

# Delegated Officer Report

**Recommendation: Refuse Planning Permission**

**Application number: 3/23/1447/OUT**

**Proposal: Outline planning application (with all matters reserved except for access) for up to 350 dwellings, up to 4,400 sqm of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retail floorspace (Use Classes E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping**

**Site Address: Land East Of The A10 Buntingford Hertfordshire**

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## Planning History:

Reference No.	Proposal	Decision	Decision Date
3/22/1551/FUL	Hybrid planning application comprising: (i) Full planning for the development of 350 residential dwellings (Use Class C3), a new highway junction from the A10 with associated works including drainage, access roads, allotments, public open space and landscaping; and (ii) Outline planning (with all matters reserved except for access) for up to 4,400 sqm of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retail floorspace (Use Classes E).	Refuse	9th November 2022
3/22/0644/SCREEN	Request for EIA screening opinion for the development of up to 400 residential dwellings, 4000 sqm of employment floorspace, a local centre with 500 sqm of retail floorspace plus a doctor's surgery, a day care nursery and new junction from the A10.	Screening Opinion	25th April 2022
3/17/1811/OUT	Outline application for all matters reserved except for access comprising: i. Up to 400 dwellings (C3). ii. 2.0 hectares of land for Use Class B1 employment. iii. Formal and informal open spaces	Refuse Appeal withdrawn	7th December 2017

	including children's playspaces. iv. Structural landscaping and internal roads. v. Formation of a new junction on the A10. vi. Surface and foul water drainage infrastructure.		
3/14/2304/OP	Outline: (all matters reserved except for access). i. Up to 400 dwellings (C3) ii. First school site. iii Formal and informal open spaces. iv. Children's playspace. v. Structural landscaping and internal roads. vi. Formation of a new junction on the A10. vii. surface and foul water drainage infrastructure. Full: Phase 1. i. 99 dwellings including affordable housing (C3), access roads, car parking, children's playspace, incidental open space and associated surface and four water drainage infrastructure.	Withdrawn - No Further Action Appeal withdrawn	30th April 2018

### Neighbour Responses:

Neighbour Consultations	Contributors	Neutral	Objections	Support
499	1062	4	1056	2

### Summary of Neighbour Responses

Summary of concerns raised:

- Contrary to District and Neighbourhood Plans.
- Outside the settlement boundary
- Site not allocated in the neighbourhood plan.
- Sufficient development in and around Buntingford.
- Overdevelopment.
- Loss of agricultural land.
- Unsustainable location due to lack of infrastructure and local services
- Lack of sufficient infrastructure to support this new development.
- Lack of useable services and facilities (doctors, dentists, school places and shops)
- Existing drainage and sewerage works unable to support any further development.
- Thames Water have advised resident that Buntingford Sewage Treatment Works cannot increase capacity without expansion or a new site.
- Effect on wildlife leading to its loss.
- Ecological improvements needed such as bat and bird boxes.
- Loss of open countryside
- Highway issues, traffic, cycle lane, accidents.
- A10 dangerous.

- Lack of Public Transport
- No rail services or station
- Access restrictions via Luynes Rise would be difficult to monitor.
- Luynes Rise should not be used for any vehicle access including bus.
- Insufficient parking and private amenity space for the number of properties.
- Don't agree with HCC Highway conclusions.
- Impact on public rights of way.
- Site not suitable for proposed development due to land levels and drainage issues.
- Noise impact on existing residential properties.
- Similar applications have been refused before.
- Crime impact from development.
- Affordable housing required.
- Affordable housing would reduce house prices in surrounding area.
- Climate change impact from development.
- Would be better as a park and health and fitness centre. Housing not needed.
- Community engagement event by developer had little response and majority were negative.
- Supporting documents and information therein incorrect.
- Devaluation of homes.
- Impact on quality of life of neighbouring residents.
- Boundary disputes between neighbouring properties and site.

## Consultee Responses

Consultee	Comments
Environmental Health (Noise And Light)	No objection subject to conditions.
Active Travel England	Recommend approval subject to conditions. Recommend slight re-wording of HCC Highways conditions
HCC Highway Authority	No objection subject to establishment of suitable bus service, agreement of S106 contributions and conditions.
HCC Growth And Infrastructure	Request contributions towards first, middle and upper education, childcare services, SEND, library services, waste service transfer station, youth service, and monitoring fees.
Environmental Health And Housing (Contamination)	No objection subject to conditions.
Members	Cllr Nicholls - Object. Impact on rural area beyond the green belt, contrary to policy GBR2 of the District Plan and ES7 of the Neighbourhood Plan. Unsustainable nature of the development and Thames Water object due to foul water. Flood risk of the development. Effect of the development on the character of the neighbourhood and town - incongruous due to scale, density and overbearing nature. Pressure on local infrastructure. Occupiers would be heavily reliant on private cars. Unsuitable site - agricultural land and well-defined boundary to Buntingford. Impact on existing public rights of way. Impact on wildlife corridors and local biodiversity.
Parish Council	Buntingford Town Council - Object - little change from three

	<p>previous refusals, contrary to district plan - contrary to BUNT1 - not windfall, GBR2 - not limited infilling, DPS2 - clear departure from the strategy, DES1 - no masterplanning. Contrary to Neighbourhood Plan policies HS1- outside of the settlement boundary, INFRA6 - it has not been demonstrated that there is adequate wastewater infrastructure, ES7 - impact on biodiversity. Contrary to NPPF - chapter 1 - not in accordance with the development plan, chapter 11 - not in accordance with development plan. Insufficient infrastructure contrary to NPPF. Loss of agricultural land. Impact on public rights of way. Concerns raised by Thames Water. Covering letter includes a plan encroaching into Peasmead - clarification on this needed - if for foul and surface water connection points this will put network under stress. Concern regarding sewer capacity. Concern regarding foul water treatment and impact on rivers. Retail framework travel plan has just had the date changed from earlier applications and has not been updated. Access should be conditioned to be provided first if approved. Town should benefit from any S106 contributions.</p>
NHS England	NHS Hertfordshire and West Essex Integrated Care System - Request Contributions
Housing Development Unit	140 affordable homes required.
Waste Services (EHDC)	Object due to no information on waste provision.
Thames Water Development Control	No objection subject to conditions.
Local Lead Flood Authority HCC	Object in the absence of acceptable drainage strategy.
Landscape Officer	<p>Object - comments from CPRE endorsed. Submission does not diverge significantly in a landscape perspective from the previous refusal. Proposal results in loss of landscape buffer and physical separation of the town from the transport corridor. Openness of landscape will suffer an immediate and permanent loss, introduction of new housing will have an adverse impact on wider landscape, landscape buffer will be lost. Significant harm to coherence of field system. Existing character and attributes of rib valley landscape will be lost. Plateau and natural sloping landform lost. Properties to north and east experience adverse visual effects. Magnitude of landscape change will be major. Contrary to policies GBR2 and DES2 of the District Plan. Policy CFLR3 also adversely affected.</p>
Affinity Water	No objection subject to conditions.
Conservation Section	<p>Object. The masterplanning process has not been completed. Unsustainable location. Links to wider sustainable travel routes should be secured through s106 contributions. Layout misses core destination. Density is above local context - site cannot accommodate 350</p>

	<p>dwellings. Sewage works proximity makes unpleasant setting for southern dwellings and landscaped amenity spaces. Green infrastructure is largely by A10 as a buffer - less opportunity for useable amenity space and active play. More landscaping needed. Proposed gardens are shallow and those adjacent existing dwellings will potentially result in an overbearing relationship. No commitment to solar panels and hot water heat pumps are provided within the application</p>
Fire Hydrants	Request fire hydrants
Jackie Bruce (EHDC S106 Officer)	Request contributions towards GMS GP provision, health, recycling, monitoring fees, village and community centres, fitness gyms, studio space, swimming pool, sports hall, bowls, playing pitches, and outdoor tennis. Further contributions towards allotments, children's play and provision for young people, natural and semi natural green space, and parks and gardens and amenity greenspace are required if not provided on site.
Environment Agency	No objection subject to conditions.
Parish Council	Aspenden Parish Council - Object. Impact on infrastructure, not an allocated site and District Plan allocated sufficient land, not clear detail on the design and nature of the proposed local centre, question suitability of commercial and service floorspace with building heights up to 15 metres adjacent residential properties, impact on highway network, encroachment into rural area beyond the green belt, little difference to three previous refusals. No access should be provided to the western side of the by-pass. Access should be conditioned to be provided first if approved
CPRE Hertfordshire	Object - impact on rural area beyond the green belt, contrary to GB2 of District Plan and ES7 of Neighbourhood plan. Loss of agricultural land. Substantial extension to Buntingford. Unclear if affordable housing can be provided. Poor quality design. Did not use local design review service. Lack of infrastructure.
East Of England Ambulance Service	NHS East of England Ambulance Service - Request Contributions
Herts And Middlesex Wildlife Trust	Need a full biodiversity metric not a summary. Request condition for bird and bat boxes.
Sport England	Object to proposal for community sports provision unless appropriate financial contributions made towards off-site indoor and outdoor sports facility provision secured through a S106 agreement. Request a condition on active design.
HCC Heritage	No objection subject to conditions.
HCC Minerals and Waste	Request condition for site waste management plan.
Planning Policy	Object. Outside of the settlement boundary and unsustainable location.

**Planning Policies:**

INT1 - Presumption in Favour of sustainable Development - East Herts District Plan 2018  
 GBR2 - Rural Area Beyond the Green Belt - East Herts District Plan 2018  
 DPS1 - Housing, Employment and Retail Growth - East Herts District Plan 2018  
 DPS2 - The Development Strategy 2011-2033 - East Herts District Plan 2018  
 DPS3 - Housing Supply 2011-2033 - East Herts District Plan 2018  
 BUNT1 - Development in Buntingford - East Herts District Plan 2018  
 BUNT3 - Employment in Buntingford - East Herts District Plan 2018  
 ED1 - Employment - East Herts District Plan 2018  
 ED2 – Rural Economy - East Herts District Plan 2018  
 DES1 - Masterplanning - East Herts District Plan 2018  
 DES2 - Landscape Character - East Herts District Plan 2018  
 DES3 - Landscaping - East Herts District Plan 2018  
 DES4 - Design of Development - East Herts District Plan 2018  
 HOU2 - Housing Density - East Herts District Plan 2018  
 HOU1 - Type and Mix of Housing - East Herts District Plan 2018  
 HOU3 - Affordable Housing - East Herts District Plan 2018  
 HOU7 - Accessible and Adaptable Homes - East Herts District Plan 2018  
 HOU8 - Self-Build and Custom Build Housing - East Herts District Plan 2018  
 TRA1 - Sustainable Transport - East Herts District Plan 2018  
 TRA2 - Safe and Suitable Highway Access Arrangements and Mitigation  
 - East Herts District Plan 2018  
 TRA3 - Vehicle Parking Provision - East Herts District Plan 2018  
 EQ2 - Noise Pollution - East Herts District Plan 2018  
 WAT1 - Flood Risk Management - East Herts District Plan 2018  
 WAT3 - Water Quality and the Water Environment - East Herts District Plan 2018  
 WAT4 - Efficient Use of Water Resources - East Herts District Plan 2018  
 WAT5 - Sustainable Drainage - East Herts District Plan 2018  
 WAT6 - Wastewater Infrastructure - East Herts District Plan 2018  
 CC1 - Climate Change Adaptation - East Herts District Plan 2018  
 CC2 - Climate Change Mitigation - East Herts District Plan 2018  
 NE2 - Sites or Features of Nature Conservation Interest (Non-Designated) - East Herts  
 District Plan 2018  
 NE3 - Species and Habitats - East Herts District Plan 2018  
 NE4 - Green Infrastructure - East Herts District Plan 2018  
 DPS4 - Infrastructure Requirements - East Herts District Plan 2018  
 DEL1 - Infrastructure and Service Delivery - East Herts District Plan 2018  
 DEL2 - Planning Obligations - East Herts District Plan 2018  
 CFLR1 - Open Space, Sport and Recreation - East Herts District Plan 2018  
 CLFR3 - Public Rights of Way - East Herts District Plan 2018  
 CFLR7 - Community Facilities - East Herts District Plan 2018  
 CFLR9 - Health and Wellbeing - East Herts District Plan 2018  
 CFLR10 – Education - East Herts District Plan 2018  
 HA3 – Archaeology - East Herts District Plan 2018  
 NPPF - National Planning Policy Framework -  
 Buntingford Community Area - Adopted Neighbourhood Plan 2017. Of particular relevance  
 are policies:  
 BE2 – Employment sites  
 ES1 – Environment and Sustainability  
 ES6 – Allotments  
 ES7 – Biodiversity  
 HD1 – Housing

