure a service is maintained after the fixed period when all developer "pump prime" monies have been exhausted.
The scale of development is not considered sufficient to warrant a bespoke new bus service, and therefore each of the existing bus services in the town have been considered in turn. Principally, two considerations apply:

1. ***Any non-progressive routeing is a deterrent to through travel – an extended service might pick up a few extra people from the new development but risks losing long-distance passengers.***
2. ***If there is insufficient spare time in the operating cycle of a service to accommodate a re-routeing then it will require an extra bus (or will reduce the frequency).***

Route by route:

- ***A/D – commercial services operated by Stagecoach and therefore subject to their support. Timings are part of a regular headway with other services along the Cambridgeshire Busway which would likely be disrupted. Stagecoach also indicated concerns about the physical constraints of operating a service along Briary Lane.***
- ***16 – operated by Richmonds Coaches under contract to the county council. Any extra mileage would cost a vehicle, at a gross cost (before passenger fare revenue) of circa £150,000 per annum, and need to reach breakeven after developer funding is exhausted. Town service 17 historically served Sun Hill and Briary Lane but was withdrawn over 10 years ago owing to lack of passengers. This site is not on a scale which would support such a bus service.***
- ***18 – operated by Centrebus under contract to the county council. This is already tight for time so the regular 90-minute headway would not be possible. There are a couple of long layovers during the course of the day, opening up the possibility of running up to two journeys per day to/from Sun Lane, but it is possible that one or both are used as driver breaks. This level of service is unlikely to generate sufficient patronage to outweigh the costs of disrupting the service pattern.***
- ***91 – operated by Richmonds Coaches under contract to the county council. Could be considered but the driver's duty is at or very near the legal limit on Mondays to Fridays so only as part of a review of the complete 90/91 timetable, and would also likely require the additional resources as described above, with no guarantee of breaking even.***
- ***127 – operated by A2B under contract to Cambridgeshire County Council. They share the view that the risk of losing long-distance passengers would be too high to pick up such a small number of additional passengers. Any layover journey time would be used for driver breaks, and therefore an extra vehicle would be required at cost to cover this route. Even if an extra vehicle is funded the operator, Cambridgeshire County Council has indicated that it would not support this diversion as the additional operating costs would not be covered by the additional fare revenue.***

4.3.39 In order for the proposed access road to be adopted by the local highway authority it would require a lighting scheme. However, no detail on the lighting scheme for the proposed access has been provided. The applicant was reluctant to provide this detail at the outline stage following a request to submit this detail. The LPA feel that any lighting of the access/highway could have significant impacts on the visual amenities of the area including the Heath and SSSI and could have the potential to unacceptably urbanise the immediate and intermediate area. Natural England have commented in regards to lighting the highway:

"given that invertebrate assemblage is a notified feature of the SSSI there is a potential for additional impacts from light spill onto the heath. We would need to consider the location and direction of lighting, the level of screening offered by retained trees that run along the bridleway and the distribution and species of invertebrates to be found in the affected areas. It may be possible that impacts can be avoided or mitigated through careful design but without details it is difficult to give a definitive answer"

Summary

4.3.40 **The site can be satisfactorily serviced via Briary Lane by upgrading and lighting the existing access to the relevant highway specification. However, such works as would be required would undoubtedly have an urbanising impact on the countryside locally and the SSSI (see above). Moreover, accessibility by means other than private transport would be frustrated by the developments location at the top of the scarp slope and the absence of any evidence that a bus route to service the site would be operable in the longer term.**

Proposed scale of development and housing mix

4.3.41 While this is an outline application, it is incumbent on the Authority to consider the form a development proposal might take, including mix and basic scale parameters. These considerations are lent additional weight by the sensitivity of the site being at the top of the scarp slope overlooking the Heath.

4.3.42 Under the provisions of the new plan, Royston is identified in **Policy SP2** as one of a number of towns towards which the majority of future development will be directed. However, this site lies beyond the proposed settlement boundary and has not been allocated for future development. Therefore as part of the ELP it is proposed to retain the site within the Rural Area.

4.3.43 **Policy 9** of the saved local plan states that the Council will refuse development proposals outside of the Royston's development limits boundary unless they are acceptable in the rural area. A substantial residential scheme would not meet any of the criteria set out in Saved **Policy 6** which covers the rural area beyond settlement boundaries.

4.3.44 **Policy CGB1** of the submitted Plan sets out the general forms of development that will be supported in the rural area. These are similar to the provisions of saved **Policy 6** and a major residential scheme would be contrary to this emerging policy.

