

Agenda



AGENDA for a meeting of the DEVELOPMENT CONTROL COMMITTEE in the Council Chamber, County Hall, Hertford on THURSDAY, 20 JULY 2017 at 10:00AM.

MEMBERS OF THE COMMITTEE (10) (Quorum = 3)

D Andrews, D J Barnard, S J Boulton, D S Drury, E M Gordon, J S Hale, M D M Muir (Vice-Chairman), S Quilty, I M Reay (Chairman), A D Williams

AGENDA

AUDIO SYSTEM

The Council Chamber is fitted with an audio system to assist those with hearing impairment. Anyone who wishes to use this should contact the main (front) reception.

PART I (PUBLIC) AGENDA

Meetings of the Committee are open to the public (this includes the press) and attendance is welcomed. However, there may be occasions when the public are excluded from the meeting - for particular items of business. Any such items are taken at the end of the public part of the meeting and are listed below under "Part II ('closed') agenda".

MINUTES

To confirm the minutes of the meeting of the Development Control Committee held on 29 June 2017 (attached).

PUBLIC PETITIONS

The opportunity for any member of the public, being resident in or a registered local government elector of Hertfordshire to present a petition relating to a matter with which the Council is concerned, and is relevant to the remit of this Committee, containing 100 or more signatures of residents or business ratepayers of Hertfordshire.

Notification of intent to present a petition must have been given to the Chief Legal Officer at least 20 clear days before the meeting where an item relating to the subject matter of the petition does not appear in the agenda, or at least 5 clear days where the item is the subject of a report already on the agenda.

[Members of the public who are considering raising an issue of concern via a petition are advised to contact their local member of the Council. The Council's arrangements

for the receipt of petitions are set out in Annex 22 - Petitions Scheme of the Constitution.]

If you have any queries about the procedure please contact Deborah Jeffery on telephone no. (01992) 555563.

MOTIONS (Standing Order C9)

Motions may be made on a matter relevant to the Committee's terms of reference (other than motions relating to a matter on the agenda, which shall be moved when that matter is discussed).

Motions must have been notified in writing to the Chief Legal Officer by 9 am on the day before the meeting and will be dealt with in order of receipt.

No motions had been submitted at the time of agenda dispatch.

1. APPLICATION FOR THE REGISTRATION OF LAND AT BUNCHLEYS (NEW BARNFIELD) TO THE SOUTH OF HATFIELD AS A TOWN OR VILLAGE GREEN

Report of the Chief Executive and Director of Environment

Local Member: Paul Zukowskyj

2. PROPOSED CONSTRUCTION OF A NEW BUILDING TO PROVIDE A 3 FORM ENTRY (3FE) PRIMARY EDUCATIONAL FACILITY FOR RECEPTION, KEY STAGE 1, KEY STAGE 2 AND NURSERY PROVISION, CAR PARKING AND ASSOCIATED DEVELOPMENT AT LAND SOUTHWEST OF FARNHAM ROAD AND NORTH OF RYE STREET, BISHOPS STORTFORD, HERTFORDSHIRE

Report of the Chief Executive and Director of Environment

Local Member: John Wyllie

OTHER PART I BUSINESS

Such other Part I (public) business which, the Chairman agrees, is of sufficient urgency to warrant consideration.

PART II ('CLOSED') AGENDA

EXCLUSION OF PRESS AND PUBLIC

There are no items of Part II business on this agenda but if an item is notified the

Chairman will move:-

*"That under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph ** of Part 1 of Schedule 12A to the said Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information."*

If you require a copy of any of the reports mentioned above or require further information about this agenda please contact Deborah Jeffery, Assistant Democratic Services Manager on telephone no. 01992 555563 or email: deborah.jeffery@hertfordshire.gov.uk

Agenda documents are also available on the internet
<https://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings.aspx>

**KATHRYN PETTITT
CHIEF LEGAL OFFICER**

Minutes



To: All Members of the
Development Control
Committee, Chief Officers, All
officers named for 'actions'

From: Legal, Democratic & Statutory Services
Ask for: Elaine Manzi
Ext: 28062

DEVELOPMENT CONTROL COMMITTEE

THURSDAY 29 JUNE 2017

ATTENDANCE

MEMBERS OF THE COMMITTEE

D Andrews, D J Barnard, S J Boulton, D S Drury, E M Gordon, J S Hale, M D M Muir
(Vice-Chairman), S Quilty, I M Reay (Chairman), R Smith (*substituting for A D Williams*)

Upon consideration of the agenda for the Development Control Committee meeting on
29 June 2017 as circulated, copy annexed, conclusions were reached and are recorded
below:

***Note: Councillor Stephen Boulton declared that he was a District Councillor
at Welwyn Hatfield Council, which is the District that Springmead School is
situated within.***

CHAIRMAN'S ANNOUNCEMENTS

- (i) If a Member wished their particular view on an item of business to be recorded in
the Minutes, it would be recorded on request by that Member.
- (ii) Members were reminded of their obligation to declare interests at the start of the
meeting.

PART I ('OPEN') BUSINESS

MINUTES

The minutes of the Committee meeting held on 26 April 2017 were
confirmed as a correct record.

PUBLIC PETITIONS

There were no public petitions.

ACTION

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1. APPLICATION FOR THE REGISTRATION OF LAND TO THE REAR OF MEADWAY AND ST CATHERINE'S ROAD, HODDESDON AS A TOWN OR VILLAGE GREEN

Officer Contact: Gavin Harbour-Cooper – Definitive Map Officer
(Access & Rights of Way Team)
Tel: 01992 556 186

- 1.1 The Committee considered an application to register land at the rear of Meadway and St Catherine's Road Hoddedson as a town or a village green.
- 1.2 The application to register the land was made in November 2014 by Richard Buxton Environmental & Public Law on behalf of Barbara Tyrell. The application had been processed by the Access & Rights of Way Team on behalf of the County Council as Commons Registration Authority and in accordance with the Commons Act 2006.
- 1.3 The land is partly owned by Thames Water and partly by the Forgione family; however the application had been amended since its original submission to remove the area owned by Thames Water.
- 1.4 The committee noted that evidence and legal submissions were heard at a non-statutory public inquiry chaired by independent Inspector. Following the close of the Inquiry the Inspector produced a comprehensive report and recommendations. The Inspector's recommendation being; to register the part of the land known as 'The Paddley' but to reject the application to register the remainder of the land, that being 'Horses Field' & Gasworks Lane.
- 1.5 Prior to questions and debate, the Committee were addressed by Mr Antiono Forgione, the owner of the land, who spoke in refectation of the application and Dr John Clarke who spoke in support of the application.
- 1.6 Mr Forgione expressed his disappointment at the recommendation made by the Inspector but agreed to comply with any decision made by the committee.
- 1.7 Dr Clarke highlighted and explained more detail regarding the current and ongoing public use of the land and expressed his

disappointment that the Inspector had not recommended registration of all of the Land as a village green.

- 1.8 In response to Member questions it was clarified that The Paddley and Horses Field were physically separated by a brook, Gasworks Lane and fencing. It was also clarified that whilst the Inspector was satisfied that Horses Field had been used for lawful sports and pastime, that use was not considered sufficient in either numbers or intensity to satisfy the relevant legal tests.

CONCLUSION

- 1.9 The committee **unanimously** agreed to the following resolution: That the County Council accept the Inspector's recommendation as set out in his Main Report (Appendix 2) to grant the application to register that part of the land known as 'The Paddley' as a town or village green but refuse those parts of the application relating to the land known as 'Gasworks Lane' and 'Horses Field'. The extent of the land recommended for registration is outlined blue on the Plan of Land for Registration (Appendix 4).

- 2. APPLICATION FOR PROPOSED REPLACEMENT OF EXISTING MOBILE NURSERY UNIT WITH NEW PERMANENT NURSERY BUILDING AND COVERED PLAY CANOPY AT SPRINGMEAD PRIMARY SCHOOL, HILLY FIELDS, WELWYN GARDEN CITY, HERTFORDSHIRE, AL7 2HB**
Officer Contact: Ria Griffiths, Planning & Systems Support Officer
Tel: 01992 556266

- 2.1 The Committee considered a planning application 6/0462-17 (cc0176) for the replacement of the existing mobile classroom unit with a new permanent nursery building and covered play canopy at Springmead Primary school in Welwyn Garden City.

- 2.2 Members' attention was drawn to the fact that Welwyn Hatfield District Council had objected to the proposal on the grounds that the new permanent nursery building will be sited on Urban Open Land and therefore conflicts with Policy OS1, Welwyn Hatfield District Plan 2005.

- 2.3 Members noted and debated the objection from Welwyn Hatfield District Council, but overruled the objection on the following grounds:

- The increase in size from the temporary building to the permanent building was minimal;
- The educational needs considerations of the pupils were paramount;

**CHAIRMAN'S
INITIALS**

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- The current temporary building was at the end of its shelf life and in urgent need of replacement.

2.4 Members noted that four trees will be replacing the two sycamore trees that will need to be removed for the purpose of the building.

CONCLUSION

2.5 The committee **unanimously** agreed to the following resolution:

The recommended permission should be granted subject to the conditions set out below:

1. Time Limit
2. Approved Plans and Documents
3. Construction Traffic Management Plan
4. Hours of Work
5. Tree Protection
6. Landscaping
7. Surface Water Drainage System
8. External Lighting

KATHRYN PETTITT
CHIEF LEGAL OFFICER

CHAIRMAN _____

CHAIRMAN'S
INITIALS

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HERTFORDSHIRE COUNTY COUNCIL

**DEVELOPMENT CONTROL COMMITTEE
THURSDAY, 20 JULY 2017 AT 10.00AM**

Agenda No.

1

WELWYN HATFIELD DISTRICT

**APPLICATION FOR THE REGISTRATION OF LAND AT BUNCHLEYS
(NEW BARNFIELD) TO THE SOUTH OF HATFIELD AS A TOWN OR
VILLAGE GREEN**

Report of the Chief Executive and Director of Environment

Author: Andrea Trendler – Definitive Map Officer
(Access & Rights of Way Team)
Tel: 01992 555280

Local Member: Paul Zukowskyj

1. Purpose of the Report

- 1.1 To inform members of the committee of an application to register land at Bunchleys (New Barnfield) in the parish of North Mymms to the south of Hatfield, as a town or village green.
- 1.2 To inform members of the findings and recommendations of an independent inspector following a non-statutory public inquiry.
- 1.3 To ask members to decide whether to grant or refuse the registration.

2. Summary

- 2.1 On 4 March 2013 Mr Mark Lampert made an application to register land (“the Application Land”) to the south of Hatfield as a town or village green. (See Plan of Application Land attached at Appendix 1 and Location Plan – Appendix 4).
- 2.2 The application has been processed by the Access & Rights of Way Team on behalf of the County Council as Commons Registration Authority, in accordance with the Commons Act 2006 (“the 2006 Act”).
- 2.3 The Application Land is owned by the Homes and Communities Agency (“HCA”), Hertfordshire County Council (“HCC”) and the Mrs C Horton 1974 Discretionary Settlement Part (“the Horton Settlement”). Following the advertising of the application on 29 April 2015 objections were received from Pinsent Masons LLP acting for the HCA and Strutt & Parker acting for the Horton Settlement.

- 2.4 Following the necessary gathering and exchange of information, it was decided that the evidence should be considered at a non-statutory public inquiry. The County Council instructed Mr Alexander Booth QC of Francis Taylor Building, London, a barrister experienced in village green law, to hold the public inquiry, assess all of the available evidence and make recommendations as to whether or not the land should be registered. The inquiry was scheduled for 9-11 May 2017.
- 2.5 However, HCA withdrew their objection on 9 March 2017 and the Hortons Settlement did the same on 31 March 2017 – leaving no objections to the application. In these circumstances, the inquiry was cancelled and instead the Inspector was asked to assess all the documentary evidence and provide a report with his recommendation as to whether or not the land should be registered as a town or village green. The Inspector did make a site visit on 11 May 2017, accompanied by the applicant and County Council Case Officer.
- 2.6 The Inspector provided his Report dated 8 June 2017. It concludes *“it is my recommendation to the Council that it register the Land as a Town or Village Green pursuant to section 15(2) of the 2006 Act.”* (Appendix 3, paragraph 64). The Inspector described this land as bounded by fencing on the north, east and south sides and he further clarified in his Report (Appendix 2, paragraph 8) the western boundary as *“the edge of the tree line, as it fronts onto grazing pasture”* and in the south west, to the west of the pond *“the boundary is intended to be a line which runs 3m from the edge of the treeline, and/or the bank which descends down to the pond edge.”*

3. Recommendations

- 3.1 The Inspector recommends that all the Application Land should be registered as town or village green as shown on the Application Plan (Appendix 1).

4. Background

- 4.1 The land subject to this application is located to the south of Hatfield. It lies immediately to the south of the A1001, to the west of Travellers Lane and abuts the former Southfield School site. It comprises a central area of open grass land, surrounded by scrub and woodland with a large pond in the south west corner. It covers approximately 6 acres. There is a public footpath (North Mymms 85) which runs from Travellers Lane eastwards through woodland and then turns south to run through the central grass area to reach the pond in the south west corner. There are also some informal paths through the area. There are three points of access: in the north east corner close to the southern point of the footbridge over the A1001, near the north west corner through a break in the treeline and in the south west corner via a kissing gate located just to the north of the pond.

5. The Process

- 5.1 Applications to register town or village greens are made to Hertfordshire County Council as the Commons Registration Authority for Hertfordshire. The procedure for dealing with such applications is laid down in the *Commons Registration (England) Regulations 2014*.
- 5.2 An application for registration of land as a town or village green can be made under section 15(1) of the Commons Act 2006 in one of the following circumstances:
- 15(2) where:
- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in sports and pastimes on the land for a period of at least 20 years; and
 - (b) they continue to do so at the time of the application.
- 15(3) where:
- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in sports and pastimes on the land for a period of at least 20 years; and
 - (b) they ceased to do so before the time of the application but after the commencement of this section; and
 - (c) the application is made within the period of one year beginning with the cessation referred to in paragraph (b)
- 5.3 If the County Council decides that the requirements set out in paragraph 5.2 above have been met, it must register the land. The determination of the application must be based on whether there is sufficient evidence to show that a town or village green has come into existence.
- 5.4 To assist in determining applications where objections have been received the Registration Authority may appoint an independent inspector to hold a non-statutory public inquiry. The purpose of the inquiry is to hear the evidence for and against the application and allow the Inspector to make recommendations based on that evidence and relevant case law.
- 5.5 There is no statutory right of appeal to the County Council's decision. The only way to challenge a decision made by this Committee would be through the process of a judicial review.

6. The Application

- 6.1 This application was made on 4 March 2013 pursuant to section 15(2) of the Commons Act 2006. It was deemed to be duly made on 5 April 2013. The claimed neighbourhood was amended during the course of the processing of the application. This is detailed further in paragraph 6.6.
- 6.2 The application was originally submitted with 28 user evidence forms from mainly local people describing the recreational activities they have enjoyed over the land and the periods of time those activities have taken place. The applicant later submitted a considerable amount of further evidence: photographs, newspaper articles, letters of support and further user evidence forms, resulting in a total of 84 user evidence forms.
- 6.3 The appropriate procedures were followed by the applicant for making the application and by the County Council for the notification of interested parties and advertising the application.
- 6.4 Objections to the application were received in June 2015 from firms acting for two of the landowners: from Pinsent Masons LLP acting for the HCA and from Strutt & Parker acting for the Hortons Settlement. The County Council also owns land within the application area but did not make an objection. Following consideration of the objections, the County Council decided that a non-statutory public inquiry should be held and Mr Alexander Booth QC was appointed as an independent inspector.
- 6.5 However, in March 2017 both objections were withdrawn, leaving no outstanding objections. The public inquiry was cancelled and it was decided that the Inspector should be asked to assess the documentary evidence in accordance with the statutory criteria and to provide a report with his recommendation as to whether or not the Application Land should be registered as a town or village green.
- 6.6 During the process a request was made by the applicant to amend their application with regard to the 'neighbourhood'. Originally the applicant relied on the parish of North Mymms but later he amended his case in this regard, relying on a new neighbourhood as depicted on the plan entitled 'the neighbourhood of South Hatfield' (Appendix 2), and on the ecclesiastical parish of St Johns as the relevant locality. The Inspector confirmed that he accepted this request.

7. Conclusion

The Inspector's Report is attached at Appendix 3. He concludes at paragraph 63 that:

- The Applicant has demonstrated that the Land has been used for lawful sports and pastimes.
- The Applicant has demonstrated that both the Neighbourhood and the Locality satisfy the statutory requirements of the 2006 Act.
- The Applicant has demonstrated that the user of the Land for lawful sports and pastimes was carried on by a significant number of the inhabitants of the Neighbourhood.
- The Applicant has demonstrated that the user of the Land was carried on 'as of right' during the Relevant Period.
- The Applicant has demonstrated that the user of the Land was carried on continuously throughout the Relevant Period.

7.1 The Inspector's Report recommends that the County Council should register all of the land known as 'Bunchleys' (as shown on the Application Plan) as a town or village green pursuant to section 15(2) of the 2006 Act.

8. Financial Implications

8.1 The finance for processing this application has been sourced from existing County Council budgets.

8.2 However, should any party seek a judicial review of the procedures that have been used by the Registration Authority the County Council could incur costs which may not be covered by existing budgets.