HD2 – Housing
HD3 – Housing and green energy
HD4 – Housing
HD7 – Housing mix
INFRA4 – Wastewater infrastructure
INFRA5 – Water efficiency
T1 – Parking Standards
T2 – Car and Cycle parking
T3 – Rights of Way
T4 – Connections
T6 – Bus service

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## Considerations

The application site comprises 28.95 hectares of agricultural arable land on the western side of Buntingford to the west of Luynes Rise and existing residential development. The site is bounded to the north and east by the built up area of Buntingford, partially to the lower part of the site on the eastern boundary is the employment site of Watermill Industrial Estate, to the south by Buntingford Waste Water Treatment Works (WWTW), and to the west by the A10. The site lies outside the settlement boundary of Buntingford within the Rural Area Beyond the Green Belt, in the current District Plan.

There are two public footpaths running across the site, one from Luynes Rise (RoW 026) towards the A10 and beyond and one from Monks Walk (RoW 029) towards the A10 and beyond.

The site slopes gently down from the northwest to the southeast, towards the valley of the River Rib.

The application is submitted in outline form, with all matters reserved apart from access. The application proposes up to 350 dwellings, up to 4400m<sup>2</sup> of commercial and services floorspace (use classes E and B8) and up to 500m<sup>2</sup> of retail floorspace (use class E). The application further proposes drainage, access into the site from the A10 and Luynes Rise, allotments, public open space and landscaping.

Vehicle access to the site is proposed via a new roundabout off the A10. A link from Luynes Rise is further proposed however this is outlined to be only for buses, pedestrian and cycle access and not for general vehicle access to the site.

As the application is an Outline application with only details of access provided, specific details of the layout, including internal roads, are not provided. Parameter plans are provided showing an indicative site arrangement. The following plans are provided: Location plan (10537-FPCR-XX-XX-DR-A-1001 P02), development framework plan (10537-FPCR-XX-XX-DR-A-1002 P07), land use plan (10537-FPCR-XX-XX-DR-A-1003 P05), access and movement plan (10537-FPCR-XX-XX-DR-A-1004 P07), green infrastructure plan (10537-FPCR-XX-XX-DR-A-1005 P05), density and building height plan (10537-FPCR-XX-XX-DR-A-1006 P05), public open space plan (10537-FPCR-XX-XX-DR-A-1007 P03), proposed access to A10 and Lynes Rise plan (7498-GA-02 G), and visibility analysis plan (7498-GA-02 H).

These plans show four main blocks of residential development, with three running down the length of the A10 and the fourth to the south of Knights Close providing up to 350 residential units. A local centre is shown near the proposed access point (between Peasmead and the sewage works). Employment floorspace is provided to the north of the sewage works (falling

to the south of the fourth residential area mentioned above). The application seeks outline permission for up to 4400 sqm of commercial and services floorspace (Class E and B8) and up to 500 sqm of retail floorspace (Class E). No minimum floorspace is stated in the application.

As discussed above the only vehicular access to the site for the proposed uses is via a new proposed roundabout on the A10. This would also contain cycle and pedestrian links. The provision for a bus, pedestrian and cycle link could be provided from Luynes Rise however it is not proposed for general vehicles to use this access point. Further pedestrian links are shown to be provided through the two existing public footpaths. Whilst public footpath Buntingford 029 is shown in the parameter plans as a link through landscaping in the site, public footpath Buntingford 026 is shown to go through one of the proposed residential development areas.

A submitted green infrastructure plan indicates that allotments would be provided in the north-eastern corner of the site to the rear of Monks Walk and Longmead. Attenuation features are shown on the eastern boundary by the Watermill Industrial Estate, and to the east of the proposed access by the sewerage works. The landscape plan indicates that there would be a bund along the majority of where the site borders the A10 with an acoustic fence and planting on this. An ecological enhancement area is shown to the western side of the A10, with the remaining land to the west of the A10 retained as agricultural land. Small pockets of landscaping and open space are shown between the proposed residential areas, alongside areas of children's play equipment.

A density and building heights parameter plan indicates that the northern-most two residential areas would have a density of approximately 30 dwellings per hectare on average and a building height up to 10.5 metres. The remaining two residential areas would have a density of up to 40 dwellings per hectare on average and building heights between 10.5 metres and 13.5 metres. The employment area is outlined to have a building height up to 15 metres, and the local centre a building height up to 13.5 metres.

It is noted that the layout of the development in the parameter plans is identical to the detailed layout provided within refused application 3/22/1551/FUL save for some minor changes to the on-site routes in the parameters plan. The main difference in the submission is that the application is an outline application (with all matters reserved except for access). The indicative masterplan is submitted for illustrative purposes only and is not an approved document. Nonetheless, the masterplan reflects substantially the same development as was previously refused full planning permission.

The applicant was invited to submit further revisions to the indicative masterplan and parameter plans to address the previous reasons for refusal of the full application. Minor revisions to the parameter plans were submitted in January 2024 to include modifications to the on-site routes. No further changes were submitted to the plans after this and limited supporting information has been submitted as part of this application explaining how the previous reasons (1, 2, 3 and 7) for refusal had been or could be addressed.

On the 6<sup>th</sup> February 2024, the applicant submitted a notification of the intention to submit an appeal (against the non-determination of the application up to 19<sup>th</sup> January 2024) under the provisions of Recommendation 3 of the Rosewell Review into inquiry appeals. This notification gives the Local Planning Authority and Planning Inspectorate not less than 10 working days' notice of an intention to submit a planning appeal where the appellant will request the inquiry procedure.

This report sets out the consideration of the application incorporating information submitted up to 15<sup>th</sup> February 2024.



## *Constraints*

The application site is located within the Rural Area beyond the Green Belt, outside of the settlement boundary of Buntingford, and is covered by the Buntingford Community Area Neighbourhood Plan.

## *Planning History*

The application follows three previous refusals on the site:

Application 3/22/1551/FUL was a hybrid application comprising:

- (i) Full planning for the development of 350 residential dwellings (Use Class C3), a new highway junction from the A10 with associated works including drainage, access roads, allotments, public open space and landscaping; and
- (ii) Outline planning (with all matters reserved except for access) for up to 4,400 sqm of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retail floorspace (Use Classes E).

This application was refused on the 9th November 2022 for the following 8 reasons:

1. The proposal would encroach into the rural area beyond the settlement boundary to the detriment of the character, appearance, and distinctiveness of the area contrary to Policies DES1, DES4, GBR2 of the East Herts District Plan (2018), Policy ES1 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.
2. The proposals represent an unsustainable form of development and residents would be heavily reliant on the private car to access employment, main food and comparison shopping elsewhere and the harm demonstrably and significantly outweighs the benefits. The proposal would be contrary to Policies DSP2, INT1, BUNT1 and TRA1 of the East Herts District Plan (2018) policy HD1 of the Buntingford Community Area NP and the National Planning Policy Framework.
3. The proposal due to its design and layout, especially the shallow gardens on the eastern edge, would have an adverse impact upon the adjoining occupiers through overbearingness and would also not provide a useable and functional private amenity space, due to its position either north or east of the dwelling. In addition, the layout of the car parking courtyards adjacent to the private gardens. The compatibility of the uses is a concern, especially the open space and residential as well as commercial would raise concerns over the potential noise and disturbance to the future occupiers, in addition the layout would mean that commercial servicing would be done through the estate which has the potential to create further noise and disturbance to future occupiers and would not be considered as a high-quality design contrary to policies DES4 and EQ2 of the East Herts District Plan (2018) and guidance in the NPPF.
4. The proposal raises concerns over the layout of the development, in respect of compatible uses of residential and open space adjacent to Waste Water Treatment and A10 as well as the commercial element which would give rise to poor quality spaces which would suffer from odour and general function of these uses which would not provide a good quality useable space contrary to policy DES4,
5. The proposed uses adjacent to the Waste Water Treatment and recycling centre raises concerns over the delivery of the employment land and residential on the southern part of the site and the impact this will have on the future occupiers contrary to policies DES4, ED2 and EQ2 of the East Herts District Plan (2018) and guidance in the NPPF.

6. The proposal would give rise to severe impact upon the local highway network contrary to policy TRA1 of the East Herts District Plan (2018) and NPPF.
7. The proposal fails to make adequate financial provision for infrastructure improvements to support the proposed development. The proposal would thereby be contrary to Policies DEL2, TRA1, TRA2, CFLR1, CFLR7, CFLR9 and CFLR10 of the East Herts District Plan (2018), Policies of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.
8. The proposal would not allocate any self-build plots. This would be contrary to policy HOU8 of the East Herts District Plan (2018).

It should be noted that when this application was determined East Herts District Council were able to demonstrate a five-year supply of housing.

Application 3/17/1811/OUT was an outline application for all matters reserved except for access comprising: i. Up to 400 dwellings (C3). ii. 2.0 hectares of land for Use Class B1 employment. iii. Formal and informal open spaces including children's playspaces. iv. Structural landscaping and internal roads. v. Formation of a new junction on the A10. vi. Surface and foul water drainage infrastructure.

This application was refused on the 6th December 2017 for the following three reasons:

1. The proposal would encroach into the rural area beyond the settlement boundary to the detriment of the character, appearance, and distinctiveness of the area contrary to Policy ENV1 and GBC14 of the East Herts Local Plan Second Review April 2007, Policy DES1 of the emerging East Herts District Plan (November 2016), Policy ES1 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.
2. The proposals represent an unsustainable form of development and residents would be heavily reliant on the private car to access employment, main food and comparison shopping elsewhere and the harm demonstrably and significantly outweighs the benefits. The proposal would be contrary to Policy INT1 of the emerging East Herts District Plan (November 2016) policy HD1 of the Buntingford Community Area NP and the National Planning Policy Framework.
3. The proposal fails to make adequate financial provision for infrastructure improvements to support the proposed development. The proposal would thereby be contrary to Policies IMP1 of the East Herts Local Plan Second Review April 2007, Policies DEL2, CFLR1, CFLR7 and CFLR9 of the emerging East Herts District Plan (November 2016), Policy T6 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.

