

Appeal Statement in support of North Herts District Council's refusal of planning permission for application 24/02343/FP

Appeal Reference: APP/X1925/W/25/3363556

Appeal Site Address: Church Wood, Three Houses Lane, Codicote, SG4 8TB

Submitted by: Tim Wise, Rustling End Cottage, Rustling End, Codicote,
Hitchin, SG4 8TD

And

Nicholas Pellett, Crouch Green, Three Houses Lane,
Codicote, Hitchin, SG4 8SX

Date: 02 May 2025

We are **against** the appeal proposals, for the reasons given by North Herts District Council. We are also **against** the appeal proposals for the many reasons given by the numerous objectors to the original application 24/02343/FP.

In addition we would like to make the following additional representations as we have now had the opportunity to review the Appeal Statement of Case submitted by Warner Planning (“Warner”) on behalf of their client D&A Architectural and Structural (“D&A”).

For context, Tim Wise has lived at Rustling End Cottage for over 30 years and Nicholas Pellett at Crouch Green for over 40 years. We consider this makes us well placed to make informed comment on the use of the application site before it came into current ownership and the traffic types and volumes which used Three Houses Lane, as opposed to the hypothetical and speculative statements made by Warner.

Throughout our representations, page references thus “**P4**” refer to the page numbering on the Warner Statement.

Taking the 1 Introduction (**P2** and **P3**), we do not agree with any of the bullet pointed grounds.

The proposed use does not lead to a “reduction in large and heavy goods vehicles along Three Houses Lane”, as this “reduction” is based on an uninformed and speculative “potential baseline”.

This is not “farm diversification to support the rural economy”. The site covers an area of about 13 acres, 7 acres of which is the two Local Wildlife Sites Church Wood and Crouchgreen Wood with the remaining 6 being the extant barns and grassland. It has never made any contribution to the rural economy and there is no benefit to the local community (**P6** “while the dominant use along Three Houses Lane is residential properties, the wider area of Codicote hosts a mixed use...”). As noted on **P6**, Codicote is approximately 3 miles away from the site.

The “local highway network” has been badly damaged by HGV traffic accessing and leaving the site (see later for photos of this). Any “opportunity to improve” would appear to be a fanciful construct intended to justify the significant increase in traffic caused by the site and not accompanied by any meaningful proposals.

We clearly do not accept that “the application proposes a high quality, sustainable development that will complement the immediate locality”

Moving to 2 The site and surrounding area, there is an error of scale in the opening paragraph on **P4** (“an area of approximately 0.42 hectares”) as the site covers an area of approximately 5.5 hectares. It is not clear what the figure of 0.42 relates to, if anything.

On **P5**, the statement “the nearest neighbouring properties being located approximately a mile to the East and West” is incorrect. Lower Court adjoins the site to the East, Crouch

Green is separated from Crouchgreen Wood only by the width of Three Houses Lane, the Japanese Garden contains a part of Church Wood, and The Node, Lytton Lodge and Bradley Springs among others are all within 400 metres of the site.

On **P8** Local Precedent, we would contest that “there is clear precedence for the change of use (our emphasis) of several premises to Use Class B8”. It is informative of just how little precedent there is, if any, in that none of the three examples cited are actually applications for change of use. The first two, made many years ago, are for Lawful Development Certificates, in one case for use dating back over a 40 year period, and the third again for continuing use of open land for B8 use.

On **P9** Site Attributes and Constraints, there is now an objection to the application from Hertfordshire County Council on Flood Risk:

“We **object** to this planning application in the absence of an acceptable Flood Risk Assessment (FRA) and Drainage Strategy relating to:

- The proposed SuDS are likely to increase the risk of flooding elsewhere – there is a lack of detail provided for the existing and proposed drainage arrangement.
- The development is not in accordance with the NPPF, PPG or North Herts Policy NE8: Sustainable drainage systems (Reducing Flood Risk)”

Source: Letter dated 19 March 2025 from HCC Flood Risk Management Team to Tom Rea, NHDC

We understand the full content of this letter will be provided to PINS by NHDC.

As witnessed by us, in January 2025 the excess surface water run-off from the increased hard standing and additional concrete on the driveway into Three Houses Lane froze, creating a significant hazard to road users. In addition, the drainage outfall from the site has at the time of writing visibly increased the localised flooding in Three Houses Lane.



