

Written Statement of Case

Appeal Against Refusal

of

**Amendments to application
24/01733/PNQ - Demolition of
redundant agricultural
buildings and erection of three
dwellings and associated
works**

at

**Land at Woodcotes
Fears Green
Sandon
Herts
SG9 0QY**

**LPA Reference:
25/02883/FP**

April 2026



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1.0 INTRODUCTION

1.1 This statement of case has been prepared on behalf of Mr & Mrs Jani (hereafter referred to as “the Appellants”) in relation to the refusal of a full planning application by North Hertfordshire District Council (hereby referred to as “the LPA”) with application reference 25/02883/FP for:

‘Amendments to application 24/01733/PNQ - Demolition of redundant agricultural buildings and erection of three dwellings and associated works’.

1.2 This description differs slightly from the one published by the LPA.

1.3 A copy of the proposed Site Plan is attached at Appendix 1.

1.4 The application was submitted to the LPA on 24th November 2025. It was subsequently validated on the same day and refused under delegated powers on 11th February 2026. The reasons for refusal are as follows:

1. *The proposal for three new dwellings outside a settlement boundary in the Rural Area beyond the Green Belt is contrary to Policy CGB1 of the North Hertfordshire Local Plan 2011-2031. The development does not constitute infill within a defined built core, does not meet a proven local rural housing need, is not strictly necessary for agricultural or forestry purposes, nor does it otherwise satisfy the limited exceptions in Policy CGB1. The scheme therefore constitutes unsustainable development in the open countryside.*
2. *The replacement of agricultural building with three new dwellings would result in an unacceptable change in the character and appearance of the rural landscape, contrary to Policies CGB1 and CGB4 which seek to protect and conserve the rural area and ensure that re-use/replacement of existing rural buildings is appropriate in scale and impact.*



3. *While the planning history, including a prior approval and earlier permission, is acknowledged, these do not outweigh the significant conflict with the provisions of the development plan in its current form. The planning merits of the application must be assessed against up-to-date policies, and the proposal remains unacceptable in the context of policies SP2, CGB1, CBG4 and Hertfordshire Local Transport Plan 4 (LTP4)*
4. *The application proposal would be located in an area remote from services and facilities such that the occupiers would be almost exclusively reliant on private transport for their everyday needs. This would amount to unsustainable development at odds with the National Planning Policy Framework in its aim to promote sustainable patterns of growth and development and policies in the Council's local plan relating to the same. Accordingly, the scheme is contrary to the core policy, advice and aims set out in the National Planning Policy Framework (NPPF) in seeking sustainable form of development and is contrary to Policies SP1, SP6 and T1 Local Plan, as well as Policy 5 of Hertfordshire's Local Transport Plan-4.*

1.5 Copies of the Decision Notice and Officer's Report can be found at Appendices 2 and 3, respectively.

1.6 The application was accompanied with the following documents:

- Application Form and Ownership Certificate
- Biodiversity Questionnaire
- Planning Statement (Including Sustainability)
- Energy Statement
- Sustainability Checklist
- Ecological Appraisal & Bat and Reptile Report by Elmaw
- BNG Metric
- Contamination Report
- Relevant Appeal Decisions in respect of fallback positions (appendix 1-7)
- Location Plan
- Proposed Site Plan
- Existing Layout



- Existing Floors and Elevations
- Proposed Floors
- Proposed Elevations
- Proposed Roofs

1.7 Following due consideration, the Appellant has decided to appeal the LPA's decision. It is considered that the following main issues are to be addressed in this appeal:

- The fallback position, incorporating the sustainability of the site and impact upon the character of the countryside.

2.0 LOCATION AND SITE DESCRIPTION

2.1 The appeal site is located within the village of Sandon, outside of the development boundary and within the countryside. The site is situated amongst agricultural land, with little else in the immediate vicinity other than two residential dwellings. The site is set well back from the highway. The site is a farmyard which consists of three vacant agricultural buildings, formerly used for housing chickens and general agricultural storage. None of the buildings are located within flood zones 2 and 3. The building primarily subject to this application (and the host building for the earlier Class Q consent) comprise of both a steel and timber frame, blockwork plinth, timber cladding, corrugated sheeting to the roof, with a concrete floor. Apart from some very low key storage of agricultural implements, the buildings are now underutilised.

