



Appeal Decision

Site visit made on 20 March 2025

by **K Williams MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 JUNE 2025

Appeal Ref: APP/X1925/W/24/3349177

Land north of Ashwell Street, Ashwell SG7 5LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Oscar Briggs, Manor Oak Homes against the decision of North Hertfordshire District Council.
 - The application Ref is 22/03094/FP.
 - The development proposed is for a full planning application for the erection of 14 dwellings including new access from Ashwell Street, footpath link to Lucas Lane, associated infrastructure, public open space and landscaping on land north of Ashwell Street between Hunt's Ridge and 22 Lucas Lane, Ashwell, Hertfordshire.
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Decision

1. The appeal is allowed and planning permission is granted for a full planning application for the erection of 14 dwellings including new access from Ashwell Street, footpath link to Lucas Lane, associated infrastructure, public open space and landscaping on land north of Ashwell Street between Hunt's Ridge and 22 Lucas Lane, Ashwell, Hertfordshire at Land north of Ashwell Street, Ashwell, SG7 5LN in accordance with the terms of the application, Ref 22/03094/FP, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024 after the submission of the appeal. The main parties have been able to respond to this. I have taken these comments into account and all references to the Framework in this decision are to the revised version.
3. The Council's third reason for refusal relates to the absence of a planning obligation to secure affordable housing and mitigation for local infrastructure. A signed legal agreement between the landowner, appellant, North Hertfordshire District Council and Hertfordshire County Council under Section 106 of the Town and Country Planning Act 1990 (as amended) (the S106) was submitted at an early stage with the appeal. The Council has had the opportunity to comment and confirmed that it is therefore no longer pursuing the third reason for refusal. I have determined the appeal on this basis.
4. The appellant has submitted amended plans and documents during the appeal. An appeal should not normally be used to evolve a scheme and it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties. It is however for the Inspector to determine whether, exceptionally, to accept any revised plans that are submitted during the appeal process.

5. The revisions do not alter the description of development, the number of dwellings proposed, the areas where housing would be located, the tenure or disposition of bungalows, affordable homes or the main points of vehicular access. There would be little difference in how the development would function overall. The amendments are made to address a potential boundary issue to the east of the site, and essentially for the reinstallation of the 3 metre wide landscape buffer, along the eastern boundary which was part of the original application. The changes would not involve a substantial difference or a fundamental change to the application or prejudice interested parties. The Council were notified of these revisions at an early stage of the appeal. The Council has not raised any concerns regarding these. Furthermore it is evident that interested parties, including Ashwell Parish Council were aware of the appellant's intention to address this issue. Therefore, and in terms of the *Wheatcroft*¹ and the more recent *Holborn Studios*² judgment, the proposed amendments are acceptable. Any implications for this are addressed in my reasoning below.
6. Section 16(2) and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard is given to the desirability of preserving a listed building, its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act relates to Conservation Areas and requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. I am also mindful of the historic environment policies within the Framework that relate to the significance of designated heritage assets and their settings.

Main Issues

7. The main issues are the effect of the proposal on the character and appearance of the local area and the extent to which it would preserve or enhance the Ashwell Conservation Area, bearing in mind the special attention that should be paid to the desirability of preserving the setting of nearby listed buildings; and if harm arises, whether this is outweighed by other considerations including public benefits.

Reasons

8. The appeal site comprises a regularly shaped pleasant pasture field, located within the village of Ashwell. The site is within the settlement boundary of the village. Ashwell is situated within a river valley, with hills rising both to the south and north. The village is situated within a pronounced rural and agricultural landscape setting, with open fields, hedgerows, and paddocks surrounding the built-up area. The site occupies an elevated position within the village. Its northern boundary adjoins the rear gardens of homes along Lucas Lane, while the unmade Ashwell Street, a byway open to all traffic, runs parallel to its southern edge. Land levels on the appeal site fall significantly from south to north. As such, the localised topography and open character allows for long views from within the site to the north.
9. The site is not allocated for housing. The Council advise the overarching principle of housing development at the appeal site is in accordance with Policies SP1 and SP2 of the North Hertfordshire Local Plan 2012- 2031 (the Local Plan). Ashwell is a Category A Village, identified as being capable of supporting housing allocations. The proposal would provide 14 dwellings. This would include affordable homes

¹ *Bernard Wheatcroft Ltd v. Secretary of State for the Environment and Another*, JPL 1982, P37

² *Holborn Studios Ltd v. The Council of the London Borough of Hackney* [2017], EWHC 2823 (Admin)

and bungalows. The overall housing mix would comprise six 2-bed, six 3-bed and two 4-bed homes.