It should be noted that when this application was determined East Herts District Council were not able to demonstrate a five-year supply of housing. A Planning Appeal was submitted by which point the Council could demonstrate a five year housing land supply. The appeal was withdrawn.

Application 3/14/2304/OP was for up to 400 dwellings (C3), first school site, formal and informal open spaces, play space, landscaping and internal roads, new junction on the A10 and drainage infrastructure. Full: Phase 1 dwellings including affordable housing access roads, car parking, children's play space, open space and drainage infrastructure.

This application was appealed for non-determination with the appeal subsequently withdrawn. However, the Council resolved that they would have refused the development on the following grounds:

1. The proposals represent an unsustainable form of development and residents would be heavily reliant on the private car to access employment, main food and comparison shopping elsewhere and the harm demonstrably and significantly outweighs the benefits. The proposal would be contrary to Policy INT1 of the emerging East Herts District Plan (November 2016) policy HD1 of the Buntingford Community Area NP and the National Planning Policy Framework.
2. The proposal would encroach into the rural area beyond the settlement boundary to the detriment of the character, appearance, and distinctiveness of the area contrary to Policy ENV1 and GBC14 of the East Herts Local Plan Second Review April 2007, Policy DES1 of the emerging East Herts District Plan (November 2016), Policy ES1 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.
3. The proposed layout and design of phase 1 of the development would not serve to provide a visually attractive development or a strong sense of place. The development would not amount to high quality sustainable design or promote health communities through safe well promoted walking and cycling routes as envisaged by Policies ENV1, ENV2 and TR1 of the East Herts Local Plan April 2007, Policies DES2, DES3 and CFLR9 of the emerging East Herts District Plan (November 2016), Policy HD4 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.
4. The proposal fails to make adequate financial provision for infrastructure improvements to support the proposed development. The proposal would thereby be contrary to Policies IMP1 of the East Herts Local Plan Second Review April 2007, Policies DEL2, CFLR1, CFLR7 and CFLR9 of the emerging East Herts District Plan (November 2016), Policy T6 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.

It should be noted that when this application was considered East Herts District Council were not able to demonstrate a five-year supply of housing. This application did not contain any employment floorspace or the local centre.

## **Principle**

As outlined above the illustrative masterplan development is very similar to the masterplan provided within most recent refused application 3/22/1551/FUL. No substantive changes to the proposed development have been made, with the exception of some minor changes to the on-site routes in the parameters plan and the move from a full application to an outline application (with all matters reserved except for access). The applicant has submitted the current application at a time when the Council cannot demonstrate a 5 year housing supply, unlike the previous application when the LPA could demonstrate over 5 years. The applicant has not made any substantial changes to the illustrative masterplan and therefore, the most significant change in circumstances which form context for determining the application relates to the LPA not currently being able to demonstrate a 5 year supply of housing, which therefore requires application of the tilted balance for determining the application in accordance with the presumption of sustainable development set out in the NPPF.

Notwithstanding the above, the East Herts District Plan 2018 was adopted on the 23rd October 2018. As well as identifying a strategy for development and growth, the District Plan also sets out the housing requirement for East Herts. The development Strategy (2011-2033) is contained in policy DPS2. It sets out that housing growth, and other growth can be accommodated by directing development to (in order of hierarchy) sustainable brownfield sites, the urban areas of defined settlements (including Buntingford), urban extensions of defined settlements (not including Buntingford) and limited development in the villages. This strategy shows how the necessary growth in the District can be accommodated in a planned and sustainable fashion. The application site is not located within the urban area of

Buntingford and Policy DPS2 does not include an urban extension to Buntingford as part of the District's housing supply. Furthermore, the scale, form and type of the proposed development does not accord with the definition of development to be included as part of the windfall allowance (less than 10 homes). Policy INT1 of the District Plan outlines a presumption in favour of sustainable development.

Of particular relevance, are policies BUNT1 and BUNT3 which set out site allocations and locations for housing growth and employment growth respectively. Policy BUNT1 focuses on the delivery of the sites with planning permission amounting to a minimum of 1074 dwellings. The strategy for Buntingford is to ensure that the impacts of development can be mitigated and managed within the overall infrastructure of the town. Neither policy BUNT1 nor BUNT3 includes the application site. Furthermore, the site is not identified within the Buntingford Neighbourhood Plan as a site that is appropriate for housing allocation.

Policy DPS2 adds that sites *within* the urban area of Buntingford and other towns are appropriate (for development), which is not the case here. The current proposals therefore represent a clear departure from the development strategy set out in policy DPS2 of the District Plan and reiterated in policy BUNT1. Therefore, there is an in-principle objection to the proposal.

The District Plan does not identify further site allocations for residential development in Buntingford as it was considered that further development in the town, beyond that already granted planning permission, was unsustainable. This was in particular due to the lack of local employment and sustainable transport opportunities. The Buntingford Settlement Appraisal, which was part of the evidence base produced to support the District Plan explains this approach. The current proposals therefore represent a clear departure from the development strategy set out in policy DPS2 of the District Plan and reiterated in policy BUNT1. Therefore, there is an in-principle objection to the proposal

The site lies outside the settlement boundary of Buntingford (as defined in both the District Plan and Neighbourhood Plan) and within the Rural Area beyond the Green Belt where policy GBR2 of the current District Plan states that permission will not normally be granted for residential development. The rural area is highly valued in the District for its open and undeveloped nature. Policy GBR2 outlines that in order to maintain the Rural Area Beyond the Green Belt as a valued countryside resource only certain types of development will be permitted provided that they are compatible with the character and appearance of the rural area. The policy does not allow for housing estates, instead only allowing limited infilling, development on previously developed land, development identified in an adopted Neighbourhood Plan and rural exception housing (affordable housing schemes under policy HOU4). New employment generating uses are permitted where they are sustainably located in accordance with policy ED2.

With regards to policy GBR2, the policy generally requires any development to be compatible with the character and appearance of the rural area; but also, to fall within one of the 'types' of development listed as (a) to (h). With the exception of (c), which is potentially applicable insofar as the employment floorspace is concerned, the proposals do not constitute any of the types of development listed in this policy. They are not for rural exception housing, or infill development, or buildings for agriculture or forestry, outdoor sport or recreation, cemeteries, replacement of or alterations to buildings, accommodation for Gypsies and Travellers and Travelling Showpeople (etc). The site is not identified in the relevant Neighbourhood Plan.

With regards to the general requirement for compatibility with the character and appearance of the rural area, the proposal does not share any characteristics with its rural agricultural setting. The Conservation and Urban Design and Landscape officers have commented that

the proposal is more akin to urbanisation of the site rather than reflecting the setting. It is noted that the site would be adjacent to the edge of Buntingford, but outside of the boundary. However, even if this is taken to be part of the setting, the proposal is more of an extension to the town rather than a transitional form of development from the urban setting to the rural setting. The Design Officer considers this to be unacceptable. This is discussed further in the design and quantum of development section below.

Turning to the employment uses in type (c), these are considered appropriate only where they are sustainably located (and are compatible with the character and appearance of the rural area). Whilst the application proposes employment space, as discussed further below there is no guarantee as to the level provided or whether these will be viable or attractive to businesses, particularly with regards to the position adjacent the sewage and recycling site. It is the case that whilst the site is not considered to be a sustainable location for the proposed quantum of residential use, as will be discussed further later in this report, it could potentially be a sustainable location for some employment use (subject to its accessibility, position within the site and the quality of the external environment), particularly if the proposed bus route is provided and local residents could travel to this site via public transport. The provision of some commercial and employment floorspace has potential to contribute towards these uses within the town which in turn, could reduce the need to travel by car to these new destinations. Concern is raised, however, that if walking and cycling connections remain unattractive to users, or if a new public transport link is not provided, or if public transport is not improved in the wider locational context of the town, it is likely that the users of the employment space would continue to travel to the site via private vehicle. There is also no guarantee that the employees of the employment spaces would be from Buntingford, and if not from Buntingford there would be limited ways to access the site other than via private vehicle use. Officers consider that Buntingford is not a sustainable location within the context of the County or District and could not support the level of residential and employment development proposed without significantly improved access to public transport, improved local facilities and improved linkages to the wider area.

Policy ED2 is also relevant regarding rural employment. Policy ED2 supports the principle of employment generating uses, subject to other policies within the plan. Part III of the policy specifies that where the proposal results in the loss of an agricultural use in a rural area or a change of use to a non-employment generating uses evidence will be required to demonstrate that the current agricultural use is no longer required. There are no details submitted with this application as to the need of the agricultural land not being required but an Agricultural Land Classification dated June 2022 has been re-submitted as part of this application which shows that the land is within 2 and 3a which is classified as very good quality and good quality agricultural land (and thus 'best and most versatile' agricultural land). Overall, even the employment land element of the proposals fails to meet the relevant criterion on the policy. Taken as a whole, the proposals are contrary to policy GBR2.

In respect of the 2018 District Plan, therefore, the proposals represent inappropriate development in principle, and are contrary to the development plan.

The proposal is also contrary to the Buntingford Community Area (BCA) Neighbourhood Plan (2017) which is part of the development plan for the area. Policy HD1 outlines that outside the settlement boundaries of Buntingford residential development will be permitted subject to compliance with policies HD2 and HD7, and subject to the scheme being a small scale infill development, being affordable housing on rural exception sites, or being development for which there is a demonstrable need in the location. The application site does not comply with any of these criteria.

Policy BE2 of the Neighbourhood Plan outlines that smaller employment sites will be permitted where they do not conflict with other policies in this Plan and provided they do not

involve the loss of dwellings, contribute to the character and vitality of the local area, are well integrated into and complement existing clusters of activity, protect residential amenity, do not adversely impact upon road safety, enhance the development and provision of employment and self-employment, and do not adversely affect the attractiveness of the local countryside. The proposals do not meet these tests.

Policy ES6 of the Neighbourhood Plan outlines that any proposal to increase allotment provision across the BCA will be welcomed and encouraged where it is consistent with other policies in this Plan.

It is the case that the town has experienced significant growth in recent years and is still delivering the infrastructure to support that growth. Since 2011, over 1,200 dwellings have received planning permission and many of these are complete and occupied. The sustainability of further proposed development is an important consideration, which is reflected in the significant representations objecting to the development from the local community, town council and local members. The town centre of Buntingford is identified as a minor town centre, with two small supermarkets and a number of small shops to serve residents' day-to-day needs. Residents have to travel to larger nearby towns for 'non-convenience' and 'comparison' shopping trips. Buntingford is the only town in East Herts without a train station. The limited public transport opportunities and the employment and shopping patterns mean there is reliance on the private car.