4.3.45 As part of the application proposal the Council raised a number of concerns in regards to the level of development in terms of density, height and scale. Following productive discussions with the applicant, the developable site area for housing (shown on the illustrative plan) was reduced to approximately 3.5 hectares providing up to 107 dwellings (reduced from up to 120 dwellings) with associated streets, private gardens and parking spaces. The average indicative net density for housing blocks is stated as being approximately 30 dwellings per hectare.

4.3.46 As a consequence of the topography of the site, the dwelling heights could potentially have significant visual impacts on the landscape – particular in local views. In the first DAS submitted, building heights were stated up to 9 metres across the site. Following a review of the landscape impacts a reduction was requested by the Council and the DAS now states that 1 storey dwellings will have a maximum height of 5.5 metres and 1.5 storey dwellings up to 7 metres and 2 storey dwellings will have a maximum of 8.25 metres. The applicant has stated that:

"***careful consideration would be made to the placement of the different building heights on certain areas of the site in order to reduce the potential impact, for example to place the single storey dwellings on the higher ground".***

4.3.47 Affordable housing is offered in line with the provisions of emerging policy **HDS2** of the ELP, as there is sufficient evidence of the housing need. Accordingly, any scheme of 25 units or more would require a contribution of 40%. The tenure ratio would normally be 65% rented 35% other (shared ownership etc). The Council's Housing Development Liaison Officer was consulted on the application. The full requirement has been outlined in the S106 section (4.3.76)

4.3.48 It is my view that the housing mix of the site is critical in meeting the needs of Royston. Policy **HS3** states that an appropriate range of housing types and sizes be provided which take into account the findings of the most up-to date evidence including the most recent Strategic Housing Market Assessment (SHMA), the Councils Self Build Register and other relevant evidence of Housing Need. Current evidence suggests it is most appropriate to target a broad balance between smaller (defined as 2 bed or less) and larger (3 bed or more) homes. The emerging plans states that (para 8.20) ***on most suburban and edge of settlement sites, applicants should therefore make initial assumptions of 60% larger (3 plus bed) and 40% smaller (1 or 2 beds) homes to ensure an overall mix.***

4.3.49 The table below sets out the housing mix that would meet the criteria in the SHMA. The most appropriate solution to housing mix would need to be on a site by site basis. Due to the site constraints the percentage ranges could be modified as it maybe deemed inappropriate to include the number of flats on the site. However the proposal to include a number of bungalows could accommodate the smaller dwelling sizes.

				To achieve Larger (60%)/ Smaller (40%) split			
Market			**64**	Ratio in SHMA			**64**
1bed flat	5.5%	3.52	**4**	13.80%	-0.552	-1	**3**
2bed flat	10.4%	6.66	**7**	25.86%	-1.0344	-1	**6**
2bed house	24.0%	15.36	**15**	60.34%	-2.4136	-2	**13**
3bed house	36.8%	23.55	**24**	61.30%	1.839	2	**26**
4+bed house	23.2%	14.85	**15**	38.70%	1.161	1	**16**
		63.94	**65**				**64**

4.3.50 In trying to agree broad percentage housing Mix the applicant has stated that they:

"still feel this should be determined at reserved matters. Recent schemes in Royston have delivered an average of 24% smaller properties (1 and 2 beds) and 74% larger properties (3 beds and above). The analysis of this is shown below, and is indicative of the market demand in the area:-

	Harvester Close		Yeats Close		Housman Avenue		Baldock Road		North of Newmarket Road			Average
Smaller properties	0	0%	24	19%	8	21%	20	40%	167	51%		26%
Larger properties	19	100%	100	81%	31	79%	30	60%	163	49%		74%
Scheme Total	19		124		39		50		330			

4.3.51 In light of the statistics above it is in my opinion that it is even more important to agree the percentage breakdowns for housing mix, of both affordable and market housing, as there has been in the past a disproportionate provision of larger properties. It is important to reverse and address this trend so we don't exacerbate the existing problem in Royston. I have included a section within the S106 Heads of Term stating that a Housing Mix is required but as yet this has not been agreed.

