

HAWRIDGE

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15th December 2025

OUR REF: HSL.699

Subject to Contract

Dear Mr Smith,

Re: Land On The South Side Of Cowards Lane Codicote - 25/01766/OP

I write further to the publication of the officer report recommending refusal of application 25/01766/OP and ahead of its proposed consideration by Planning Committee on Thursday 18th December. The recommendation was not only unexpected, given the engagement with your officer Alex Howard through the course of the application but also alarmingly flawed in its application of national policy and, in particular, in its treatment of the planning balance. It is all the more concerning given that our concerns have been raised twice to the Council prior to the publication of the report.

Put frankly, the report seems clear that the Council has elevated its declared ecological emergency above the very real housing and homelessness emergency facing North Hertfordshire, notwithstanding the NPPF's clear instruction as to how such competing objectives are to be weighed. That is not what the NPPF requires, and it is not what the evidence before the Council supports in our planning submission.

Whilst the importance of nature recovery and ecological matters are fully acknowledged, it is extremely disturbing that the officer report appears to treat those considerations as significantly overriding the pressing needs of real people dealing daily with the consequences of many decades of failure to deliver sufficient affordable and private housing within the borough.

The report does not set out, in any meaningful or lawful way, a planning balance exercise in which the harms of the proposal are shown to clearly and demonstrably outweigh its benefits, as required by paragraph 11(d) of the NPPF. Far from it. When read carefully, the report acknowledges a wide range of benefits, many of which attract significant weight, yet then proceeds to recommend refusal without ever explaining how those benefits are outweighed,

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still less significantly and demonstrably so. As an example, the benefits of the provision of housing have been grouped into a single benefit rather than separate benefits – the latter being the approach of all Planning Inspectors and the Secretary of State.

This failure is particularly stark in the handling of the Golden Rules. The report accepts that the proposal complies with paragraphs 155 and 156 of the NPPF and is therefore not inappropriate development in the Green Belt. That conclusion has profound consequences for the planning balance, yet the report then entirely fails to follow those consequences through.

Paragraph 158 of the NPPF is explicit; where development complies with the Golden Rules, significant weight must be given to those benefits in the planning balance. The officer report gives no weight at all to Golden Rules compliance. That is not a matter of planning judgment; it is a clear misdirection in law and policy. Had the report applied paragraph 158 correctly, the balance would inevitably and unequivocally tilt away from refusal and towards approval. That error alone is sufficient to render the recommendation unsound.

But quite incredibly, the flaws of the officer's report do not end there.

The same flawed reasoning is evident in the treatment of the pedestrian footpath and associated access improvements. The report assigns this benefit neutral weight on the basis that it is 'required' to meet the Golden Rules. That is simply wrong. The footpath is not a mandatory or automatic requirement of Golden Rules compliance, particularly in circumstances where a broader package of infrastructure contributions has been agreed. It is a tangible, policy-compliant public benefit which improves safety and accessibility in an area that presently lacks pedestrian infrastructure. To afford it no weight at all further incorrectly distorts the balance against the scheme. There are countless appeal decisions (including those from the Secretary of State) which confirm that simply because something is required; does not mean that it cannot be counted as a benefit – the provision of affordable housing being a prime example.

More broadly, the report systematically underplays the benefits of the development. This is a scheme delivering housing in a borough with no five-year housing land supply, including 50% affordable housing, at a time when housing need and homelessness pressures are acute and worsening. National policy is unequivocal that these benefits attract significant weight. The report acknowledges that weight in abstract terms, but then fails to reflect it in the ultimate conclusion and planning balance.

Against that backdrop, the treatment of ecology matters is disproportionate and legally unsound. The report proceeds on the basis of what is described as an 'in principle' objection to development affecting a Local Wildlife Site, coupled with an assumption that the site's inclusion within the LNRS weighs against the acceptability of development. That approach is entirely flawed. There is no policy or legal basis for an absolute objection to development on a Local Wildlife Site (which is the lowest tier of ecological designation), and the LNRS does not operate as a designation or a constraint. Its purpose is to identify opportunities for nature recovery, and

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paragraph 159 of the NPPF clearly requires development proposals to contribute towards those outcomes, not to preclude development altogether.

In any event, the ecological position described in the report is now materially out of date and the Council have been advised of this on more than one occasion. We have confirmed to officers that we are offering 15% biodiversity net gain, not 10%, and that we have identified and agreed terms to contribute to an off-site scheme within the same National Character Area (NCA) and within North Hertfordshire District Council Boundaries. That directly addresses the concerns expressed about delivery and alignment with nature recovery priorities. Yet none of this is reflected in the recommendation before Members.

We have taken advice from Leading Counsel, Zack Simons KC, on the approach adopted in the report, particularly in relation to the Local Wildlife Site and the LNRS. That advice is clear that the Council's reasoning is fundamentally flawed and that a refusal on the grounds currently advanced would be highly vulnerable on appeal. While we would prefer to resolve matters without recourse to that process, the risk to the Council in proceeding on the basis of the current flawed report is obvious and clear.

This approach also flies directly in the face of the national housing agenda being advanced by the current Labour Government, which has been unequivocal in its intention to boost housing delivery, accelerate the release of suitable Grey Belt sites, and support small and medium-sized builders as an important component of achieving that objective.

This proposal is precisely the type of small, deliverable site that national policy seeks to encourage. It can come forward quickly, it will be built out by an SME housebuilder rather than a large PLC housebuilder, and it will make an immediate contribution to both market and affordable housing supply. To recommend refusal of such a scheme without adequate assessment of those benefits, in a borough with a falling five-year housing land supply, is fundamentally at odds with the direction of travel set by Government and undermines the very mechanisms intended to address the pressure of housing and homelessness facing communities such as Codicote.

In these circumstances, it is not appropriate for this application to be determined by Members based on an analysis that fails to apply paragraph 158 of the NPPF, wholly mischaracterises the weight to be given to key benefits, and completely fails to assess the ecological impacts and proposed mitigation correctly.

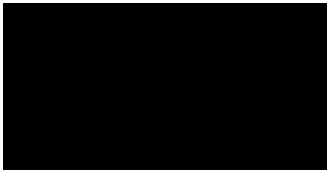
We therefore formally request that the application be withdrawn from the forthcoming Planning Committee agenda to allow the report to be corrected and the planning balance correctly reassessed. With a proper application of national policy, including appropriate weight to be afforded to Golden Rules compliance and updated biodiversity proposals, the only reasonable conclusion is that the scheme should be recommended for approval.

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In the absence of the above we will have no alternative but to pursue an appeal and apply for costs due to the flawed assessment of our proposals.

I would welcome your urgent confirmation that the application will be deferred and that officers will positively re-engage with us to resolve the outstanding matters without exposing the Council to unnecessary appeal risk.

Yours sincerely,



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Enc – Zack Simons KC Opinion

Cc. Lewis O'Donoghue – Land Director, Hawridge Land.
Cc. Kathryn Ventham – Senior Director, Twenty5.
Cc. Phill Bamford – Policy Director, LPDF.
Cc. Matthew Pennycook MP – Minister of State for Housing and Planning.
Cc. Sam Dicocco – Major Sites Team Leader, North Herts District Council.
Cc. Val Bryant – Interim Leader, North Herts District Council.