Photo 1: Three Houses Lane with site access drive on left, 12 January 2025

On **P9**, the statement “there are no known environmental designations upon the site” is incorrect. Both Church Wood and Crouchgreen Wood are recognised LWSs and are considered as having ancient woodland indicator species. Both woods are now protected under Woodland TPOs.

On **P10**, under 3 Proposed Development the applicant again suggests a reduction in large vehicles accessing the site. Our counter to this will be fully addressed in our rebuttal of the Statement of Case.

However, it would be worthwhile at this point contesting the contention, again on **P10**, that the “development would consist of... ..Ecological preservation and enhancement measures”.

As can be seen from the photos below, large areas of Church Wood and Crouchgreen Wood were destroyed by the unauthorised excavation of a large drainage pond and the dumping of huge quantities of clay spoil in the woodland, damaging the root protection areas of the trees and burying large areas of native bluebells, a protected species under the Wildlife and Countryside Act 1981. This is clearly not “Ecological preservation”, nor

is the introduction of a cherry laurel hedge into an ancient woodland. Cherry laurel is an invasive, poisonous and non-native species.



Photo 1: Church Wood, 17 August 2024



Photo 2: Church Wood, 20 August 2024



Photo 3: Crouchgreen Wood, 26 September 2024



Photo 5: Church Wood, 17 August 2024



Photo 6: Security fencing and cherry laurel, 08 January 2025

Under section 4 Application and Planning Policy Context, this has been well addressed by NHDC, but we would make the following observations:

On **P15**, Chapter 6 of the NPPF references “local business needs”. There are none in Three Houses Lane.

As quoted by the applicant, Para 116 of the NPPF states that: “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety”. This is the case here. With a paved roadway width in Three Houses Lane of 3.4m-3.7m at and on the approaches to the site, Herts Highways concluded in its objection to the application:

“Three Houses Lane is completely unsuitable and unsafe for HGVs”

and

“The Highway Authority would oppose this development due to the access to the site being unsafe and unsustainable and the nature of Three Houses Lane which is not suitable for HGV’s”



Photo 7: HGV stuck in ditch in Three Houses Lane whilst leaving site, December 2024

On **P19**, following the discussion of Grey Belt criteria, the applicant notes Para 155 of the NPPF states that the development would not be considered inappropriate if, as well as satisfying the Grey Belt test, “b. there is a demonstrable unmet need for the type of development proposed” and “c. the development would be in a sustainable location”. Prior to the applicant’s purchase of the site, there was no unmet requirement for B8 development in the local area. Warner’s own analysis of the site location in the application also demonstrates that the site is unsustainable, a view repeated here again by Warner on **P47** “not being located in the most sustainable location because of the rural nature of the site”.

On **P25**, Development Management Policies (North Herts Local Plan), Policy ETC1 is quoted thus “b) Any Class B8 development is easily accessible from the primary road network”. As noted by Herts Highways, Three Houses Lane is not a suitable access and the site cannot be considered as “easily accessible”.

Policy T1 on **P26** is quoted thus “Planning permission will be granted provided that a) Development would not lead to highway safety problems or cause unacceptable impacts upon the highway network”. As noted by Herts Highways, this development does lead to

safety problems and again as noted by Highways: “it has been evidenced that the highway verges are significantly damaged due to unauthorised vehicle movement.”

On **P27**, Policy NE2 requires that developments “b) do not do unacceptable harm to the character and appearance of the surrounding area”. The photos below show the Church Wood LWS prior to the start of the unauthorised development, and the position after the fencing and excavation works were substantially complete. The cherry laurel hedge had not yet been planted against the security fencing.



Photo 8: Church Wood from Three Houses Lane, February 2009 (Google Streetview)



Photo 9: Church Wood from Three Houses Lane, August 2024 (Google Streetview)

On **P27**, Policy NE4 requires that the applicant “a) Submit an ecological survey that is commensurate to the scale and location of the development”. This was not done. Although a PEA was submitted, it related to an earlier withdrawn application 24/01002/FP which only considered the extant 3 barns and access drive and did not include the

additions to the barns, the temporary building nor the fact that both LWSs Church Wood and Crouchgreen Wood were actually inside the application site red line and so was not “commensurate to the scale”.