Appendices:

- Appendix 1: Application plan showing the extent of the Application Land
- Appendix 2: Plan showing 'the neighbourhood of South Hatfield'
- Appendix 3: Report of Inspector Mr Alexander Booth QC, dated 8 June 2017
- Appendix 4: Location Plan

Background information used by the author in compiling this report

- Commons Act 2006*
- The Commons Registration (England) Regulations 2014*
- Report of Mr Alexander Booth QC, dated 8 June 2017*

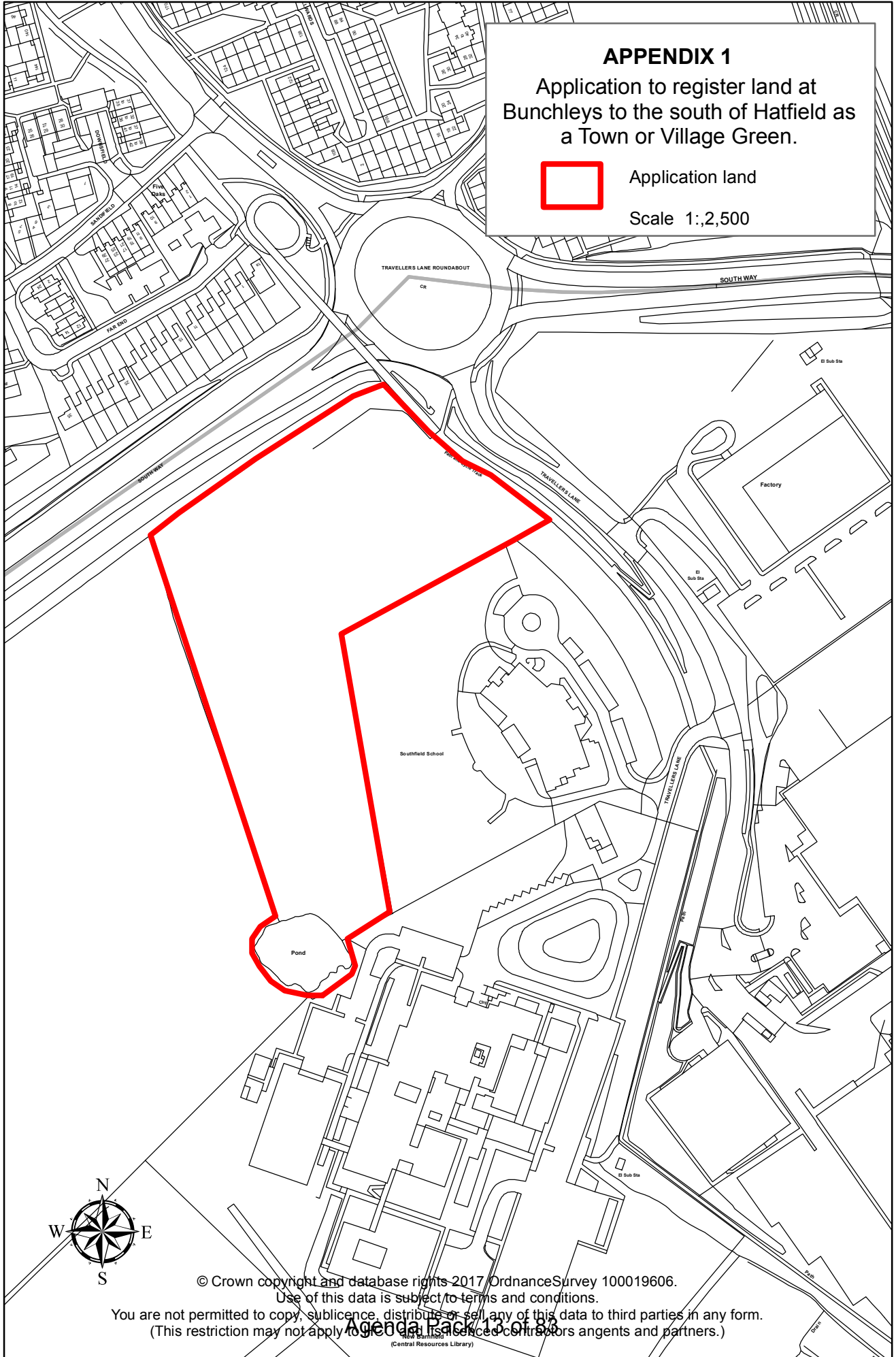
If you require any further information on the items referred to in this report, please telephone Andrea Trendler on 01992 555280.

APPENDIX 1
Application to register land at
Bunchleys to the south of Hatfield as
a Town or Village Green.



Application land

Scale 1:2,500

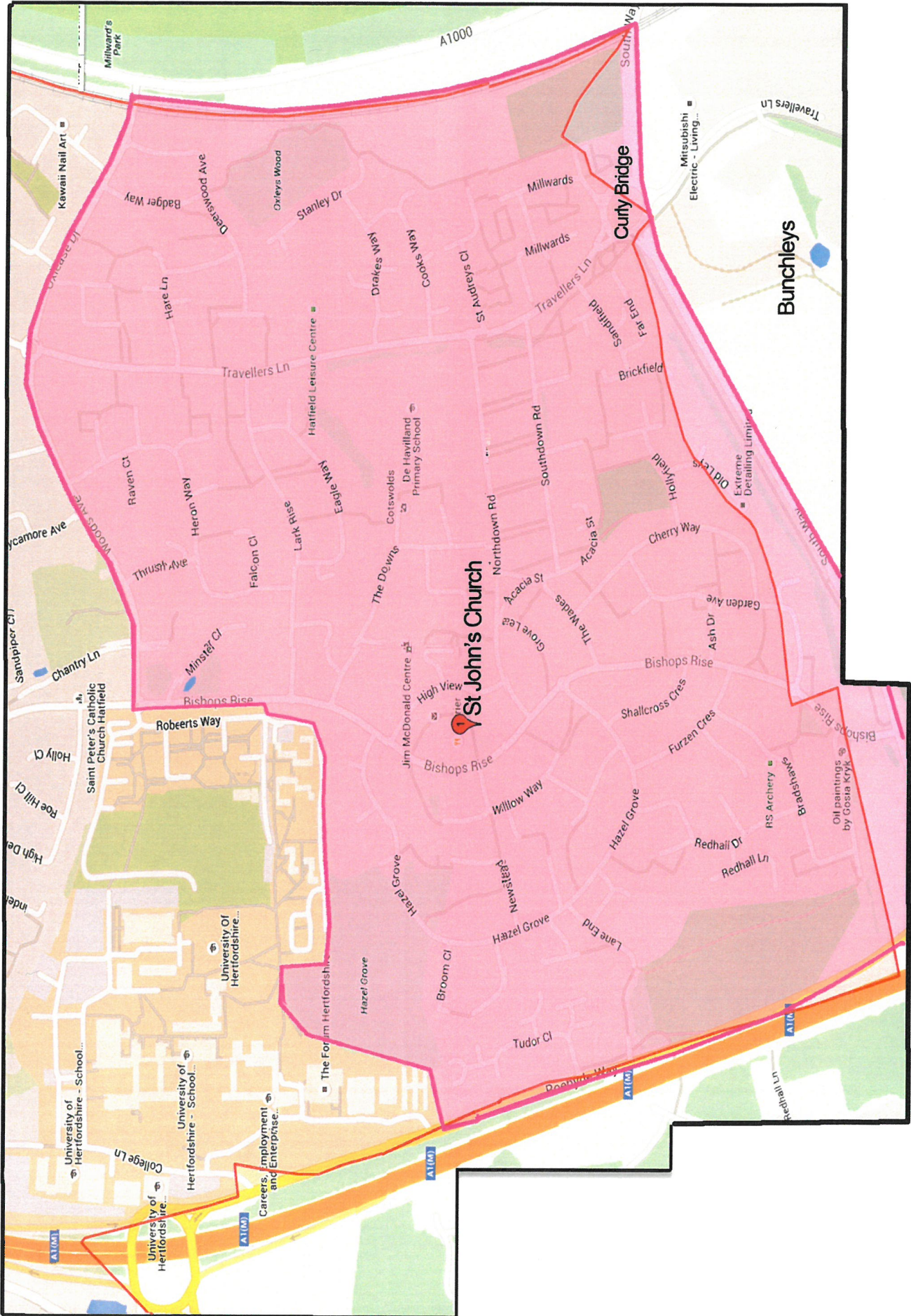


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The neighbourhood of South Hatfield in the Ecclesiastical Parish of St John's

**APPLICATION BY MR MARK LAMPERT
TO REGISTER LAND AT BUNCHLEYS, NEW BARNFIELD
AS A TOWN/VILLAGE GREEN**

INSPECTOR'S REPORT

Introduction

1. I am instructed by Hertfordshire County Council ('the Council') to advise it in its capacity as registration authority, regarding determination of the application dated 4 March 2013 ('the Application') submitted by Mr Mark Lampert ('the Applicant') pursuant to section 15 of the Commons Act 2006 ('the 2006 Act'). The Application seeks the registration of land at Bunchleys, New Barnfield ('the Land') as a town or village green.
2. Originally the Application was the subject of objections by two parties interested in the Land, being the Homes and Communities Agency ('the HCA') and the Mrs C Horton 1974 Discretionary Settlement ('the Horton Settlement'). However, both those parties have withdrawn their objections, so that the Application is now unopposed.
3. I was initially asked to hold a public inquiry in respect of the Application, and made directions in that regard ('the Directions'). However, I have since been requested to consider the Application on the basis of the documentary evidence available.
4. I now make my recommendation on the basis of
 - a) the materials contained in the Inquiry Bundle submitted to the Council by the Applicant pursuant to the Directions;

- b) the content of the objections originally submitted by the HCA and the Horton Settlement, (although noting that the objections have been withdrawn¹);
- c) My observations during a site visit to the Land ('the Site View'), which I conducted on 11 May 2017 in the company of the Applicant and Ms Andrea Trendler, a Definitive Map Officer employed by the Council; and
- d) The 'Statement on behalf of the Applicant' (and appendices) dated 22 May 2017, submitted by the Applicant following the site visit ('the Closing Submissions').

Statutory Provision

5. The Application was made pursuant to section 15(2). Insofar as relevant, section 15 provides as follows:
- (1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.*
 - (2) This subsection applies where-*
 - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*
 - (b) they continue to do so at the time of the application.*

Preliminary Matters

The Land

6. The Land subject to the Application comprises an irregularly shaped area, situated immediately to the south of the A1001, and immediately to the west of Travellers Lane. It also abuts the former Southfield School site.
7. The Land can broadly be described as follows.

¹ Insofar as factual matters are evidenced by those objections, I must necessarily have regard to those matters as part of the relevant factual matrix, notwithstanding that the objecting parties no longer contest the Application.

- The northern part of the Land, comprises scrub and woodland. There is a recorded public footpath (North Mymms 85) which runs through woodland (broadly east – west) before turning in a southerly direction².
 - The western part of the Land comprises light, open woodland, with various informal tracks evident.
 - The central part of the Land comprises open grassland. The recorded public footpath runs through this area, heading southwards.
 - The eastern section, which sits to the east of the grassed area I have just described, is comprised of much thicker woodland although there too some informal tracks are evident.
 - At the very southern end of the Land there is a pond; this part of the Land also includes a thin strip of the neighbouring pasture, which forms a boundary around the south western side of the pond.
8. As regards its precise extent, the Land is marked on the plan attached to the Application. However that plan is perhaps not of sufficient scale to identify clearly the area which the Applicant seeks to register. On the ground, the extent of the Land may be defined as follows. To the north, east and south, the Land is bounded by fencing. To the west, the boundary comprises the edge of the treeline, as it fronts onto grazing pasture. The Applicant confirmed on the Site View that in the south western corner, to the west of the pond, the boundary is intended to be a line which runs 3m from the edge of the treeline, and/or the bank which descends down to the pond edge.
9. There appear to be 3 points of access to the Land. Access 1 is located in the north-eastern corner, close by the southern end of the footbridge crossing the A1001. Access 2 is towards the north-western corner, through a break in the treeline where it opens onto the adjacent pasture. Access 3 is in the south-western corner, through a kissing gate located just to the north of the pond.

The 20 Year Period

10. As noted above, the Application was made pursuant to section 15(2) of the 2006 Act.

² There is a second, unrecorded footpath which also runs east – west through the wooded area, and which joins the public footpath recorded as FP North Mymms 85.

11. Thus, insofar as the Applicant relies on section 15(2) the relevant 20 year period in respect of which qualifying user by the inhabitants of a neighbourhood/locality must be demonstrated is the period immediately prior to the date on which the Application was made. Thus in the present instance, such period comprises the 20 years from 4 March 1993 – 4 March 2013 ('the Relevant Period').

Neighbourhood/Locality

12. The Application was originally predicated on the use by the inhabitants of a neighbourhood within a locality, with the relevant neighbourhood relied upon being the Parish of North Mymms. Subsequent to the original submission, the Applicant amended his case in this regard, relying upon a new neighbourhood, as depicted on the plan entitled 'the neighbourhood of South Hatfield' ('the Neighbourhood'), and upon the ecclesiastical parish of St Johns as the relevant locality ('the Locality').

The Applicant's Evidence

13. The Applicant has submitted a considerable body of written evidence in support of the Application, contained in the Inquiry Bundle submitted to the Council pursuant to the Directions. In this regard I was provided with written evidence, in the form of statements, letters and questionnaires from approximately 100 witnesses. I note that not all of this evidence was prepared by occupants of the Neighbourhood, however the vast majority of it has been provided by persons living within that area, so that the user it describes gave support for the Application.

14. The Applicant has also provided various additional materials by way of evidence, some of which are relevant to my determination and some of which are not. By way of example I note the letter dated 11 June 2015, written by Mr Grant Shapps MP in support of the Application. Whilst Mr Shapps' support is no doubt well-intentioned, it cannot bear either on my recommendation or indeed on the Council's ultimate determination of the Application. Rather, the question which both I and the Council must address is that of whether or not the evidence in support of

the Application satisfies the various statutory criteria; the issue of whether or not it would be desirable for the Land to be registered as town or village green does not arise.

15. In light of the fact that there is no objection to the Application, and that I have heard no oral evidence in this matter³, I do not propose to detail the full extent of the evidence and submissions relied upon by the Applicant in support of the Application.
16. Rather, in the following paragraphs I set out the various statutory criteria which the Application must satisfy if it is to justify registration of the Land, and summarise the evidential position as to whether – in my opinion – those statutory criteria have been met.

Inspector's Discussion & Conclusions

Preliminary

17. The burden of proof in the context of the Application is on the Applicant, who must discharge it to the civil standard. That is to say that the Applicant must succeed in satisfying the various requirements of section 15 of the 2006 Act on the balance of probabilities.
18. In the present case, the Applicant must seek to make good the following propositions, namely that:
 - The Land has been used for lawful sports and pastimes;
 - That use has been undertaken by a significant number of the inhabitants of a qualifying locality, or a qualifying neighbourhood within such a locality;
 - The use has been carried on 'as of right' (that is, not 'by force', 'secretly', or 'with permission'); and
 - The use has continued throughout a relevant qualifying 20 year period.

³ Save in respect of answers given by the Applicant in respect of some limited queries which I raised with him on the occasion of the Site View.

Use of the Land for Sports and Pastimes

19. Having reviewed the written evidence relied upon by the Applicant, I have no doubt that the Land has been used for activities which comprise 'lawful sports and pastimes' for the purposes of the 2006 Act, having regard to the guidance given by Lord Hoffman in respect of this issue in R v Oxfordshire County Council ex parte Sunningwell Parish Council (2000) 1 AC 335.

20. By way of example, I note that witnesses speak variously of both engaging (and seeing others engage) in activities such as walking (with and without dogs), fishing, flying kites, picking fruit (such as blackberries and sloes) and wildflowers, picnicking, bird watching, and children's play. In this context, I note that the activities which the Applicant's witnesses now speak to are far more numerous and diverse than those which were detailed in the evidence originally submitted with the Application. As such, insofar as it was previously suggested by the HCA in their objection that there had not been use of the Land for the requisite sports and pastimes, I would have rejected that ground of objection had the HCA maintained its opposition to the Application.

21. Similarly, I would have rejected the contention previously advanced by the HCA that user had been confined to one or more linear routes (in particular the recorded public footpath). I do not consider the evidence to suggest there has been use only of the footpaths; rather it appears to me that different uses have been carried on widely throughout the Land. Certain activities one can assume would have been confined to particular areas (such as kite flying on the open land, or fishing on the pond), but others I accept would have been undertaken more generally. These would include dog/recreational walking, picnicking and fruit picking. I also conclude that there has been use even of the more closely vegetated areas, for activities such as children's games and nature observation. In this last respect, I note that in Oxfordshire County Council v Oxford City Council and Robinson [2004] EWHC 12, Lightman J approved the registration of a densely vegetated area, notwithstanding it was recognised that much of the land was so heavily vegetated as to be impenetrable. The judge observed:

"...overgrown and inaccessible areas may be essential habitat for birds and wildlife, which are the attractions for bird watchers and others"⁴.

⁴ At paragraph 95 of Oxfordshire.

22. Thus it is unnecessary for local people to have physically ‘used’ (in the sense of ‘stepped on to’) each and every part of land in order for it to be susceptible to registration.
23. As regards the matters raised by the Horton Settlement, I am satisfied that there has been use of the 3m strip above the treeline/bank, to the south west of the pond. Having visited the site, I accept the evidence of the Applicant that this land would have been used in connection with fishing on the pond itself.
24. Accordingly, on balance I am content that qualifying use of one sort or another has taken place over what is effectively the entirety of the Land.

Significant Number

25. As noted earlier in this report, the Applicant has submitted written statements and/or questionnaires from some 100 individuals, which all attest to use of the Land for lawful sports and pastimes. The vast majority of those who have provided this evidence have been resident within the Neighbourhood at the time of their user.
26. In terms of the question of whether the Land was used for recreational purposes by a ‘significant number’ of the inhabitants of Neighbourhood, I have had regard to the comments of Sullivan J in R (on the application of McAlpine Homes Ltd) v Staffordshire County Council (2002) PLR 1. In that case the judge rejected the proposition that the term ‘significant’ meant “*a considerable or substantial number*”. Rather, the judge concluded that a ‘significant’ number of users would be that:
- “sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by trespassers”⁵.*
27. Having regard to the decision of Sullivan J in McAlpine, I am satisfied that the use of the Land for lawful sports and pastimes has been carried on by a significant number of the inhabitants of the Neighbourhood for the purposes of the 2006 Act.

⁵ See paragraph 71 of the decision

Neighbourhood and/or Locality

28. The Applicant's case as regards neighbourhood/locality is that both the Neighbourhood and the Locality satisfy the statutory requirements.
29. I am satisfied that the Locality relied upon is sufficient to satisfy the requirement of the 2006 Act, comprising as it does an administrative unit (see Ministry of Defence v Wiltshire (1995) 4 All ER 931).
30. The position is more complicated as regards the Neighbourhood.

The Law

31. The relevant law as regards this issue is, to my mind, still to be found in the case of R (Cheltenham Builders Ltd) v South Gloucestershire District Council [2004] JPL 975. In that case the judge rejected the submission "*that a neighbourhood is any area of land that an applicant for registration chooses to delineate on a plan*", before going on to say that:

*"The registration authority has to be satisfied that the area alleged to be a neighbourhood has a sufficient degree of cohesiveness, otherwise the word "neighbourhood" would be stripped of any real meaning. If Parliament had wished to enable the inhabitants of any area (as defined on a plan accompanying the application) to apply to register land as a village green, it would have said so"*⁶.