10. The site is in Ashwell Conservation Area (the CA). It also falls within the setting of numerous listed buildings, Scheduled Ancient Monuments and non-designated heritage assets. The Ashwell CA is a substantial area that encompasses much of the village. It displays numerous impressive buildings, including St Mary's Church. The significance of the CA stems from its long historic evolution, its archaeology, diverse and impressive architectural character, social history, and the historic layout of its streets and spaces. A critical component of the CA's significance is the relationship between the historic settlement and its surrounding agrarian landscape setting, which is appreciated through the visual and physical interrelation between these elements.
11. The undeveloped appeal site allows views from the edge and within the CA. It provides visual and historic links to the setting of the village and its development. The absence of development on the appeal site, and its rarity of being the last area of undeveloped land, a remnant of a single former extensive system of small fields extending back to Ashwell Street, increases, rather than diminishes the significance of the site within the CA. Notwithstanding that the site is not publicly accessible, the rural characteristics of the site and undeveloped nature make a very positive contribution to the significance of the CA.
12. Particular reference has been made to special viewpoints emanating from near to the existing field gate of the appeal site. These are identified as Key View KV23 in the Ashwell Conservation Area Character Statement 2019 (the CACS) and Viewpoint 10 (V10) in the Ashwell Conservation Area Character Appraisal and Management Plan, 2023 (the CAMP). The Ashwell Neighbourhood Plan, Referendum Version December 2021 (the NP) also identifies this as Locally Significant View 12 (SV12).
13. The identified viewpoints mainly encompass most of the northern boundary. There are views of homes along Lucas Lane, part of the core village street pattern, which like buildings to the east, such as Townsend House, are seen nestled within landscape features. From my observations the views are consistent with the brief description of the viewpoints in the CACS, CAMP and the NP which primarily focus on the village setting, topography, open space, and rural tranquillity as opposed to the relationship with any particular listed building or non-designated heritage asset.
14. As a result of the development, the views towards the northern part of the site encompassing the setting of the village, would be seen against a change in context as the 14 homes would be located to the east of the proposed internal access road. Views across the site would be seen in the context of hard landscape, drives, front gardens, boundaries, parking areas and ornamental planting. The introduction of development, ornamental landscape features, hard infrastructure and changes to landform would undoubtedly permanently alter the character through urbanisation of the undeveloped and open rural appeal site. The full panoramic viewpoints, which enable the appreciation of the village's landscape and topographical setting, would therefore be compromised by development.
15. However, a significant portion of the appeal site would remain free from built development in the western extents of the site, along the north/south axis. This would provide public open space for the development and wider village. As such

the ability to view the village in the context of undeveloped land within the western part of the site would remain. The provision of this space along the north/south axis between the rear of properties on Lucas Lane and Ashwell Street enables some continuing understanding of the site's origins as part of a historic field system. There would also be footpaths through the site from Ashwell Street to Lucas Lane, which would alongside the public opens space increase public access to these views.

16. The landscape features, topography, and existing homes to the north, east and west result in the site being visually well contained in its wider landscape setting and as part of the village. The lower height of the proposed development at longer distance views would not be prominent and mainly comprise the presence of roofs, which would also amalgamate with the village setting and the CA.
17. The design of homes would comprise a low density development of high quality and traditionally designed properties with interesting architectural features which would not be out of place in the rural setting and when seen against the existing context of the village to the north. Therefore the proposal would not completely obscure or erode the identified key views and the development, with landscaping, would not look out of place in this context.
18. However, the development would detract, to a moderate degree, from the appeal site's positive relationship with the settlement, the surrounding landscape and therefore the significance of the CA. However, I find that much of the overall significance of the Ashwell CA would endure after the proposal.
19. The Council also asserts harm would arise through the effect on views towards the Grade I listed St Mary's Church, 5 High Street and Townsend House, which is argued further weakens the significance of the CA. The Church is a main landmark. The distinctive tower and slender spike is a highly visible and a prominent marker. Insofar as it is relevant to the appeal, the special interest of the Church is derived from its communal value as a place of worship, the presence of the tower throughout the village, and its architectural quality. I find that the appeal site's contribution to the setting of the Church is related to important visual connections and views towards it from within the site, as a prominent landmark within the wider landscape setting of the village and the CA. I find that the appeal site does make a small contribution to the significance of the setting of the listed building.
20. The two buildings identified by the Council as Buildings of Local Interest (BLI) in its reason for refusal are not identified in the CACS, the CAMP or the NP. Nevertheless, the appellant has considered these as though they are non-designated heritage assets. The property at No 5 is a large early 20th-century detached house in a Queen Anne style. Townsend House is a large mid-19th century stuccoed villa. From my observations and the evidence before me the significance of these buildings is derived from their historic fabric and quality of design. With No 5, there is also a relationship with the Church. The BLI therefore draw some significance from their remaining rural setting in the CA. As a rural undeveloped field, the site therefore makes a contribution to their significance.
21. Within the appeal site there is a particularly pleasing view of open land, with the St Mary's Church tower rising above the prominent building at 5 High Street. This combined view is revealed and concealed as the site is traversed. As a result of

development this view would not be the same quality as currently exists. This would be limited to within the site and therefore distract, to a small degree from appreciation of No 5 together with the Church within its rural setting. However, St Mary's Church and No 5 together and individually would remain a presence over the appeal site and the CA.