2.2 The other two buildings on site are cartlodge style buildings. Firstly, the building referred to as 'cartlodge' is a timber building which sits on the boundary with the agricultural land. This is in need of some repairs. The second has an open front, comprises a metal clad elevations over a block plinth, sitting on a concrete pad.



- 2.3 Apart from some very low key storage of agricultural implements and some occasional hay storage, the building is now underutilized, but part of it, which faces on to the neighbouring dwelling, will be retained for use as garaging for the existing dwelling, as it is currently.
- 2.4 The large Class Q building is barely visible from the public highway but is set back some 50 metres from the road. It is positioned behind existing hedging; the other two smaller buildings can be seen but are not prominent features in the landscape. The levels at the site are fairly flat, with a slight incline from the road to the barn.
- 2.5 Historically, the access has been used by farm traffic and therefore, the change to residential traffic associated only with three additional residential dwellings will not have an adverse impact (which already have extant consent under Class Q). Notwithstanding this, the highway network is fairly quiet country roads with few traffic movements and traffic movements associated with three additional dwellings can adequately be accommodated on the existing highway network. Adequate visibility can be provided at the access point, meaning there are no highway safety concerns which should warrant refusal of this application. Furthermore, three dwellings have been approved at the site so this application proposes no additional traffic movements above those already consented.

3.0 BACKGROUND AND PLANNING HISTORY

- 3.1 Prior to the submission of the host proposal now at appeal, the following applications had been submitted at the site: 24/01733/PNQ - Conversion of former poultry building into 3 residential dwellings Prior Approval Given 25/09/2024.
- 3.2 The approved Class Q application would see the creation of three terrace dwellings, these would be similarly laid out, 4 bedroom dwellings. The total floor space created by the dwellings would be 365 square metres. Plans, further info and the decision notice are provided at appendix 4.



4.0 APPEAL PROPOSALS

- 4.1 The appeal seeks full planning permission to erect three new dwellings and demolish the three existing agricultural buildings. This will replace the Class Q consented barn granted Prior Approval on the 25th September 2024 for the conversion of the main barn into three dwellings. The appeal proposal would see the removal of the three existing redundant agricultural buildings, replacing them with a more appropriate and aesthetically pleasing, purpose built residential development of three dwellings. The overall volume of built form will reduce considerably, as explained below. One of these will be for the appellants themselves and has subsequently been designed to a high standard based on their personal preferences. The remaining two dwellings utilise the remaining floor area that was achieved via the Class Q consent, these will likely be sold as plots.
- 4.2 The proposals would see the removal of the poultry building, which has a footprint of 709 square metres (GEA) and also remove the cartlodge building at the front of the site and part of the garage/outbuilding that is shared with the main house. The cartlodge will remove 114.7 square metres and the garage building, which is partially being removed (to retain the garage section for the main house) will see 158.9 square metres removed (with 104 square metres being retained). The proposed three houses will create an area of 569.8 square metres GEA in total, overall a considerable reduction. The resulting floor area of the Class Q permission was 465 square metres and this was achieved from not utilising around 1.2 metres of the building on either side, instead this area was left void. Therefore, there will be a considerable reduction in footprint, albeit that the height increases from 3.5 metres (chicken shed), 2.4 metres (cartlodge) and 6.5 metres (garage) to 5.6 metres at the tallest point of the proposed dwellings (the smaller dwellings have a height of 5.46 metres). All floor area measurements above are Gross External Area (GEA).
- 4.3 In terms of the volume, the most appropriate way of assessing the impact of the proposals against that of the existing, are set out below:-



Volume Study Existing

Chicken Shed = 1777.5m³

The Barn = 1308.1m³ (part retained 860.1³ to be demolished)