32. The decision in Cheltenham Builders was the subject of some criticism by the House of Lords in Oxfordshire County Council v Oxford City Council and Robinson [2006] 2 AC 674. However, no criticism was made of the court's decision in respect of this particular issue, although I note the statement of Lord Hoffman that the 'neighbourhood' requirement in the statute is "*is obviously drafted with a deliberate imprecision*"⁷.

33. The approach in Cheltenham Builders was endorsed by Judge Waksman QC in R (on the application of Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust) v Oxfordshire County Council [2010] EWHC 530, where he observed:

⁶ See paragraph 85 of Cheltenham Builders.

⁷ See paragraph 27 of Oxfordshire.

“the factors to be considered when determining whether a purported neighbourhood qualifies are undoubtedly looser and more varied than those relating to locality [but]...a neighbourhood must have a sufficient degree of (pre-existing) cohesiveness. To qualify therefore it must be capable of meaningful description in some way”⁸.

34. I am content that the Neighbourhood has ready and obvious boundaries to its south, east and west. These comprise the edges of settlement, as they run up against major roads. The issue of the northern boundary was initially more troubling however, since although I readily understood why the Neighbourhood would exclude the University of Hertfordshire campus to the northwest, I could not immediately see why Woods Avenue and Oxlease Drive should serve as the boundary to the north east.
35. Nevertheless, having considered the Applicant’s Closing Submissions, I am content both that the northern boundary along those roads is genuine (as opposed to a mere ‘line drawn on a map’, as mooted by Sullivan J in Cheltenham), and that the Neighbourhood represents a sufficiently cohesive entity.
36. In so concluding, I have had regard to the various facilities which the Applicant identifies as serving the community (the Hilltop Neighbourhood Centre, the pub, the convenience store and the newsagents), and the various references to the ‘community’ in South Hatfield such as those found in the estates agents’ particulars the Applicant provides at Appendix 2 to his Closing Submissions. I also accept that Oxlease Drive and Woods Avenue themselves serve as something of a boundary, providing the sole route for traffic heading east towards/west away from the A1000 in this vicinity, and thus (at least in a sense) ‘separating’ the Neighbourhood from the residential areas located to the north of it.
37. On the basis of these and other considerations set out in the Closing Submissions, I accept that the Neighbourhood presents as an area distinct from Roe Green and the residential area north of Oxlease Drive.

⁸ See paragraph 79 of NHS Foundation Trust.

38. In so concluding, I have also had regard to the observations of Behrens J in Leeds Group Plc v Leeds City Council [2010] EWHC 810, to the effect that

“As a number of judges have said [in introducing the concept of neighbourhood to the legislation] it was the clear intention of Parliament to make easier the registration of Class C TGVs. In my view Sullivan J’s references to cohesiveness have to be read in the light of these considerations”⁹.

39. On this basis I conclude that the use has been undertaken by the inhabitants of a qualifying neighbourhood and locality for the purposes of the 2006 Act.

User as of Right

40. As noted above, in order for use of land to justify its registration as town or village green pursuant to the 2006 Act, such use must be carried on ‘as of right’. That is to say, user must not be carried on ‘by force (nec vi)’, ‘secretly (nec clam)’, or ‘with permission (nec precario)’.

41. Whilst there does not appear to be any suggestion that user has been carried on ‘secretly’, I must briefly set out my reasoning with regard to the suggestions previously advanced by the HCA that user has been carried on either ‘by force’ or ‘with permission’.

User by Force: Signs

Existing Signs

42. I note that there are various signs currently located on the Land.

43. One such sign, erected by the pond, simply carries the warning ‘DEEP WATER’. I understand that the sign was erected relatively recently, in place of a previous sign which had apparently been removed and discarded in a wooded part of the Land. That earlier sign bore the same message. Signs of this nature would not have the effect of restricting user; they are merely informative.

44. However, I also saw two other signs on the Land which were worded as follows:

⁹ See paragraph 103 of Leeds.

Private Land

Access prohibited except for the use of the public footpath

Please keep to the footpath and keep dogs on a lead

One of these signs was erected in the south western corner of the Land, on the 'kissing gate' installed there. The other sign was erected by the public footpath (North Mymms 85), at a central location on the Land.

45. As regards the effect of such signage I am aware of recent caselaw, in particular the decision of the Court of Appeal in Winterburn v Bennett [2016] 2 P&CR 11. In that matter, which was concerned with the acquisition of rights over a car park as distinct from village green rights, LJ Richards observed:

"In my judgment, there is no warrant in the authorities or in principle for requiring an owner of land to [take steps such as having solicitors write letters or issue legal proceedings] in order to prevent the wrongdoers from acquiring a legal right. In circumstances where the owner has made his position entirely clear through the erection of clearly visible signs, the unauthorised use of the land cannot be said to be "as of right". Protest against unauthorised use may, of course, take many forms and it may, as it has in a number of cases, take the form of writing letters of protest. But I reject the notion that it is necessary for the owner, having made his protest clear, to take further steps of confronting the wrongdoers known to him orally or in writing, still less to go to the expense and trouble of legal proceedings.

The situation which has arisen in the present case is commonplace. Many millions of people in this country own property. Most people do not seek confrontation, whether orally or in writing, and in many cases they may be concerned or even frightened of doing so. Most people do not have the means to bring legal proceedings. There is a social cost to confrontation and, unless absolutely necessary, the law of property should not require confrontation in order for people to retain and defend what is theirs. The erection and maintenance of an appropriate sign is a peaceful and inexpensive means of making clear that property is private and not to be used by others. I do not see why

*those who choose to ignore such signs should thereby be entitled to obtain legal rights over the land*¹⁰.

46. In the light of the decision in Winterburn, I consider that the erection of these signs described in paragraph 44 above would have the effect of rendering contentious any user of the Land other than of the recorded public footpath.

47. It is necessary therefore, to establish when these signs were erected. Several of the written statements/questionnaires submitted in support of the Application note the erection of these signs. By way of example, the questionnaire submitted by Mr Izzard states, in answer to a query regarding whether he had ever been prevented from using the Land:

"No – however there are now signs"

"Recent signs saying keep off! And stay on pathway!"

In answer to a further query regarding whether any attempt has been made to prevent or discourage user, he states

"Yes – signs saying keep off land + stay on path!"

"Signs now in place recently saying 'keep to the path'!"

Mr Anthony Edwards' questionnaire provides similar responses. The difficulty with such evidence is that it is unclear what is meant by the terms 'recent' or 'recently'.

48. Some degree of clarification is provided by the evidence of Stuart Crowley, who refers to such notices being erected "*about a year ago*" (writing in 2015). This is consistent with the user evidence of Adrienne Nix. Thus it appears that signs were erected in the 2014.

49. Fortunately however, the position is confirmed by paragraph 7.4 of the Statutory Declaration of Mr Christopher Beard, previously submitted in support of the HCA's objection to the Application. Mr Beard states in terms that these signs were erected in 2014.

50. Given that the signs were erected in 2014, it follows that they were erected after the Relevant Period, and therefore do not bear on the Application.

¹⁰ See paragraphs 40-41 in Winterburn.

2010 Signs

51. I note that in other questionnaires (see, by way of example, the questionnaire of Mr David Markas, that of Catherine Roe, and indeed that of the Applicant himself), there are also references to a sign (or signs) having been erected by the HCA in 2010. The fact of such signs having been erected in 2010 is broadly consistent with local press cuttings from that period, and also with the evidence of Mr Beard, who confirms that a sign was erected in October 2009, and then later taken down (by the HCA) in April 2010.

52. When objecting to the Application, the HCA had asserted that the erection of this sign was sufficient to defeat the Application, by rendering subsequent user contentious. Notwithstanding the HCA has withdrawn its objection, in the event that the legal effect of the sign was to have rendered user of the Land not 'as of right', then the Council would be compelled to reject the Application.

53. However, I do not consider that the sign erected in 2010 had this effect.

54. The sign was apparently worded '*Private Land No Public Right of Way*¹¹.

55. Notification:

a) that land is in private ownership; and/or

b) that there is no public right of way across it,

is not, in my view, sufficient to render use of it for village green purposes as contentious. Rather, such sign would merely have the effect of informing people venturing on to the Land of those two factual matters. The wording does not amount to a prohibition on access, or a prohibition regarding the carrying out of village green activities.

56. Thus I do not consider the 2010 Signs rendered use of the Land forcible.

¹¹ See the evidence of Mr Beard, at paragraph 5.3 of his statutory declaration, where he confirms that the sign he erected was worded to this effect. See also paragraph 26(b) of the HCA's objection, which confirms the sign was worded in this way.

Permissive User/User 'By Right'

57. There is some suggestion in the documentation before me that use of the Land may have been permissive, on account of the fact that at one time or another licence/permission has been granted to use a linear route across the Land. Alternatively, it is suggested that user has been carried on 'by right', on the basis that local people enjoyed the benefit of a right to use FP North Mymms 85 (it being a recorded footpath on the Definitive Map).

58. I am satisfied that use of the Land for lawful sports and pastimes has not been permissive or 'by right', at least not to the extent of frustrating the Application. Indeed, I am not satisfied that user has been permissive/'by right' at all during the Relevant Period. In this regard I note the following:

- First, FP North Mymms 85 was only added to the Definitive Map as a public right of way on 9 August 2013 (see paragraph 7.3 of Mr Beard's declaration), such that user would have only become authorised (and therefore 'by right') after the expiry of the Relevant Period (which ended in March 2013).
- Second, as regards the licence referred to by the Applicant in his Closing Submissions ('the Licence' – which I understand would, if effective, have had the effect of granting permission to use FP North Mymms 85) – ,I am informed by the Applicant that the terms of the Licence were not satisfied. There is no evidence or submission which runs contrary to that assertion, such that I must assume that the Licence never took effect¹².

59. However, even and to the extent use of FP North Mymms 85 was carried on 'with permission' or 'by right' during part of the Relevant Period, I do not consider that this would defeat the Application.

60. In my view, the degree, quality and extent of user described in the user evidence goes far beyond footpath use. Accordingly, I conclude that a notional landowner who had witnessed the use made of the Land during the Relevant Period would have perceived that local people were exercising village green rights over the entirety of the area, irrespective of the legal position in respect of a particular, linear footpath.

¹² In this context I note that no reliance was placed on this by either the HCA or the Horton Settlement.

Summary

61. In summary, I conclude that the use of the Land for lawful sports and pastimes undertaken by inhabitants of the Neighbourhood has been carried on 'as of right'.

Twenty Year Period

62. On scrutinising the written evidence in support of the Application, I conclude that the evidence in support of the Application supports a conclusion that the use of the Land for lawful sports and pastimes has continued throughout the Relevant Period (1993-2013). Indeed, the evidence is indicative that continuous user has been maintained for a period far longer than 20 years.

Conclusions

63. Having regard to the above matters, my conclusions are as follows, namely that:

- The Applicant has demonstrated that the Land has been used for lawful sports and pastimes.

- The Applicant has demonstrated that both the Neighbourhood and the Locality satisfy the statutory requirements of the 2006 Act.

- The Applicant has demonstrated that the user of the Land for lawful sports and pastimes was carried on by a significant number of the inhabitants of the Neighbourhood.

- The Applicant has demonstrated that the user of the Land was carried on 'as of right' during the Relevant Period.

- The Applicant has demonstrated that the user of the Land was carried on continuously throughout the Relevant Period.

64. On this basis, it is my recommendation to the Council that it register the Land as a Town or Village Green pursuant to section 15(2) of the 2006 Act.

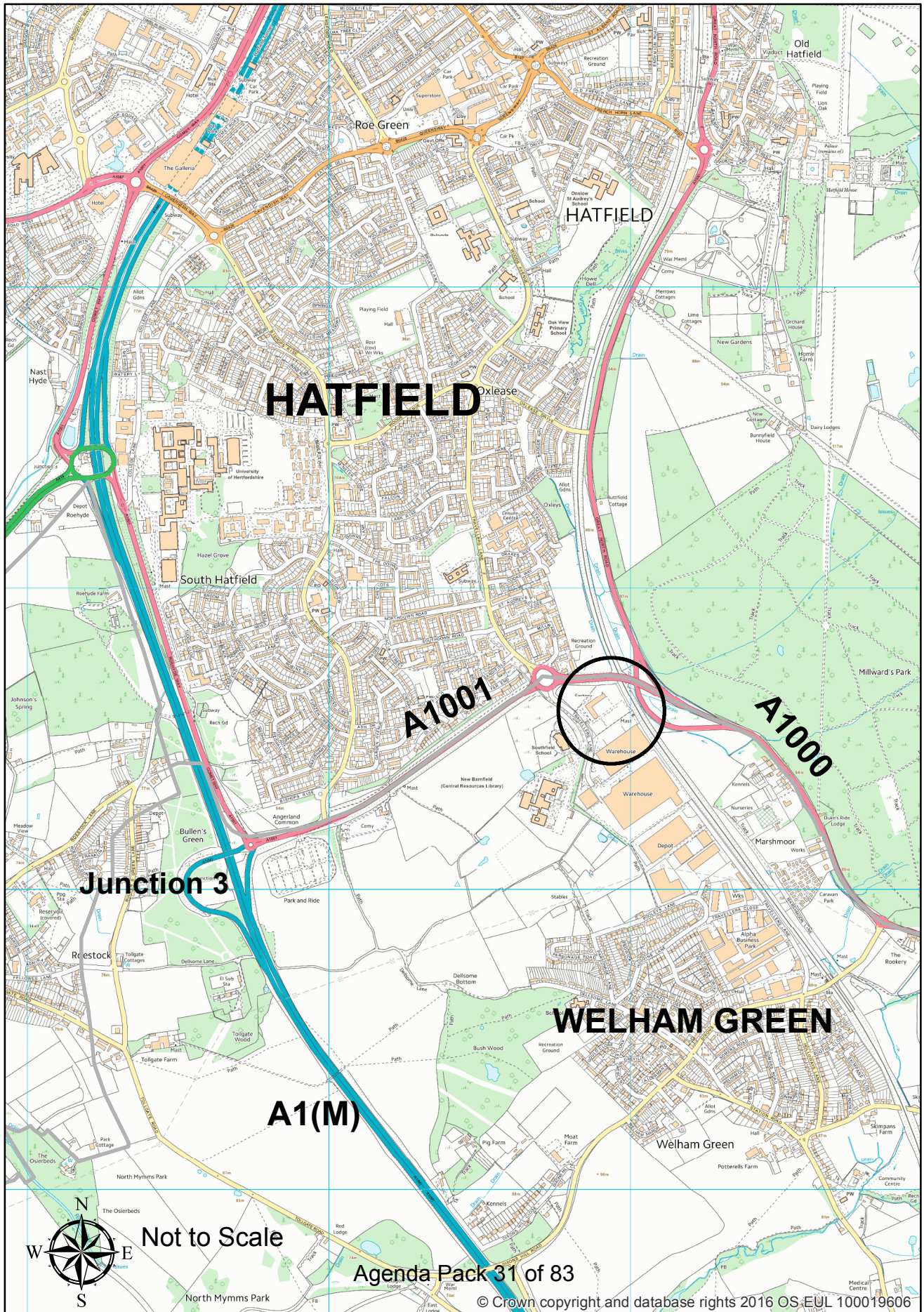
8 June 2017

Alexander Booth QC

Francis Taylor Building,

EC4Y 7BY

Location Plan
Bunchleys (New Barnfield), Hatfield
Application to register land as town or village green



HERTFORDSHIRE COUNTY COUNCIL

**DEVELOPMENT CONTROL COMMITTEE
THURSDAY, 20 JULY 2017 AT 10:00AM**

Agenda No.

2

EAST HERTS DISTRICT COUNCIL (EHDC)

PROPOSED CONSTRUCTION OF A NEW BUILDING TO PROVIDE A 3 FORM ENTRY (3FE) PRIMARY EDUCATIONAL FACILITY FOR RECEPTION, KEY STAGE 1, KEY STAGE 2 AND NURSERY PROVISION, CAR PARKING AND ASSOCIATED DEVELOPMENT AT LAND SOUTHWEST OF FARNHAM ROAD AND NORTH OF RYE STREET, BISHOPS STORTFORD, HERTFORDSHIRE

Report of the Chief Executive & Director of Environment

Author: Chay Dempster, Principal Planning Officer, Tel: 01992 556211

Local Member: Cllr John Wyllie

1. Purpose of report

- 1.1 To consider application 3/0031-17 for the proposed construction of a new building to provide a 3 form entry (3FE) primary education facility for reception, Key Stage 1, Key Stage 2, and nursery provision, car parking and associated development at land southwest of Farnham Road and north of Rye Street, Bishops Stortford, Hertfordshire.

2. Summary

- 2.1 The planning application proposes a new primary school providing 3 forms of entry (total 630 pupil places) and a pre-school nursery for up to 90 children. The proposed buildings comprise 3,339 square metres of floorspace. The school would be constructed by summer 2018 to provide places for the start of the school year in September 2018.
- 2.2 The need for additional primary school places is directly related to the expansion of the town as a result of planning permissions granted for 2,529 homes to the north of Bishops Stortford.
- 2.3 The report acknowledges that there is a growing need for additional primary school places in Bishops Stortford; the construction of a new 3FE primary school would meet the requirement within the area of need. The report concludes that planning permission should be granted subject to the conditions set out in Appendix II of the report.

3. Background

- 3.1 Bishops Stortford is set to experience significant housing growth over the next 15 years. The draft East Herts District Plan includes housing site allocations to the north of Bishops Stortford for approximately 2,529 homes between 2107 and 2033. Outline planning permission has already been granted for 2,200 new dwellings (3/13/0804/OP) on land at Bishops Stortford North (the current application site falls within the planning permission area). There is also detailed planning permission for a further 329 new dwellings on land Between Farnham Road and Hazel End Road (3/13/0884/OP). Full details of the applications are listed in the section 6 of this report.
- 3.2 Hertfordshire County Council is required to provide additional primary school capacity to meet the additional new demand. The development will generate a total demand for primary school places equivalent to an additional 5 forms of entry (5FE). There is already full planning permission (3/1975 – 15) for a new 2FE primary school within Bishops Stortford North (western neighbourhood) funded via s106 financial contributions. There remains the need for a further 3FE capacity to be located within the eastern neighbourhood.
- 3.3 The masterplan for the development of Bishops Stortford North (BSN) identifies two potential sites for two new primary schools within the eastern neighbourhood, originally envisaged to be a 1FE and a 2FE school. However, the County Councils preference (as education provider) is for a single site for a school of 3FE capacity.
- 3.4 The development of 3FE additional capacity will be funded via developer contributions generated by the BSN development and from the Countryside Properties development to the north of Farnham Road.
- 3.5 There are a limited number of objections to the proposed development (listed in section 9.10 of the report), many of which refer to the increase in traffic from the new housing developments and the resulting impact upon traffic congestion, a lack of suitable infrastructure for pedestrians and cyclists, and the limited opportunities to access the site using public transport. There are no objections from statutory consultees.
- 3.6 The report concludes that; there is a need for additional primary school places; and the site falls within the area of need and a primary school would provide a long term sustainable use of site to the benefit of the new community within the locality. The NPPF (paragraph 72) encourages the expansion of existing schools and the construction of schools to meet the needs of existing and new communities. The proposal is consistent with this policy objective.