Summary

4.3.52 **The site is located outside the settlement boundary of Royston and conflicts with policies in the saved local plan and ELP. The applicant has reduced the dwelling numbers following negotiations in order to reduce the potential impacts on the landscape. The applicant has also offered the full 40% of affordable housing in line with the policies in the ELP. These concessions notwithstanding, it remains disappointing that the housing mix has not been agreed inline with policy HS3.**

Open Space provision

4.3.53 As part of the proposal a large part of the site is to be open space. As stated in the DAS (Chapter 4 page 40) approximately 5.33 hectares is proposed to be green infrastructure within the site. The public open space (POS) would be located within the central and south-west quadrant of the site. Existing hedgerows will be maintained around the boundary and through the site where possible. The application includes a proposal to create new areas of grassland, woodland, scrub and wetland areas that would contribute to local biodiversity and also provide opportunities for formal and informal recreation. An equipped play area is also proposed to serve the new residents. New pedestrian routes across the site would link the existing public rights of way which could include circular dog walking routes, drawing people away from the Heath and its more sensitive ecology.

4.3.54 Saved **Policy 21** states that development within areas covered by the **Landscape and Open Space Patterns in Towns** designation will normally be refused where it would have a significantly detrimental effect on the character, form, extent and structure of the pattern. Should development be considered acceptable against this test, a number of further criteria are set which, broadly speaking, require the retention and reinforcement of the landscape and open space pattern and encourage their management and use for recreation.

4.3.55 Herts Ecology comment that:

"POS habitats will enhance the development itself and its recreational use will help to reduce increased pressure on the SSSI, both of which are welcomed. However it is not possible to determine whether the development will not have any negative impact on the SSSI from increases in informal recreation activities which may accrue as a result of the new housing.

Nevertheless there will also be the potential for increased disturbance to Therfield Heath SSSI given the distance the application site is from the SSSI. This is recognised to the extent that circular dog walks are planned in the public open space to help provide an alternative amenity resource.

It is proposed that the POS area will be subject to species-rich grassland creation and will also accommodate additional tree planting, formal amenity play facilities, footpath network and wetland SUDS features – the latter adding potential habitat diversity although they are uncharacteristic features on the chalk, which would not naturally support ponds in this area. Some of this area is also proposed to be managed for lizards. It is stated that loss of hedgerows and grassland within Therfield Green Lane LWS will be compensated within the POS, although I do not recognise there will be any effect on this LWS.

In any event, I consider the POS habitats will enhance the development itself and its recreational use will help to reduce increased pressure on the SSSI, both of which are welcomed. However it is not possible to determine whether the development will not have any negative impact on the SSSI from increases in informal recreation activities which may accrue as a result of the new housing".

4.3.56 Therefore, its return and management as a chalk heathland habitat, accessible to the public, has some value beyond simply mitigating the impact of the new development. This is a potentially notable **social** and **environmental** benefit in the planning balance.

Summary

4.3.57 **The provision of an open space which would not only serve the needs of the new residents but return an area of arable farmland back to heathland for the wider enjoyment of all, is a potentially a social and environmental benefit in the planning balance.**

Environmental Issues

The sections below will discuss the different environmental issues.

Drainage and flooding

4.3.58 The site is located in Source Protection Zone 1 (SPZ1) and is considered to be of high sensitivity so could present potential pollutant/ contaminant linkages to groundwater. However The Environment Agency consider that both the previous use and the proposed use present a low risk to ground and surface waters.

4.3.59 A number of residents raised concerns in regard to the potential risk to the aquifer that a residential development could potentially have. Following consultation with both the Environment Agency, LLFA and the water authorities no objections were raised given the level of development and along side the relevant documents submitted as part of this application.

4.3.60 A Flood Risk Assessment and Preliminary Drainage Strategy were submitted as part of this application. The LLFA was consulted and stated that;

"***we have no objection in principle on flood risk grounds and advise the LPA that the proposed development site can be adequately drained and mitigate any potential existing surface water flood risk."***

4.3.61 Two conditions and an informative have been recommended by the LLFA. The Environment Agency has recommended a number of conditions if planning permission is granted.

Contamination

4.3.62 The Environmental Protection Team has advised that there are no objections in terms of land contamination and local air quality. If permission is granted then a recommendation for the inclusion of requirement for specific contamination conditions are to be included.

Noise

4.3.63 North Herts Environment Protection team were consulted and raise no objection to the proposed scheme.

"I do not think there are any significant noise sources and London Road is a sufficient distance away such that noise mitigation measures will very likely not be required. The developer is welcome to submit a noise assessment at the reserved matters stage although it is not something I will be requiring."

Waste

4.3.64 Representations were received from the Local Authorities Waste department. In the instance of an approved scheme a condition and informative are recommended to be included that request the details of all waste facilities and circulation routes to be agreed before commencement of any development on site. This is a matter that can also be agreed at any reserved matters application stage.