22. Other identified key views within the village also clearly reference St Mary's Church, therefore the view of the Church tower is not unique. The proposal would acknowledge the individual and combined views within the appeal site, and it would be accommodated through the introduction of a 'new view corridor,' an open area retained between homes. There would also be the introduction of public access to this view, where none has recently existed. The western area of open space seen in the foreground of this view would also provide some similar visual context that would be similar to that which presently exists. The contribution of the appeal site to the setting of the St Mary's Church and No 5 as part of the wider open, agricultural context would be recognised.
23. The above factors would help moderate the cumulative urbanising impact of the proposed development towards this view. As such, I find that much of the setting and special interest of the Grade I Listed St Mary's Church would endure, as would its contribution to this part of the CA. The setting here makes only a small contribution to the overall significance of the Church and No 5, and the site is only part of that setting. As a result, I find that the harm to the significance of St Mary's Church and No 5 through development in its setting would be minor, and less than substantial in the terms of the Framework.
24. The whole panorama of the aforementioned identified key views takes in the side boundaries and thus Townsend House is also visible. There would be a degree of interference to the contribution the view towards this properties makes to the CA. The effect of the proposal would be to clearly obstruct views as a result of the siting of plots one to four. However, landscape features on the eastern boundary and the property at East Lodge obscure the building, with the hipped roof and the chimneys of Townsend House mainly being visible. The effect on Townsend House would not be pronounced given the greater distance and intervening development which provide for physical and visual separation. I consider the effect to be marginal, there would be some very minor harm arising from development within the setting of this non-designated heritage asset causing less than substantial harm to its significance.
25. Ashwell Street itself is an historic route, which the evidence suggests is a Roman Road or ancient track. The distinct rural character of Ashwell Street is influenced by the earth banks, landscape features and the trees that have an enclosing effect upon it. Despite the existing nearby homes preceding the arrival at the site, there is a feeling of calm isolation, which provides a tranquil and intimate character along this route. The open nature of the appeal site makes an attractive and very positive contribution to character and appearance of Ashwell Street, which in turn positively benefits the setting of the village and the CA. The proposal would have a permanent effect and would erode the positive elements attributable to Ashwell Street harming the character and appearance of the area, and the contribution made to the setting of the CA.
26. However, being sited only a short distance from the expansive Woodforde Close, East Lodge, Townend House and Hunts Ridge, the inclusion of residential built

form and new homes would not appear wholly incongruous. The low density nature of the development would not overwhelm the character or layout of the large properties adjacent to the site. The majority of built development would also be located further into the site avoiding a hard edge along Ashwell Street. Although there would be tree removals to facilitate the new access, vegetation retained on the southern boundary along with the provision of proposed street trees would, over time, reduce the starkness of any new development. Suitable low key surfacing materials could also be used.

27. The wider landscape to the south contains evidence of prehistoric activity and occupation. However, the land immediately south of the appeal site situated between Station Road and Kingsland Way, comprises a strip of open arable land including Bronze Age ring ditches which are protected as an Ancient Scheduled Monument. The proposed development therefore may have an impact on archaeology, including wreckage from more recent events from aircraft used in the Second World War. However, the Council, have cited the provision of conditions for a larger scheme on the site was acceptable. Thus, it has not been demonstrated that such conditions would not be suitable to ensure that if any archaeological matters arise these can be appropriately considered.
28. Overall the proposal would not preserve or enhance the CA and it would harm the character and appearance of the area, namely that of Ashwell Street. The proposal would fail to preserve the setting of the Grade I St Mary's Church causing harm to the special interest and significance of the Church as a designated heritage asset and No 5 and Townsend House as non-designated heritage assets and the contribution these make to the CA.
29. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation (and the more important the asset, the greater the weight should be). Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
30. With reference to paragraphs 214 and 215 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. There is no dispute between the parties that the proposal would result in less than substantial harm to the significance of the CA. However, the Council has set out in its reason for refusal that the level of harm would be moderate to high on the less than substantial scale. The advice from Historic England places the level of harm as moderate. The appellant's own assessment puts the harm at the lower end of the less than substantial scale.
31. The proposed development would impact negatively on the identified key views, and the CA, which would be at a moderate level. It would impact negatively on the setting and significance of the Grade I listed St Mary's Church to a minor degree. There would be a very small degree of impact upon the BLI the Council identified in its reason for refusal. However, the special interest of the wider designated heritage assets would be recognised due to the provision of large areas of undeveloped public open space. The considered layout, low density design of the homes and landscape would moderate the urbanising effects of the proposal. The totality of the effects would be limited to within the appeal site and its immediate

environs. I consider this to be very finely balanced given the cumulative number of assets affected. However, the mitigating factors I have identified, I find that the harm would be at the moderate level of the scale of less than substantial in this instance.