4. Site and surrounding area

- 4.1 The application site is situated outside of the built up part of Bishops Stortford approximately 400m to the south of the A120 bypass.
- 4.2 The application site is currently in the ownership of Bishops Stortford Town Council and was last used as allotments up until approximately 2001. The site is not previously developed i.e. greenfield. The total area of the site is 9.74 hectares.
- 4.3 The site occupies a south-western facing slope. The site slopes from north to south from 77m Above Ordnance Datum (AOD) in the north of the site adjacent to Farnham Road to 60m AOD in the south east corner of the site adjoining Bourne Brook.
- 4.4 The application site is located approximately 1.25km north of the Old Town of Bishops Stortford and approximately 650m north of the River Stort and the former Roman Settlement centred around the original route of Stane Street. The application site is within 2.5km of Bishops Stortford railway station.

5. Planning application supporting documents

- 5.1 The application includes a number of technical documents:
- 5.2 The Heritage Assessment includes an archaeological evaluation and a written scheme of investigation summarising the results of 13 trial trenches, of which, only one contained remains i.e. pottery sherds from the Middle Iron Age (circa 400-50BC). The other twelve trenches contained no archaeological remains. The desk based assessment concluded that, based on evidence available, the site has a low to moderate theoretical archaeological potential interest from the Bronze Age and Roman period. There are a group of listed buildings at Foxdells Farm located approximately 300m to the south of the proposed school building i.e. the Farmhouse and Barn (Grade II listed) dating from the mid 19 Century and consisting of red brick farmhouse and large barn opposite.
- 5.3 The Landscape and Visual Impact Assessment (LVIA) comprises an assessment of the landscape and visual effects.

In terms of landscape effects -

- the site and surrounding is assessed as being of overall low to medium landscape quality;
- the site has low sensitivity to the development proposed;
- the site has limited visibility from the surrounding area (within the context of future housing on the surrounding land);
- the degree of change to local landscape character would be low;

- perimeter vegetation would be retained and strengthened with appropriate new planting;
- the anticipated overall effects on the local landscape would be no more than slight adverse;

5.4 In terms of visual effects -

- most views of the site will be from new housing areas;
- for a few properties around the site and public rights of way the visual effects would be very low level;
- the development would be visible from a limited area only and would not appear out of place in the local context;
- the development would result in some landform changes which cannot be completely mitigated, however after 10 years the effects are not expected to be significant;
- light spill (school buildings and car park) would be contained, and one of many other light sources e.g. street lights as part of the wider BSN development,
- the light from the school site would be incremental (slight)
- lighting would not be left on overnight.

5.5 The Ground Investigation Report records levels of ground contamination tests and the options for foundation design, including conventional strip, isolated pad, and piled foundations. The final choice would depend upon the construction loadings and ground bearing capacity.

5.6 The Ecological Assessment includes an initial preliminary ecological appraisal comprising species surveys (reptiles, birds and bats), which found; the list of protected species occupying the site includes foraging bats, breeding birds, and common species of reptile, however, the site supports no highly valued habitats and a low number of protected species, and is described as having low biodiversity value i.e. not more than local value (Parish level). The assessment concludes the site is not of importance for nature conservation. The proposals include the following mitigation for the loss of ecological potential:

- a significant increase in the floristic diversity of the site by planting 0.61ha of species rich grassland on the embankment between the school buildings and playing fields;
- planting, enhancing and sympathetically managing hedgerows (475m in total);
- relocating the inhabitant reptile population to a donor site; and allowing natural re-colonisation of the developed site;
- protecting hedgehogs and badgers during construction through the use of exclusion fencing;
- avoiding hedgerow removal during the nesting season.

5.7 The Transport Assessment (TA) (Stomor, November 2016) has regard to assessments prepared for the other developments in the area,

including; the BSN Consortium (WSP, January 2013) and the Countryside Properties development - ASR5 (Taylor Brown Ltd, May 2013); and a comparison report of the WSP and Taylor Brown assessments (Stomor, September 2015). The TA submitted with the application describes the local traffic conditions, the existing highway network, existing public transport facilities, existing pedestrian and cycle links, and air quality.

- The traffic surveys record two-way traffic flows for Rye Street, Farnham Road, Hazelend Road and Michaels Road during AM and PM peaks -

	AM	PM
B1004 Rye Street	1313	850
Farnham Road	92	66
Hazelend Road	650	423
B1004 Michaels Road	1700	2100

- The TA confirms the approved plans for the ASR5 development include a new roundabout at the junction of Rye Street, Farnham Road, Hazelend Road, and Michaels Road. The proposed roundabout will increase the efficiency of the junction and improve safety. In the revised layout the ASR5 development would benefit from a new direct access via the new roundabout and the southern end of Farnham Road would be re-diverted east into the ASR5 land, and the junction of Farnham Road with Rye Street would be stopped up for a section of approximately 200m.
- The swept path analysis (for coaches and refuse collection vehicles) indicates access to the front of the school buildings is possible for fire tenders. Hertfordshire Fire and Rescue Service’s response states a requirement for the provision of fire hydrants (and this is the subject of a condition).
- The transport assessment concludes –
- The TA for the ASR5 development has identified a mitigation package which would cater for the combined impact of the BSN and ASR5 developments on Rye Street. The assessment concluded that the traffic impact of the proposed 3FE primary school should not cause a detrimental effect on the local highway network;
- Discussions will need to be undertaken between the County Council and developers of the adjoining land (applications 3/13/0804/OP, 3/13/0886/OP, and 3/16/0452/FUL) to the determine the location and extent of the various highway improvements required as part of those developments, as well as required for the school site;
- A signalised pedestrian crossing will be required on Rye Street, linking the restricted southern section of Farnham Road to the south eastern footway on Rye Street;

- Serious consideration should be given to the provision of a footbridge across the railway line if there is likely to be migration of pupils from Bishops Stortford from east of the railway line;
- Overall it is considered that the proposed 3FE primary school and nursery would be appropriate in the context of the proposed developments within the area, and based on the findings of the report, it is concluded that there are no traffic and transport reasons why the proposals should not be granted detailed planning permission.

5.8 The Flood Risk Assessment (FRA) identifies the large majority of the site area falls within Flood Zone 1 (low flood probability). The school buildings would be sited with Flood Zone 1 on the upper slopes. The school playing fields would be sited on the lower slopes adjacent to Bourne Brook which is within Flood Zones 2 and 3 where there is a higher probability of flooding. The FRA confirms the last occasion significant flooding within Flood Zones 2 and 3 was in 2001. The FRA provides an assessment of the probability of flooding based on the 1 in 100 year storm event, plus a 40% allowance for climate change. The BSN development for the eastern district proposes a large flood storage and attenuation area to the west (upstream) of the school site which should reduce the theoretical probability of flooding affecting the school playing fields. The application includes a sustainable drainage scheme which demonstrates the proposed development would not significantly increase the risk of flooding downstream;

6. Proposed development

6.1 The proposed development includes:

- The construction of a new building to provide new 3FE primary educational facilities for nursery, reception, Key Stage 1 and Key Stage 2 pupils.
- The construction of hard and soft play areas.
- Playing pitches.
- The construction of associated car parking spaces and delivery areas.
- Planting and landscaped areas.

6.2 The buildings provide 3,339m² (Gross External Area) over two storeys. The floorplans show a two storey building in two separate blocks forming an L-shape configuration with a central reception formed by full height glazing to present views through the building to the playing fields beyond. The classrooms are accessed via a corridor running centrally through the buildings on both floors. The accommodation is formed around the nursery and reception classrooms on ground floor (southern block) with the kitchen, school hall and classrooms for Years 1 & 2 on the ground floor (northern block). The classrooms for Years 3, 4, 5 & 6 are provided on the upper floors of both blocks. The provision of internal floor space is in line with national space standards for education establishments set out in Building Bulletin 99.

- 6.3 The site would be constructed on two levels. The school buildings would be built on an upper terrace (at 72.15m Finish Floor Level). The sports pitches would be built on a lower terrace (68m FFL).
- 6.4 The application is accompanied by an agronomy assessment which evaluates the existing soils as suitable for use in the playing field construction. Stones will be removed and appropriate drainage provided. The proposed gradients for the sports pitch would meet Sport England standards. The recommended condition requires a method statement for construction of the sports pitches.
- 6.5 Access to the sports pitches would be provided via a ramped access being DDA compliant. The embankment between the buildings and the pitches would be planted with a wildflower meadow mix to enhance biodiversity. The pitches would be positively drained into a detention basin before being discharged to Bourne Brook. The pitches would be ready for use within 18 months (if seeded in early Autumn).
- 6.6 Parking for 66 cars and 51 cycles is provided in front of the buildings with space for pupil drop off and coaches parking.

7. Related planning history

- 7.1 The application site was formerly used as allotments. The land is owned by Bishops Stortford town council. There are no other specific planning permissions that relate to the site.
- 7.2 The related planning permissions on the surrounding areas of land, which are material to the determination of the current application, are listed in Tables 1-3 below.

Table 1- land at Bishops Stortford North

<p>3/13/0804/OP (Areas of Special Restraint 1-4 and Special Countryside Area)</p>
<p>Erection of up to 2,200 dwellings inclusive of affordable housing; green infrastructure, amenity and formal and informal recreation space; landscaping; development of 2 mixed use local centres including up to 21,000 square metres of commercial floorspace (Use Class B1 a, b and c) and healthcare facilities (Use Class D1) and retail floorspace (Use Classes A1, A2, A3, A4 & A5) etc.; primary school and associated facilities (1.25 hectares of land) and a further primary school on 2 hectares of land with the potential to extend by 1.08 hectares if required etc.; 4 new junctions (A120, Hadham Road, Rye Street and Farnham Road); estate roads and public transport route; footpaths/cycleways etc.; noise bund with barrier; a sustainable drainage system; utilities services including foul water pumping</p>

Land southwest of Farnham Road and north of Rye Street, Bishops Stortford (3/0031-17)

stations; 2 residential garden extensions; and the demolition of 221 Rye Street and 164 & 165 Hadham Road (all matters reserved except vehicular access) - AMENDED SCHEME. Land At Bishop's Stortford North, Bishops Stortford, Herts (approved with conditions 02 April 2015).
3/15/1012/VAR
Variation of condition 8 (approved plans) of planning permission 3/13/0804/OP (Erection of 2,200 dwellings) - Condition 8 requires area B1 to be developed in accordance with the list of approved drawings; Persimmon Homes wish to update the approved house types to the latest versions that address recent and upcoming changes to the Building Regulations (approved with conditions 01 April 2016).
3/16/0997/NMA
Non-material amendments to parcels B3, B4 and B8 pursuant to planning permission 3/13/0804/OP (approved with conditions 11 th October 2016)
3/17/0891/NMA
Non-material amendment to 3/13/0804/OP – Revisions to the approved house types including some small changes to the site layout (approved with conditions 20 June 2017)
Education
3/1975 – 15
Application for proposed construction of a new building to provide 2 form entry (FE) primary educational facilities for reception, key stage 1 and key stage 2 pupils, nursery provision, new car parking and associated development (approved with conditions 12 April 2016).
3/2037-14
Outline planning permission with all matters reserved for the construction of a new secondary school with 6 forms of entry on land south of the A120; change of use of agricultural land to school playing fields north of the A120; erection of a pedestrian bridge over the A120; new emergency vehicle and maintenance access to school playing fields; with associated landscaping and infrastructure (approved with conditions 09 June 2015).

Table 2 - land Between Farnham Road and Hazel End Road (ASR5)

3/13/0886/OP
Urban extension comprising 329 new dwellings (of a range of sizes, types and tenures, including affordable housing), including a site for a one-form entry primary school, and public open and amenity space, together with associated landscaping, access, highways (including footpaths and cycleways), parking, drainage (including a foul water pumping station), utilities and service infrastructure works (approved with conditions 01 June 2016)
3/16/1252/FUL
Amendment to approved access in outline permission 3/13/0886/OP to reconfigure the principal access to ASR5 from the junction of Rye Street and Hazel End Road, including revised roundabout design and alterations to Farnham Road, amendments to new junctions with Hazel End Road and Farnham Road (approved with conditions 12 October 2016).
3/16/1251/REM
Application for approval of reserved matters for 3/13/0886/OP for the layout of the first phase of the internal road network, the landscape buffer planting adjacent to the A120, Hazel End Road and Farnham Road, and the layout and details of landscaping for the new Riverside Park adjacent to Hazel End Road, including internal footpaths, planting plan, visitors car park, attenuation ponds and access road (Approved with conditions 07 December 2016)
3/16/1897/REM
Reserved matters relating to Phase A housing development for 69 dwellings and 22 affordable units, to include access, landscaping and parking (Approved with conditions 07 December 2016)

Table 3 - land at the corner of Rye Street and Farnham Road

3/16/0452/FUL
Erection of 30 dwellings comprising of 7no two bed dwellings, 9no three bed dwellings and 14no 4 bedroomed dwellings with associated access and landscaping at Rye Street/Farnham Road (application awaiting a decision by East Herts District Council (EHDC))

Amendments to 3/13/0086/OP

- 7.3 The original application (May 2013) proposed 450 dwellings. The lack of primary school places was an issue during consultation. In October 2013 the proposal was reduced to 410 dwellings and a reserve primary school site identified within the site. In April 2015, the application was formerly amended to 329 dwellings with the inclusion of a 1FE primary school (as opposed to a reserve school site). The design and access statement, environmental statement, masterplan and parameter plans were amended accordingly.

8. Development Plan

- 8.1 The development plan for the area comprises the East Herts Local Plan Second Review Adopted 2007, Neighbourhood Plan for Silverleys and Meads Wards 2014-2031; the Hertfordshire Minerals Local Plan Review Adopted 2007, and the Hertfordshire Minerals and Waste Development Management Document Adopted November 2012.
- 8.2 The most relevant policies of the development plan documents are:

East Herts Local Plan 2007 (saved policies)

SD1 – Making Development More Sustainable; SD2 – Settlement Hierarchy; Appropriate Development in the Green Belt; GBC14 – Landscape Character; TR1 – Traffic Reduction in New Developments; TR2 – Access to New Developments; TR3 - Transport Assessments; TR4 - Travel Plans; TR7 – Car Parking Standards; TR13 – Cycling Facilities (Non-Residential); ENV1 – Design and Environmental Quality; ENV2 – Landscaping; ENV4 – Access for Disabled People; ENV10 – Planting New Trees; ENV11 – Protection of Existing Hedgerows and Trees; ENV16 – Protected Species; ENV17 – Wildlife Habitats; ENV18 – Water Environment; ENV19 – Development in Areas Liable to Flood; ENV21 – Surface Water Drainage; ENV23 – Light Pollution and Floodlighting; ENV24 – Noise Generating Development; ENV25 – Noise Sensitive Development; ENV27 – Air Quality; BH1 – Archaeology & New Development; BH2 – Archaeological Evaluations and Assessments; BH3 – Archaeological Conditions and Agreements; BIS8 Areas of Special Restraint 3, 4 and 5.

Silverleys and Meads Neighbourhood Plan (SMNP) 2014-2031

HDP3 – Design standards; GIP4 – Protect wildlife and increase biodiversity; GIP7 – Flood mitigation; TP1 – Tackling traffic congestion; TP2 – Improving air quality; TP3 – Create walking and cycle friendly neighbourhoods; TP4 – Develop a connected town for pedestrians and cyclists; TP5 – Better bus travel; TP7 – Cycle parking; TP8 – Residential parking; EP3 – New primary schools.

- 8.3 The Silverleys and Meads Neighbourhood Plan policies are more recent than the East Herts Local Plan, therefore its policies take precedence

over the non-strategic policies of the adopted Local Plan where they are in conflict. The policies of the Neighbourhood Plan carry full weight and will only become out of date when the East Herts District Plan is adopted.

Emerging District Plan

- 8.4 East Herts District Council has submitted its District Plan to the Secretary of State and is awaiting dates for examination hearings.
- 8.5 The policies in the pre-submission version of the East Herts District Plan relevant to this application are:

INT1: Presumption in Favour of Sustainable Development; BISH3: Bishops Stortford North; DES1 Landscape Character, DES2 Landscaping, DES3 Design of Development, TRA1 Sustainable Transport, TRA2 Safe and Sustainable Highway Access Arrangements and Mitigation, TRA3 Vehicle Parking Provision, CFLR10 Education, NE3 Species and Habitats, NE4 Green Infrastructure, HA3 Archaeology, CC1 Climate Change Adaption, CC2 Climate Change Mitigation, CC3 Renewable and Low Carbon Energy, WAT1 Flood Risk Management, WAT2 Source Protection Zones, WAT3 Water Quality and the Water Environment, WAT5 Sustainable Drainage, EQ3 Light Pollution.

- 8.6 There is no specific reference to the above policies in the planning statement submitted with the application

9. Statutory Consultations

- 9.1 East Herts District Council comments the site is proposed to form part of the built up area of Bishop's Stortford in the District Plan, the District Council consider that the provision of development at this site is acceptable. As education provider, the County Council are best placed to consider the relevant considerations for education provision as part of the wider Bishop's Stortford North development and in terms of the detailed design of development for education provision. EHDC offers the following comments with regards to design and access:

- The overall layout, design and scale of development appears to respond reasonably well with the geometry of the site, levels and approved developments at adjoining sites (Phase A of ASR5 — LPA reference 3/16/1897/REM and the adjoining site to the east — 3/16/0452/FUL).
- With regard to the detailed design of the proposed building, the District Council note that extensive glazing is proposed to the southern and western elevations of the building and it is not clear whether such a level of glazing has been considered in terms of passive heat gain and sun glare and in terms of emerging policy CC1 of the District Plan,
- The plans available incorporate a somewhat unusual and strange collection of materials which includes a mixture of bricks, boarding and

a green glazed brick. There appears to be perhaps one too many materials in the elevation treatment and the District Council are not convinced that the provision of a green glazed brick is appropriate, particularly in the context of policy ENV1 of the Local Plan and emerging policy DES3.

