

<u>Location:</u>	Land At Heath Road Breachwood Green Hertfordshire SG4 8PL
<u>Applicant:</u>	.
<u>Proposal:</u>	Variation of condition 5 (re-worded to allow Plots 1 & 10 to be exempt from Permitted Development restrictions) of planning permission 24/02624/RM granted 17.04.2025 for Reserved Matters application for approval of appearance, landscaping, layout and scale for outline application 22/02942/OP granted 18.09.2024 for 10 dwellings.
<u>Ref. No:</u>	25/01834/S73
<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 28th February 2025

Extension of statutory period: 17th April 2025

Reason for Delay: Awaiting consultation responses and in order to present the application to an available committee meeting.

Reason for Referral to Committee: Residential development on a site in excess of 0.5 hectares

1.0 **Site History**

22/02942/OP: Outline planning application for 10 dwellings (all matters reserved except for access) Granted 18.09.2024.

24/02624/RM : Reserved Matters application for approval of appearance, landscaping, layout and scale for outline application 22/02942/OP granted 18.09.2024 for 10 dwellings. Granted 17.04.2025

2.0 **Policies**

2.1 **North Hertfordshire District Local Plan (The Local Plan) 2011 – 2031**

Policy SP1: Sustainable development in North Hertfordshire
 Policy SP2: Settlement Hierarchy and Spatial Distribution
 Policy SP6: Sustainable Transport
 Policy SP7: Infrastructure requirements and developer contributions
 Policy SP8: Housing
 Policy SP9: Design and Sustainability
 Policy SP12: Green Infrastructure, landscape and biodiversity

Policy SP13: Historic Environment
 Policy T1: Assessment of Transport matters
 Policy T2: Parking
 Policy HS3: Housing mix
 Policy D1: Sustainable Design
 Policy D3: Protecting living conditions
 Policy D4: Air Quality
 Policy NE2: Landscape
 Policy NE4: Biodiversity and geological sites
 Policy NE7: Reducing flood risk
 Policy NE11: Contaminated land
 Policy HE1: Designated heritage assets
 Policy HE4: Archaeology
 Policy IMR1: Five Year Housing Land Supply
 Policy IMR2: Local plan early review

Policy KW1: Land west of The Heath, Breachwood Green

2.2 National Planning Policy Framework 2024

Section 2: Achieving sustainable development
 Section 5: Delivering a sufficient supply of homes
 Section 9: Promoting sustainable transport
 Section 11: Making effective use of land
 Section 12: Achieving well-designed places
 Section 14: Meeting the challenge of climate change, flooding and coastal change
 Section 15: Conserving and enhancing the natural environment
 Section 16: Conserving and enhancing the historic environment

2.3 Supplementary Planning Documents

Vehicle Parking Standards at new development (2011) plus Appendix 4 of the Local Plan.

Design Supplementary Planning Document

Neighbourhood Plan

Kings Walden Parish does not currently have a made neighbourhood plan.

2.4 **Vehicle Parking at New Development SPD (2011)** (Plus Appendix 4 in North Herts Local Plan 2011 – 2031)

3.0 Representations

3.1 **Site Notice and Neighbour Consultation** – No responses received

3.2 **Hertfordshire Highways** – Advises that they do not wish to raise an objection

3.3 **Kings Walden Parish Council** - No response received.

3.4 **Environmental Health (Air Quality/Land Contamination/Environmental Health (Noise))** – No objection.

3.5 **Historic Environment Advisor:** Requests an archaeological condition.

- 3.6 **North Herts Waste and Recycling** – Require a swept path analysis for a refuse vehicle and general guidance on bin storage.
- 3.7 **Local Lead Flood Authority** – Advises no comments to make to the application.
- 3.8 **Environment Agency-** No response.

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.2 The application site comprises a rectangular shaped piece of land of approximately 0.6hectares located on the west side of The Heath. To the north the site abuts land now being used as residential gardens by a number of terraced properties facing The Heath. The western boundary of the site abuts public footpath FP08 whilst the southern boundary abuts the curtilage of a single residential plot known as The Pheasantry. The application site itself is mainly open in character with the site boundaries to the west and south as well as part of the site frontage onto The Heath containing trees and other vegetation. The site is relatively flat with only a slight fall from south west to south east. The site was formerly used as allotments which were cleared in September 2021. The allotments have been re-provided on another site on Coleman Road in the village.
- 4.3 There is no conservation area in the village however there are nearby listed buildings to the north and south.
- 4.4 Following the adoption of the Local Plan the village of Breachwood Green is designated a Category 'A' village and the whole of the site falls within the village boundary. The site has been allocated as a housing site (KW1 – Land west of The Heath, Breachwood Green). The site the subject of this application accounts for approximately 75% of the land allocated as KW1 with the northern part (25%) now forming extended gardens to properties fronting The Heath.
- 4.5 Construction work is under way to implement the above listed planning permissions.

4.2 Proposal

- 4.2.1 This application seeks a variation to condition 5 of planning permission ref: 24/02624/RM to allow Plots 1 and 10 to be exempt from the permitted development restrictions in the condition relating to Class B of Part 1 of the Town and Country Planning i.e. the enlargement of a dwellinghouse consisting of an alteration to its roof.
- 4.2.2 The existing wording of condition 5 of planning permission removes permitted development rights for any roof alterations to all of the dwellings on the application site and is set out as follows:

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

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

4.2.3 The revision of the wording to condition 5 is therefore proposed as follows:

'With the exception of Plots 1 and 10 of the approved development and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Class B of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

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

4.2.4 The application is supported by a covering letter which advises that paragraph 56 of the NPPF states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all respects. Reference is also made to the Planning Practice Guidance that states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.