Recently published Census 2021 data demonstrates continued car use in the town, with 54% using a car or van to travel to work. Over 37% of residents travel over 10km to work, which suggests a significant proportion of people work outside the town. Only 11% of people travel less than 10km to work. However, the census reported that 35% of residents work from home, a 30% increase from the 2011 census. This high level of homeworking was clearly influenced by the timing of the covid lockdown in 2021. It is very likely that the proportion of people working from home has reduced since then, as offices have now reopened, although, given national trends, it is reasonable to assume that more people work from home now than before 2020, given the shift towards home or hybrid working following the covid pandemic.

In light of these factors, officers consider that whilst a high level of flexible good quality employment development on the edge of Buntingford could contribute towards more sustainable movement patterns if employees within the new commercial premises resided in Buntingford the proposals could also result in further car dependency, for employees and visitors (if travel to the site is from outside of the town) given Buntingford's strategically more remote location within the District or if the type of employment space provided was not of good quality or if a small amount was brought forward, or if the spaces were unattractive or unsuitable for a range of businesses. Furthermore, the data demonstrates the outward migration from Buntingford due to the lack of facilities provided within the Town. This pattern would continue if minimal employment floorspace is delivered in the Class E range including the Local centre, or if the public transport improvements and walking/cycling infrastructure are not delivered, which are needed to provide viable alternative modes of travel.

It is noted that the applicant proposes improvements to public transport via S106 contributions, and the provision of walking and cycling links to the town centre to encourage active travel. Employment land and a local centre with retail and service units are also proposed, which could have a positive impact on local service provision if the development was to deliver towards the maximum provision of floorspace proposed. Likewise, the provision of a doctor's surgery is potentially needed within the town. However, as the application is at outline stage there is no detail yet about the type of provision that will be included or whether this is deliverable. There is not yet commitment that the Integrated Care

Board will fund a new doctor surgery in this location. The above factors, including the outline form of the submission, cast uncertainty over the deliverability of these non-residential uses, as part of the development, which in turn tempers the weight given to the potential benefits in the planning balance.

Furthermore, the Council commissioned the 2014 Buntingford Employment Study as an independent assessment of the town with regard to the quantity and quality of employment provision and the implications for the sustainability of planning proposals. The 2014 study was used to inform the emerging District Plan. Since 2014 a significant number of new residential developments have been approved and a further report was commissioned in 2016 as an update. The consultants Wessex Economics (WE) were asked to consider the Employment implications of planning proposals in Buntingford.

In that report, it is estimated that there are about 2,000 jobs in the town. However, most of the population, 72%, worked outside the town in 2011. Furthermore, most of those working in the town, around 65%, were from outside the town. In 2011 only 790 people out of a resident working population of 2,680 lived and worked in the town. Only 29% of working residents worked in the town. As a result, it was concluded that Buntingford has a low self-containment ratio and that this is likely to have fallen since 2011.

Planning approvals for major residential development in Buntingford since 2009 have approved a total of 1,296 dwellings which, when built, represent a 59% increase over the 2,200 dwellings in the town in 2011 and an estimated population increase of around 3,000 people (based on the Buntingford average household of 2.44 in 2011), from around 4,950 people in 2011 to 7,950. This application for up to 350 dwellings would increase the population by approximately a further 854 people.

Full capacity on the existing employment sites within the town would create some 1,110 jobs. However, there is no guarantee of ensuring the scale of development and these figures are merely measures of capacity, not the likelihood of delivery. The appeal of sites and state of the development industry will have a major bearing on actual delivery of employment floorspace and jobs. Wessex Economics (WE) advised that the market for new build industrial floorspace is limited, and that there is unlikely to be an appetite for speculative development.

It is also necessary to consider to what extent an increase in the population of the town will stimulate job creation in the service sector. In 2011 there were around 1,400 jobs in the town and WE estimate that around 800 of these (57%) were likely to be directly linked to serving the needs of the population of the town and its immediate hinterland. They consider that assuming that the relationship between population and jobs observed in 2011 continues to apply, a significant number of additional jobs will be created in the service sector. WE estimate a reasonable expectation of around 460 additional jobs might be created once all the approved developments since 2011 are completed. It would be anticipated that this site, if developed, would generate some further service employment.

There is no evidence that the prevailing patterns of commuting from the town have significantly changed or that they are likely to change in the immediate future. Therefore, by implication, the substantial level of outward commuting from the town, mainly by car, can be expected to increase substantially as a result of population growth in the town, in the absence of a definitive uplift in local job availability. Although forming part of these proposals, there can be no certainty with regard to the number of jobs which may actually be created or that new/future residents will work at the new employment floorspace provided as part of the development.

Even if the full capacity of jobs on existing employment sites within the town were to be achieved this would not match the increased demand for employment from the increase in population resulting from approved schemes for residential development. Buntingford already has a low self-containment ratio and it is considered that further residential development beyond that already approved without certainty of accompanying growth in employment provision would lead to an increase in out-commuting from the town by car. It is considered that this would not be an environmentally sustainable outcome. The applicant proposes employment floorspace within the site, which could contribute towards addressing the low employment containment ratio of the town. However, the outline application could result in the amount of employment floorspace being insignificant and limited in terms of its scale (or none could be secured at all, unless minimum provisions could be enshrined in any planning permission). Officers consider the location of the employment floorspace, on the edge of Buntingford, could also result in car/vehicle bound trips. Therefore, it is considered the provision of some employment floorspace within the development would not make a significant contribution towards matching the substantial demand for jobs to arise out of the increased population from this (and other) new developments.

Since the last application, the applicant has undertaken an employment needs assessment, which concludes that there is demand for employment in Buntingford for small and medium businesses, which would enable more residents to work in the town if they choose. It is acknowledged that the scheme includes the provision of up to 4400m<sup>2</sup> commercial and services floorspace and up to 500m<sup>2</sup> of retail floorspace. The Council, however, has doubts as to the suitability of this element of the scheme, as set out in the design section below, and whether or not occupiers could be found for these units. As such, without a more definitive employment offer, the proposal would still be anticipated to contribute to out-commuting from the town by car which would not be an environmentally sustainable outcome.

In line with the above the site is not considered a sustainable location, unless significant transport infrastructure could be provided to support the town as a whole. This is in line with the previously refused applications which came to the same conclusion.

At the meeting of Full Council in October 2023, East Herts Council agreed to update the adopted District Plan (2018), with a call for sites and evidence base work starting in early 2024. Economic analysis and employment land review will be part of this work and will inform the strategy for future development in Buntingford. Potential growth of this scale for the town should be considered strategically through the District Plan revision; informed by a robust evidence base and a full consideration of Buntingford's housing, employment and infrastructure requirements.

Given the incremental growth of the town, it would be more beneficial to use the plan-making process to assess the opportunities and constraints of all proposed development in the town, with impacts considered holistically, taking into account overall infrastructure requirements. For example, it is noted that Thames Water's response to this application states that the Sewage Treatment works, foul water network and surface water networks in the area do not have capacity to accommodate development. Upgrades are required and Thames Water suggest use of a condition to ensure upgrades are undertaken before development is occupied. Plan-led development can take a more strategic approach to assessing infrastructure needs with an infrastructure delivery plan, not on a piecemeal basis.

To conclude it is considered that the proposal is not acceptable in principle and would be contrary to policies GBR2, DPS2, BUNT1 and ED2 of the District Plan and policies BE2 and HD1 of the Buntingford Community Area Neighbourhood Plan 2017.

*Masterplanning*



Policy DES1 of the District Plan outlines that all significant development proposals are required to prepare a masterplan setting out the quantum and distribution of land uses, access, sustainable design and layout principles, infrastructure, relationship with adjoining land, landscape and heritage assets, and other relevant matters. The Masterplanning process is required to be entered into prior to the submission of a planning application.

It is noted that a statement of community involvement has been submitted which outlines that leaflets were delivered to 3480 homes directing to a website. The statement advises that 94 responses were received and the majority were negative. The planning statement outlines that a Design Review Panel was used on the development, however this appears to be for a previous re-iteration for the scheme. Furthermore, no details of this have been provided.

The application would be categorised as a significant development proposal for which the masterplanning process should have been undertaken. This process was not entered into and as such the proposal is contrary to policy DES1 of the District Plan.

However, as the application site is not an allocated site and is not a supportable site, it is unlikely that any Masterplanning process would have led to a masterplan which could be endorsed by the Council. As such the Council does not consider that the Masterplanning process would have been successful for this development.

#### *Landscape character*

In accordance with District Plan policy DES2 Landscape Character, development proposals must demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape. Policy DES3 outlines that proposals must demonstrate how they will retain, protect and enhance existing landscape features. Policy DES4 outlines that development should make the best possible use of land by respecting or improving upon the character of the site. Likewise, the Buntingford Community Area Neighbourhood Plan states that development on the fringes of Buntingford which extend on to the higher ground surrounding the Rib Valley could have a harmful effect on the landscape. Neighbourhood Plan Policy ES1 requires that development proposals should be appropriate to and maintain the Rib Valley setting of the area. The adopted Buntingford Community Area Neighbourhood Plan considers the landscape around Buntingford as being one of the most highly valued in the district. The NP supporting policy text emphasises the desirability of conserving and respecting the valley setting of Buntingford. The NP policies and supporting text recommend that future development of Buntingford is carried out in such a way that the landscape views across the Town are not adversely affected. This requires that building on higher ground is limited in height and that any further housing is developed within the valley setting.

Policy HD2 outlines that all new housing developments should be sensitive to the landscape and be of a height that does not impact adversely on views from the surrounding countryside. All development proposals should demonstrate how they conserve, enhance or strengthen the character and distinctive features of the BCA landscape.

The application site is comprised of three agricultural fields partitioned by two hedgerows or approximately 20 hectares. There is an existing access from the A10 to allow agricultural machinery to the site. The most northern field and the central field are open and exposed in character with the south-eastern field being more self-contained and enclosed. The northern field is in an elevated position in the landscape with a high central ridge from which the land slopes downwards to the north-east and south-eastern corners of the field where it meets existing suburban housing development on the western outskirt of Buntingford. The central field is roughly triangular with undulating landform, although the land slopes generally

downwards from the A10 on its western boundary towards the east. The eastern field also slopes generally downwards in an easterly direction.

The overall site is bounded on its western side by the A10 ring road and to the east by a 1980's suburban style housing estate. There are two public rights of way crossing the site which run from Buntingford to the village of Aspenden.

The agricultural land use of the site is to be found on both sides of the A10 and can be described as coherent or interconnected, despite the obvious presence of the road transport corridor - the undulating landform, open landscape character, land use and vestigial field pattern having been largely retained.

The Council's Landscape Officer and CPRE have both raised objections with regards to the impact on landscape.

The Council's Landscape Officer advises that the change of use, and scale of the proposed development, will result in urbanisation of the currently rural/agricultural landscape character of the site and surrounding area to the west. Albeit there are mixed adjacent land uses of water treatment works, housing, and transport corridor, the development will result in the loss of a clear and common connection between the agricultural land use of the site and the wider landscape setting.

It is advised that the extension of the urban fringe of Buntingford up to the A10 bypass in this location will mean the loss of a landscape buffer and/or physical separation of the town from the transport corridor, forfeiture of the favourable transition from urban fringe to rural landscape and will be visually intrusive by disrupting valued views enjoyed by users of the rights of way which cross the site.

The northern part of the site falls within landscape area 141, 'the Cherry Green Arable Plateau' with the southern part within character area 142, 'the High Rib Valley' of the landscape character areas as set out in the Supplementary Planning Document (SPD) 'Landscape Character Assessment 2007'.