- The new school should ensure appropriate and good quality pedestrian and cycle access to encourage the use of sustainable modes of transport. In this respect, it is not clear whether the proposed pedestrian/vehicle access provides the best opportunities for accessing the site from the adjoining ASR5 development. The approved reserved matters plans and outline plans for phase A of ASR5 indicate a pedestrian access onto Farnham Road and the proposed access into the school creates a slight 'dog-leg' which may discourage walking and cycling.
- The outline planning permission for ASR3-4 includes a new route from Rye Street in a north westerly direction along the south western boundary of the application site for the new school. The plans submitted show no direct access from this new route to the school. The District Council acknowledge that there may be levels differences, ownership issues and school safety/accessibility reasons which prohibit such an access but there remains nonetheless a missed opportunity to create permeability to the site from this route.
- The County Council are encouraged to carefully consider whether the development takes the best opportunities available to create connectivity and permeability in encouraging and providing opportunities for sustainable modes of travel as required in emerging policies in the District Plan.

9.2 Hertfordshire County Council as Highway Authority raise no objections to the proposed development, subject to conditions. In summary the conditions require:

- the north east section of Farnham Road to be diverted in accordance with the approved plans for the adjoining development prior to the occupation of the school;
- the new site access to be provided in accordance with further details plans to be provided for the approval of the Highway Authority;
- the School Travel Plan compliant with current Hertfordshire County Council standards to be submitted within first six months of occupation of the new school being followed by full implementation by the school;
- detailed parking plans to be submitted;
- signalised pedestrian crossing to be provided on Rye Street (as shown on Drawing No ST-2448-39);
- a scheme of parking restrictions and a 30mph zone to be introduced along Farnham Road within 6 months of the first occupation of the new school (in accordance with in principle drawing ST-2448-32-A).

9.3 The Highway Authority response also notes:

- The proposed 3FE school will have capacity 630 pupils plus a nursery with 90 places of which up to 60 are expected to attend a morning and afternoon session. There will be a year-by-year increase in pupil numbers in tandem with the occupation of the residential development phases of the BSNC development. Staff numbers are expected to increase gradually, at a proportionate rate to the increase in pupils.
- The proposed layout will incorporate a staff car park of 66 spaces as well as cycle parking in accordance with the parking standards from the East Herts Local Plan. The proposals include appropriate pedestrian facilities adjacent to the school.
- The Transport Assessment accompanying the application states that an assessment has been made of the predicted number of vehicle trips based upon research into travel patterns of the staff and for parents dropping off and the collection of pupils.
- A maximum of 65 vehicles are expected to arrive to drop-off and pick-up pupils at the start and end of the school day, associated with some pupils who live outside a reasonable walking distance, and some parents who are expected to drop-off children on their way to/from work. Measures are to be put in place to enable these vehicles to park in the adjacent local centre car park as part of a Park and Stride scheme, to avoid causing congestion on the surrounding road network.
- The Transport Assessment associated with the ASR5 development has identified a mitigation package which would cater for the combined impact of the BSN Consortium and ASR5 developments on Rye Street.
- The assessment has concluded that the traffic impact of the proposed 3FE primary school should not cause a detrimental effect on the local highway network.

9.4 Hertfordshire County Council as the Lead Local Flood Authority raises no objections subject to 2 pre-commencement conditions that require:

- implementation of the mitigation measures specified in the FRA
- provision of a detailed surface water drainage scheme

9.5 The Environment Agency raise no objections recommending that the finish floor levels are ideally 300mm above the 1-in-100 year event including an allowance for climate change, or where this is not practical, flood resilience measures are incorporated into the 1 in 100 year event level.

9.6 The County Landscape Officer raises concerns regarding the adverse landscape and visual impact. The main points are:

- In terms of landscape effects, the LVIA states 'the overall effects on the local landscape would be no more than slight adverse, as the proposals would lead to some changes in landform'. However, the proposal would involve a large scale cut-and-fill operation across the site which would fundamentally change the topographical character of the site from a distinctive natural sloping valley landform to a series of engineered flat development platforms separated by a steep bank. There the impact is

will be higher than suggested in the LVIA. There appears to be an opportunity to mitigate the impact on the proposed landform with a more sensitive layout and design, such as, more sensitive ground shaping and use of retaining features, which could potentially become a key pedestrian link between the school and playing fields, informal seating for outdoor classes/sports spectators, a potential wildlife corridor, used as part of the SuDS scheme, and help mitigate views from the south and west.

- In terms of visual effects, the proposed development is generally well screened to views from the north east and west by the rising topography and development at Bishops Stortford North, however, there is concern that the proposed development results in more significant negative visual effects (than has been stated in the assessment) from more elevated areas across the Bourne Brook valley to the southwest. It is understood that the proposed development is viewed in the context of the wider urban area of Bishops Stortford North, however, from this direction the school's southwest elevation will be viewed as a prominent large-scale block, with some trees and open playing fields at a lower level in the foreground, set within a wider area of small-scale residential housing. The proposed planting including native tree and shrub buffer planting along the site boundaries including large native trees close to the building would help reinforce the local woodland character in this sub-urban setting toward the open countryside.

9.7 Sport England replied to the effect that the proposed development does not fall within their statutory or non-statutory remit and therefore provide no detailed response, on the basis that the application does not involve the loss of any sports facility and sports facilities are not a statutory requirement such as for housing development exceeding 300 units. Guidance is offered towards Sport England's design and cost guidance in relation to the provision of a new sports facility.

9.8 Herts Fire & Rescue Service advises that the plans were not sufficient to enable them to adequately assess the provision for water supplies for the fire service, and, would expect to view drawings with the following provisions for access and water supply:

Access and facilities

- Access for fire fighting vehicles should be in accordance with The Building Regulations 2010 Approved Document B (ADB), section B5, sub-section 16;
- Access routes for Hertfordshire Fire and Rescue Service vehicles should achieve a minimum carrying capacity of 18 tonnes;
- Turning facilities should be provided in any dead-end route that is more than 20m long. This can be achieved by a hammer head or a turning circle designed on the basis of Table 20 in section B5.

Water supplies

Water supplies should be provided in accordance with BS 9999.

This authority would consider the following hydrant provision adequate:

- Not more than 60m from an entry to any building on the site.
- Not more than 120m apart for residential developments or 90m apart for commercial developments.
- Preferably immediately adjacent to roadways or hard-standing facilities provided for fire service appliances.
- Not less than 6m from the building or risk so that they remain usable during a fire.
- Hydrants should be provided in accordance with BS 750 and be capable of providing an appropriate flow in accordance with National Guidance documents.
- Where no piped water is available, or there is insufficient pressure and flow in the water main, or an alternative arrangement is proposed, the alternative source of supply should be provided in accordance with ADB Vol 2, Section B5, sub section 15.8.

In addition, buildings fitted with fire mains must have a suitable hydrant sited within 18m of the hard standing facility provided for the fire service pumping appliance.

NB: These matters form part of a condition requiring the submission of detailed plans, prior to the commencement of development, to demonstrate that the development will meet the requirements of Hertfordshire Fire and Rescue Service.

9.9 The County Archaeologist response confirms the site was the subject of an archaeological evaluation, via trial trenches, in October 2016. The only archaeological features revealed were in Trench 3, and these comprised two pits and a post-hole. The larger of the pits contained approximately half of a complete vessel, of which the form and fabric of the pottery are typical of Middle Iron Age date, or possibly early-middle Saxon date. Environmental analysis of a sample from the pit identified charred plant remains, and very small amounts of hammerscale, which is indicative of smithing. The proposed development site is adjacent to the housing development at 'Land between Farnham Road and Hazel End', where extensive archaeological investigations have revealed occupation evidence of Early Neolithic, Bronze Age, Iron Age and Saxon date (a ditch terminus, pit, or a surface contained an assemblage of late 6th to 7th century pottery). I recommend the following provisions be made should you be minded to grant consent (for conditions - see Appendix II):

- the archaeological field evaluation via a process of 'strip, map and record' to the archaeological horizon, of the footprint of the proposed

Year 1 and Year 2 classroom building and of adjacent hard surfaced areas (play areas and service yard)

- the archaeological investigation of any remains encountered during this process, and a contingency for the preservation of any remains *in situ*, if warranted.
- the analysis of the results of the archaeological work with provisions for the subsequent production of a report and an archive, and if appropriate, a publication of these results.
- such other provisions as may be necessary to protect the archaeological interest of the site.

Third Party Representations

9.10 The application was advertised by way of a site notice, a press notice in the Herts & Essex Observer, and letters sent to 140 addresses in the vicinity of the site. In response, 6 letters of objection have been received raising the following issues:

- Rye Street is already a nightmare when pulling in or out of Foxdell's Lane due to the very considerable amount of traffic;
- both St Joseph's and Northgate End primary schools cause huge problems with their on-street parking twice a day;
- too little thought has been given to building on various sites in Bishops Stortford taking into account the huge amount of traffic each site will generate; There are many proposed developments in the area. It is unclear who has overall responsibility for project management
- construction for 4 new dwellings on Whitehall Road is currently underway. The developer is using Foxdells Lane for HGV's and the road is fast becoming dangerous and unusable. The increase of heavy vehicles in the area, needs proper consideration;
- we are concerned that the gates to the site on Farnham Road have been damaged and do not prevent unauthorised access to the site
- I object to the location of the school and its proximity to Rye St. This road is already very busy at peak times as drivers use this route to avoid Hockerill Hill;
- the school will be located on a road junction just beyond another 3 way junction on a bend in the road;
- no indication of alternative access roads for the forthcoming 2,500 houses to be built;
- there is no indication of the catchment area for this school;
- subsequent housing estates have to access the school via Rye Street only;
- there is insufficient information on what is required in terms of road improvements, pavement widening and any traffic calming;
- the school should be located more centrally to the new developments rather than so close to an already busy road;
- there is no indication of pedestrian crossing points;
- parents will drive their children to school if they don't feel it is safe for them to walk;
- there is insufficient access for pedestrians.

- the pavements along Rye Street are too narrow;
- the pavements need to be widened to allow pushchair and child to work side by side without intimidation from vehicles;
- lack of street lighting makes the journey impossible when dark;
- trying to cross Rye Street from Grange park at rush hour is dangerous.
- currently there is no provision of drop-down curb for wheel or pushchair to allow you to clear the road quickly at Grange Park/Rye Street. The increase traffic might compound this hazard;
- if the development goes ahead it must be demonstrated that there is safe access and accessibility along Rye Street.

9.11 The developer of the adjoining land, Countryside Properties, has raised a number of concerns, specifically:

- Countryside Properties UK Ltd is the landowner for the land immediately to the North West of the proposed school site. I would note that despite the information shown on your website, as neighbour to this application we have received no formal notice from you that an application has been made in relation to this site.
- Countryside Properties has outline planning consent for 329 New Homes together with associated open space and infrastructure for this land. This consent was granted on the 1st June 2016 and the subsequent reserved matters application for the first phase of housing on our site, which immediately borders the school site was approved by East Herts District Council on the 7th December 2016. Both dates are in advance of this application having been made.
- Having reviewed a number of the reports provided with the application, these fail to reference the approved residential consent that Countryside has for its landholding or to take account of the potential impact that the school may have on these adjoining future residential properties.
- For example, while the noise report takes account and provides reference to the recently consented residential development to the South East of the proposed school site, it does not reference our existing consent. The report expressly states that no assessment of the potential off noise creation by the school, and subsequent mitigation measures that may need to be provided within the school site to prevent disturbance to the future residential occupiers has been provided.
- In addition it would appear that the Transport assessment does not include a cumulative assessment of the impact of the school traffic when considering the consented ASR 5 (Countryside Development), approved Bishop's Stortford North Development (ASR1-4), Residential development to the South East of the school site, Animal Sanctuary proposal to the north of the A120 accessed from Farnham Road or proposed development promoted within the administrative area of Essex County Council by Uttlesford District Council in the village of Farnham.
- We are obviously very concerned by the approach that has been taken to this application given discussions that have occurred between us

and the schools team and the considerable concessions made by us in relation to our proposals to facilitate access to the site through our proposed residential development and new roundabout at the junction of Hazel End Road, Michaels Road and Rye Street.

- Given the significant concerns raised above, we hope that you will encourage the applicant to review their proposals in light of the wider context to ensure that any impact on the consented adjoining residential development is minimised or mitigated as far as is possible and we reserve our position accordingly given the lack of notification and consultation.

9.12 Notification of the application was sent to Countryside Properties and a separate letter to Bishops Stortford Town Council on 12 April 2017. No further representations have been received.

9.13 Bishops Stortford Civic Federation objects to the proposed development for the reasons given in their letter 27 January 2017 (Appendix VI). In summary the reasons relate to:

- (a) *Timing of delivery* – if the construction of the school is delayed until development within ASR1-4 catches up where are the children from within the ASR5 development (currently under construction) going to go to school; a primary school is the most important community facility for the development as a whole, yet it is in the least accessible of the areas within the wider BSN area,
- (b) *Deliverability* - the County Council apparently does not currently own the application site or made any attempt to acquire the site; there is no reason to believe that a school in this location will ever be delivered;
- (c) *Wider implications* – the application is intended to provide a substitute for the two schools within the BSN area which have outline planning permission (3/13/0804/OP). So far as we are aware, no alternative proposals have been submitted for the development of these sites; perhaps 300 more dwellings might be accommodated on these sites. However the transport assessment relies on the existing permissions and makes no attempt to assess the impact of additional housing; granting planning permission would lead to a further loss of open space at a time when Bishops Stortford is facing its biggest ever housing development; the proposal makes no provision for the potential for a nature reserve along Bourne Brook, indeed it would prevent it being realised;
- (d) *Interim arrangements* – the County Council’s anticipated forecast demand for places is tailing off for the next few years although it’s underlying methodology for forecasting places appears to be flawed; ASR5 would generate an additional 1FE demand at a time when no school would have been provided for children living within ASR5; all of the other JMI schools are full and located some considerable distance from ASR5; granting planning permission for this application as a substitute would undermine the basis on which permission for ASR5 was granted;

- (e) *Traffic implications* – as well as anticipating the overall consequences of implementing this proposal (i.e. more housing on BSN as a whole) a robust traffic assessment for this application needs to look at the interim position when no school has been provided by the time that ASR5 has been implemented and occupied; children (of all school ages) would then need to be driven to school; what impact will this have on the existing road network, and before many of the proposed improvements (minimal as they are) will have been completed. Planning permission for ASR5 was granted on the basis that there would be a primary school on site and a secondary school near the A120 bypass already in operation, neither or which seems likely in the near future. We are particularly concerned about the impact on Rye Street.
- 9.14 A coordinated response on behalf of the County Council (Childrens Services and Buildings) in addressing the issues raised by the BSCF is included in the Vincent and Gorbing letter dated 03 March 2017 appended to this report (Appendix VII). BSCF were invited to make further representations in response to the County Council letter but chose not to add to the earlier reponse.
- 9.15 Herts and Middlesex Wildlife Trust notes the Biodiversity Index Calculator has been applied to demonstrate sufficient habitat mitigation is provided, consistent with the objectives of the NPPF. Therefore, a condition should be added which requires all of the ecological measures specified in the Ecological Assessment to be form part of any planning permission.

10. Planning issues

- Principal of development
- Need for additional primary school places
- Transport
- Air quality
- Noise
- Design & appearance

Principal and Need

- 10.1 The Proposals Maps of the East Herts Local Plan Adopted 2007 (Sheet E: Bishops Stortford) show the land within the application site designated as an Area of Special Restraint (ASR4) and therefore subject to Policy BIS8 (Areas of Special Restraint 3, 4 and 5).
- 10.2 Policy BIS 8 states ‘Within the Bishop’s Stortford Areas of Special Restraint 3, 4 and 5, as defined on the Proposals Map, development will not be permitted, other than would be allowed in the Green Belt, until such time as the land so identified is shown to be needed for, and proposed for development, as a result of a review of this Plan’. The supporting text to Policy BIS8 states ‘the future strategic use of this

land will be determined as part of a future Review to this plan. This reconsideration would include an assessment of capacity, if a need for dwellings were shown as part of the strategic review of the land'.

- 10.3 The application site forms part the area with outline planning application as part of the development Bishops Stortford North approved under 3/13/0804/OP. The parameter plans for the BSN development show the area of land that is subject to the current full application for the primary school as potentially being developed for housing. Two potential primary school sites are also identified on land within ASRs 3 & 4 to the west of the current application site.
- 10.4 The outline planning permission (3/13/0804/OP) shows the scale of the proposed development within the application area. All matters were reserved except for means access, and therefore a reserved matters application will be required to address appearance, landscaping, layout and scale in due course. The outline planning permission is a material consideration because the need for additional primary school capacity is directly related to the new housing generated as part of the BSN development.
- 10.5 Policy DPS3 of the draft East Herts District Plan provides that by 2031 Bishops Stortford will need to accommodate between 3,729 and 4,142 new homes, including 2,529 homes at Bishops Stortford North, comprising 2,200 on ASRs 1 to 4 and 329 at ASR 5 as set out in Policy BISH3. The application site is located within the boundary identified in Policy DPS3.
- 10.6 The outline planning permission and draft allocation are material considerations of significant weight. Provision of a new primary school is a necessary piece of infrastructure to support the new community being provided at Bishops Stortford North. The provision of new schools to support new communities is supported by the NPPF paragraph 72 and in Policy CFLR10 (Education) of the East Herts District Plan (submission version) and in Policy EP3 (New primary schools) of the Neighbourhood Plan.
- 10.7 The need for the equivalent of 5FE of entry is derived from the County Council's modelling for the number of places generated by new development and is proportionate to the level of demand generated by the new developments within the BSN area which are required to be provided as part of the District Plan and provided for under Policy DPS3.
- 10.8 Therefore, it is considered that the development of a new primary school at the site is consistent with the draft emerging local plan policy, the adopted policies of the Silverleys and Meads Neighbourhood Plan, and with policies in the NPPF (paragraph 72). Accordingly great weight must be given to the need for primary school places in the overall planning balance.