Ecology

4.3.65 Herts Ecology was consulted as part of this application. They have stated that:

"**T*here is no ecological information in the database relating to this site, although the southern boundary is a Local Wildlife Site Green Lane S of Royston (Ref: 08/042) which joins Therfield Green Lane LWS (Ref: 07/022). Historically consisting of two largely intensively managed arable fields with hedgerows, the ecological interest was likely to have been limited to common agricultural species. However it is clear from aerial photos and MAGIC that the site is subject to Entry and Higher Level Stewardship, which has created field margins and probably supported hedgerow management. Consequently there should be an increased farmland wildlife interest associated with the site which has benefitted from several years of public funding. This is clear from the photos in the DAS."***

4.3.66 Ecological studies have been prepared in support of this application and Herts Ecology commented on these as follows**:**

"These did not identify any significant ecological interest although the field margin strips, hedgerows and breeding lizard population (low) are of note locally. The lizards were recorded around the edges of the two arable fields. It is disappointing that no breeding bird survey was undertaken given the size of development, although I have no reason to consider anything other than widespread farmland birds would have been present. Bat use of the site is limited, partly due to the nature of the landscape and habitat resources locally. Most species are common although some of the rarer species recorded (Leisler's, Barbastelle) are of interest.

The existing undisturbed grassland field margins amount to 1.9 ha whilst the main replacement species-rich grassland within the main POS amounts to approximately 1.5 ha. Consequently this would appear to amount to a small net loss. Furthermore the existing field boundary grasslands are currently relatively undisturbed; they function ecologically as part of the arable landscape and will

support typical farmland species associated with the adjacent hedgerows and undisturbed grassland strips. Despite the ecological proposals and enhancements (various species boxes) – which are in themselves welcome but relatively limited in practice - I am not convinced that this ecology will be sufficiently compensated by the use of the POS as an amenity area which by default is designed to be used by local residents for recreation and will therefore be subject to local and regular disturbance, unlike the land currently in Stewardship. Indeed, planning statement acknowledges this (5.6.2): Therefore it is considered that the proposed development within the application site will result in a minor adverse effect on the site itself.

Consequently I consider additional, offsite compensation is required locally to properly replace this resource, especially given that the land has been subject to public support for biodiversity enhancement which will now be wholly wasted in terms of any long term benefits. Given most of the surrounding farmland is already in Stewardship, this would have to add to the grassland field strips already in place in these areas or identify another habitat creation project locally.

However, other than addressing the above issues, I do not have any reason to consider that ecological interests would represent a constraint on the development.

The reserved matters (or a Condition to any approval out this application) would need to include an appropriate lighting scheme which reduced the impact of the development locally, given the ecological and visual sensitivities of this topographically prominent area. Also, as we stated previously, there will need to be a Landscape / Ecology management plan to describe the management required to maintain the POS habitats."

Archaeology

4.3.67 The County Historic Environmental Team (HET) had requested in their original representation that the results of a geophysical survey and archaeological trial trenching evaluation should be submitted prior to determination of the application. This was requested so that a more informed response could be made in regards to the likely impact on any potential heritage assets of archaeological interest.

4.3.68 Following the investigation work which took place in August 2018, the WSI and Trial Trenching Report that covered just over 3% of the site was submitted. The report concluded that no archaeological features that may be of equivalent significance to a Scheduled Monument are present. The HET therefore confirmed that no mitigation would be required in the case that planning permission is granted.

Summary

4.3.69 **No technical objections are raised to this development by the relevant statutory and non-statutory consultees. Conditions have been recommended by a number of these consultees if permission were to be granted**.

Impact on neighbouring properties and future living conditions

4.3.70 Layout and design are reserved matters and are therefore not part of this outline application. However, I feel that it is important to discuss the general impacts of any development on neighbouring properties given the topography of the site.

4.3.71 In this regard, I would draw attention to Policy 57 of the North Hertfordshire District Local Plan No. 2 which sets out the residential guidelines and standards for new residential development and alterations and Policy D3 (Protecting living conditions) of the ELP. Policy D3 states that "***planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions".***

4.3.72 The indicative scheme shows development contained to the north eastern corner of the site for understandable topographical reasons. However, this identified area for housing has the potential to impact adversely on the reasonable living conditions of the surrounding properties along Echo Hill, not least because of the gradient of the slope.