32. In conclusion, taking all of the above points together the proposal would cause harm to the significance of the CA and would fail to preserve its character and appearance, and that of the area. Policy HE1 of the Local Plan reflects the requirements of Framework paragraph 215. This advises that harm should be weighed against the public benefits of the proposal. In order to do this in a comprehensive manner, the wider planning benefits that coincide with public benefits need to be set out.
33. Such requirements, to weigh harm against public benefits are not set out in NP Policies ASH3 and ASH8. Together, and insofar as they relate to the appeal, these seek, to conserve and enhance the CA, safeguard key views identified in the CACS, and make a positive contribution to the village. As such I find the proposal would be in conflict with these NP Policies.

Other Matters

34. Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related; and fairly and reasonably related in scale and kind to the development.
35. The signed and completed S106 Agreement secures the delivery of agreements relating to securing five affordable homes and the layout and delivery for arranging the management of public open space. It also includes financial contributions primarily towards a new pavilion at Ashwell recreation ground, libraries, secondary schools, special school places and young people's centres serving the development. Contributions are also secured for the new fire station at Royston, the new waste North Transfer station and local transport schemes identified in the North Central Hertfordshire Growth and Transport Plan or other similar provisions of these that would serve the development.
36. Having regard to the above, and based on the evidence before me, I am satisfied that the proposed contributions are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with the Framework and CIL Regulations. The contributions in the S106 Agreement and how they would be spent are supported by the relevant local plan policies, representations from the Council's consultees and CIL compliance statement. There is no substantive other evidence before me which would indicate that the available services and facilities would not have sufficient capacity to accommodate demand arising from the development beyond those that require the provisions of the planning obligations.
37. Other Concerns have been raised, including by local residents, that go beyond the reasons for refusal. Primarily these relate to the need for homes, transport effects, flood risk, ecology, the effect on trees, boundary matters and the effect on living conditions for existing and future occupiers.

38. These matters were largely identified and considered within the Council officer's report on the appeal scheme at the application stage. They were also before the Council when it prepared its evidence for the appeal. The Council has not concluded that they would amount to reasons to justify withholding planning permission.
39. The safety of nearby junctions of Ashwell Street, Kingsland Way and High Street have been referred to. There are also concerns about increased traffic and the effect of the proposal on Ashwell Street in terms of pedestrian safety. However, the anticipated traffic generated, and suitability of the proposed access was assessed by the County Highway Authority, who did not wish to restrict planning permission subject to conditions. I have no substantive evidence before me that the highway effects and safety implications of the proposal would not be safe for all road users or not just as accessible as the existing homes in the village.
40. It has been stated that flooding is an issue in the area, and that additional development could exacerbate the risk, particularly to homes at a lower level. However the Lead Local Flood Authority has recommended several conditions to control surface water. It has not been demonstrated that the development cannot connect to foul sewers or that these do not have adequate capacity for 14 homes.
41. No fundamental ecological constraints were found, nor have any concerns regarding Ashwell Springs, a protected Site of Special Scientific Interest (SSSI), which supports a cold water invertebrate community, been raised. No objections have been made by the Council or its Ecologist on this matter. From the evidence before me, the ecological designations identified and assessed by the appellant in the desktop study, including the SSSI, are well removed from the site and it has not been demonstrated that the proposal would be unacceptable in these regards. Conditions can be imposed for mitigation measures, including during construction, and for the long-term management of ecological features.
42. Concerns have been raised about the impact on trees and hedges around the site boundaries. I have no substantive evidence that the proposed development would now encroach into the RPAs, that they are incorrectly plotted or would be likely to interfere with living conditions for future occupiers. The amended plans were to address this issue. Any trees on third party land are outside the application site, and within the CA, and therefore afforded a degree of protection.
43. The Council considers that due to the separation distance between the proposed and existing homes surrounding the site, and the presence of mature landscape on the shared boundary, that there would be no material harm to the living conditions and well-being of these neighbours. I have considered the amended plan in this regard and do not find it to have negatively altered the relationship between neighbouring properties. This includes considering issues of overdominance, loss of privacy, and loss of daylight/sunlight. The proposed pedestrian route to Lucas Lane is perceived to increase security risks for immediate neighbours and those using the path. I share some of these concerns. However, the scheme purports to have considered the Secured by Design principles. The footpath to Lucas Lane is also of relatively straight alignment which would allow those using it to survey their route as well as natural surveillance from proposed homes. A condition could be imposed in relation to suitable boundary treatment to ensure neighbours are not overlooked.

44. There is also a perception that concentrating houses on half the site is an intention to develop the remainder of it. However, this would be designated as public open space, secured and maintained by the mechanisms within the S106. The provision of this area has been fundamental to the appellant's design considerations. In any event each scheme must be judged on its own merits. The timing of planning submissions in relation to Parish Council meeting schedules is not within my remit to consider.