Transport

- 10.9 The main transport issues relate to the levels of traffic generated by the proposed primary school and potential impacts upon local congestion, the safety and efficiency of the operation of the highway, and allied to the first two points, the potential for the school to maximise sustainable journeys (walking, cycling and by bus) and thereby reduce unnecessary car journeys.
- 10.10 As part of the proposal the school is to be served via a single 4m wide junction providing ingress and egress. Staff and visitor parking is proposed (66 spaces), as well as coach parking at the front of the site. The swept path analysis drawing demonstrates sufficient turning space is provided within the site for a 12m coach and EHDC refuse vehicles. Provision of a pupil drop-off and circulation facility is proposed at the front of the school in order to reduce the potential for pupil drop-off occurring on Farnham Road. The proposals include a 30mph zone and parking restrictions on Farnham Road within the vicinity of the school.
- 10.11 The proposals for the development of ASR5 to the north of the site (3/13/0886/OP) provide for a new roundabout at the junction of Rye Street and Hazel End Road and alterations to Farnham Road, as shown on drawing A_A_PL_100_Rev M appended to this report (Appendix IV)
- 10.12 The new access arrangements and associated highway improvement works at the junction of Rye Street and Hazel End Road are shown on drawing E3321/750/L appended to the report (Appendix V). In summary, the highway works proposed as part of this application include:
- a new 2m wide footway on the south side of Farnham Road between the school entrance and the proposed build out provide a pedestrian crossing into ASR5;
 - 30mph speed limit to be implemented on Farnham Road in the vicinity of the site and its junction with ASR5;
 - street lighting in association with the 30mph speed limit zone;
 - high friction surfacing on the approaches to the 30mph zone from the north west;
 - priority build-out with associated road markings and the signage for the proposed pedestrian link between the school and the ASR development;
 - School-Safety-Zone signage;
 - continuation of the 5.5m carriageway along Farnham Road from the ASR5 highway works on to the north eastern side of the proposed built out;
 - new signalised pedestrian crossing feature on Rye Street, adjacent to the 2m footway on the removed section of Farnham Road as part of the ASR5 development.

- 10.13 Prior to the first occupation of the new school the Highway Authority require the construction of the new roundabout, diversion of Farnham Road, the construction of the new signalised pedestrian crossing in Rye Street, and the implementation of a parking restriction scheme on Farnham Road to be provided by condition. The Highway Authority also requires a car parking plan and site access drawing to be submitted for detailed approval by condition. The Highway Authority raises no objection to the development subject to these conditions.
- 10.14 In terms of traffic generation, the proposed 3FE primary school is predicted to generate total vehicle trips of 176 movements during the AM peak (111 in/ 65 out).
- 10.15 In terms of the impact this will have on the current operation of Rye Street, the current two-way traffic flows reported in the TA for Rye Street are 1,313 movements between 08:00 and 09:00. Based on the current flow of traffic using Rye Street, the level of traffic generated by the school would be expected to increase two-way flows by around 13.4% (as a standalone development). School related traffic as a proportion of overall traffic (all committed developments combined) would account for 7.2% of the overall predicted two-way flows on Rye Street.
- 10.16 As a result all other committed developments combined, it is estimated that 1,135 additional journeys would be generated on Rye Street during the AM peak. This level of traffic is reported to be significantly above the theoretical capacity of Rye Street applying best practice (TA79/99 'Traffic capacity of Urban Roads', Department for Transport).
- 10.17 As part of the mitigation proposals, the Rye Street improvement programme (drawing provided under applications 3/13/0886/OP and 3/0804/OP is designed to improve safety and overcome congestion in the vicinity of the site. In order to test the operation of the network the TA for the ASR5 development (3/13/0886/OP) used PARAMICS software to model the traffic generation from the ASR5 and BSN developments combined, and concluded the network would continue to operate satisfactorily with mitigation in place.
- 10.18 In terms of the potential for travel congestion, Neighbourhood Plan (Policy TP1) requires all development which result in greater than 5% predicted increase congestion (or average journey times) to identify and implement mitigation measures capable of bringing the predicted journey times back to pre-development levels, unless it can be demonstrated that this is not viable following assessment of the available options. The additional traffic generated by the school would exceed 5% of the total (all committed developments combined), however this would not necessarily result in above a 5% increase congestion with the proposed mitigation in place.

- 10.19 In terms of sustainable travel, the school travel plan identifies that the majority of the pupil catchment will be within 800m of the proposed school which is anticipated to facilitate a high proportion of walking and cycling. The system of greenways that are proposed running through the BSN development area have the potential to deliver high quality east to west pedestrian and cycle links to the site, which could potentially provide a direct link with the school site. The precise location of the green links will be decided as part of the reserved matters applications for the BSN development.
- 10.20 Policy TP3 of the Neighbourhood Plan seeks to increase walking and cycling journeys by making walking more attractive and providing direct routes between housing and community facilities. Policy TP4 of the Neighbourhood Plan seeks to deliver pedestrian and cycle improvements as part of major developments to enable people to travel to key destinations around the town such as the town centre and railway station.
- 10.21 The application proposes pedestrian improvements in the form of a 2m wide footway running along the south side of Farnham Road between the school site and the ASR5 access road and a new footpath between the re-aligned Farnham Road and Rye Street. Additionally, the proposed development of 30 dwellings on the corner of Farnham Road and Rye Street (3/16/0452/FUL) includes a new footpath along the northern side of Rye Street from Farnham Road to Bourne Brook.
- 10.22 The proposals forming part of the application (as set out above) together with the Rye Street improvements scheme, should provide the necessary infrastructure improvements to encourage walking journeys and provide the mitigation anticipated in Policies TP3 and TP4.
- 10.23 In terms of public transport, Policy TP5 of the Neighbourhood Plan requires that major new significant developments are served by a regular bus service accessing the town centre. The site is within close proximity of an existing high frequency bus route. The 510 service runs every 10 minutes along Rye Street, calling at Stansted Airport, Stansted Mountfitchet, Takeley, Bishops Stortford, Sawbridgeworth, and Harlow. The site will also benefit from the new circular route being delivered as part of the BSN proposals. The proposal is considered compliant with Policy TP5.
- 10.24 Policy TP7 of the Neighbourhood Plan seeks to encourage cycle use through the provision of sufficient, secure and waterproof cycle spaces positioned in easily accessible locations. The proposal provides 51 cycle spaces which will be required to be sheltered and in a convenient location at the front of the school. The will be secured by condition.
- 10.25 The transport assessment for the ASR5 development considered the cumulative impacts of development. The committee report prepared for EHDC members concluded that, as a stand-alone development, it

[ASR5] would have a limited traffic impact on both the primary and local road network. The report acknowledges the improvement to be made to Rye Street and the contributions to be made towards improved bus services and cycle routes. The report acknowledges that whilst the impact of the proposals on local roads is not fully mitigated, the level of impact is not considered to be severe.

- 10.26 It is therefore considered that the levels of traffic associated with the construction of a new 3FE primary school and nursery at the site would not have a significant adviser impact in terms of the safety and operation of the highway. The proposed mitigation would improve pedestrian facilities to encourage walking to school. The transport assessment has regard to the overall levels of traffic generated by the school in combination with other committed developments (3/13/0804/OP, 3/13/0886/OP, 3/16/1252/FUL) and it is not considered to result in severe residual impacts upon Rye Street. Furthermore, the Highway Authority has no objections to the construction of a new primary school at the site in conjunction with the other developments.

Air Quality

- 10.27 Policy ENV27 of the EHLPP requires proposals to have regard to the potential effects of a development on local air quality. In determining planning applications consideration will be given to the impacts related to both the operational characteristics of the development and the traffic generated. Development which will significantly increase air pollution will not be permitted
- 10.28 The application site is not within, nor is it near to, a designated Air Quality Management Area (AQMA). The nearest AQMA is at Hockerill junction (London Road/Stansted Road) just over 1km from the application site. The Neighbourhood Plan (Policy TP2) requires all development predicted to increase air pollution (by more than 2.5%) at Hockerill junction to include an assessment of the predicted impacts and identify mitigation measures to bring pollutant levels back to pre-development levels.
- 10.29 The Transport Assessment predicts car journeys based on a typical school where 90% of pupils living within 0.8km would be expected to walk to school. The total number of pupils is 690, of which it is estimated 588 would walk to school. The estimated number of car journeys is 91 generating an estimated 65 vehicles as some car journeys are expected to be shared by more than 1 pupil.
- 10.30 A traffic survey for the Hockerill junction in March 2017 recorded a total of 4,066 vehicles during the AM peak (07:45 to 0845). The estimated number of car journeys generated by the primary school (176) equates to approximately 4.32% of the total traffic using the Hockerill junction during the AM peak, however the number of school related journeys likely to travel through the Hockerill junction is expected to be a small

proportion of the 176 total school related journeys due to a number of factors, such as, origin of the journey, preference for alternative modes of transport, or choice of an alternative route. Therefore the effect upon Hockerill junction is likely to be below the level to justify additional mitigation measures in respect of air quality envisaged under Policy TP2.

- 10.31 The BSN development is predicted to generate 1,053 additional movements along Rye Street between 08:00 and 09:00. There is the potential for traffic congestion in the vicinity of the school site and for pedestrians to be affected by pollution from exhaust emissions. It is noted that the development of ASR5 will provide junction improvements along Rye Street, including pedestrian improvements, additionally, the development to the south of the application site (3/16/0452/FUL) will provide a new footpath on the north side of Rye Street east of the Bourne Brook. These measures together have the potential to increase pedestrian journeys, although the increase in traffic using Rye Street may make the route less attractive, and this emphasises the importance of having new pedestrian/cycle route from within the new housing areas (ASRs 3 & 4).
- 10.32 The new school would be located within a new housing area. The school catchment area will be drawn from the surrounding area making it highly likely that a high number of pedestrian journeys will be generated from within 1km walking distance of the new school. In addition to the pedestrian improvements as part of this application, it is important that priority is given to the development of new pedestrian and cycle routes (greenways) in the reserved matters applications.
- 10.33 The development of new greenways should hopefully reduce pedestrians exposure to traffic related air pollution. It is also noted that the Environmental Statement which assessed the air quality impacts of the entire BSN development (within which the application site is located) as being of medium sensitivity as regards nearby receptors.

Noise

- 10.34 The noise survey report submitted with the application seeks to determine the suitability of the site for use as a primary school site in line with the criteria in Building Bulletin 93 ' *Acoustic design for schools: performance standards*.
- 10.35 BB93 provides guidance in relation to indoor ambient noise levels, impact sound within internal spaces, reverberation levels, and sound absorption e.g. within corridors, entrance halls and stairwells. The focus on BB93 is the assessment of outside noise sources and the potential effect upon the internal teaching environment, as opposed to, the effect of the school on the surrounding environment.

- 10.36 The noise report takes 'no account of the potential change in noise environment' due to 'further development in and around the area'. However, the report does include recommendations for limits on plant noise at nearby residential properties, including future residential property adjoining the sites southern boundary (i.e. 45 dB daytime and 30dB night-time).
- 10.37 In terms of the existing noise climate, daytime noise surveys were undertaken to establish the existing noise climate at the site. Measurements were taken at five locations between along the north east and south east sides of the site. The highest measured noise level was 62 dB (LAeq, T) adjacent to Farnham Road on the north east side of the site. On the south east sides of the site adjacent to application potential future housing (3/16/0452/FUL) was between 47-54 dB (LAeq, T). The measured noise levels at the site were dominated by local road traffic noise and distant aircraft noise. The report concludes that measures noise levels are suitable to permit the use of a natural ventilation strategy with opening windows.
- 10.38 The noise report demonstrates that the school would not be exposed to noise nuisance from existing noise generating sources, which is the policy standard required in Policy ENV25 of the East Herts Local Plan for noise sensitive development such as homes, schools and hospitals.
- 10.39 The effect of the operation of the school upon other noise sensitive development i.e. new homes in the vicinity of the site was not assessed in the report. The developer of adjoining the land to the north (Countryside Properties) raised concerns in respect of the potential impact upon future occupiers of their development and so officers have instructed an independent noise survey by Acoustic Associates which will be reported to members at the meeting.

Design & appearance

- 10.40 The proposed building is two storeys with an internal floor area of 3,339 square metres comprised in two blocks interlinked with full height glazing forming an entrance. The external areas include a multi-use games area to the north of the main building and grass playing fields on a lower terrace to the south of the school buildings.
- 10.41 The policy test is Policy ENV1 of the adopted East Herts Local Plan which requires all development to be a high standard of design to reflect local distinctiveness and to demonstrate compatibility with the structure and layout of the surrounding area, and relate well to the massing and height of the surrounding townscape.
- 10.42 The proposed buildings would be set back and at a slightly lower level from Farnham Road. The maximum height of the buildings would be approximately 9m. Therefore the buildings would have a low impact upon views from Farnham Road and new development on land to the

north (3/16/1251/REM) within ASR5. The building would relate well to the massing and scale of proposed new housing development on land to the south (3/16/0452/FUL).

- 10.43 The materials for the external elevations comprise a stock brick (buff colour) which is considered to be an appropriate material. The rear elevation uses a high proportion of a green coloured glazed tile which has drawn some criticism in consultation. A more sympathetic material with a softer appearance, possibly cedar cladding is recommended. The final choice of materials is subject to approved by condition. Subject to the above, the design is considered to meet the high standard of design required under Policy ENV1.

11. Conclusion

- 11.1 The development of a new primary school on land at Rye Street and Farnham Road is required to support the development of a new community at Bishops Stortford North to meet the growth required within Bishops Stortford to 2031 that is planned as part of the emerging East Herts District Plan, for which outline planning permission has already been granted.
- 11.2 The traffic generated by the school would account for a small proportion of overall traffic generated by all other committed developments and adequate mitigation for the transport effects of the school is provided as part of the application. Notwithstanding the traffic impacts affecting Rye Street as a result of all committed development combined are not fully mitigated, the cumulative residual impacts are not considered to be so severe to warrant refusal of the application. Furthermore, the Highway Authority raises no objection to the construction of a new primary school in conjunction with the other committed developments.
- 11.3 The proposed design of the school buildings is considered to be a suitably high standard, subject to the submission of material samples. Further landscaping will be required to address the change in levels across the site to ensure that the development is acceptable. These matters are subject to conditions.
- 11.4 Finally, great weight is given to the need for new school places for new communities as set out in the NPPF (paragraph 72). The development of new schools to support local growth is also supported by the policies of the adopted Neighbourhood Plan and the emerging policies of the new East Herts District Plan.
- 11.4 Accordingly, it is recommended that planning permission is granted subject to conditions in Appendix II

Documents referred to in preparing the report

- Bishops Stortford Transport Study - Steer Davies Gleave
- Neighbourhood Plan for Silverleys and Meads 2014-2031
- East Herts Local Plan Second Review 2007
- East Herts District Plan submission version
- Planning application documents:
 - 3/13/0804/OP; 3/15/1012/VAR; 3/16/0997/NMA; 3/17/0891/NMA;
3/1975 – 15; 3/2037-14; 3/13/0886/OP; 3/16/1252/FUL;
3/16/1251/REM; 3/16/1897/REM

Appendix I – Site Plan

Appendix II – Draft Planning Conditions

Appendix III – Means Of Access Plan

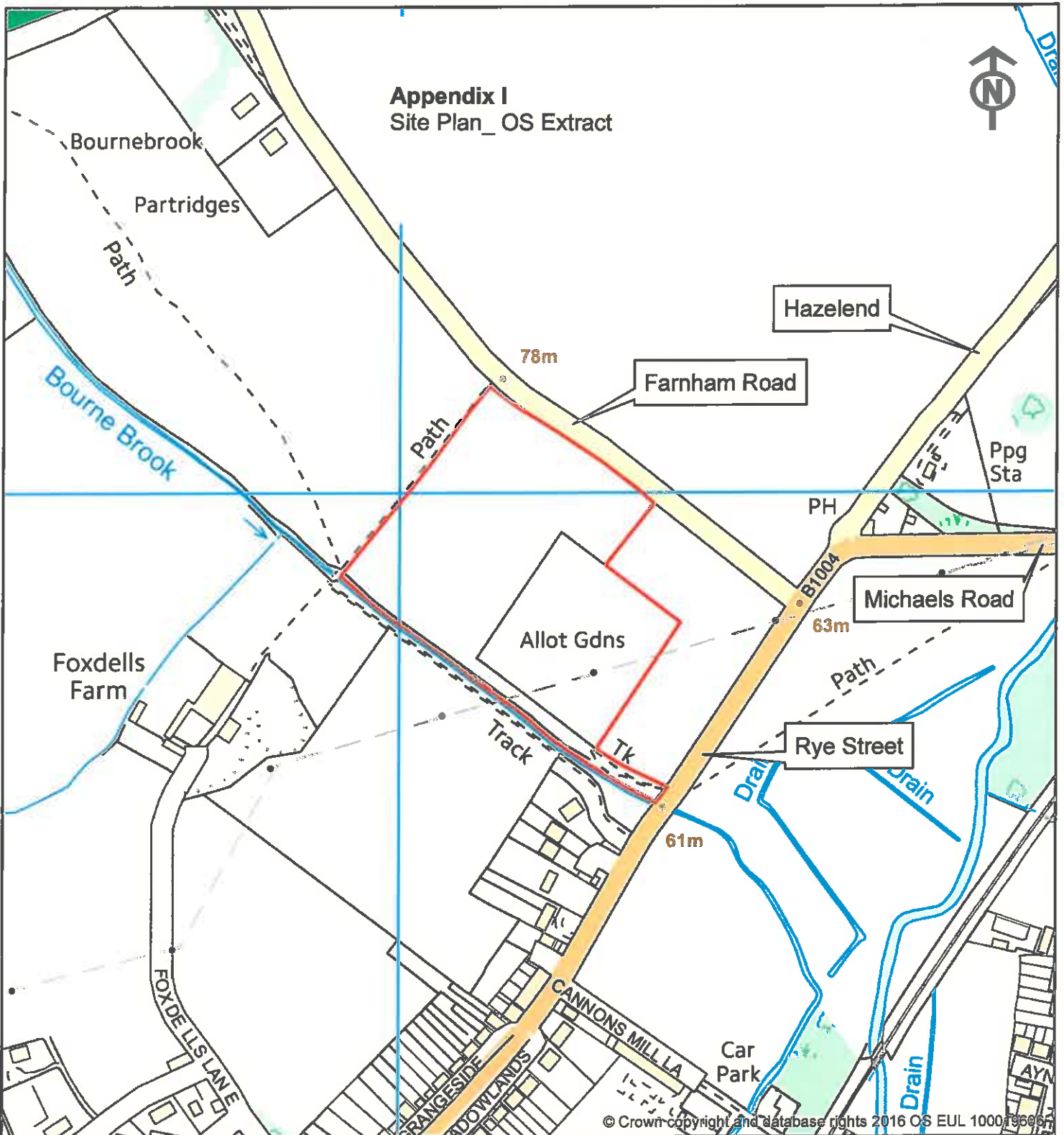
Appendix IV – Proposed Site Layout Plan

Appendix V – Works Overview Plan Rye Street

Appendix VI – Bishops Stortford Civic Federation Letter

Appendix VII – Vincent And Gorbings Letter

Appendix I
Site Plan_ OS Extract



DEVELOPMENT CONTROL COMMITTEE

Date: Thursday 20th July 2017



Proposed construction of a new building to provide a 3 form entry (3FE) primary educational facility for reception, Key Stage 1, Key Stage 2 and nursery provision, car parking and associated development at Land southwest of Farnham Road and north of Rye Street, Bishops Stortford



Time limit

- 1) The development hereby permitted shall be carried out within the expiration of three years starting from the date on the decision notice.
Reason: to comply with the Town and Country Planning Act 1990.