4.3.73 Policy D3 also states that the "***Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level".*** Given the changes in levels, any development would need to be carefully designed so that it would not have any adverse impact on the neighbouring properties in terms of dominance and loss of privacy. I note that this detail can be dealt with in any reserved matters application. However, through negotiations with the developer, the housing along these edges has been afforded larger buffers as shown on the indicative plan with changes to the arrangements of the dwellings. Back to back distances along the northern boundary, with the houses on Echo Hill, would be approximately 25 – 30 metres. Any new properties could be designed to reduce the impact on these neighbouring properties. Along the eastern boundary with Royse Grove and Layston Park, the orientation of properties shown on the indicative plan includes a green buffer, road, then front garden, with the properties facing the eastern boundary with distances of approximately 25 metres to the boundary. Also with the specification of landscaping along this boundary this would help screen the properties further.

Summary

4.3.74 **It is in my opinion that mitigation measures could be implemented through careful design consideration such that would reduce any potential adverse living condition impacts associated with development at the quantum proposed to an acceptable degree.**

S106 and mitigations

4.3.75 In considering Planning Obligations in relation to this development the Framework advises that:

"Planning obligations should only be sought where they meet all of the following tests:

- ***necessary to make the development acceptable in planning terms;***
- ***directly related to the development; and***
- ***fairly and reasonably related in scale and kind to the development. "***

4.3.76 The section below outlines the Heads of Terms and financial contributions sought by statutory bodies:

Element	**Detail and Justification**	**Condition/Section 106**
First (Primary) Education contributions	Full contribution based on Table 2 of the HCC Toolkit index linked to PUBSEC 175. To be used towards the provision of a new first school. Figures are to be based on 107 dwellings and inline with the toolkit **£762,375** Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and HCC Toolkit	S106 obligation
Middle Education contributions	Full contribution based on Table 2 of the HCC Toolkit index linked to PUBSEC 175. To be used towards the provision of a new first school. Figures are to be based on 107 dwellings and inline with the toolkit **£167,669** Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and HCC Toolkit	S106 obligation
Childcare	Towards childcare provision at the First School. Figures are to be based on 107 dwellings and inline with the toolkit **£20,544**	S106 obligation

	Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and HCC Toolkit	
Youth Facilities	To update the facilities, in order to support the delivery of the curriculum programme at Meridian Youth centre Figures are to be based on 107 dwellings and inline with the toolkit **£5,350** Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and HCC Toolkit	S106 obligation
Library Services	Full contribution based on Table 2 of the HCC Toolkit index linked to PUBSEC 175. To be used towards Royston Library to reconfigure the Children's and Teenage Area in the library. **£20,544** Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD and HCC Toolkit Policy 51 of the North Hertfordshire District Local Plan No. 2 with Alterations. Planning Obligations SPD and HCC Toolkit	S106 obligation
Housing Mix	**Housing Mix has not been agreed by applicant. No percentage splits have been agreed** **Policy HE3 states a need to achieve size mix-split of 60% larger (3+ bedrooms) 40% smaller units (1 and 2 beds).**	**S106 obligations**
Affordable Housing	On site provision of 40% **Within the 65% rented affordable housing element the following tenure mix best meets housing needs, as identified in the 2016 SHMA:** **21% x 1 bed flats (6)** **12% x 2 bed flats (3)** **26% x 2 bed houses (7)** **35% x 3 bed houses (10)**	S106 obligation

	6% x 4+ bed houses. (2) **Within the 35% intermediate affordable housing element the following tenure mix best meets housing needs as identified in the 2016 SHMA:** **8% x 1 bed flats (1)** **8% x 2 bed flats (1)** **20% x 2 bed houses (3)** **54% x 3 bed houses (8)** **10% x 4+ bed houses (2)** NHDC Planning Obligations Supplementary Planning Document Submission Local Plan Policy HS2 'Affordable Housing'	
Health Services	A developer contribution will be required towards the one off cost of recruiting additional clinical personnel for the benefit of the patients at Market Hill Surgery (incl. its sister surgeries) to mitigate the impacts of this proposal. NHS England calculates the level of contribution required, in this instance to be **£10,000.** Payment should be made before the development commences. Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD	S106 obligation
Sustainable Transport contributions	**Passenger Transport Unit** **Following consultation there is no commercial viable solution.** **No sum agreed to overcome objections**	**S106 obligation**
Travel Plan	**Following Highway objections no terms for a Travel Plan were agreed**	**S106 obligation**
NHDC Waste Collection & Recycling	Full contribution based on NHDC Planning Obligations SPD. **£10,807** Amount total should be index linked. Policy SP7 'Infrastructure requirements and developer contributions' Planning Obligations SPD	S106 obligation