Heritage and Planning Balance

45. The Council has provided a copy of its latest five-year housing land supply figure from May 2024. They confirmed that its supply stands at less than this at 3.9 years. Taking into account the Council's December 2021 Monitoring Report, it is claimed that there is a deficit of 1,359 homes against the housing requirement. The Council maintains that within the context of 117 homes having being granted permission or built in Ashwell and a recently adopted Local Plan, which has allocated several major sites and many smaller sites for housing, that the proposed 14 homes would make a modest contribution.
46. When considering the Government's objective of significantly boosting the supply of homes as set out in Framework paragraph 61 and in the context of an acute national housing crisis, it is clear the allocations the Council has referred to are not a ceiling for the number of homes. In any event I have very little information on the make-up or progress of these allocations and developments and there is no indication before me that the resolution of the shortfall is imminent or any steps the Council are making in response. The Framework sets out how small and medium sized sites, such as this site, can make an important contribution to meeting the housing requirements of an area and are often built-out relatively quickly.
47. The proposal would deliver 14 dwellings and therefore it would make a clear and valuable contribution to the shortfall of homes. Noting the suitable location of the site within the village there would be a benefit to future occupiers who would have access to services and facilities without necessarily being dependent upon the car, as identified in Framework paragraphs 110 and 115. I therefore attach significant weight to the benefit of housing, even at 14 homes, in the context of a Category A village.
48. The evidence suggests the Council has not met its targets in delivering affordable housing over recent years. The Council acknowledges that the proposal provides one additional affordable home above from the policy requirement of 25%. The provision of affordable homes equates to 35%. The proposal is in accordance with Local Plan Policy HS2. However, overall the provision of five affordable homes is a clear social benefit, which in the context of home ownership being out of reach to many, I thereby attach substantial weight.
49. The proposed homes would all meet the requisite internal space standards. All homes would meet the Building Regulation Standard M4(1), 50% would meet M4(2) 'Accessible and Adaptable dwellings' and 14% will additionally meet M4(3) 'Wheelchair User dwellings'. Due to only two homes being provided, the benefits of M4(3) dwellings is given moderate weight.
50. Furthermore, notwithstanding any shortcoming in relation to existing baseline assessments, the proposal is still expected to achieve a biodiversity net-gain exceeding 10%. Additional public open space provision, including a public footpath

would result in the locality. As well as enhancing access within the village for existing residents, it would provide an area where health and well-being would benefit, and I attach significant weight to these environmental benefits.

51. I note the appellant's point that the development and public access could allow a greater appreciation of the heritage assets though a new view corridor, some of which are not presently possible. However, this would be at the expense of the vestiges of its rural setting. I therefore afford this benefit limited weight.
52. In addition to providing employment during construction and maintenance, the proposal would result in economic benefits by virtue of additional local spend. Additional economic activity here would, in all likelihood, be of benefit to the local community. Given the scale of the development, I ascribe the economic benefits of the scheme moderate weight.
53. The appellant's evidence suggests that the proposal would incorporate some energy efficient measures, such as electric vehicle charging points, energy efficient glazing and water efficiency. How this would be achieved has not been demonstrated, no firm commitments have been made and the benefits have not been quantified. I therefore attach limited weight to these matters.
54. All technical details and matters relating to highways, flood risk and drainage, ecology, landscape, trees, archaeology, and contamination can be satisfactorily dealt with or made acceptable through the imposition of planning conditions and the S106. Although the Council has not raised concerns about the design, these are matters which all development should satisfactorily meet. I therefore attribute neutral weight to these.
55. I am conscious of the advice in the Framework that great weight should be given to the conservation of heritage assets, and the more important the asset the greater the weight should be. I have gauged that harm to equate to less than substantial harm at a moderate level on the scale. I ascribe the overall moderate level of less than substantial harm to designated heritage assets that would be caused by the proposed development considerable importance and weight.
56. However, the above elements of the proposal would provide clear socio-economic and environmental benefits to the local area. The various social, economic and environmental benefits of the scheme, range from substantial to limited in terms of weight. Notwithstanding my views on the harm to heritage assets, together, to my mind, these amount to a notable combination of public benefits. The scheme would collectively provide clear and convincing public benefits relative to outweigh the totality of the heritage harm.
57. For applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, framework paragraph 11 d) i sets out permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance, which includes designated heritage assets provides a strong reason for refusing the development proposed. This replaces the requirement within the Framework prior to its update in December 2024, when the planning application was determined, whereby a clear reason for refusal would disapply the requirement of 11 d).

58. Given that I have found the public benefits to outweigh the totality of the heritage harm, this does not provide a strong reason for refusing the development. Paragraph 11 d) ii of the Framework is not disapplied. Therefore any adverse impacts of granting permission would need to significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.
59. The Council has only referred to Local Plan policy HE1 in its reasons for refusal. I conclude that the proposal would be in accordance with Policy HE1 of the North Hertfordshire Local Plan, which sets out planning permission affecting designated heritage assets and their setting will be granted where the harm is outweighed by the public benefits of the proposal.
60. However, the proposal would result in harm to the character and appearance of the area and there would be conflict with the NP Policies ASH3 and ASH 8. Whilst this weighs against the proposal, given my finding above collectively there are no adverse impacts that would significantly and demonstrably outweigh the benefits. With reference to the statutory basis for decision-taking, other material considerations are of sufficient weight to justify granting planning permission.