The Strategy and Guidelines for Managing Change common to both the LCAs is to promote a strategy for reducing the impact of development on the upper slopes of Buntingford which includes the proposed development site.

The LVIA categorises the site as of low to medium landscape quality. However, by using Criteria set out in the Guidelines for Landscape and Visual Impact Assessment (by the Landscape Institute) for determining landscape quality the site meets various criteria for both medium and high quality. The site can, therefore, reasonably be said to fall into the medium landscape quality categories, but this can be raised to medium/high when adding in the special quality of the site as an important landscape buffer between Buntingford and the A10 bypass.

The proposed development will result in a development that is locally prominent due to the elevated position of much of the site. As a result the openness of the landscape on this side of Buntingford will suffer an immediate and permanent loss, the introduction of new housing and other development of this scale will have an adverse impact on the wider landscape as experienced by existing residents, users of the A10 and local Rights of Way, and the landscape buffer between the A10 corridor and the outskirts of Buntingford will be lost. The A10 would no longer bypass the town but will instead coalesce with urban style housing development on an expanded urban fringe of Buntingford.

The main viewpoints from which the various parts of the development will be seen are from the houses to the east along the urban edge, from the far side of the valley of the River Rib - parts of the far valley side can be seen from within the site, indicating that the site will also be visible from those parts of the far valley side - from the A10 as it passes the site - the roadside vegetation is sparse in places and the southern section of the A10 is on higher ground relative to the site, from the two public footpaths which cross the site, including elevated views from the footbridge where the northern footpath crosses the A10, in terms of overall visual amenity, the development would be prominent in some views from houses along the existing urban edge to the east, and the general visual amenity of the local area to the east of the site would be adversely affected.

The site is sensitive to a housing (and other) development of the proposed layout and scale as it will cause significant harm to the coherence of the existing field system, the existing character of the site and its attributes such as landform and agricultural land use representative of the Rib Valley landscape will be lost, the plateau and natural sloping/undulating landform will be replaced by built form, properties to the east and north will experience high adverse visual effects, the magnitude or degree of landscape change brought about by the development will be major, because of the change of use from agricultural land to housing development.

It is considered, therefore, that the scale of the development will have a significant adverse impact on the landscape character and local distinctiveness of the area. The identity of the local surroundings is that of existing housing development set well back from the A10 ring road and looking out onto a landscape that is rural in character. The proposals however result in the immediate and permanent loss of this identity with the A10 now forming a tight collar around the development and therefore the town. The development would represent a significant change to what is a largely agricultural landscape and there would also be adverse visual effects for the properties along the eastern edge of the site where the presently open rural views would be changed by the development and there would also be adverse visual effects for users of the two public footpaths which cross the site and for people passing along the A10.

There are clear conflicts with parts of the NPPF which seek to conserve and enhance the natural environment as well as a major conflict with District Plan Policy GBR2, which seeks to maintain the rural area outside the Green Belt as a valued countryside resource. In respect of Policy DES2 of the District Plan, the development will cause significant and lasting harm to local landscape character due to the loss of landscape features - chiefly the open fields which make up the site - and the development would represent a significant change to what is a largely open, agricultural landscape. The proposal further falls contrary to policy CFLR3 Public Rights of Way of the District Plan which outlines that development must not adversely affect any public right of way - the proposal would clearly harm the existing public rights of way through altering the character from that through agricultural fields to that through dense residential development.

The proposal also falls contrary to policies ES1 and HD2 of the Buntingford Community Area Neighbourhood Plan due to the harm to the landscape.

#### *Design and layout and the quantum of development*

Policy HOU2 of the District Plan outlines that housing development should make efficient use of land. HOU2 outlines that proposals are required to demonstrate how the density of the new development has been informed by the character of the local area.

Policy DES4 of the District Plan relates to the design of development. This policy outlines that proposal must be of a high standard of design and layout to reflect and promote local distinctiveness. Proposals must:

- o Make the best possible use of the available land by respecting or improving upon the character of the site and surrounding area, in terms of scale, height, massing, orientation, siting, layout, density, building materials, landscaping, environmental assets, and design features.

High standards of design are reflected in the NPPF, which states:

'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities' (para 126). 'Decisions should ensure that developments...add to the overall quality of the area...are visually attractive as a result of good architecture, layout...sympathetic to local character' (para 130). 'Development that is not well designed should be refused' (para 134).

Policy HD4 of the Neighbourhood Plan outlines that new housing design should respect the rural/semi-rural character of the Buntingford Community Area and its immediate context with regard to Appendix 4 – Design Code. Policy HD2 outlines that all new housing development should be sensitive to the landscape.

The proposal is in outline form with all matters reserved other than access and as such no detailed plans showing the design and layout are under consideration. It is, however, important to assess whether the scheme proposed could be accommodated on the site in line with the parameter plans provided.

It is noted that the pattern of development shown within the submitted parameter plans appears almost identical to that shown within refused application 3/22/1551/FUL. Within this refusal it was considered that the design and layout was unacceptable as the site is outside of the boundary of Buntingford, the area is characteristic of a semi-rural and rural setting and the proposal introduced built form that would urbanise the area rather than forming a transition between the built-up area of Buntingford and the rural area setting. Furthermore, the Urban Design Team commented that the urban grain of the development does not respect its setting of the rural character.

With regards to this outline application the Council's Urban Design team have been consulted and have assessed whether the quantum of built form and development indicated can be achieved on site, such that it is acceptable in urban design terms.

The scheme proposes a major development on the fringe of Buntingford. There are no railway lines serving Buntingford, and the nearest bus route stops are along Station Road and Baldock Road which will be potentially a significant walk for some of the new dwellings on the site. A bus service has been proposed, however this only serves the local centre of the development which is not located centrally. As such, the majority of the residential occupiers of this development would be a significant distance from the only bus route, reducing the likelihood of use of this above private transport. From an Urban Design perspective it is considered that, in the absence of a railway line in the area and the lack of better public transport, the dependency on cars is likely to be high for people travelling to work/shopping/entertainment trips to nearby towns and this will have a detrimental impact on the character of the local area, and health and well-being of new and existing residents.

With regards to the local centre location, for the scale of development proposed, it is disappointing to see that the layout is missing a core destination within the heart of the

application site. While the local centre, with possibly some local shops and amenities and a public open space, could have served this purpose, its off-centred location as currently shown is a hindrance to achieving this.

With regards to urban grain and density, the Design and Access statement indicates that the residential element will have "up to 350 dwellings on 10.35ha", and the parameter plans outline that the density will be between 30 and 40 dwellings per hectare. This indicates a higher density within the new residential blocks than that in the immediate context to the site (the Design and Access statement mentions on page 26 that 'Immediately adjacent to the site, the densities range broadly from 27 to 28dph...'). The proposed houses and plots as shown on the illustrative plan on page 59 of the DAS are noted to form a denser urban grain compared to its immediate context. Bearing in mind that the site is on the fringe of the town, it is considered that the density should instead be lower, to provide a better transition to the landscaped context beyond the site. While it is acknowledged this is an outline application for 'up to 350 dwellings', it is considered that this number of dwellings, if permitted on the location, will present a density that is not suitable for this edge of town site, and therefore unacceptable.

The applicant has cited examples of other development in Buntingford which extends in a dense form immediately adjacent to the A10 as a means to justify the proposals. These serve to demonstrate the adverse impact from development in similar locations, given the quality of accommodation is compromised due to the close proximity to the major road and the lack of a buffer which harms what otherwise could have formed a softer urban edge which bleeds out towards the countryside.

With regards to the proximity of the sewage works, the urban design officer considers that the existing Buntingford Sewage Treatment Works is in close proximity to the site which could create an unpleasant setting for the southern dwellings, landscaped amenity spaces, local centre and employment space and draws into question the deliverability and usability of these. Notwithstanding this, the Council's Environmental Health Officer has raised no objections to the proposed development or the proximity of these land uses to the Treatment Plant subject to conditions. Planning Officers consider there is limited information to go on at this outline stage, but with suitably worded conditions and mitigation, there may be a technical solution to overcome the concern raised.

Green infrastructure - A significant proportion of the green infrastructure is indicated to be located along the A10 and designed to perform as a buffer from the A10 noise. A substantial part of this landscaped area (especially the west of the bund) will therefore offer less opportunity for useable amenity space and active play. Additionally, as discussed above, the southern amenity spaces may be potentially less useable because of the proximity to the sewage treatment works and associated odour. Further landscaped areas should be provided within the interior of the parcel to serve as useable outdoor amenity space.

Although the addition of green infrastructure is welcomed, however, as noted by the Urban Design Team, this is mainly along the A10 boundary rather than being integrated into the design of the proposal. The south-eastern parts of the green infrastructure would be adjacent to the commercial element of the development and the sewage works and it is not considered that this would provide a high quality and functional green space. This concern was raised in refused application 3/22/1551/FUL and has not been addressed in this re-submission.

Depths of private gardens: As noted on the illustrative layout on page 59 of the Design and Access Statement, proposed dwellings and rear gardens along the north, east and south-east boundaries of the application site are shown to be located hard against existing residential rear gardens. These gardens are shown to be fairly shallow and will potentially

result in an overbearing relationship with the existing dwellings. It is preferred that the design should allow for additional tree planting within a landscape buffer and/or in deep rear gardens for improved screening between the existing and proposed houses. While it is appreciated that this is an outline application and such details of layout may be addressed at RM stages, there is sufficient doubt as to whether the quantum of development proposed could be satisfactorily achieved once the landscaped buffer discussed above is factored in.

**Sustainable development:** The submitted energy statement discusses feasibility of a number of low carbon renewable energy systems for the site and concludes that solar photovoltaics and hot water heat pumps are two main technologies with significant potential for the development. It is noted however that a commitment for these measures is not yet provided as part of the application.

The proposal in its current form is considered unacceptable, broadly for the same reasons as were given in refusal 3/22/1551/FUL. Although it is noted that the application is in outline, nonetheless it is not considered that the site can achieve the quantum of development identified in the description and parameter plans, without compromising on design quality.

The parameter plans indicated that the maximum heights proposed would be between 10.5 metres and 13.5 metres high for the dwellings, up to 15 metres for the employment area, and up to 13.5 metres for the local centre. Under refused application 3/22/1551/FUL it was accepted that the form and scale of the dwellings and apartment blocks between 2 and 3 storeys in height would not be against the general heights of buildings in the surrounding area. In line with this, the heights outlined in the parameter plans are considered achievable.

Refused application 3/22/1551/FUL included reasons for refusal 3, 4 and 5 relevant to design. These raised concern with the design and layout being unacceptable, with shallow gardens, parking courts, the compatibility of uses, and the compatibility of uses adjacent the sewage works and recycling works. Application 3/22/1551/FUL was a hybrid application with more details on the housing proposed.

The current application is in outline only and as such the depths of gardens and the parking design are not known and as such the application could not be refused on this basis. The change to an outline application does, however, give less certainty about whether the development proposed can be accommodated on the site and provide an acceptable relationship with the adjacent uses. As there is less certainty over the development proposed, there is increased concern raised as to whether the development can be accommodated on the site in a satisfactory way. This uncertainty would give rise to a reason for refusal as it has not been demonstrated that the application site can accommodate the quantum of development outlined within the submitted parameter plans. The proposal is considered to fall contrary to policy DES4 of the District Plan and policy HD4 of the Buntingford Community Area Neighbourhood Plan.