Therfield Heath SSSi and Common land replacement	£500 per dwelling proposed by the developer. **No agreement with relevant bodies.** **Natural England have previously advised that the level of financial contribution towards mitigation needs to be quantified. Any sum should be proportionate to the impact and relate to a specific form of mitigation which is considered effective and deliverable. Natural England notes from the Ecological Appraisal that the sum put forward is intended for the provision of a warden. NE have previously advised that they would consider wardening to be effective mitigation of impacts upon Therfield Heath SSSI**	S106 obligation
Ecological off-site compensation scheme	offsite habitat to ensure there is no net loss of undisturbed grassland for biodiversity as a result of development Given most of the surrounding farmland is already in Stewardship, this would have to **add to the grassland field strips** already in place in these areas or identify **another habitat creation project** locally. **No sum has been agreed to mitigate the loss of habitat biodiversity**	S106 obligation
Open space/Landscape management and maintenance arrangements	Private management company or NHDC to secure the provision and long term maintenance of the open space/landscape buffer and any SuDs infrastructure **Details not confirmed** Policy SP7 'Infrastructure requirements and developer contributions'	S106 obligation
Fire Hydrants	Provision within the site in accordance with standard wording Policy SP7 'Infrastructure requirements and developer contributions'	S106 obligation/condition

Summary

4.3.77 **Given the recommendation set out below, a completed section 106 agreement has not been compiled at the time of writing this report. Should permission be refused the lack of a completed agreement would need to be part of that refusal (see recommendation below). However, should a subsequent appeal be lodged I would fully expect the appellant and Council to agree Heads of Terms as above as common ground.**

Discussion and Planning Balance

4.3.78 Section 38 (6) of the 2004 Act requires a Planning Authority to determine applications in accordance with the development plan unless material considerations indicate otherwise. The ***'development plan'*** in this case comprises policies from 2007 Saved Local Plan (DLP). Those policies in the emerging local plan (ELP) which are similar do not form part of the development plan until adoption but are nevertheless material considerations to which significant weight can now be attributed. There is a presumption in favour of the 'development plan' which makes it the first port of call for making any planning decisions. In discharging this responsibility, it is first necessary to identify those policies within the Plan which have a material bearing on the determination of this application. In my view it is principally those policies which seek to protect the countryside for its own sake and safeguard its intrinsic value and that align with paragraph 170 of the NPPF in this regard:

Planning polices and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside …

4.3.79 The application site is not allocated for housing in the ELP and therefore development in this location must be considered under polices which seek to give effect to the above national directive, namely to safeguard the intrinsic character and beauty of the countryside. These polices include in part, **Policy 6** (DLP saved) and in full **CGB1, SP5, NE1** (ELP). Further, polices which seek to promote sustainable patterns of growth and protect designated assets are also relevant in this case. These policies include **NE6** (Designated biodiversity, ELP) and **T1** (Assessment of transport matters).

4.3.80 In my view a fair interpretation of these polices leads to the reasonable conclusion that the proposed development would be in marked conflict with their respective aims, namely to protect the countryside, natural designated assets (SSSI) and to promote the principles of sustainable, accessible development. This conflict amounts to harm in the planning balance. The weight given to this harm is for the Council to ascribe based on the prevailing circumstances, including the status of the development at time of determination and any other material considerations, including the status of the emerging plan (ELP).

4.3.81 This said, it must also be acknowledged that there will be benefits associated with the delivery of housing in this location and it is equally important for the Council to weigh these positive attributes in the context of development plan as a whole, along with the harm, in order to determine whether the proposal overall accords with the provisions of the development plan. Further, it is also incumbent on the Authority to assess whether

there are any material considerations beyond the development plan which might also affect the positive balance of a determination. This also includes but is not limited to polices in the emerging plan (ELP).

4.3.82 The ELP is now subject to the local plan Inspector's modifications. None of these modifications fundamentally disturb the principles underpinning those policies which seek to protect the countryside and focus development toward allocated sites. In the circumstances therefore significant weight is now attached to policies in the ELP specifically those which are germane to a determination in this case. The site is outside the boundary of Royston and would undoubtedly act to urbanise what is presently a prominent and locally valued landscape on the edge of the Heath SSSI. It is acknowledged that the applicant has made serious and earnest efforts to mitigate any adverse impact by re-considering such matters as building scale parameters and built footprint. However, it is clear from professional landscape advice that both the urbanising impact of the proposed new roadway up Briary Lane and the urban form of the development itself, would combine to occasion significant adverse visual impacts locally. These impacts would comprise the incursion of built form into open countryside and include consequent traffic activity and lighting. Given the now advanced status of the ELP and its conformity with the NPPF, I attach significant weight to this conflict with related polices therein and thereby the quantum of harm in the planning balance.