Conditions

61. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been found to be reasonable and necessary in the circumstances of this case. I have made modest drafting changes for clarity. Conditions relating to the time limits, and approved plans, are necessary to provide certainty.
62. Conditions relating to the safeguarding of wildlife during construction are necessary for their protection. A construction management plan is necessary given the surrounding residential environment to safeguard residential amenity and safety. Conditions relation to land contamination are necessary to ensure that the development is suitable for its end residential use.
63. A condition requiring an archaeological watching brief is necessary to safeguard archaeological assets. Conditions pertaining flood risk and drainage are necessary to ensure suitable implementation and management.
64. A Condition requiring a swept path analysis is necessary to ensure parking spaces are provided and can accommodated large vehicles. Conditions relating to highway works and the provision of access are necessary to safeguard highway safety and in the interests of the amenity of the development.
65. Landscape, ecological, lighting and tree protection conditions are required in the interests of the amenity of the development and to safeguard biodiversity. Conditions are required to ensure the materials used in the proposed development are suitable in the interests of the character and appearance of the area.
66. I have imposed conditions relating to boundary and surface treatments for public footpaths and their maintenance. These are necessary to safeguard the amenity of neighbouring residents and safety. A site waste management plan and electric vehicle charging point condition are required in the interest of sustainable

development. A condition requiring the provision of M4(3) standard dwellings is necessary for certainty. I have imposed a condition restricting permitted development rights, given the low nature and to ensure the envisaged design of the proposal is realised in the interests of the character and appearance of the area.

Conclusion

67. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be allowed.

K Williams

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and the recommendations supporting approved plans and documents listed or as may have been amended by subsequent conditions of this permission: Site Location Plan A_2133 EX100 A; Proposed Site Plan A_2133 PL100 S; Proposed Site Plan A_2133 PL100 S (Colour); Proposed Tenure Plan A_2133 PL290 C; Proposed Housing Mix A_2133 PL300 C; Proposed Parking Plan A_2133 PL310 C; Proposed Waste Collection Plan A_2133 PL320 C; Proposed Boundary Plan A_2133 PL330 C; Proposed Materials Plan A_2133 PL340 C; Proposed Surfaces Plan A_2133 PL350 C; Proposed Access 190-TA10 Rev H Landscape Strategy Plan 7615/ASP4 Rev F; House Type 01 Floor Plans (Plot 1 & 8) A_2133 PL110 A; House Type 02 Floor Plans (Plot 2, 3, 7, & 12) A_2133 PL120 A; House Type 03 Floor Plans (Plot 4) A_2133 PL130 A; House Type 04 Floor Plans (Plot 5 & 6) A_2133 PL140 A; House Type 05 Floor Plans (Plot 9, 10, 13 & 14) A_2133 PL150 House Type 06 Floor Plans (Plot 11) A_2133 PL160; House Type 01 Elevations (Plot 1 & 8) A_2133 PL170 A; House Type 01 & 02 Elevations (Plot 1, 2, 7 & 8) A_2133 PL180 A; House Type 01 & 02 Elevations (Plot 1, 2, 7 & 8) A_2133 PL190 A; House Type 02 Elevations (Plot 2 & 7) A_2133 PL200 A; House Type 02 Elevations (Plot 3 & 12) A_2133 PL210 A; House Type 03 Elevations (Plot 4) A_2133 PL220 A; House Type 04 Elevations (Plot 5 & 6) A_2133 PL230 A; House Type 05 Elevations (Plot 9, 10, 13 & 14) A_2133 PL240; House Type 06 Elevations (Plot 11) A_2133 PL250; Arboricultural Impact Assessment Ref:220715 22043 AIA V1f (Origin Environmental); Archaeology DBA and Trial Trenching Report Ref:19/93 and 19/120 (MOLA); Design and Access Statement Rev B AT Architecture Ltd; Ecological Impact Assessment Ref: 1335EcoApp.Rev A, Ashwell Street Excel Metric 3.1 23.08.22 and Technical Briefing Note TN1 (Blackstone Ecology Ltd); Flood Risk Assessment including Drainage Strategy Ref: 190-FRA-1-G (Martin Andrews Consulting Ltd); Geo-Environmental Desk Study Report Ref: GE17963-DSr-FEB19 rev 1.0 (Geo Environmental); Heritage Statement Ref:9758 August 2022 (Asset Heritage Consulting Ltd); Landscape and Visual Impact Assessment

7615.LVIA.005 (Aspect Landscape Planning); Services Appraisal Ref: 190-SA-01-0; Transport Note Ref:190-TN-01-E (Martin Andrews Consulting Ltd); and Travel Plan Ref: 190-TP-01-E (Martin Andrews Consulting Ltd).