### **Highways and Public Right of Way**

The site is bounded to the west by the A10 and to the east by residential roads. The majority of residential roads are unclassified local access roads and are subject to a 30mph speed limit.

The application proposes two points of access onto the wider network. Firstly, via a new roundabout off the A10. Secondly via the small end stub section of Luynes Rise at a point where it turns 90 degrees and becomes Oak End. This access would only be for buses, pedestrians and cyclists.

Policy TRA1 of the District Plan outlines that to achieve accessibility improvements and promotion of sustainable transport in the district development proposals should primarily be located in places which enable sustainable journeys to be made to key services and facilities, ensure a range of sustainable transport options are available, ensure the site layouts prioritise the provision of modes of transport other than the car, allow for the early implementation of sustainable transport infrastructure, and protect existing rights of way, cycling and equestrian routes.

Policy TRA2 of the District Plan outlines that development proposals should ensure that safe and suitable access can be achieved for all users.

Policy TRA3 of the District Plan relates to vehicle parking standards and refers to the standards set out in the Vehicle Parking SPD. Policy T1 of the Neighbourhood Plan outlines minimum parking standards expected in the area.

Policy T3 of the Neighbourhood Plan outlines that existing rights of way must be protected from development, policy T4 outlines that proposals for new development will be required to take advantage of opportunities to make appropriate connections to existing footpaths, alleyways, cycle paths, rights of way and bridleways to improve connectivity between settlements. Policy T6 outlines that where possible, new developments should be served by a regular bus service to Buntingford Town Centre. Where this does not exist, developers are expected to contribute towards expanded services and associated infrastructure.

Application 3/22/1551/FUL included reason for refusal 6 which provided:

'The proposal would give rise to severe impact upon the local highway network contrary to policy TRA1 of the East Herts District Plan (2018) and NPPF.'

The Officer Report for 3/22/1551/FUL explained that paragraph 111 of the NPPF (now paragraph 115) advises that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. It was considered that the proposal would have had an unacceptable impact upon highway safety and the cumulative impact on the road network would have been severe. Within application 3/22/1551/FUL, HCC Highways had raised a number of concerns with the submitted information.

Under the current application, HCC Highways and Active Travel England have not raised concerns with the impact upon highway safety from the outline application. As such it is not considered that it can be demonstrated that the proposal falls foul of paragraph 115 of the NPPF.

With regards to policy TRA1, however, it is clear from the above that the site is not located within a sustainable location with a range of sustainable transport options, but rather would be a car-reliant development..

Furthermore, the proposal impacts upon two public rights of way, one of which is shown to be consumed by a housing parcel. However, it is clear that the Highway Authority accept that the betterment of the access within and outside the site is acceptable and have not objected on this basis.

HCC Highways advise that the planning agents have discussed a bus route with Arriva extending into the site. Highways provide a plan showing this would only serve the southern-most residential area by the proposed local centre and would not serve the remainder or majority of the site. Notwithstanding this HCC Highways consider this bus route acceptable and request a contribution to cover the provision of this, alongside other highway contributions. A Technical Note 1 provided by the applicant outlines that contributions are accepted, although these relate to different contributions than those requested by HCC

Highways in their latest response dated 16th January 2024. The submitted heads of terms do not agree to such a provision, and no S106 has been agreed for this development. This is discussed further within the 'Planning obligations' section below.

Reason for refusal 6 of application 3/22/1551/FUL referred to a highway safety impact of the development.

HCC Highways have been consulted on this outline application and have raised no objection subject to conditions and contributions.

As such whilst the development is considered locationally unsustainable (in a strategic context with regards to its remote location within the District and wider area) as discussed in the 'principle' section of this report, it is not considered that the development would have an unacceptable impact on highway safety as no objection on these grounds has been received from HCC Highways. The access points are considered acceptable.

With regards to parking provision, the provision of EV charging facilities, and the provision of cycle storage the provision of an acceptable level could have been controlled through conditions had the application been recommended for approval.

A neighbour letter raised concern that the second access by Luynes Rise would be hard to control and other vehicles may use this. There are enforcement monitoring measures that can be utilised to restrict access and further details of measures to restrict access could have been required through condition or planning obligations.

### **Residential Amenity**

The NPPF details that planning decision should create places with 'a high standard of amenity for existing and future users' (para 130).

Policy DES4 of the District Plan relates to the design of development. This policy outlines that proposals must be of a high standard of design and layout to reflect and promote local distinctiveness. Proposals must:

- o Avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land and ensure their environment is not harmed by noise and disturbance or by inadequate daylight, privacy or overshadowing.

As the application is at outline stage only with all matters reserved apart from access there are no specific details on the development proposed. As such it is not possible at this stage to accurately assess the impact of the development on neighbouring amenity or whether acceptable living conditions could be provided for future occupiers.

Application 3/22/1551/FUL included the following reasons for refusal relevant to neighbouring amenity and living conditions of future occupants:

- 3 'The proposal due to its design and layout, especially the shallow gardens on the eastern edge, would have an adverse impact upon the adjoining occupiers through overbearingness and would also not provide a useable and functional private amenity space, due to its position either north or east of the dwelling. In addition, the layout of the car parking courtyards adjacent to the private gardens. The compatibility of the uses is a concern, especially the open space and residential as well as commercial would raise concerns over the potential noise and disturbance to the future occupiers, in addition the layout would mean that commercial servicing would be done through the estate which has the potential to create further noise and disturbance to future occupiers and would not be considered as a high-quality design



contrary to policies DES4 and EQ2 of the East Herts District Plan (2018) and guidance in the NPPF.'

- 4 The proposal raises concerns over the layout of the development, in respect of compatible uses of residential and open space adjacent to Waste Water Treatment and A10 as well as the commercial element which would give rise to poor quality spaces which would suffer from odour and general function of these uses which would not provide a good quality useable space contrary to policy DES4.
- 5 The proposed uses adjacent to the Waste Water Treatment and recycling centre raises concerns over the delivery of the employment land and residential on the southern part of the site and the impact this will have on the future occupiers contrary to policies DES4, ED2 and EQ2 of the East Herts District Plan (2018) and guidance in the NPPF.

It is noted that there are residential properties proposed near the commercial part of the development. This may give rise to concerns over the impact (on residential occupiers in close proximity) from these commercial uses, in respect of noise, hours of operation and compatibility with the area. Furthermore, three of the residential zones are shown to extend up to the boundary with existing neighbouring properties to the north and east. Careful consideration at reserved matters stage would be needed as to whether the development would have an unacceptable impact upon neighbouring amenity. It is the case, however, that an acceptable layout – in amenity terms - could be provided for these residential zones subject to careful design and as such this does not form a reason for refusal at outline stage.

Environmental Health have been consulted on the proposal and have raised no objection subject to conditions and as such it is not considered that the Council could refuse the application with regards to the impact of the Waste Water Treatment and recycling centre on future occupiers.

### **Flood Risk**

The site is located within Flood Zone 1.

Policy WAT1 of the District Plan outlines that development should neither increase the likelihood or intensity of any form of flooding nor increase the risk to people, property, crops or livestock from such event both on site and to neighbouring land. Policy WAT3 outlines that development proposals are required to preserve or enhance the water environment ensuring improvements in surface water quality. Policy WAT4 outlines that development must minimise the use of mains water incorporating the recycling of grey water and utilising natural filtration measures where possible. Policy WAT5 outlines that development must utilise the most sustainable forms of drainage systems in accordance with the SuDS hierarchy. Policy WAT6 outlines that development proposals must ensure that adequate wastewater infrastructure capacity is available.

Policy INFRA4 of the Neighbourhood Plan outlines that developers will be required to demonstrate that there is adequate Wastewater Infrastructure both on and off the site to serve the development and ensure no adverse impacts for existing or future users.

The Environment Agency have raised no objection to the application subject to conditions.

The Lead Local Flood Authority have raised an objection to the scheme. This is due to it not being evidenced that there is a viable location to discharge the surface water runoff from the proposals, the greenfield runoff rates and volumes are not agreed and Thames Water have advised that there is no capacity to discharge surface water sewer at the proposed manhole.

The development as proposed may increase the risk of flooding elsewhere from the drainage strategy which has no proven location to discharge surface water runoff to.

The objection is on the basis to prevent flooding in accordance with NPPF paragraphs 173, 175 and 180 by ensuring the satisfactory management of local flood risk, surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the SuDS proposed operate as designed for the lifetime of the development. As such the proposal falls contrary to policies WAT1, WAT3, WAT4, WAT5 and WAT6 of the District Plan, and the aims and objectives of the NPPF.

It is of note that Thames Water and Affinity Water have raised no objection subject to conditions. These would have been reasonable to attach had the application been recommended for approval.

### **Waste**

The HCC Waste and Mineral team have commented that developments of this nature have to ensure that the proposal will minimise waste through construction and future occupiers and request a site waste management plan. This would have been reasonable to require through condition had the application have been recommended for approval.

The Waste and Recycling department have raised an objection to the development as no details of waste provision have been provided. As the application is at outline stage it is considered that these details could be secured through conditions and further details within a reserved matters application. As such this is not considered to warrant a reason for refusal.

### **Legal obligations**

The application is a major development and as such financial contributions and affordable housing are required.

Policy DEL1 of the District Plan relates to Infrastructure and Service Delivery and states that where proposals cannot demonstrate the deliverability of supporting infrastructure they will be refused. Policy DPS4 outlines that the Council will use planning obligations with developers to secure necessary infrastructure.

#### *Affordable housing*

Under District Plan policy HOU3, 40% of the units on site would be expected to be affordable housing with a mix of tenures to support local housing need. A draft heads of terms document was submitted with the application outlining the provision of 40% affordable housing at a tenure split to be agreed with East Herts District Council. A response received from the applicant to contribution costs, however, raises concern with the tenure split the Council request to be secured through a S106. Whilst the applicant has stated that 40% will be provided as affordable housing, the tenure mix has not been agreed and no S106 Heads of Terms or detailed legal agreement have been agreed.

#### *Bus Route*

HCC Highways have advised that a S106 securing the establishment of a suitable bus service is required.

#### *Contributions*

East Herts District Council has set out a range of financial contributions required to off-set the impact of the development on GMS GP provision, health, recycling, monitoring fees, village and community centres, fitness gyms, studio space, swimming pool, sports hall, bowls, playing pitches, and outdoor tennis. Further contributions towards allotments, children's play and provision for young people, natural and semi natural green space, and parks and gardens and amenity greenspace are required if not provided on site.

The parameter plans indicate that a range of open space will be incorporated into the site, including allotments, play facilities, natural green space and amenity green space. This accords with the principle of District Plan Policy CFLR1 Open Space, Sport and Recreation. However, it is unclear if the current layout provides sufficient amenity value as these are primarily located adjacent the A10 and adjacent the sewage works. As such it has not been demonstrated that no contribution towards allotments, children's play and provision for young people, natural and semi natural green space, and parks and gardens and amenity greenspace are required.