4.3.83 The application proposal should also connect with the facilities and services in Royston and beyond by means other than private transport. The promotion of sustainable transport is a requirement of **Policy T1** of the ELP and the NPPF generally. Hertfordshire County Council has explored the possibility of diverting an existing bus service to the site but has objected on the grounds that such provision would be unsustainable in the longer term. In the light of this concern the proposal is in conflict with both policy T1 and the NPPF insofar as they promote access to public transport. Again, I attach significant weight to this conflict and the consequent harm in the planning balance.

4.3.84 The delivery of housing per-se is broadly acknowledged as a benefit. It is also acknowledged that while the policies in the ELP now carry substantial weight, any provision of affordable housing beyond the proportion required under saved policies (25%) can be considered an additional benefit. The proposal would deliver 40% affordable housing and I am of the view that some positive weight can be apportioned in this regard. As to the amount of weight which might be afforded, I am inclined to the general view of the Inspector who presided in a recent appeal at Offley in the District (ref APP/X1925/W/17/3187286). On affordable housing at 40% he opined:

44. The proposal would provide up to 70 new dwellings, of which 40% would be affordable. This level of affordable housing provision exceeds the 25% requirement set out in adopted development plan and the mix and tenure of the units would accord with the advice of the Council's housing officer. The affordable housing provisions would be secured through the UU. A specific need for affordable housing in Offley has not been identified and the Council refers to the provision of 16 units made in the Garden Fields development. Nevertheless, there is recognised to be a high level of need for affordable housing in the District and the provision of affordable housing is a Government policy priority. <u>As such, I give the proposed affordable housing significant weight [my underlining]</u>

On market housing he concluded:

48. Moreover, the scale of the proposed provision of up to 70 dwellings should be viewed in the light of the ELP requirement to provide 500 units per year in the period to 2021 and the other sources of housing made by sites in Offley. Some 73 units have already been provided in Offley in the ELP plan period and Policy SP2 allows for further growth in the settlement. Therefore, given the steps being taken to boost the supply of housing in Offley and the District as whole, I consider that the proposed market housing is not essential to resolving the shortfall in HLS in the short term. Having regard to the findings in the Phides case therefore, I give moderate weight to the benefits of the proposed market housing [my underlining].

I would deviate slightly from his overall conclusions in relation to weight in that this decision pre-dated the issue of the local plan Inspector's modifications. Accordingly, and in the light of the ELP's increased weight, I would suggest it would be reasonable to now attribute only moderate weight to the benefit of affordable housing at 40% and something proportionately less than moderate weight in respect of the proposed market housing in the planning balance.

4.3.85 It is also acknowledged that the scheme would deliver a significant area of open space which would undoubtedly offer benefits beyond simply satisfying the needs of the new residential population. It would also return what is ecologically poor farmland back to something which might, over time, be closer to the adjacent Heath in biodiversity terms. This said, the magnitude of this benefit is necessarily limited in the planning balance as it is to some degree extraneous to the development proposed. The loss of farmland to development would generally be regarded as harm in the planning balance and that would be true in this case. However, given the scale of the development proposed I am not persuaded that the loss in this case impacts significantly on the overall balance.

4.3.86 Having identified the principal components of harm and benefit in the planning balance and the relative weight attributable thereto, it falls to establish the relevant scale by which to calibrate their impact on a decision. In this case the tilted balance in favour of sustainable development, which may otherwise be used to assess a planning balance (i.e. that harm must significantly and demonstrably outweigh benefit - see 4.3.5 above) in the event that an Authority may not be able to claim a 5 years supply of housing land, is not engaged. Rather, the scale in this case is neutrally calibrated given the advanced status of the emerging plan (and its associated land supply) and that the site falls partially but nevertheless within a SSSI and that there is the potential for significant adverse impacts on the designation (see Natural England response at 4.3.9 above). In this regard paragraph 175 is engaged:

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

4.3.87 In the circumstances of this case while only a small part of the proposed vehicular access falls within the SSSI development would nevertheless have the potential to occasion a significant adverse effect. Accordingly, to approve the development the benefits must clearly outweigh the harm.