Cartlodge = 249.9m³

Total = 2887.5m³

Volume Study Proposed

Building 1 = 1222.5m³

Building 2 = 615.3m³

Building 3 = 615.3m³

Total = 2453.1m³

- 4.4 The reduction in footprint and volume, coupled with the improved design and appearance and more appropriate location and overall appearance, result in a lessened impact, improved openness of the countryside and overall enhanced development.
- 4.5 In addition, the proposals will see the demolition of two other agricultural buildings at the site, which themselves have some Class Q potential. Their removal, however, will ensure that any visual impact resulting from the new builds will be negligible at worst, with such a considerable reduction in built form at the site.
- 4.6 This is a total reduction of 434.4 cubic metres from the existing agricultural buildings to the proposed new dwellings. It would see the use of high quality materials, including Grey/buff coloured brick, Siberian larch, and render and standing seam metal cladding with a matching bronze colour to the roof (and partly to the walls of buildings 2 & 3). Windows will be an anodized aluminium and double/triple glazed and doors will be hardwood.

5.0 PLANNING POLICY CONTEXT

National Planning Policy

- 5.1 National planning policy is contained within the National Planning Policy Framework (NPPF), adopted 2012 with the most recent amendment in December 2024. It is a material consideration in the determination of planning applications.



- 5.2 Development plan policies are material to an application for planning permission and **the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise** (my emphasis) (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 5.3 The NPPF identifies at paragraph 7 that: *“the purpose of the planning system is to contribute to the achievement of sustainable development”* and identifies three overarching objectives, which are economic, social and environmental.
- 5.4 Paragraph 10 goes on to state: *“So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11). For decision-taking this means: 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.”*
- 5.5 Paragraph 11d is of specific relevance to this appeal as discussed in more detail below.
- 5.6 Government seeks to encourage LPA’s to be positive in their decision making, stipulating at paragraph 39 that they **“should approach decisions on proposed development in a positive and creative way.** They should use the full range of planning tools available, including brownfield registers and permission in principle, and **work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.** Decision-makers at every level should seek to approve applications for sustainable development where possible.” [emphasis added]



- 5.7 As set out in Section 5 of the NPPF, one of the Governments objectives is to deliver a sufficient supply of new homes. Paragraph 61 states that: *“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area’s identified housing need as possible, including with an appropriate mix of housing types for the local community.”*
- 5.8 Paragraph 73 goes onto state that “Small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.” It goes on to state at section ‘d’ that *“support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”*
- 5.9 Of specific relevance to this application is Paragraph 78 which requires LPAs to update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing for decision making purposes if their adopted plan is more than five years old which is the case here.
- 5.10 The National Planning Practice Guidance (NPPG) on Housing supply and delivery states at Paragraph 008 that *“In decision-taking, if an authority cannot demonstrate a 5 year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development will apply, as set out in paragraph 11d of the National Planning Policy Framework.”*
- 5.11 Finally, paragraph 83 of the NPPF is also pertinent to the case in hand as it refers to promoting sustainable development in rural areas stating that housing should be located where it will enhance or maintain the vitality of rural communities. It also states that *“where there are groups of smaller settlements, development in one village may support services in a village nearby”.*

Local Planning Policy



- 5.12 Local Planning Policy comprises the North Herts Local Plan 2011-2031. The most relevant policies are mentioned below, whilst others may be pertinent to the application, they are covered in section 6 of this report.
- 5.13 Policy SP2 sets out the settlement hierarchy for the district. Sandon is stated to be a Category A village, where general development will be allowed within the defined settlement boundaries.
- 5.14 Policy CGB1 is concerned the Rural Area beyond the Green Belt. It states that planning permission will be granted provided that development:-
- 5.15 'a) Is infilling development which does not extend the built core of a Category B village; b) Meets a proven local need for community facilities, services or affordable housing in an appropriate location;
- c) Is strictly necessary for the needs of agriculture or forestry;
- d) Relates to an existing rural buildings
- e) Is a modest proposal for rural economic development or diversification; or
- f) Would provide land or facilities for outdoor sport, outdoor recreation and cemeteries that respect the generally open nature of the rural area.'
- 5.16 The most pertinent policy in the Local Plan in respect of these proposals is CBG4. This states that:-
- a) Planning permission for the re-use, replacement or extension of buildings in the Rural Area beyond the Green Belt will be granted provided that:
- b) Any existing building to be converted for re-use does not require major extension or reconstruction;
- c) The resultant building(s) do not have a materially greater impact on the openness, purposes or general policy aims of the Rural Area beyond the Green Belt than the original building(s); and
- d) Any outbuilding(s) are sited as close as possible to the main building(s) and visually subordinate to them.'