The County Council's Growth and Infrastructure Unit have set out a range of financial contributions required to off-set the impact of the development on first education, middle education, upper education, childcare services 0-2 year olds, childcare services 5-11 years old, special educational needs and disabilities, library service, waste service transfer station, youth service and monitoring fees.

HCC Highways have requested contributions towards the proposed bus service, agreed improvements, travel plan support and monitoring, and in line with the HCC's adopted Developers Planning Obligation toolkit. Whilst the developers have outlined they agree to this provision, they have questioned the costs.

Hertfordshire and West Essex Integrated Care System have requested a contribution towards primary health care provision.

The East of England Ambulance Service has requested a contribution towards additional ambulance services needed as a result of this development.

With regards to the County Council Growth and Infrastructure Unit the applicant has advised they do not accept the childcare services (0-2 and 5-11), library, and youth service requests.

With regards to the EHDC S106 requirements the applicant has advised that they do not accept any of the requested contributions.

It is of note that Sports England advise that they object unless appropriate financial contributions towards off-site indoor and outdoor sports facility provision are secured through a S106.

The Council were in discussions with the applicant and their agent about the financial contributions when the applicant and their agent stopped all communication and subsequently advised they would be appealing for non-determination. As such the discussions about these matters could no longer proceed.

There is no draft Heads of Terms, or a completed or draft Unilateral Undertaking or S.106 Obligation accompanying the application to secure the affordable housing, bus route, or financial contributions and the developer has indicated that most of these are not accepted. As such the proposal is contrary to policies DPS4, DEL1, DEL2, HOU3, CFLR1, CFLR7, CFLR9 and CFLR10 of the District Plan and the lack of a S106 securing the provision of these is considered to form a reason for refusal.

It should be noted given the contributions have not been agreed, the proposed application which is in outline form would result in a failure to secure social, environmental and economic mitigation measures and infrastructure to ensure the proposed development could be integrated within the local area. This would amount to substantial harm, to the social, environmental and economic conditions in the area which carries substantial adverse weight in the planning balance.

As such, reason for refusal 7 of application 3/22/1551/FUL relating to the lack of infrastructure improvements has not been overcome in this revised application and this would again form a reason for refusal in this application.

### **Housing type and Mix**

Policy HOU1 requires developments of 5 or more dwellings to include an appropriate mix of housing tenures, types and sizes, in order to create mixed and balanced communities.

Policy HOU7 requires that the proposed dwellings would meet the Building Regulations Requirements M4(2): Category 2 - Accessible and Adaptable Dwellings and M4(3): Category 3 - Wheelchair User Dwellings. Section 14.8.10 of the District Plan provides further explanation on this matter and outlines that all properties must meet Category 2 requirements (accessible and adaptable dwellings) and 10% of market housing and 15% of affordable housing must meet Category 3 requirements (wheelchair user dwellings).

Policy HD7 of the Neighbourhood Plan requires that new housing development reflects local housing need in terms of mix and tenure.

The mix and type of dwellinghouses are not outlined within this Outline application and this would be further assessed within any Reserved Matters application. A condition requiring the provision of M4(2) housing in any reserved matters application would have been reasonable to attach.

Policy HOU8 is relevant to the proposal regarding self-build homes. This policy outlines that on sites of more than 200 dwellings, developers are expected to supply at least 1% of the dwellings as self-build. No details for self-build plots have been provided and the description of development does not include self-build units, however the application is at outline stage only and a requirement for any reserved matters application to include self-build plots could have been conditioned to enable compliance with Policy HOU8.

### **Climate change and water resources**

Policies CC1 and CC2 of the District Plan relate to climate change adaptation and mitigation. These outline that all new development must demonstrate how the design, materials, construction and operation of the development would minimise overheating in the summer and reduce the need for heating in the winter, and integrate green infrastructure into the development. Development is required to demonstrate how carbon dioxide emissions will be minimised. Policy HD3 of the Neighbourhood Plan outlines that green energy principles in the provision of new housing will be encouraged and supported where they are appropriate to the site and do not have unacceptable adverse impacts individually or cumulatively on adjoining residents, the street scene or views from the surrounding countryside that cannot be effectively mitigated.

Policy WAT4 of the District Plan relates to the efficient use of water resources. This policy outlines that development must minimise the use of mains water by incorporating water saving measures and equipment, incorporating the recycling of grey water and utilising natural filtration measures, and designing residential development so that mains water

consumption meets a target of 110 litres or less per head per day. Policy INFRA5 of the Neighbourhood Plan outlines that all new developments must comply with the Governments Optional Housing Standards for water efficiency and achieve, as a maximum, water usage of no more than 110 litres per person per day and for non-residential development to achieve a BREEAM 'excellent' rating for water usage.

An Energy and Sustainability Statement has been provided. This outlines that the development will fall under Part L 2021 and will deliver a >31% reduction compared with current regulatory standards. This is achieved through higher fabric standards and low carbon and renewable energy systems. The scheme would have a fabric first strategy. The strategy further outlines that solar photovoltaics and hot water heat pumps may be provided, however no assurances to this are provided and it is advised that this will be considered within Reserved Matters stages. It is further advised that a reduction to water usage would be considered at reserved matters stage.

With the application being at Outline stage it would have been reasonable to condition for further details of measures to meeting policies CC1, CC2 and WAT4 to be provided within any Reserved Matters applications.

### **Ecology and Biodiversity**

Policies NE2 and NE3 of the District Plan relate to biodiversity. These policies require that a net gain in biodiversity is provided, taking into account a biodiversity metric, and to take into account the mitigation hierarchy of avoidance, mitigation and compensation as set out in the NPPF. Proposals are required to demonstrate how they improve biodiversity value of the site. Policy ES7 of the Neighbourhood Plan outlines that development will be expected to protect and enhance biodiversity in line with NPPF requirements. Development must demonstrate a net gain in biodiversity in an ecological report consistent with BS 42020

Reports on Bats, Badgers, Reptiles, Breeding Birds, and Biodiversity Net Gain have been provided alongside a preliminary ecological statement.

HCC Ecology have been consulted on the proposal and have raised no objection. It is advised that there are no records of notable ecological interest from this site. It is, however, advised that the preliminary ecological survey is at an age now where its findings cannot be relied upon and a condition requiring an updated report would be required. A further condition requiring all recommendations in the ecological survey to be implemented on site is required. A LEMP and CEMP should be secured by condition setting out the measures to be implemented. With regards to badgers, an updated survey is required of any recent activities due to the age of the report submitted. HCC Ecology advise that this could be required through condition

As such, subject to conditions it is not considered that the proposal would have an unacceptable impact upon ecology.

With regards to Biodiversity Net Gain, HCC Ecology advise that the net gain metric predicts a net gain in excess of 10%. HCC Ecology raise that the contribution is outlined to be off-site and this would need to be secured through a S106 agreement. An additional Biodiversity Net Gain Plan is further required through condition setting out the production and delivery of the gain.

Whilst the submitted Biodiversity report JBA 17/316 ECO17a SR does outline that the provision is off-site, the land it refers to as off-site is within the red line of the application site. As such for the purposes of the assessment of this application the provision would be within the application site. As such a S106 agreement securing off-site provision is not required.

## **Archaeology**

Policy HA3 relates to archaeological remains. Whilst the application site does not fall within a classified area of archaeological potential, due to the size of the development it is likely that some archaeology may be present.

The HCC Historic Environment Unit advised that the application site has significant archaeological potential and may contain heritage assets of archaeological interest. As such it would have been reasonable to attach a condition regarding a programme of archaeological work in accordance with a written scheme of investigation had the application been recommended for approval. Subject to this the proposal is considered to comply with policy HA3 of the District Plan.

## **Other matters**

HCC Water Officer requests the provision of fire hydrants on site. This could have been required through a condition.

Environmental Health (contamination and air quality) and Environmental Health (noise and nuisance) have both raised no objection subject to conditions. It is noted that the applicant raised concern with the conditions requested by Environmental Health (noise and nuisance) however these are considered reasonable to have attached had the application been recommended for approval.

Objections were received from Cllr Nicholls, Aspenden Parish Council, Buntingford Town Council and neighbouring properties. The concerns raised within these objections are covered within the above report.

Application 3/22/1551 was refused on the 9th November 2022 for 8 reasons. As discussed above it is considered that some of the previous reasons for refusal have been overcome (namely reasons 4, 5, 6 and 8).

With regards to reasons for refusal 4 and 5, as the application is at outline stage it is not possible to assess the impact upon neighbouring amenity and living conditions and as such these matters would be considered at Reserved Matters stage. With regards to reason for refusal 6, HCC Highways have raised no objection to the development and as such it would not be reasonable to refuse the application in relation to the impact upon the highway network.

With regards to reason for refusal 8 in relation to self-build plots, a condition could have been attached to this outline consent requiring the provision of self-build plots in any reserved matters application.

A large number of neighbour objections were received for this application. The majority of the concerns raised within these letters have been addressed within the assessment of the application within the above report.

A neighbour letter raised concern that the development would lead to crime issues. There is no evidence before the Council that this development would lead to crime issues.

Neighbour letters suggested alternative developments for the site. The Council can only assess the scheme which has been submitted.

Concern was raised that the proposal would devalue existing homes. This is not a material planning consideration.

It was outlined that there are boundary disputes between neighbouring properties and the site. The resolution of boundary disputes would be a private matter.

## **Planning balance**

### **Five Year Housing Land Supply**

An appeal decision in January 2023 concluded that the Council cannot currently demonstrate a five year supply of deliverable housing sites (5YHLS). The consequence of not having a 5YHLS is that the 'tilted balance' is engaged in the decision-making process. The tilted balance refers to paragraph 11(d) of the NPPF which states that if the most relevant Local Plan policies for determining a planning application are out of date (such as when a 5YHLS cannot be demonstrated), the application should be approved unless the application of NPPF policies that protect areas or assets of particular importance (as defined by the NPPF) provide a clear reason for refusing permission or the harms caused by the application significantly and demonstrably outweigh its benefits, when assessed against policies of the NPPF as a whole. In this context, the policies considered to be out of date include in particular those relating to the delivery of housing which are referred to in this report.

The Policy Team is currently updating the 5YHLS in East Herts and an updated position is expected imminently. The most recent housing delivery test (2022) result was 125%, clearly demonstrating the Council is delivering housing effectively. At the time of writing this report, the scheme will be assessed on the basis that the Housing Supply is at 4.41 years (which was identified as the supply in 2023), less than the required 5 years. This is considered to be a relatively modest shortfall against the 5 year supply and when viewed alongside the housing delivery test undertaken in 2022, it indicates that there is no chronic housing delivery shortfall in the District and there is still a healthy pipeline of housing developments being brought forward through the District Plan and Neighbourhood Plans. It is therefore considered that there would be a major conflict with the Development Strategy (covered by DPS2) set out in the District Plan and this weighs against the proposed development. It is concluded that, at this time, there are no compelling or sound reasons to depart significantly from the Development Strategy set out in the District Plan. The proposed development would represent a major departure from the Development Strategy in the District Plan (and the Buntingford Community Area Neighbourhood Plan) if this planning application were to be recommended for approval and therefore the development would not comply with the Development Plan as whole.