Materials of construction

- 2) Prior to the commencement of any building works above ground level samples to external materials of construction proposed for the external elevations of the building shall be submitted and approved in writing by the local planning
Reason: to ensure the development meets a high standard of design as required by Policy ENV1 of the adopted East Herts Local Plan 2007.

Drainage

Flood Risk Assessment

- 3) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment carried out by Stomor reference ST2448/FRA-1611-BSN-PS2-TCL dated November 2016, the following mitigation measures detailed within the FRA:
 - a. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
 - b. Limiting the surface water run-off generated by the 1 in 100 year + climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 - c. Implementing appropriate SuDS measures as shown on the Town Council Land: Indicative Drainage Strategy drawing reference ST-2448-15-B

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

(a) to prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site; (b) to reduce the risk of flooding to the proposed development and future occupants.

Sustainable drainage (SuDS) scheme

- 4) A sustainable drainage system shall be provided within the site in accordance with the Flood Risk Assessment (ref Stomor FRA (ref ST2448/FRA-1611-BSN-PS2-TCL Revision 0 November 2016). The SuDS features shall be

implemented as approved within 6 months of the first occupation of the school buildings.

Reason: to ensure adequate provision of SuDS in accordance with the SuDS hierarchy in the Environment Agency document “SuDS – A Practical Guide” and CIRIA SuDS manual.

Surface Water Drainage Scheme

5. No development shall take place until a detailed surface water drainage scheme for the site based on the approved FRA and sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
 - a. Detailed engineered drawings of the proposed SuDS features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
 - b. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding, both on and off site

Playing fields

Playing field construction scheme

- 6) Prior to the construction of the school playing fields a detailed scheme detailing the method of construction shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the method of decompaction, drainage (swales and pipes as appropriate), de-stoning, seeding and surface treatment proposals.

Reason: to ensure that the condition of playing surface is appropriate for use; to ensure proper drainage; in the interest of sustainable drainage.

Soils management

- 7) Prior to the commencement of development a detailed soil management scheme shall be submitted to and approved in writing by the Local Planning Authority. All soil movements shall take place in accordance with Good Practice for Handling Soils (MAFF 2000). Soils shall be stripped using an excavator and dumper using the methodology described in the Sheet 1: Soil Stripping with Excavators and Dump Trucks. Soils shall be stored (where necessary) in accordance with Sheet 2: Building Storage Mounds with Excavators and Dump Trucks. Soils shall be replaced in accordance with Sheet 4: Soil Replacement with Excavators and Dump Trucks.

Reason: to ensure soil resources are properly managed.

Landscaping scheme

- 8) Prior to the first occupation of the school buildings a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all structural and amenity planting to include details of individual (tree and shrub) species, overall numbers, height and planting densities. All planting necessary to implement the scheme shall be carried out within the first available planting season. All plants comprising the implemented scheme shall be maintained for a duration of a minimum of five years following planting, to include all necessary irrigation, feeding and proprietary treatments necessary to maintain trees and shrubs in a healthy condition. All trees or shrubs which fail to establish properly or die within the first five years following planting shall be replaced on a like-for-like basis with a specimen of the same species and similar size characteristics.

Reason: to ensure the site is appropriately landscaped in accordance with Policy ENV2 of the East Herts Local Plan.

Highways

Diversion of Farnham Road (south east section)

- 9) The development shall not be brought into use until the south eastern section of Farnham Road has been diverted into the proposed access road serving the ASR5 development, which will in turn join a new 4-arm roundabout connecting with Hazelend Road and the B1004.

Reason: in the interest of highway safety.

Details of Site Access

- 10) The details of the proposed site access, as shown in principle on Drawing No ST-2448-32-A, are to be submitted for approval by the Highway Authority.

Reason: in the interest of highway safety.

School Travel Plan

- 11) Within six months of the new school being occupied the existing School Travel Plan shall be reviewed and prepared to current Hertfordshire County Council's criteria, submitted for approval and implemented in full throughout the life of the school.

Reason: to assist in achieving greater use of sustainable transport modes, with less reliance on the private car, in line with national government policies and County Council's sustainable transport policies.

Car parking plan

- 12) The details of the parking arrangements, as shown in principle on Drawing No ST-2448-32-A, are to be submitted for approval by the Highway Authority.

Reason: in the interest of highway safety.

Signalised pedestrian crossing

- 13) The development shall not be brought into use until the proposed signalised pedestrian crossing in Rye Street (Drawing No ST-2448-39), which is part of the ASR5 development, has been provided.
Reason: to provide a safe pedestrian crossing point on Rye Street, for people walking from the eastern side of Rye Street which is a busy local distributor road.

Parking restrictions scheme

- 14) Before the development is brought into use the scheme for parking restrictions and a 30mph zone along Farnham Road, as shown in principle on Drawing No ST-2448-32-A, shall be prepared and submitted to the Local Planning Authority for approval. The works, subject to Traffic Regulation Orders being confirmed, shall be implemented in accordance with the approved scheme.
Reason: in the interest of highway safety.

New Footpath – Rye Street north side

- 15) Prior to the first occupation of the new school a new footway shall be constructed on the north side of Rye Street in accordance with drawing 295/P/010L dated December 2015 which forms part of planning application 3/16/0452/FUL.
Reason: to provide safe pedestrian access to the site.

Ecology

Relocation Plan (for Reptiles)

- 16) Prior to any site clearance or soil movement works all reptiles shall be removed from the site (using traps) and re-located to suitable habitat on a new site. A re-location plan detailing trapping methods and describing the habitat on the proposed re-location site shall be submitted to an agreed in writing by the Local Planning Authority prior to the removal of reptiles from the application site.
Reason: to safeguard protected species during development works

Archaeology

Submission of Written Scheme of Investigation

- 17) No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:

Appendix II – draft planning conditions

- i. The programme and methodology of site investigation and recording
- ii. The programme for post investigation assessment
- iii. Provision to be made for analysis of the site investigation and recording
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- v. Provision to be made for archive deposition of the analysis and records of the site investigation
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

Compliance with Written Scheme of Investigation

- 18) The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition 17

Post investigation approval

- 19) The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 17 and the provision made for analysis and publication where appropriate.

Community Use

- 20) Prior to the first occupation of the primary school buildings details of a community use agreement shall be submitted to and approved in writing by the local planning authority. The details shall include pricing policy, hours of use, access by non-establishment users, management responsibilities, a management plan and a mechanism for review.
Reason: to secure adequate, well managed and safe community access to the sports facilities on the site in accordance with policy LRC2 of the East Herts Local Plan Second Review 2007.

Access requirements - Hertfordshire Fire and Rescue Service

- 21) Prior to the commencement of development, detailed drawings shall be provided to show the following -
 - Access for fire fighting vehicles should be in accordance with The Building Regulations 2010 Approved Document B (ADB), section B5, sub-section 16;
 - Access routes for Hertfordshire Fire and Rescue Service vehicles should achieve a minimum carrying capacity of 18 tonnes;
 - Turning facilities should be provided in any dead-end route that is more than 20m long. This can be achieved by a hammer head or a turning circle designed on the basis of Table 20 in section B5.

Reason: to ensure satisfactory access is provided for fire fighting vehicles

Water supplies –fire hydrant provision:

- 22) Unless otherwise agreed in writing by the local planning authority, fire hydrants shall be provided in accordance with the following criteria:
- not more than 60m from an entry to any building on the site;
 - not more than 90m apart;
 - located immediately adjacent to roadways or hard-standing facilities accessible by fire service appliances;
 - not less than 6m from the building or risk (so that they remain usable during a fire);
 - hydrants shall be provided in accordance with BS 750 and be capable of providing an appropriate flow in accordance with National Guidance documents;
 - where no piped water is available, or there is insufficient pressure and flow in the water main, or an alternative arrangement is proposed, the alternative source of supply should be provided in accordance with ADB Vol 2, Section B5, sub section 15.8;
 - water supplies should be provided in accordance with BS 9999.

Reason: to ensure water supplies are available for Hertfordshire Fire & Rescue Services

Covered cycle parking

- 23) Prior to the first occupation of the primary school, a detailed plan showing the location(s) of a minimum of 51 cycle spaces shall be submitted to and approved in writing by the local planning authority. The cycle spaces shall be covered by a suitable shelter and provided in accessible locations that are easily observed from within the school building.

Reason: to provide suitable cycle parking facilities as required by Policy TP7 of the Neighbourhood Plan.

Ecological mitigation

- 24) All ecological measures and/or works shall be carried out in accordance with the details contained in (Ecological Assessment : ELMAW consulting October 2016) as submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: to ensure the species mitigation measures are provided and to comply with the aims of the NPPF

Noise

Appendix II – draft planning conditions

- 25) Noise emanating from plant shall not exceed 45 dB daytime and 30dB night-time.
Reason: in the interests of residential amenity

		Bishop's Startford North Eastern Primary School	
Means of Access Plan (2 of 2)			
Date 1:300@A3	Date 04.10.16	Drawn By SV	Checked By SJB
Title Means of Access Plan			Drawing Number ST-2448-39

Appendix III
 3/17/0031-17
 Means of Access Plan
 Drawing ref_ST – 2448 - 39

- KEY:**
- HEDGE TO BE TRIMMED BACK
 - HEDGE TO BE REMOVED
 - PEDESTRIAN VISION SPY
 - VEHICULAR VISION SPY
 - STREET LIGHT
 - VISION SPLATE SIGN

Appendix V



Appendix IV ASR5 Phase A Proposed Site Layout Plan A_A_PL_100_Rev M

Proposed Residential Development, Hazeland Road, Bishop's Stortford, East Herts



NOTES

1. All dimensions are in meters and shall be rounded up to the nearest millimetre.
2. All dimensions are to the centre of the wall unless otherwise stated.
3. All dimensions are to the face of the wall unless otherwise stated.
4. All dimensions are to the centre of the pipe unless otherwise stated.
5. All dimensions are to the centre of the road unless otherwise stated.
6. All dimensions are to the centre of the building unless otherwise stated.
7. All dimensions are to the centre of the plot unless otherwise stated.
8. All dimensions are to the centre of the site unless otherwise stated.
9. All dimensions are to the centre of the road unless otherwise stated.
10. All dimensions are to the centre of the building unless otherwise stated.
11. All dimensions are to the centre of the plot unless otherwise stated.
12. All dimensions are to the centre of the site unless otherwise stated.
13. All dimensions are to the centre of the road unless otherwise stated.
14. All dimensions are to the centre of the building unless otherwise stated.
15. All dimensions are to the centre of the plot unless otherwise stated.
16. All dimensions are to the centre of the site unless otherwise stated.
17. All dimensions are to the centre of the road unless otherwise stated.
18. All dimensions are to the centre of the building unless otherwise stated.
19. All dimensions are to the centre of the plot unless otherwise stated.
20. All dimensions are to the centre of the site unless otherwise stated.

COUNTRYRIDE
Rural Property Specialists

Agenda Pack 70 of 83

Project Name:
Countryride
Proposed Residential Development
Hazeland Road
Bishop's Stortford
East Herts

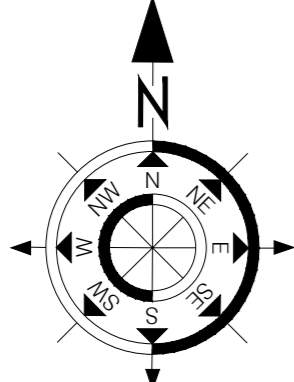
Client:
Countryride
Phase A
Proposed Site Layout Plan

Drawn by:
JN
Checked by:
MC
Date:
June 2016

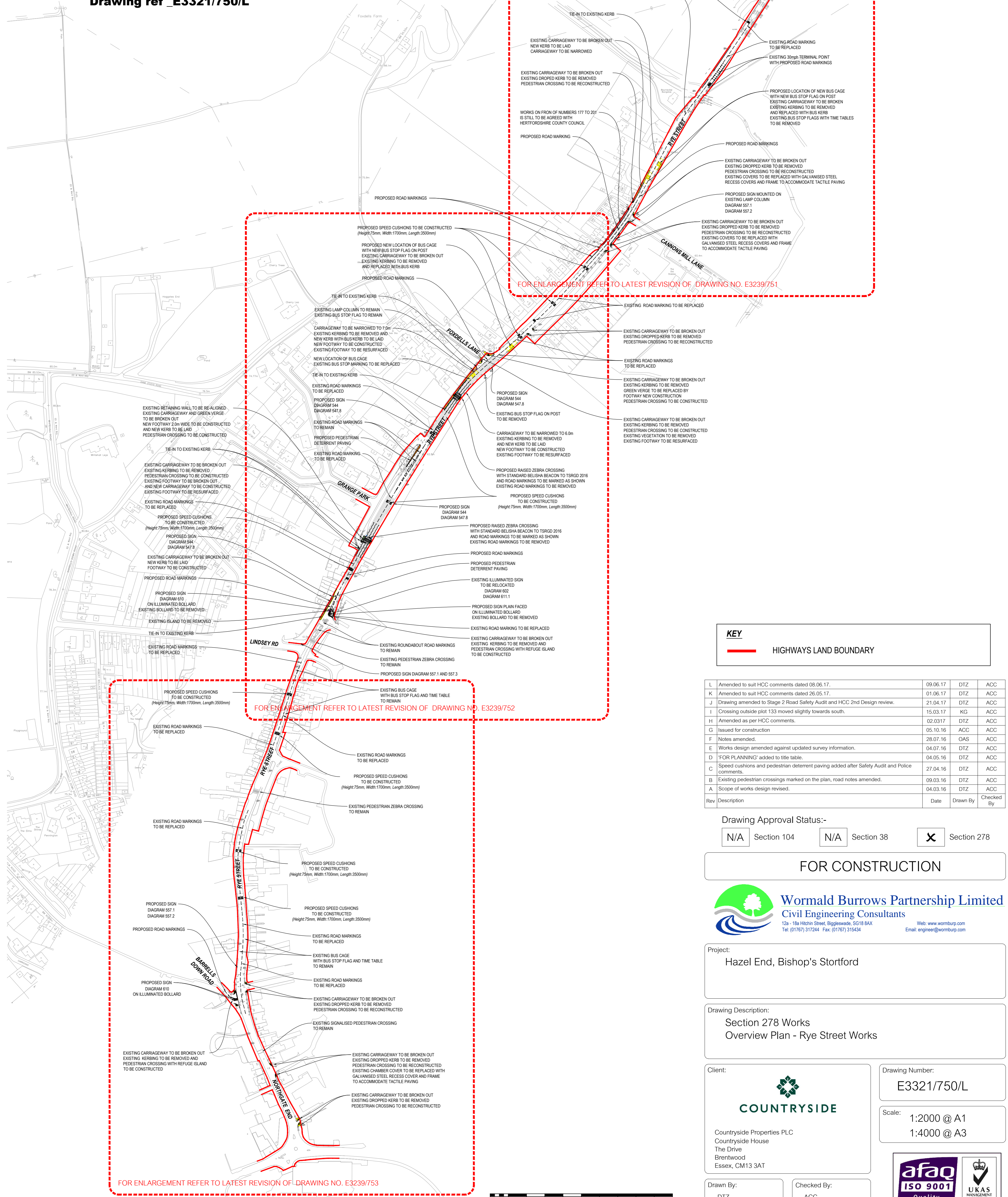
CLAGUE ARCHITECTS

82 Highgate, Claguebury
West CT1 3SH
1. Telephone: 01227 790000
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3. Email: info@clague.co.uk
4. Website: www.clague.co.uk

Drawing Number:
A_A_PL_100
Revision:
M



Appendix V
3/13/0886/OP
Section 278 Works Overview Plan - Rye Street
Drawing ref E3321/750/L



FOR ENLARGEMENT REFER TO LATEST REVISION OF DRAWING NO. E3239/751

FOR ENLARGEMENT REFER TO LATEST REVISION OF DRAWING NO. E3239/752

FOR ENLARGEMENT REFER TO LATEST REVISION OF DRAWING NO. E3239/753

KEY	
	HIGHWAYS LAND BOUNDARY

Rev	Description	Date	Drawn By	Checked By
L	Amended to suit HCC comments dated 08.06.17.	09.06.17	DTZ	ACC
K	Amended to suit HCC comments dated 26.05.17.	01.06.17	DTZ	ACC
J	Drawing amended to Stage 2 Road Safety Audit and HCC 2nd Design review.	21.04.17	DTZ	ACC
I	Crossing outside plot 133 moved slightly towards south.	15.03.17	KG	ACC
H	Amended as per HCC comments.	02.03.17	DTZ	ACC
G	Issued for construction	05.10.16	ACC	ACC
F	Notes amended.	28.07.16	OAS	ACC
E	Works design amended against updated survey information.	04.07.16	DTZ	ACC
D	'FOR PLANNING' added to title table.	04.05.16	DTZ	ACC
C	Speed cushions and pedestrian deterrent paving added after Safety Audit and Police comments.	27.04.16	DTZ	ACC
B	Existing pedestrian crossings marked on the plan, road notes amended.	09.03.16	DTZ	ACC
A	Scope of works design revised.	04.03.16	DTZ	ACC

Drawing Approval Status:-
 Section 104 Section 38 Section 278

FOR CONSTRUCTION

Wormald Burrows Partnership Limited
 Civil Engineering Consultants
 12a - 18a Hitchin Street, Biggleswade, SG18 8AX
 Tel: (01763) 317244 Fax: (01763) 315434
 Web: www.wormburp.com
 Email: engineer@wormburp.com

Project:
 Hazel End, Bishop's Stortford

Drawing Description:
 Section 278 Works
 Overview Plan - Rye Street Works

Client:

 Countryside Properties PLC
 The Drive
 Brentwood
 Essex, CM13 3AT

Drawing Number:
 E3321/750/L

Scale:
 1:2000 @ A1
 1:4000 @ A3

Drawn By:
 DTZ
 Date:
 14.12.15

Checked By:
 ACC
 Date:
 29.01.16



Bishop's Stortford Civic Federation

Registered Charity Number R264557

www.stortfordcf.org.uk



26 Warwick Road
Bishop's Stortford
Herts
CM23 5NW
Tel: 01279 656482

27 January 2017

Mr Chay Dempster
Spatial Planning and Economy Unit
CHN216, County Hall
Hertford
Herts
SG13 8DN

Dear Mr Dempster

3FE JMI SCHOOL
FARNHAM ROAD BISHOP'S STORTFORD
YOUR REF: PL10822116

Appendix VI
Bishops Stortford Civic Federation letter
27 January 2017

1. I am writing on behalf of the Bishop's Stortford Civic Federation to make representations about this planning application.
2. The Civic Federation agree that the development of Bishop's Stortford North (BSN) including all of ASR's 1-5 is likely to generate a need for 5 FE of JMI places and that these should be provided at suitable locations within the area to be developed so that they are within walking distance for the great majority of the prospective users of the facilities. We also note that planning permission has already been granted for a 2 FE school on ASR's 1-2, a 2 FE school on ASR's 3-4, and a 1 FE school on ASR 5. We do not disagree with the view of the County Council that it would be preferable to provide a single 3 FE school rather than two separate schools to meet educational needs in the eastern parts of the overall development.
3. But we are concerned that holding out for a 3 FE school might lead to the best being the enemy of the good, with the JMI places needed to support the BSN development being delivered long after the need for them arises, whereas a 1 FE school on ASR 5 can be brought on stream at the same time as the housing. As well as the issue of timing, we also have concerns about the deliverability of the proposal, its wider implications, the interim arrangements and the traffic implications.