5.17 Policy D2 is also relevant, albeit not strictly directly relevant, being concerned with inter alia replacement dwellings. This planning application replaces a planning permission which secured consent for the conversion of an agricultural building into residential, therefore although this host application does not replace a dwelling, it does replace the consent to turn the building into a residential use and is therefore relevant, it states:

Planning permission for replacement dwellings and outbuildings will be granted where:

- c) The proposal does not harm the character and appearance of the site; and
- d) The location of the proposal does not have an adverse impact on the character and appearance of the streetscene or area.



6.0 GROUNDS OF APPEAL

- 6.1 The following matters are of material importance to the appeal at hand, and will be addressed in the paragraphs that follow:

The established fallback position and the weight that should be attributed to it and how this subsequently impacts upon the sustainability of the site and the impact upon the character of the area, and

- 6.2 The Case Officer's Delegated Report (Appendix 3) sets out considerations that led to the application being refused.

The Fallback position

- 6.3 In respect of this, the LPA have failed to attribute appropriate weight to the fallback position. The fallback Class Q consent would see more built form retained than removed, subsequently the impact upon the openness of the Green Belt would be improved rather than negatively impacted.
- 6.4 Although this would result in a change to the built form, this would not be a detrimental one. There is little doubt that, if this planning appeal to build three new dwellings is dismissed, then the site will be sold to a developer, who although would likely prefer to build out this new build scheme, would most certainly settle for a conversion scheme instead.
- 6.5 Essentially, the new build scheme is more financially valuable and thus the preferred option, but there can be no realistic doubt that the conversion scheme, despite its faults, will add significant value to the site above its current level. It is therefore a realistic fallback position. Furthermore, the appellants have designed one of the new build dwellings for themselves, this would be their ideal outcome, the ability to build a purpose built modern and sustainable home for their retirement.



- 6.6 The self build nature of this dwelling, the larger of the three, is also a benefit to the to this appeal scheme over the Class Q, with a shortage of self build dwellings in the district.
- 6.7 Although the existing buildings are in a poor state of repair, any conversion from agriculture to dwelling will require a substantial amount of work regardless to whether those buildings are older and falling into disrepair. The build costs of a conversion scheme over a new building are little different.
- 6.8 The mere fact that the Class Q scheme will provide smaller dwellings does not make it unviable or unlikely to be developed, it simply does not provide as good a return for the appellant. The Class Q building was not proposed to be entirely converted, with space left under the eaves unused, this was in order to comply with the Class Q legislation at that time.
- 6.9 The legislation has now altered meaning that theoretically, the appellant could look at utilising the whole building for more units, with the rules now up to 1000 square metres of floor area up to 10 units and no more than 100 square metres per unit. Although it is a less valuable development in our opinion, there can be no doubt that the Class Q consent and any potential amended future Class Q consent adds significant additional value to the site and is therefore a very realistic fallback position. Furthermore, more units in this location under a Class Q application would be more harmful to the Green Belt and more unsustainable than that currently proposed.
- 6.10 Once the fallback position is born in mind as a realistic alternative, the refusal reason 1, 3 and 4 all fall away. The mere fact that the site is located outside of the development boundary and is deemed to be away from shops and services, cannot be an issue, as in the event that the appeal is dismissed, the fallback position would be developed, which would result in three additional dwellings, the same as the approved Class Q scheme. It should also be noted that refusal reason no. 3 does not actually add further issues, as it simply states that the proposal is contrary to the development plan.