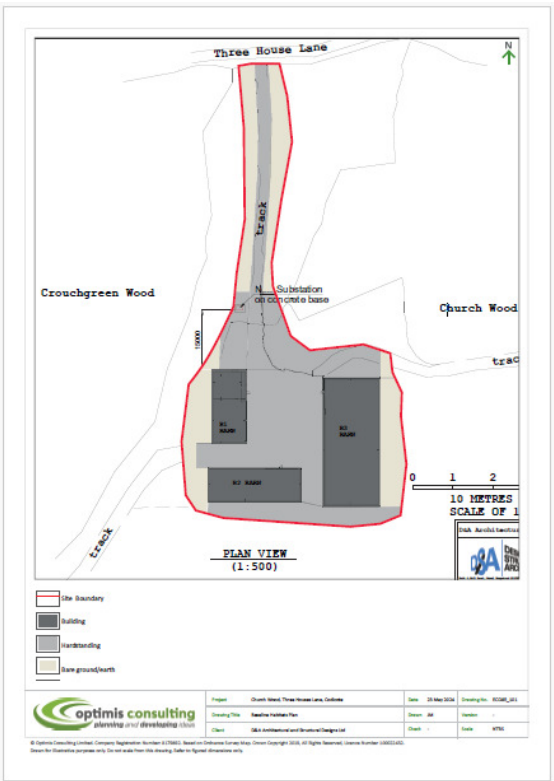


Figure 10: PEA redlined site boundary



Figure 11: Application site redlined boundary

Still with Policy NE4, the development clearly conflicts with Para c) “include appropriate measures to manage construction impacts...” and d) “Integrate appropriate buffers of complimentary habitat...” and “12 metres of complimentary habitat should be provided around wildlife sites (locally designated sites and above), trees and hedgerows”. No buffer zone has been provided, with the new hardstandings, drainage pond and temporary building either inside, or adjacent to, the LWSs.

As already stated, Herts County Council objected to the application as the development is not in accordance with Policy NE8, **P29**.

On **P30**, the Knebworth Neighbourhood Plan Policies KBLE1 and KBLE2 require developments to “respect local character, residential amenity and highway safety”. The development fails to meet all three requirements.

5 Statement of Case

As the Statement rightly says (**P34**), NPPF Para 155 (b) requires a “demonstrable unmet need for the development proposed”. Apart from the applicant, there is no such need. The search area for the Estates Gazette map in Figure 11 (**P35**) is for Codicote alone, an area of less than 4 square miles. The North Herts district itself covers 145 square miles, with significant availability of B8 space, so this search area is less than 3% of North Herts alone.

Missing from the image in Figure 11 are the distance from Codicote searched, and the number of results found. A current search returns 130 properties within 15 miles of Codicote, and the nearest available B8 sites are actually at Rush Green, just 2 miles from the application site.

Furthermore, the applicant’s existing business is in Hemel Hempstead. Hemel Hempstead is 15 miles from the application site, so there is no justification in using Codicote as the search centre point.

On **P35**, the Statement says “Within the district there is an unmet need for commercial space”. This is a baseless comment, made without any evidence or justification whatsoever and ignores that this need should be “demonstrable”. Firstly, this application is not for commercial space of all classes and descriptions, but for B8. Secondly, the same paragraph then goes on to contradict the comment itself, by saying “The North Herts Council’s Economic Development Team or Hertfordshire Futures... ..consultation would have been crucial to establishing the need across the district to accurately inform decision making.” In other words, the applicant has no idea if there is unmet need or not.

On **P36**, the Statement says “It is evident from information provided that there is a clear need for appropriate B8 storage and distribution sites around the district”. Again, this relies on Figure 11 on **P35** which has already been discussed above.

On **P37** the Statement turns to Highways matters. The EAS Transport Statement concluded that “The proposals are not expected to cause a perceptible negative impact to the safe and efficient functioning of the local highway”.

Herts Highways clearly disagreed with this conclusion, as did DTA Transport Planning Consultants who undertook a transport study on behalf of local residents, including the swept path analysis missing from the EAS statement.

The photos below show the difficulties HGV traffic has in entering and leaving Three Houses Lane and the site itself, on one occasion reversing blind on to the B656 having turned into Three Houses Lane on the wrong side of the road and encountered another vehicle.