Timing of Delivery

4. Like so much of the planning of BSN as whole, delivery is occurring back to front, with ASR 5, the least accessible and the one most dependent for community facilities on the rest of the development, starting first on site. The proposed 3 FE school is an add on to ASR 4 where, at the current rate of progress, construction work seems unlikely to start within the next 5 years, meaning that the majority of parents needing places at that school will not be able to move into their new homes for about 8 to 10 years. If the demand has to arrive before the school gets off the ground, where are the children of the residents of ASR 5 who will start arriving in a year or two's time to be educated in the meantime?

Deliverability

5. We understand that the site in question is owned by Bishop's Stortford Town Council. It is, of course, open to anyone to lodge a planning application on any site, regardless of ownership. However, given that we are looking at a prospective transaction between two public authorities, we find it surprising that, so far as we are aware, no offer has been made by the County Council to acquire the site, and no decision has been made by the Town Council to sell it for this purpose. No doubt, it is for this reason that the applicant suggests no timescale for the delivery of the proposal and, at the present time, there is no particular reason to believe that it will ever be delivered. In the meantime, work has already commenced on phase 1 of ASR 5 which will presumably be completed and occupied over the course of the next two years.

Wider Implications

6. At present, the site is not allocated for development in any of the planning permissions granted for BSN. Instead, on ASR's 3-5, planning permission has been granted for two schools on sites within the areas to be developed. This application is intended to provide a substitute for the two schools which have planning permission, and no doubt the developers will expect that those sites will be released to be used for further housing. So far as we are aware, no planning applications have been made for the alternative use of the sites, and so how much extra housing can be crammed in must be a matter of speculation, but perhaps 300 more dwellings might be a reasonable assumption.

7. However, because the transport assessment merely relies on the conclusions reached about the existing planning permissions and makes no allowance for the impact of the additional housing that will undoubtedly follow (or perhaps precede) this proposal if permission is granted, its conclusions cannot be relied upon. No doubt, if permission is granted for this application, and applications for further housing follow on the sites to be released, they too will be treated like this one as one needing only a standalone traffic assessment and the cumulative impact of enlarging the overall scale of the BSN development ignored. This kind of salami slicing to minimise the apparent effects of successive developments and ignore their cumulative impact is one with which we are all too familiar in traffic assessments in Bishop's Stortford.

8. We also note that granting permission would lead to a further loss of open space at a time when Bishop's Stortford is facing its biggest ever housing development. The Bishop's Stortford Natural History Society has made a proposal that the area adjoining the Bourne Brook should become a dedicated nature reserve. This application makes no provision for it and indeed would prevent it from being realised. There ought surely to be sufficient room to provide for a 3 FE school within the areas of BSN which have been allocated for development. After all, the land take for a single school should be significantly less than that required for the two schools which already have planning permission.

Interim Arrangements

9. The forecasts produced by the County Council anticipate demand for JMI places tailing off in the next few years. Indeed this has been their consistent message for some time now. But there does appear to be an underlying flaw in their forecasting methodology. Whatever it is, it has led to SOS calls to JMI schools in Bishop's Stortford to provide extra 'bulge' classes to meet unanticipated demand in each of the last three years, a very inefficient way of meeting demand. ASR 5 can be expected to generate almost another 1 FE of demand at a time when no school would have been provided on the site itself if this application is granted permission, since any such facility would soon become redundant.

10. All our other JMI schools are full and some considerable distance away from ASR 5. EHDC was therefore persuaded to grant planning permission for ASR 5 to go ahead in advance of the

rest of the BSN development only on the basis that the demand for school places which it would generate would be provided on site at the time the new homes were occupied. Granting permission for this application as a substitute would undermine the basis on which permission for ASR 5 was granted.

Traffic implications

11. It is clear that as well as anticipating the overall consequences of implementing this proposal (more housing on BSN as a whole) a robust traffic assessment for this application needs to look at the interim position when no new school has been provided but ASR 5 has been completed and occupied. All parents with school age children (secondary as well as primary) will need to drive their children to school. What impact will that have on the existing road network and how many of the improvements (minimal though they are) will have been completed? Planning permission for ASR 5 was granted on the basis that there would be a JMI school on site and a secondary school near the A120 bypass already in operation, neither of which seems likely in the near future. We are particularly concerned about the impact on Rye Street.

Conclusion

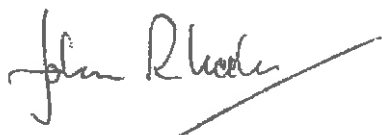
12. Taking all these considerations into account, we believe that this application should be withdrawn so that a properly phased plan for educational provision and the traffic implications of that phasing can be included in any revised application. We further believe that no justification has been made for the loss of open space which would result or the loss of the Bourne Brook corridor as a potential nature reserve. There ought surely to be space for a single school of this size within the parts of ASR's 3-5 which have already been zoned for development. We can only assume that, as has happened with the provision of the secondary school on BSN, the desire of HCC's estates department to maximise the development gain from its property portfolio has taken priority over providing additional school places at the time they are needed.

13. If, nevertheless, the Council decides to grant itself planning permission, it needs to attach effective conditions about timing to that permission. The applicant 'offers' as a condition that development should start within 5 years of the issue of the notice. This is in fact no more than a standard term that applies to any planning permission, and failure to observe it causes the permission to lapse. Merely putting in some foundations before the deadline is then sufficient to make permission indefinite.

14. Instead what is needed is a condition requiring that the school is ready for occupation no later than 4 years after the issue of the notice so as to minimise the gap between the ASR 5 houses being occupied and the school opening. Furthermore, no application for housing on the sites to be released as a result this application should be entertained until it is clear that the school will indeed be ready for occupation within the time specified in this condition. This will enable a 1 FE school to be built on ASR 5 if the provision of a 3 FE school drifts off into the indefinite future.

15. I am copying this letter to County Councillors Barfoot and Woodward, District Councillors Warnell and Gary Jones, Stephen Tapper at EHDC's Planning Department and James Parker CEO of Bishop's Stortford Town Council.

Yours Sincerely



JOHN RHODES
PRESIDENT

Mr C Dempster
Principal Planning Officer – Development Management
Spatial Planning and Land Use Unit
Environment Department
Hertfordshire County Council
County Hall
Hertford
SG17 8DQ

Appendix VII
Vincent & Gorbings letter
02 March 2017

My Ref: RG/5135
Your ref: PL/0822/16

02 March 2017

Dear Mr Dempster,

**3FE PRIMARY SCHOOL, LAND ADJOINING FARNHAM ROAD, BISHOPS STORTFORD.
BISHOPS STORTFORD CIVIC FEDERATION REPRESENTATION**

Thank you for your email dated 6 February 2017 containing the representation of the Bishops Stortford Civic Federation (BSCF) in respect of the above planning application. Apologies for the delay in response as we have been examining the detail of the letter and gathering commentaries from informed parties so as to be clear about the matters raised.

Please read this letter with the benefit of the Civic Federation letter alongside as we will refer to the specific matters raised. The main thrust of the representation which seeks a withdrawal of the application is focused on:

- 1) General points (paras 1-3)
- 2) The timing of delivery (para 4)
- 3) Deliverability (para 5)
- 4) Wider implications (para 6: alternative use of education sites in ASR's 4 and 5, para 7: transport assessment, and para 8: ecological implications)
- 5) Interim arrangements (paras 9-10)
- 6) Traffic implications (para 11)
- 7) Conclusion (paras 13 and 14)

We will address each of these matters in turn having regard to the specific matters raised.

General point and timing of delivery (para 3 and 4)

HCC Children's Services have provided the following response to this matter:

The County Council has a statutory duty to ensure a school place for every child in its area who wants one. It expects new developments the size of Bishops Stortford North (BSN) to provide primary schools within them to serve the needs of those new communities and has secured land and some s106 developer contributions to ensure the appropriate education infrastructure can be delivered at BSN.

The County Council's preferred strategy is the delivery of two larger primary schools to serve the development as a whole. Although a 1form entry primary school on ASR5 would be well located to serve the new families moving into this development, it risks long term sustainability issues in light of its size, the anticipated scale of pupil yield arising from the development (expected growth of around 4 pupils per year group in the first year of occupation, slowly rising to a peak of 0.7fe around 2027) and its geographical location on the edge of Bishops Stortford. A 2fe and 3fe pattern of primary provision offers enhanced opportunities for an improved educational offer alongside greater future sustainability for the families who will occupy the new homes in BSN, as well as better value for money in the short and longer term.

*We continue to work closely with both Countryside Properties and the BSNC to understand both house developers' programmes to ensure that contingency arrangements are identified in line with the anticipated yield in advance of new school provision being available. The County Council is currently consulting on the proposal to enlarge St Joseph's primary school from September 2018. This will expand primary capacity in the town permanently by 0.5fe and, as this is a faith school and therefore recruits from across the town, it is anticipated it will result in a geographical spread of additional places, and ensuring sufficient places in the short term for new families moving into the Bishops Stortford North development in advance of the new schools being open. Please see attached report to Cabinet on **Additional school places 20.02.17 (attached)**.*

Deliverability (para 5)

HCC Estates have provided the following response to this matter:

*BSCF are quite right to point out that anyone can lodge a planning application on any site regardless of ownership as this is the case in law. That said the County Council as a public body would not engage in such an action without an understanding with the landowner that they would positively engage in discussions to acquire a site and that they were supportive that in due course a planning application would be made. That decision was reached by Hertfordshire County Council Cabinet in a report on **BSN Primary School Strategy and Proposed Acquisition of Land at Farnham Road 14.12.15** in which it was stated that the town council has indicated that in principle it would be willing to transfer ownership of the*

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site to the County Council for education use provided that it obtains a proper value from such a transfer.

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*Since that report the County Council, using its' delegated authority from that decision, has been negotiating with the Town Council to agree terms. In the update report to Cabinet on **Additional School Places 20.02.17 attached Appendix 09A** an update was given that whilst those negotiations are still in hand recent information indicates that during 2017/18 land and planning contracts could be exchanged to enable the County Council to be able to consider formally moving...to the desired strategy of a 2FE School to serve the western neighbourhood [for which the County Council has already secured detailed planning consent] and a 3FE school to serve the eastern neighbourhood [which is the subject of this planning application].*

Wider implications (para 6)

HCC Estates have provided the following response to this matter:

The matter of what capacity the reserve school sites (ASR 3 and ASR 5) might generate should they be confirmed for residential development is not a matter for this planning application nor should it be a determining factor as to whether this application is or is not acceptable. These matters regarding capacity and alternative use are simply not material to this application and must be disregarded.

Wider implications (para 7)

Stomor Ltd (Highway Consultants in respect of the 3FE School planning application) have provided the following response to this matter:

The TA used information from the TAs associated with the BSNC and ASR5 applications to ascertain the impact of their respective developments. The TA submitted as part of the ASR5 development assessed a residential development of up to 450 dwellings. Subsequently, the ASR5 proposals were revised to 329 dwellings with a school included, or 369 dwellings if a school is not included. Therefore, the information from the ASR5 TA for 450 dwellings is considered to be robust as it allows for the scenario where no school is developed on the ASR5 site.

The BSNC TA considered a development of up to 2,200 dwellings plus employment areas and two primary schools, which was modelled alongside the 450 dwelling ASR5 development. The area of the school site on the ASR3 development equated to 2ha which, based upon 40 dwellings per hectare, equates to potentially 80 dwellings. Due to the size of the BSNC development, an additional 80 dwellings is unlikely to have a significant impact on the transport model. Nonetheless, the ASR5 development TA assessed 450 dwellings compared to 369 dwellings identified on their planning application (a difference of 81 dwellings). Therefore, it can be argued that the transport model for the two developments would have overcompensated enough to allow for the potential development of houses on the previously school allocated sites.

Wider implications (para 8)

ELMAW Ltd (Ecological Consultants in respect of the 3FE School planning application) have provided the following response to this matter:

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The BSCF open spaces statement highlighted in paragraph 8 of Wider Implications regarding BS Natural History Society's concerns regarding a nature reserve makes 'no provision for it in the application ...' is incorrect.

As we detailed in our response to BS Natural History Society, the application makes provision not only to mitigate impacts on protected species which includes the translocation of reptiles, but provides a large, ecologically-enhanced wildflower area (which is predicted to be colonised by reptiles) and new hedgerow planting. The application commits to the long-term management of these created biodiversity areas which will be conditioned to ensure their deliverability. Whilst we would concede that this biodiversity area will not be open to the public but would be used as an educational resource, it will be, by defacto, a 'nature reserve'.

It should also be noted that in their consultation response the Herts and Middx Wildlife Trust have indicated that application of the DEFRA Biodiversity Impact Calculator shows that the development achieves a net habitat gain in biodiversity units of 1.74. This calculator should be routinely applied to all appropriate development to consistently and objectively measure ecological impacts. Without it assessment is subjective and not repeatable or fair. Its application legitimises the otherwise subjective claim within the ecological report that;

'The proposed mitigation measures are considered proportionate and appropriate to the predicted impacts, based in part on the protective requirements of legislation, the demonstration that the development will result in no net loss of biodiversity and will provide a biodiversity gain.'

Interim Arrangements (paragraphs 9-10)

Herts CC Children's Services has provided a response to this matter:

Over each of the last 5 years, the County Council has implemented a primary expansion programme, creating over 53 permanent forms of entry in areas experiencing a significant increase in the primary aged population, as well as increasing capacity on a temporary basis to meet peaks in demand.

Until recently, although pupil forecasts have indicated a close match between demand and the number of places available in Bishops Stortford, the County Council has not brought forward any plans to permanently enlarge existing schools. Instead, it's strategy has been to manage fluctuations in demand through contingency planning, with existing schools offering additional places should the level of demand from actual primary applications deem it necessary.

This approach has been informed by forecasts of pupil demand and sits within the wider strategy which provides for 5fe of new primary school provision within BSN in the next few years. In this context, the County Council must carefully consider its investment priorities to ensure appropriate use of valuable capital resources whilst also ensuring it plans sufficient places to meet long term need.

As indicated, the current proposal to enlarge St Joseph's primary school will provide an additional 0.5 form of entry from September 2018 and would assist in addressing demand from the initial occupation of new dwellings in ASR5.

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Countryside Properties current programme advice indicates first occupations at the end of 2018. Should this timetable be adhered to, ASR5 is anticipated to yield around 0.4fe of primary aged pupils by 2021, by which time the St Joseph's proposal (should the statutory enlargement be approved) will have been implemented and by when the new 2fe school in BSN Western neighbourhood is planned to be open. All this is caveated with the recognition that developer programmes continue to be uncertain and therefore the County Council's strategy for the provision of sufficient school places remains fluid and continues to be under review.

Traffic implications (paragraph 11)

Stomor Ltd (Highway Consultants in respect of the 3FE School planning application) have provided the following response to this matter:

As stated above, our development considered the impacts of the BSNC, ASR5 and adjacent Rye Street developments within our assessment. The school generated traffic was considered in addition to the local developments generated traffic i.e. school traffic is added to the traffic from BSNC, ASR5 and Rye Street developments, although it is considered that the majority of the school traffic would be included within the traffic generated by the developments.

The ASR5 TA does not include any of the BSN development primary schools and assesses the impact of a 450 residential unit development with parents travelling to the existing schools within Bishop's Stortford.

Conclusion (paragraphs 13 and 14)

Herts CC Children's Services has provided a response to this matter:

The County Council has a policy preference for primary schools of at least 2fe in order to ensure long term sustainability both financially and educationally. Small schools are at greater risk of fluctuations in demand and the subsequent pressure low pupil numbers places on resources.

As outlined above, the pupil yield arising from occupation of new dwellings in ASR5 is likely to grow gradually over time, not expected to peak at 0.7fe until around 2027. The County Council needs to ensure sufficient flexibility to build the school in a timely way to ensure we get the balance right of meeting demand as local as possible but at a school that will be sustainable to meet for the long term needs of the BSN development.

We hope that this response satisfactorily addresses the matters contained in the BSCF representation and gives the necessary assurance that there are no planning matters material to the determination of the planning application that warrant a withdrawal of the application.

Please do contact the undersigned for further information if required.

Yours sincerely



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