Paragraphs 10 and 11 of the NPPF (2021) set out that there will be a presumption in favour of Sustainable Development. The latter paragraph states that:

For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 8 of paragraph 11 relating to determining applications with out of date policies explains that this includes, for applications involving the provision of housing, situations

where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 75 of the NPPF states 'Local Planning Authorities should monitor the deliverable land supply against their housing requirement as set out in adopted strategic policies'. Paragraph 77 outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years worth of housing.

The local planning authority cannot currently demonstrate a 5-year land housing supply. Therefore, the tilted balance applies.

The NPPF states that if a five year housing land supply cannot be demonstrated then a presumption in favour of sustainable development should be assessed and a tilted balance approached. Paragraph 8 sets out the three strands of sustainable development, being economic, social and environmental.

Taking the economic strand, it is noted that the site would be for up to 350 homes, this would lead to economic benefits during construction and from the future occupiers, who would use the existing facilities in town and wider area by buying goods for construction, provide jobs and would add to the overall economy of the area. This carries some positive weight in the balance. The proposal also makes provision for up to 4900m<sup>2</sup> of commercial, service and retail floorspace. No specific details of these uses have been provided and being at outline stage and for up to 4900m<sup>2</sup> it is difficult to assess how many jobs would be created and whether there would be any take up of these spaces, especially due to its location adjacent a sewage plant and therefore overall, the provision of employment would be considered to carry a range from limited to moderate positive weight, depending on the amount and type of employment floorspace generated. The proposals result in the loss of 28.95 hectares of Grades 2 and 3a agricultural land which is classified as very good quality and good quality agricultural land (and thus 'best and most versatile' agricultural land). This carries some limited adverse impact in the planning balance.

With regards to the social strand, the proposal will provide a range of properties and potentially some commercial space. The provision of 350 homes would make a significant contribution towards the housing supply within the District at a time when there is a modest shortfall against the 5 year supply. This includes a policy compliant provision of affordable housing which is also considered to constitute a significant quantum of much needed affordable homes. The provision of additional housing proposed by this development is therefore afforded substantial positive weight in terms of the social (and economic) objectives. However, as with refused application 3/22/1551/FUL there are significant concerns regarding the layout and design of the scheme and whether the site can accommodate the level of development proposed which carries adverse weight in the balance. The current absence of social infrastructure being secured (by s106) to mitigate the impact from the development also results in further adverse weight being added to the balance.

With regards to the environmental objective the site is considered an arable agricultural land. This will mainly be lost to the development. It is noted that there would be green spaces created and a biodiversity strip created within the site. It is also noted that the applicants have submitted a biodiversity net gain metric outlining that the site could achieve a 41.98% increase in habitat units, 32.08% increase in hedgerow units and 58.1% increase in watercourse units.



Whilst there would be open spaces and green infrastructure proposed within the site, as noted previously the town suffers from outward commuting due to the lack of jobs. The increase of population of a scheme this large this would add to this. In addition, there will be some employment land, but there are no full details in regards to the number of jobs created or a minimum level of employment floorspace secured. Therefore, it is highly unlikely that this would offset the problem of outward commuting. There is also little comfort that these would be deliverable with the proposal being at outline stage, outlining up to 4900m<sup>2</sup> and with little information demonstrating how much, what type or when the indicative uses would occur on the site.

In addition, the lack of infrastructure provision, would mean that the majority of the population within the development are likely to use motor vehicles to do their day to day activities, such as shopping, leisure etc. Although there is a clear objective that some vehicles are to be more sustainable in terms of the reduction in use of fossil fuels (ie: Electric Vehicles) there are no guarantees that the new population would drive these types of vehicles. The lack of alternatives to the use of the car and shortfall of local transport availability, coupled with the increase in car bound trips to arise out of the development carries significant adverse weight in the planning balance. The provision of a mobility hub as part of the development would make some contribution towards improving the accessibility of the site, but limited details are proposed at this stage to enable significant positive weight to be given. Lack of viable, easily accessible and convenient public transport alternatives would result in residents and visitors being reliant on the use of the car as the primary which further undermines the core objectives of the Development Strategy in the District Plan to reduce car use and prioritise active travel and use of public transport as an alternative to the car. The provision of a bus connection and mobility hub provide some limited benefit (in terms of improving the accessibility of the site to other parts of Buntingford), but these are not anticipated to result in a significant modal shift away from the car. Therefore, overall these factors (which are attributed some positive weight) are not significant in the overall balance.

As discussed above there are a range of limited to substantial benefits that weigh in favour of supporting the scheme. In this case, the scheme would provide up to 350 additional dwellings in an authority with a deficit – albeit a modest one - in housing land supply. It would also provide a significant number of new affordable homes. The scheme would also provide temporary jobs during the design and construction phase of the development. There is potential for further permanent jobs through the local centre and employment space, although as this is at outline stage there is little certainty over what type, or how much, or when this floorspace would be provided. As such, the provision of employment can only be afforded limited weight as a benefit (if limited floorspace is delivered) and moderate positive weight (if the development provides towards the maximum end of the permitted floorspace). Some limited positive weight can be attributed to the provision of a mobility hub and the provision of additional bus services (securable under a legal agreement). However, the proposal as addressed in the earlier sections of this report would encroach into the rural area beyond the settlement boundary to the detriment of the character, appearance and distinctiveness of the area, would represent an unsustainable form of development, it has not been demonstrated that the site can accommodate the quantum of development proposed and no S106 or other legal agreement has been secured for affordable housing and infrastructure. Furthermore, insufficient information being provided with regards to how the drainage hierarchy is followed, how the proposed drainage network will not adversely affect the flood risk on and off the site, and how the proposed drainage network will be maintained through the lifetime of the development resulting in an objection from the Lead Local Flood Authority. These factors weigh heavily against the benefits and are significant.

Overall, taking account of the Framework and the above considerations, including the benefits of the development, it is considered that the benefits are significantly and

demonstrably outweighed by the harms, and so as such, material considerations do not indicate that planning permission should be granted for the development, which does not comply with the Development Plan as a whole, including the Buntingford Community Area Neighbourhood Plan (2017) which is part of the development plan for the town.

Paragraph 29 of the NPPF states that Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. Policy BUNT1 of the District Plan sets out the housing number of 1074 for the Plan period of 2011 - 2033. The Buntingford Neighbourhood Plan in Appendix 3 shows that post 2011 a total of 1270 dwellings have been approved. Not all of these homes have been built, but there are still a number of large schemes that are being built out and that are expected to be built out.

Case law (*Crane v Secretary of State DCLG (2015) EWHC 425 (Admin)*) has indicated that where policies for the supply of housing are out of date, restrictive policies in respect of housing cannot automatically be judged to carry less weight or be disregarded. The weight to be given to conflict with the development plan remains a matter of planning judgement.

At this point the Council is not able to demonstrate a sufficient supply of land for housing and deliver its need. Whilst the Council's current housing land supply policies are not considered up to date, the Buntingford Community Area Neighbourhood Plan (CANP) is also a recent up to date policy document. Whilst housing delivery can be given significant positive weight, some harm in this respect would be caused if the development proceeded as proposed, as the Buntingford CANP indicates that this area should be protected from development and other policies in the Development Plan indicate that the required growth can be accommodated without this site being developed.

## **Conclusion**

The application site would encroach into the rural area beyond the settlement boundary to the detriment of the character, appearance and distinctiveness of the area, the proposal represents an unsustainable form of development, and it has not been demonstrated that the site can accommodate the quantum of development proposed. Furthermore, it has not been demonstrated that there would not be flood risks associated with this scheme and no S106 securing affordable housing or infrastructure has been agreed. The proposals are contrary to the development plan taken as a whole. These matters are considered to significantly and demonstrably outweigh in the planning balance the benefits, including those associated with the provision of housing and employment space. On that basis permission should be refused.

## **Reason(s) for Refusal:**

- 1 The proposal comprises a substantial urban extension of Buntingford which would encroach into the rural area beyond the Green Belt, beyond the settlement boundary, to the detriment of the landscape character, rural appearance, and distinctiveness of the area contrary to Policies DES2, DES3, DES4, GBR2 of the East Herts District Plan (2018), Policies ES1, HD1, HD2, HD4 and BE2 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.
- 2 The proposals represent an unsustainable form of development and residents and visitors would be heavily reliant on the private car to access employment, main food and comparison shopping elsewhere. The proposals do not amount to sustainable development (in accordance with the NPPF) and would result in a form of development outside of the settlement boundary that conflicts with the Development Strategy within the District Plan and objectives of the Buntingford Community Area

Neighbourhood Plan. The proposal would be wholly contrary to Policies DPS2, INT1, BUNT1, BUNT3 and TRA1 of the East Herts District Plan (2018), policy HD1 of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.

- 3 It has not been demonstrated that the application site can accommodate the maximum quantum of development outlined within the submitted parameter plans. The proposal at the maximum level outlined within these plans would create a dense and urban appearance which does not respect the site's rural character or its landscape character and fails to transition between the urban settlement boundary and the countryside beyond. The proposal would fall contrary to policies DES2, DES3, DES4, GBR2 or HOU2 of the East Herts District Plan (2018), policies ES1, HD1, HD2 and HD4 of the Buntingford Community Area Neighbourhood Plan, and guidance in the National Planning Policy Framework.
- 4 In the absence of a completed legal agreement the application fails to secure appropriate financial contributions to infrastructure to off-set the impact of the development on local infrastructure or to provide any affordable housing, or a required bus route. As such the proposal is contrary to policies DPS4, DEL1, DEL2, HOU3, CFLR1, CFLR7, CFLR9 and CFLR10 of the East Herts District Plan 2018, policies of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.
- 5 Insufficient information has been submitted to demonstrate that the proposal would not have an unacceptable impact on flood risk. This is due to it not being evidenced that there is a viable location to discharge the surface water runoff from the proposal, the greenfield runoff rates and volumes are not agreed and Thames Water have advised that there is no capacity to discharge surface water sewer at the proposed manhole. The development may increase the risk of flooding elsewhere. The proposal falls contrary to policies WAT1, WAT3, WAT4, WAT5 and WAT6 of the East Herts District Plan (2018) and the National Planning Policy Framework.

## Informative

1. East Herts Council has considered the applicant's proposal in a positive and proactive manner and whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to accord with the Development Plan as a whole, and the proposals do not amount to sustainable development in accordance with the NPPF.

## Plans

Plan Ref	Version	Received
10537-FPCR-XX-XX-DR-A-1003	P05	27th July 2023
10537-FPCR-XX-XX-DR-A-1004	P07	27th July 2023
10537-FPCR-XX-XX-DR-A-1005	P05	27th July 2023
10537-FPCR-XX-XX-DR-A-1006	P05	27th July 2023
10537-FPCR-XX-XX-DR-A-1007	P03	27th July 2023
7498-GA-02	G	27th July 2023
10537-FPCR-XX-XX-DR-A-1001	P02	27th July 2023
10537-FPCR-XX-XX-DR-A-1002	P07	16th January 2024
7498-GA-02	H	3rd October 2023

**Recommending Officer and Date**

Hannah Weston  
15/02/24

**Authorising Officer and date:**

Neil Button 15<sup>th</sup> February 2024

A handwritten signature in black ink, appearing to read "Neil Button", is written over a light grey rectangular background.