4.4 Conclusions

4.4.1 This proposed development is clearly in conflict with the development plan and the policies within it. The ELP now carries substantial weight as do those polices which are central to a determination in this case. I must therefore give significant weight to the harm identified in this regard, namely the ***environmental*** harm by reason of injury to the character and beauty of the countryside, the edge of town location and the SSSI as implied and stated in Saved polices 6 and 21 (the development plan) and CGB1, NE1, NE6 and SPD (ELP) and the NPPF. Further, the scheme conflicts with Policy T1 (ELP) and the NPPF, in that the Highway Authority advises that it is unlikely that a viable bus service would be maintained to the site in the longer term. This conflict is exacerbated by the position of the application site at the top of the scarp slope, a geographical reality which would naturally act to attenuate non-car access. This is ***social*** and ***economic*** harm to which I must apportion significant weight.

4.4.2 In counterweight, it is acknowledged that the scheme would deliver some additional market and affordable housing (40%). These are benefits to which I now ascribe less than moderate and moderate weight respectively given the advanced stage of the ELP. There would also be some benefit in terms of the offer of a substantial area of managed open space, the effect of which would likely improve biodiversity locally and act to divert pedestrian traffic away from the Heath. However, beyond serving the proposed development this benefit would be largely extraneous and I must therefore ascribe it limited weight in the planning balance. Other obligations which would be covered by the section 106 agreement would serve to mitigate the impact of the development and would therefore be neutral in the planning balance.

4.4.3 In summary, while the proposed scheme has been carefully considered and the applicant has made commendable efforts to mitigate its impact and address expressed concerns, it remains the case that it would still clearly be in conflict with the development plan and policies in the emerging plan at a time when these must properly be afforded significant weight. In these circumstances I am not persuaded that the benefits clearly outweigh harm or that there are material considerations which would indicate that it may be permissible to deviate from a determination other than in accordance with the development plan or polices in the emerging plan, to which significant weight can now be afforded. Further, even if the tilted balance were engaged in this case I would advance, on balance, that the identified harm to the character of the area would alone significantly and demonstrably outweigh the now necessarily diminished benefits of unplanned housing. Accordingly, I must recommend that permission be refused for the reasons set out below.

4.5 Alternative Options

None applicable

4.6 **Pre-Commencement Conditions**

No conditions are proposed because the recommendation is to refuse the application.

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 **REFUSED** for the following reasons:

1. By reason of its prominent position and the topography of the site, the proposed development would be likely to result in significant localised adverse impacts on both the character of the area and visual receptors. While these impacts could be mitigated to a limited extent, the combination of residential built form on high ground and the associated urbanising infrastructure, including the proposed new road access over the Common and development breaking the skyline, would act to occasion a marked and adverse change in the character of the immediate and intermediate locality and wider valued landscape. This adverse impact would represent conflict with the aims of the NPPF and Polices CGB1, SP5, SP12c NE1 and NE6 of the emerging local plan and Policies 6 and 21 of the Saved local plan. This conflict would amount to significant and demonstrable harm that is not outweighed by any other material considerations.

2. **Natural England has advised that there is no acknowledgement of the impact on the SSSI within in the Ecological Appraisal and therefore consider this document to be incomplete. It is extremely important that direct impacts upon the SSSI are accurately quantified and assessed. In the absence of a separate SSSI Impact Assessment in this case, the potential for significant adverse effects has not been adequately evaluated such that would demonstrate compliance with the provisions of NEx and NE6 of the emerging local plan and the NPPF.**

3. DfT's Inclusive Mobility, HCC's Passenger Transport in New Developments, The Chartered Institution of Highways Transportation (CIHT) guidance 'Buses in Urban Developments' published in January 2018 and the 'Roads in Hertfordshire Design Guide' (3rd Edition January 2011) state that development layouts should be designed such that all occupied areas are no more than 400m walking distance from a bus stop. There are no bus stops within 400m of the proposed development and to be considered sustainable any new or re-routed service to the proposed housing must have a good chance of being commercially viable after developer pump-priming contributions have been exhausted. The Highway Authority has examined the options for servicing the development route by route in order to establish the viability of the public transport options in the longer term. It has concluded that it is unlikely that a satisfactory route would be available in the longer term. Accordingly, it is considered that the proposed development would be unlikely to benefit from a satisfactory bus service beyond the short term with residents being denied access to high quality public transport contrary to

the aims of the NPPF, Policy T1 (assessment of transport matters) of the Local Plan and HCC's Local Transport Plan 4.

4. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 obligation) securing the provision of 40% affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance - toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Polices 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF)

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. 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.