- 3) No development shall take place (including ground works or vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall incorporate the mitigation measures identified within the Ecological Impact Assessment 1335EcoApp.Rev A relating to nesting birds, retained habitats, hedgehogs and include the following:
- i. risk assessment of potentially damaging construction activities;
 - ii. identification of “biodiversity protection zones;”
 - iii. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - iv. the location and timing of sensitive works to harm to biodiversity features;
 - v. the times during construction when specialist ecologists need to be present on site to oversee works;
 - vi. responsible persons and lines of communication;
 - vii. the role and responsibilities on site of an ecological clerk of works or similarly competent person; and
 - viii. use of protective fences, exclusion barriers and warning signs.
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.
- 4) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. It shall incorporate and/or adhere to the measures contained within the CEMP where necessary. Thereafter the development shall only be carried out in accordance with the approved details. The Construction Management Plan shall include details of:
- i. construction vehicle numbers, type and routing to the site;
 - ii. access and traffic management arrangements to the site;
 - iii. construction and storage compounds, including areas designated for car parking, loading/unloading and turning areas;
 - iv. siting and details of wheel washing facilities;
 - v. schedules and methods for cleaning of site entrances, site tracks and the adjacent public highway;
 - vi. timing of construction activities including delivery times and removal of waste;
 - vii. provision of sufficient on-site parking;
 - viii. post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - ix. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;
 - x. a phasing plan;
 - xi. a construction phase surface water management plan: and
 - xii. a site waste management plan.

During the construction phase no noisy activities should take place outside the hours of 08:00-18:00hrs on Mondays to Fridays, 08:00-13:00hrs on Saturdays and no noisy activities at any time on Sundays, Bank/Public Holidays.

- 5) All the trees and hedges shown on the Tree Retention and Removals Plan 22071222043 TRRP V1f as "to be retained" and/or any trees canopies and hedges which overhang the site shall be protected by temporary chestnut paling or chain link fencing of a minimum height of 1.2 metres on a scaffolding framework, located at the appropriate minimum distance from the tree trunk in accordance with Section 4.6 of BS5837:2012 'Trees in relation to design, demolition and construction'. The fencing shall be erected in accordance with the specification before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site, unless otherwise agreed with the local planning authority. Nothing shall be stored or placed within any fenced area, and the ground levels, within those areas shall not be altered, nor shall any excavation be made, unless measure are specified within the Arboricultural Impact Assessment Ref:220715 22043 AIA V1f (Origin Environmental). No building materials shall be stacked or mixed within 10 metres of the tree or hedge. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to trees.
- 6) No development shall commence until a Phase 2 Site Investigation and a Phase 3 Remediation Scheme (where shown as necessary by the Phase 2 Site Investigation) has been submitted to and approved in writing by the local planning authority. All such work shall be undertaken in accordance with BS:10175:2011 or other appropriate guidance issued by the regulatory authorities. The work shall be sufficient to ensure that measures will be taken to mitigate any risks to human health and the wider environment. The development shall commence in accordance with the approved details.
- 7) Prior to the first occupation of the development hereby permitted a validation report shall be submitted and approved in writing by the local planning authority to demonstrate the effectiveness of any agreed remediation strategy required under condition 7. Any such validation shall include responses to any unexpected contamination discovered during works.
- 8) Development, including site clearance shall not commence until an archaeological watching brief has been submitted to and approved in writing by the local planning authority. It shall include measures for if any archaeology artefacts are found during the site clearance and digging out stages. Development shall only commence in accordance with approved details.
- 9) The development shall be constructed in accordance with the submitted and approved Flood Risk Assessment (Flood Risk Assessment for Land off Ashwell Street, Ashwell, Hertfordshire by Martin Andrews Consulting Ltd, Revision G dated 24 May 2023), this includes all new residential dwellings to have a finished floor level raised a minimum of 300mm above any flood level and 150mm above the surrounding proposed ground level unless otherwise first approved in writing by the Local Planning Authority.