4.3 Key Issues

4.3.1 The Local Planning Authority imposed condition 5 *'in the interests of the character and amenities of the area and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031'*.

The key issue for consideration is whether the relaxation of permitted development rights to allow roof alterations to Plots 1 and 10 would result in any harm to the character and appearance of the area.

4.3.2 In attaching condition 5 at the Planning Control Committee of 15th April 2025 when considering application ref: 24/02624/RM the following points were raised during the debate :

- the already undesirable housing mix of all 4-bed dwellings on the proposed development would be made worse if they were developed into 5-bed or 6-bed dwellings.
- The affordability of the dwellings would be affected if they were extended into 5 or 6 bed dwellings
- Adding more bedrooms would increase cars, lead to more traffic and potentially more congestion
- More concern over roof extensions than restrictions on outbuildings

4.3.3 In this case only Plots 1 and 10 are proposed to retain their permitted development rights for roof alterations under Class B of Part 1 of Schedule 2 of the General Permitted Development Order .

4.3.4 Class B allows for additions or alterations to roofs such as loft conversions involving dormer windows. Development is not however permitted if the roof works:

- exceed the highest part of the existing roof,
- are located on a roof slope which forms the principal elevation of the dwelling and faces a highway,
- exceeds 50 cubic metres (for a detached house)
- would include a veranda, balcony or raised platform
- would include the installation, alteration or replacement of a chimney

Class B is also subject to the following conditions:

- materials shall be similar to those used on the main house
- the eaves of the original house are maintained
- a minimum of 0.2m should be made between the edge of the dormer and eaves
- any windows on a side elevation shall be obscure glazed and non-opening below 1.7m from internal floor level

4.3.5 It must be noted that Class C of Part 1 of Schedule 2 of the General Permitted Development Order allows for any other alterations to the roof of a dwellinghouse such as the provision of roof lights / windows. Class C has not been restricted under planning permission ref: 24/02624/RM therefore the internal conversion of the roof spaces within the approved dwellings to habitable accommodation can be undertaken without planning permission.

4.3.6 This proposal relates to just two of the approved dwellings and could, should the new occupiers wish to exercise their permitted development rights (if granted), result in dormer windows on the rear elevations only of the two properties. Class B already restricts overly large or inappropriate additions in the conditions to the schedule including materials being required to match the main dwelling. Plots 1 and 10 are set back from Heath Road and any dormers cannot be on the principal elevation. The Council will still control the provision of dormers on the rest of the development site (i.e. plots 2 – 8 inclusive). Given the above factors and taking into account the overall scale of the development, it is not considered that the provision of roof extensions to plots 1 and 10 would be harmful to the character and amenities of the area.

4.3.7 As regards the likely impact on parking and congestion, Plots 1 and 10 are both allocated 3 off street car parking spaces which exceeds the requirement in the Council's Vehicle Parking at New Development Supplementary Planning Document for a two bedroom plus dwelling. There is no difference in parking requirement in the SPD between a 2 or even 5 bed dwelling. Furthermore, the development has 5 visitor car parking spaces and further on street parking within the site (if needed) would be possible given the 5.5 metre wide carriageway. It is concluded therefore that relaxing condition 5 for Plots 1 and 10 is unlikely to lead to any parking issues or congestion within the site or the surrounding area as adequate parking provision is provided for within the development.

4.3.8 The development site is under the affordable housing threshold and all of the dwellings are expected to be sold on the open market. All of the dwellings fall within the larger homes category already (being 4 bedroom houses) and therefore the housing mix would be unaffected by the proposed partial relaxation of permitted development rights. The density of the development (approximately 16.6 dwellings per hectare) would not change.

- 4.3.9 All of the dwellings have private gardens of approximately 80 – 90 sqm providing adequate levels of outdoor amenity space for the occupants. Each dwelling will have a floorspace that meets or exceeds the Nationally Described Space Standards and M4(2) disabled access requirements to ensure an inclusive and future proofed form of development. A loft conversion at plots 1 and 10 would make no material difference to the amenity space provision for each dwelling.

4.3.10 Conclusion

- 4.3.11 The applicant has asked for a limited relaxation of permitted development rights for roof alterations relating to just two of the approved 10 dwellings. Given the scale of the overall development and the potential for roof alterations on only the rear roof slope of Plots 1 and 10 and taking into account that a couple of extra bedrooms is unlikely to result in any adverse impact on parking conditions at the site, it is considered that the proposed request to alter the wording of condition 5 of permission ref: 24/02624/RM is not unreasonable in the circumstances.
- 4.3.12 Given all of the above, in my judgement the proposed development would still comply with Policies KW1, SP9, D1 and D3 of the adopted local plan and other relevant local plan policies as set out above and there are no sound or clear cut reasons to withhold permission.

4.4 Alternative Options

- 4.5.1 None applicable

5.0 Legal Implications

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

6.0 Recommendation

- 6.1 That planning permission be **GRANTED** subject to the following conditions:

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

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

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

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

3. None of the trees to be retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed without the prior written agreement of the Local Planning Authority.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031

4. Any tree felled, lopped, topped, uprooted, removed or otherwise destroyed or killed contrary to the provisions of the tree retention condition above shall be replaced during the same or next planting season with another tree of a size and species as agreed in writing with the Local Planning Authority, unless the Authority agrees in writing to dispense with this requirement.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

5. With the exception of Plots 1 and 10 of the approved development and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Class B of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

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

Proactive Statement:

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