Photo 12: Typical HGV traffic to site



Photo 13: HGV reversing blind onto B656



Photo 14: HGV entering Three Houses Lane from B656



Photo 15: HGV using verge as unable to otherwise exit site

Much has been made by the applicant of the contention that a change of use from agricultural to B8 would reduce the vehicular traffic in Three Houses Lane, and **P37** claims that the image (Figure 12) on **P38** “demonstrates large vehicles turning in to Three Houses Lane associated with the predominant use along the lane”. This assertion of “predominant use” conflicts with an earlier statement on **P6** “The dominant use along Three Houses Lane is residential properties”. Furthermore, Figure 12 does not show any HGVs, rather a pick-up truck and a small tractor which does not even appear to be accessing the lane.

As stated earlier, the site comprises at most 6 acres of grassland, so “some images of commonly used vehicles for agricultural operations on site” (**P38 – P40**) are no doubt

intended to be alarmist and to try to suggest that this type of vehicle has been a commonplace user of Three Houses Lane to access the site in the past.

“For context”, as **P38** would have us believe, Figure 13 was taken from a Farmers Weekly article featuring the new Kubota M8 tractor, at that time only available in Canada and North America and the largest of the Kubota range. Figure 14 was taken from a further Farmers Weekly article reminding combine owners that a vehicle of the size pictured would need police permission and even an escort to be on the highway (remembering here that Three Houses Lane is no more than 3.4m wide). Figure 15 is a 3-tier livestock semi-trailer with a capacity to carry around 120 sheep.

All of these vehicles, whilst permitted on the highway, would be completely inappropriate for this small grassland site of 6 acres. For sheep, a recommended density is no more than 4 per acre, so 25 in all on the site.

Conversations with a local farmer suggest that if the field were given to livestock, only a couple of visits a year to allow them into the field and another couple to take them off would be sufficient, with all other animal welfare visits needing nothing larger than a car.

If given over to arable, the total number increases slightly, but to still no more than a dozen or so a year to take account of soil preparation, sowing, spraying and harvesting.

P40 contends that “The proposed use on site of Use Class B8 proposes a less intense use of the site and associates a lower provision of large and heavy goods vehicles using the site and surrounding road network than what would have occurred under the former agricultural use”. This is a baseless statement, the applicant has no knowledge of site and road use prior to his acquisition.

As witnessed and noted in their objections by local residents (including those living at Lower Court and Crouch Green) the previous uses of the site generated little or no traffic and no heavy traffic at all until the storage barns were built, and even then only enough visits per year to store and retrieve straw and haylage.



Photo 16: Rear of barns showing haylage storage (Source: Savills)



Photo 17: Site entrance from Three Houses Lane (Source: Savills)

It is of no relevance to this application for Change of Use to B8, and no justification for an increase in the HGV traffic associated with that change, that there are **P40** “neighbouring properties who often use Three Houses Lane for agricultural and equestrian movements which involve the use of large HGV vehicles”. This application is not for continued agricultural use nor for equestrian use where this precedent might actually be relevant.

This is a persistent argument throughout the Statement, repeated over and again (**P41**, NPPF Para 89 “does not have an unacceptable impact on local roads”, and “as the transport statement also concludes, does not have an impact on local roads” and “it is evident that the character of heavy goods vehicle movements is highly precedented for the application site” with “dominant agricultural and equine use of the locality”).

Simply saying this ad nauseam does not make it so. The local residents, other objectors, DTA, NHDC and Herts Highways all take the opposite view, informed by years of local observation and a careful evaluation of the situation on the ground.

Finally, **P44** “As part of the planning submission, a PEA was conducted along with a BNG assessment”.

No BNG assessment was carried out, the applicant claiming exemption on the grounds that this was a retrospective application.

The PEA that was conducted covered the red line area from a previous withdrawn application 24/01002/FP and excluded everything except the extant built form and driveway (our Figures 10 and 11 above). As a result, the PEA did not cover the two LWSs Church Wood and Crouchgreen Wood, but did make the prescient statement that these two areas would need careful protection during any works – the PEA consultant could not have foreseen that even before the report was published the woods would be significantly damaged through the unauthorised excavations and dumping of spoil we referred to earlier.

The PEA “sets out that there are no baseline habitats of ecological importance, and the limited nature of the works on site has not resulted in the loss of any habitats of ecological value”.

If only that were true.

For the reasons set out above, for those put forward by all the objectors to the application, by the statutory consultees, by Herts Highways and by NHDC, we respectfully request that this appeal is dismissed.

Tim Wise / Nicholas Pellett
Rustling End / Crouch Green
02 May 2025