- 10) Upon completion and prior to the first occupation of the development, a survey and verification report for the completed drainage scheme, shall be submitted to and approved in writing by the local planning authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the approved scheme. Where necessary, details of corrective works to be carried out along with a timetable for their completion and subsequent re-survey and verification shall be included for the written approval of the local planning authority. The development shall be implemented in accordance with any subsequent approved details and thereafter retained.
- 11) Prior to the first occupation of the development hereby permitted details of the maintenance and management of the sustainable drainage scheme shall have been submitted to and approved in writing by the local planning authority. The drainage scheme shall be implemented prior to the first occupation of the development and thereafter managed and maintained in accordance with the approved details in perpetuity. The local planning authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval are not limited to, but shall include:
 - i. a timetable for its implementation;
 - ii. details of SuDS features and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located; and
 - iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime. This will include the name and contact details of any appointed management company.
- 12) Prior to the commencement of development of the site a swept path analysis for a large car for all parking bays proposed by the development shall be submitted for the written approval of the local planning authority. Development shall be implemented in accordance with the approved details.
- 13) Notwithstanding the submitted details, no on-site works above slab level shall commence until a detailed scheme for the off-site highway improvement works as indicated on drawing number(s) 190-TA10 Rev H have been submitted to and approved in writing by the local planning authority. Once approved the development shall not be occupied until the improvement works have been completed in accordance with the approved details.
- 14) Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing numbers 190-TA10 Rev H and in accordance with details/specifications which shall first have been submitted to and approved in writing by the local planning authority. This shall include arrangements for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 15) Prior to the first occupation of the development hereby permitted the proposed on-site car parking and turning areas shall be laid out, levelled,

surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.

- 16) Notwithstanding the submitted details, no development shall commence until a scheme of both hard and soft landscape works has been submitted to and approved in writing by the local planning authority. These details shall include:

- i. earthworks showing existing and proposed finished levels or contours;
- ii. means of enclosure and retaining structures;
- iii. boundary treatments
- iv. all hard surfacing materials, including surface materials/footpaths/access to homes within the development;
- v. details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment);
- vi. schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate
- vii. provisions for replacement planting within a period of 5 years from the completion of the development for species which die, are removed or become seriously damaged or diseased; and
- viii. an implementation programme.

The landscaping works shall be carried out in accordance with the approved details in accordance with the agreed implementation programme.

- 17) No development shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt the LEMP shall comply with the recommendations, mitigation and enhancement measures contained within the Ecological Impact Assessment Ref: 1335EcoApp.Rev A, (Blackstone Ecology Ltd). The content of the LEMP shall include the following:

- i. description and evaluation of features to be managed;
- ii. ecological trends and constraints on site that might influence management;
- iii. aims and objectives of management;
- iv. appropriate management options for achieving aims and objectives;
- v. prescriptions for management actions;
- vi. preparation of a work schedule (including an annual work plan capable of being rolled forward);
- vii. details of the body or organization responsible for implementation of the plan; and
- viii. ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and any funding mechanisms by which the long-term implementation of the plan will be secured by the developer with any management bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The development shall be implemented in accordance with the approved details throughout the lifetime of the development.

- 18) None of the trees or hedgerows 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. Any retained tree or hedgerows felled, lopped, topped, uprooted, removed or otherwise destroyed or killed 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.
- 19) Notwithstanding the submitted details, no on-site works above slab level shall commence until a scheme for the provision and location of nest boxes and integrated swift and bat boxes has been submitted to and approved in writing by the local planning authority. Once approved the development shall be implemented in accordance with the approved details and thereafter maintained and retained.
- 20) No external lighting shall be installed until a wildlife-sensitive lighting scheme and biodiversity lighting scheme, in accordance with the recommendations contained within the Ecological Impact Assessment Ref:1335EcoApp.Rev A have been submitted to and approved by the local planning authority. The development shall be implemented in accordance with the approved details and thereafter maintained and retained.
- 21) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme including samples of the materials to be used in all walls, roofs, windows and rainwater goods of the development hereby approved have been submitted to and approved in writing by the local planning authority. Once approved the development shall be implemented in accordance with the approved materials.
- 22) Notwithstanding the submitted details, prior to the first occupation of the development, a scheme for the proposed pedestrian footpaths shall be submitted for the written approval of the local planning authority. It shall incorporate the provision of boundary treatments where it is adjacent to existing neighbouring residents and shall consider the use of features such as non-slip footpaths, handrails and lighting. Once approved the development shall commence in accordance with the approved details and thereafter maintained and retained for the lifetime of the development.
- 23) Prior to the first occupation of the development a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the local planning authority. The SWMP should cover the operation of the development. Once approved the development shall commence in accordance with the SWMP for the duration of the development.
- 24) Prior to the first occupation of the development hereby permitted, each dwelling shall be provided with an active (ready to use) electric vehicle charging point, which shall thereafter be provided and permanently retained.
- 25) No development shall commence until full details have been submitted to and approved in writing by the local planning authority in relation to the proposed arrangements for future management and maintenance of the proposed public footpaths and private drives within the development. The streets and

footpaths shall thereafter be maintained in accordance with the approved management and maintenance details.

- 26) The two bungalows on plots 14 and 15 hereby permitted shall be built to M4(3) standard and retained in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.
- 27) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), no enlargement, improvement or other alteration including (but not limited to) extensions, roof alterations, insertion of windows and doors, porches or ancillary buildings as defined within Classes A, B, C, D and E of Part 1 of Schedule 2 of that Order shall be erected or brought onto the land unless an appropriate planning application is first submitted to and approved in writing by the local planning authority.

****End of Schedule****

Richborough