- 6.11 On the host appeal, no issues of design have been raised, and the proposed development replaces the Class Q building and will see other agricultural buildings demolished. Two of the three dwellings will be on the footprint of the Class Q barn, whereas the larger new build sits on existing hardstanding which historically was the floor for a barn which fell down. The buildings are all on the existing farmyard and in close proximity to the existing Class Q agricultural building. No specific issues relating to the proposals arise, other than the 'in principle' objection to the new build development proposal. Paragraph 4.3.9 confirms that "I would find dwellings in this location to be materially harmful to the character of the area and the Rural Area Beyond the Green Belt. I attribute significant weight to this harm." As previously mentioned, the appellant subsequently feels that the fallback position has not been attributed any real weight in the determination of the appeal application.
- 6.12 Paragraph 4.3.9 of the Delegated Report confirms that *"I would find dwellings in this location to be materially harmful to the character of the area and the Rural Area Beyond the Green Belt. I attribute significant weight to this harm."* This 'in principle' objection to the development confirms categorically that the LPA have failed to take account of the fallback position and failed to recognise established case law in this respect. The report goes on to state at 4.3.10 that *"The planning merits of the application must be assessed against up-to-date policies, and the proposal remains unacceptable in the context of those policies as discussed in the following sections."* However, this fails to mention the established caveat 'unless material considerations indicate otherwise' as set out under Section 38(6) of the Planning and Compulsory Purchase Act 2004.



- 6.13 Paragraph 4.3.5 of the delegated report recognises that *“Under the National Planning Policy Framework (NPPF) and the Planning Acts, decisions must be made in accordance with the development plan unless material considerations indicate otherwise”*. However, it is apparently that in this case where material considerations do indicate otherwise, that they have not been attributed sufficient weight. Instead, the proposals have been looked at squarely against Planning Policies, which agreeably, the proposals do not comply. But when the fallback position is borne in mind, a departure from the development plan would seem both logical and appropriate in this instance. The LPA have failed to do this and confirm this at paragraph 4.3.10 of the delegated report, stating *“While the planning history, including a prior approval, is acknowledged, these do not outweigh the significant conflict with the provisions of the development plan in its current form”*. Furthermore, the removal of the existing buildings, which have been in situ for over 50 years is also not attributed any weight in the decision making process.
- 6.14 Paragraph 4.3.12 suggests that the appeal proposals will result in a material greater impact upon the Green Belt, this is also indicated in refusal reason 2 which states that the appeal proposal would result in an *“unacceptable change in the character and appearance of the rural landscape”*. The appellants contend that a change does not equal a negative impact. The full details of the appeal proposal against the Class Q are covered extensively in the Planning Statement, and therefore there is no need to replicate them here, but the resulting appeal proposals will be sited fully upon the existing farmyard hardstanding, will cover a smaller area and result in an overall reduction in built form. Subsequently, when the fallback position is borne in mind, the appeal proposals are sensitive to the character of the area, even if this will result in change.



6.15 Although neither the design nor appearance of the proposed buildings is raised on the decision notice, the delegated report does include one paragraph which is critical of the design (4.3.21). However, the proposed buildings are agricultural in appearance, and suitable for this rural area, retaining the existing feel. They avoid the sprawling footprints that are currently present, reducing this by increasing most buildings in height, but not to any significant or detrimental level. Comments in the delegated report suggest the proposed buildings would be single storey and would have large internal area and gardens (paragraph 4.3.20), however, this is disputed as two of the proposed dwellings are small, with minimal gardens and single storey. It is therefore questionable about how much assessment has taken place on the original application.

6.16 In order to further justify this proposal two appeal decisions of relevance are discussed in the proceeding paragraphs. Firstly, the planning appeal (contained at appendix 5), paragraph confirms at paragraph 7 that that *“The site benefits from 2 extant permissions1 under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order (2015) (as amended) (the GPDO), which would allow the barn and one of the poultry sheds to be converted into dwellings”*. Paragraphs 12 & 13 go on to state that *“The site is not an allocated site, and the appellant has not sought to justify the proposal on the basis of requiring a countryside location. As such, the appeal scheme is clearly in conflict with the above policies. Section 38 (6) of the Act sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the extant permissions to convert the barn and one of the poultry sheds into dwellings constitute a significant material consideration.”*

6.17 The Inspector goes on to state at Paragraph 14, 15 & 16 that:-

“Whilst acknowledging that these permissions are a material consideration, the Council’s view is that they do not justify approval of a new dwelling in the countryside. The Council considers that they are specific to the barns, and permissible as conversions under permitted development, so that if the barns were to be demolished, as proposed, these permissions would be extinguished.



Having regard to the Court of Appeal judgement relating to fallback positions, I do not concur with the Council's view. Although the prior approval process is separate to the planning application process, this judgement clarifies the principle that, in considering proposals for new development, decision-makers should have regard to the fallback position of lawful development which has a real prospect of taking place in the alternative. The demonstration of a real prospect of a fallback scheme being implemented does not necessarily require a permission or prior approval to have already been secured.

In this case, whilst the extant permissions have not been implemented, I find that there is a real possibility of either or both of the prior approval schemes being implemented in the event that this appeal fails. This is evidenced by the existence of the two extant prior approval decisions, and the appellants' stated intention to implement the schemes. I see no reason to take a different view. The implementation of both schemes would result in 2 residential properties on the site. While this should not automatically guarantee planning permission for the appeal scheme, the fallback position is an important material consideration that carries significant weight for the purpose of my decision."

6.18 At Paragraph 21, the Inspector notes that:-

"Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, having regard to the above, I find that the conflict with the development plan in respect of the location of the proposal is outweighed by the reduction in the number of dwellings, and the potential biodiversity, landscaping, living conditions and sustainability benefits arising from the implementation of the proposal instead of the extant permissions. On this basis, I therefore find that the barn is a suitable location for a dwelling."

6.19 It would seem that the circumstances between these two appeals are striking. Although the appeal proposal may conflict with the development plan in respect of its location for new dwellings, the fallback position must be borne in mind, three dwellings will be created in the event that the planning appeal is dismissed.



- 6.20 In regard to the application for costs against the LPA, the appellants case was that in paragraph 5 states *“in refusing planning permission for the reason that the appeal scheme comprises inappropriate residential development in the countryside without a demonstrated need, the Council has not given appropriate weight to other material considerations, notably case law and previous appeal decisions.”*
- 6.21 The Inspector finds at Paragraph 7 that *“I have found that the conflict with the development plan in respect of the location of the proposal is outweighed by the is outweighed [sic] by the reduction in the number of dwellings, and the potential biodiversity, landscaping, living conditions and sustainability benefits arising from the implementation of the proposal instead of the extant permissions.”* Once again, the similarities of the host appeal and this is striking, with nearly all benefits of the planning proposal relevant to the host appeal also.
- 6.22 Finally, the inspector states at Paragraph 10 that *“in this instance, the applicants submitted detailed information in respect of the relevant case law relating to the weight to be given to realistic fallback positions in decision-making, supported by a number of recent appeal decisions. Whilst acknowledging that the fallback position should be a material consideration, the Council has not provided an objective analysis of why it has concluded that the fallback position does not automatically justify a departure from planning policy.”*
- 6.23 He goes on to state in Paragraph 11 that *“it is not evident from the Council’s officer report, appeal statement, or reason for refusal, that the Council has assessed the appeal scheme against the relevant case law and appeal decisions cited by the applicants. Nor is it apparent that the Council has undertaken a balancing exercise of other material considerations, including case law, other appeal decisions and benefits arising from the development, against the failure of the scheme to accord with development plan policies in respect of the location of new housing, as required by Section 38 (6) of the Act, which sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.”*

6.24 As previously mentioned, the case was made robustly in the Planning Statement regarding the fallback position and numerous appeal decisions submitted with the initial application, however, the LPA have failed to properly take into account the fallback position and have evidently refused the application based on the development plan alone and not the material considerations and established case law.

6.25 Once the fallback position has been recognised as a genuine fallback position, the two proposals can be assessed against one another. For ease of reference, the two site layouts are replicated below.



Class Q (large poultry building converted into three residential units)



Site layout for the three unit new build scheme

6.26 The proposed new build planning application provides a pleasant layout, with appropriate spacing between dwellings. The Class Q development would see buildings 1, 2, and 3 compacted together, with windows and doors proving poor outlooks, particularly to the north. Curtilages will be contrived and parking will be located wherever can be found. It would result in a poorly laid out development and certainly would never have been granted planning permission as a planning application with this layout. On the contrary, the proposed new build units are pleasantly spaced out, spacing the footprint out, but not to a detrimental degree, and reduce the overall volume of built form and subsequently have a positive impact upon the countryside and Green Belt due to the removal of the barns at the front of the site, as well as the Class Q barn. All this can be complimented with an appropriate landscaping scheme which is not require by the Class Q consent.



- 6.27 The proposed new build scheme will provide a 10% Biodiversity Net Gain, which is also a further material consideration and a benefit over the Class Q scheme. Under Class Q, BNG is not a requirement and subsequently it has not been secured. However, conditions would be attached to this appeal if it were approved, securing BNG, which further weighs in favour of the appeal scheme.
- 6.28 Under this planning appeal, landscaping can be secured via condition, this is not possible under a Class Q consent. For a rural development of three dwellings, landscaping would be imperative to secure a high quality development. Even if the LPA deem that the existing buildings do not require it, once the buildings are converted and have a far more residential look and feel, along with 3 curtilages and circa 6-9 parking spaces, not to mention sheds, and other domestic paraphernalia, the agricultural appearance will disintegrate making landscaping on the host appeal a significant benefit.
- 6.29 The host appeal proposal will provide a dwelling for the appellants to live in. It has been carefully planned and will provide for a sustainable future proofed house for their retirement. There is a shortfall in self build plots in the district so this is also a matter that should be appropriately weighted when the appeal is determined. The larger house, which is planned for the appellants, has been designed to a high standard and will add to the setting of the area rather than detract from it. The appellants are happy for a condition to be attached to any approval that secure building 1 as a self build dwelling.
- 6.30 Finally, overall, there can be little doubt that the host appeal scheme provides a better planned development than that of the Class Q consent and there is no genuine doubt that the Class Q consent would take place if this host appeal were dismissed given that it adds significant value to the site. The benefits of the appeal scheme have been afforded no weight by the LPA, who have taken the view that the site is in an unsustainable location and the proposals contrary to the development plan.



- 6.31 Notwithstanding the above, it is worth noting that the site is within walking distance of the church, post office, primary school, village hall and Sandon Manor, which now employs over 30 local people. Various activities take place at the village hall which are organised by the villagers. There is also the HCC Lynx bus service for travelling to local towns and good delivery services available from grocery stores.

7.0 PLANNING BALANCE AND CONCLUSIONS

- 7.1 The appeal scheme is a unique opportunity to provide much needed residential accommodation in an attractive rural setting without any harm to the immediate environment (when the fallback position is borne in mind).
- 7.2 As evidenced in this appeal statement and supported by recent appeal decisions, North Herts District LPA cannot currently demonstrate a 5-year housing land supply. As such, the '*tilted balance*' applies as per paragraph 11(d) of the NPPF. It is set out here that the reasons for refusal of the appeal planning application is outweighed by the benefits that weigh in favour of supporting the scheme through efficient use of suitable and available land to appropriately accommodate three new dwellings that would contribute to the LPA's housing supply.
- 7.3 The two primary issues relating to the refusal were the sustainability of the site and the impact upon the character of the countryside. These issues failed to take into account the realistic fallback position of the Class Q consent, which also permits three dwellings via a conversion. This material consideration is of significant weight and established case law confirms this stance. However, this has not been recognised by the LPA, who have refused on development plan grounds against the principle of the development.
- 7.4 Benefits of the appeal scheme over the Class Q consent include a properly planned development unconstrained by the location of the existing barns. Subsequent neighbouring amenity issues will be dissolved which would occur if the Class Q consent is developed. BNG is required on this appeal scheme, but it is not on the Class Q, and a landscaping condition can be appended to any approval so that this can be implemented



to enhance the development.

- 7.5 Collectively, the matters set out in this Statement are considered to positively achieve the aims of sustainable development. The appeal proposals will provide for a far improved outcome in comparison to the Class Q proposals and thus respecting the purpose of planning. In the public interest, it is therefore respectfully requested that the appeal is allowed.