

**4/03490/15/OUT - RESIDENTIAL DEVELOPMENT OF 8 DWELLINGS WITH ACCESS FROM WAYSIDE.
LAND REAR OF LONGFIELD, LANGLEY ROAD, CHIPPERFIELD.
APPLICANT: Mr Clayton.**

[Case Officer - Nigel Gibbs]

Summary

The application is recommended for approval.

The application seeks outline planning permission for 8 dwellings requiring the determination of the means of access and development's scale. Although the submitted details show the layout and design these are for illustrative/ indicative purposes only which is common practice in considering outline applications.

The site is within the Green Belt site wherein residential development is regarded as inappropriate development which is by definition harmful. The land is not regarded as previously developed land and therefore very special circumstances are required to justify support for the proposed housing. There should also be no other harm.

The site is subject to an extant planning permission for 9 dwellings as confirmed through decision 4/00127/11/LDP. This development was started many years ago. The approved development is served by access from Wayside. Based upon the applicant's submissions there is a right of access between the site and the public highway at Langley Road via Wayside where it links with Megg Lane.

The illustrative/ indicative layout and design showing 8 dwellings represents a 'modern' interpretation of the historic permission. For modern layout (current Building Regulation/ Fire Access/ Refuse) and to enable more spacing the layout proposes 8 rather than the approved 9 dwellings, representing a technically feasible 2016 alternative to the lawful 9 dwellings subject to decision 4/00127/11/LDP. The schemes are accordingly very similar.

Fundamentally this historic 'live 'approval for residential development at the site represents the lawful 'starting point' / 'fallback position' for the LPA's consideration of the very special circumstances. The existence of the implementable extant permission forms the basis of the very special circumstances which justify support for the development, notwithstanding the inevitable significant impact upon the openness of the Green Belt.

There are no overriding known highway/ infrastructure/ servicing or environmental objections to the development. This is with due regard to the specialist advice provided by the responding technical consultees, the imposition of conditions and fundamentally the significance of the fallback position and what can be built at the site.

Site Description

Longfield is a mature substantial two storey dwellinghouse occupying a very large wooded plot located on the northern side of Langley Road. The dwelling is significantly set back from the site's elongated curved and wooded frontage.

Longfield is served by two gated accesses at the respective eastern and western ends of the site's frontage. These provide an entry and exit driveway arrangement linked to the parking/turning area in front of the house.

There is a very substantial area of land to the north west of the dwelling forming Longfield's large elongated rear garden. The land features wooded boundaries, is partially undulating and is served by a gated access linked to the Wayside. A fire hydrant adjoins the access, with

dwelling on both sides known as Pinetrees and Amberslea.

Wayside is a long winding long unmade private cul de sac of plotlands style dwellings of early 20th Century origins. The Wayside roadway is linked to Megg Lane and via this to the adopted Langley Road.

The local planning authority has been advised by the applicant that there is a legal right of way between the gated access and Wayside and therefore a lawful vehicular link to Megg Lane and Langley Road. Please see Annex A.

The application site features some foundations of 9 approved dwellings started in the 1960's. These were to be served by the access from Wayside. As confirmed by the Summary this permission remains lawful/ implementable, notwithstanding the time gap (please see History).

Proposal

The outline application is for the construction of 8 detached dwellings on land within part of the rear of Longfield to the south west end of Wayside with a highway link to Wayside. The applicant seeks the scale and means of access to be determined now with a vehicular link to Wayside.

The submitted illustrative/ indicative layout follows the approved footprint/ template of the historic extant permission, varying / modified to take into account modern access requirements and to provide more spacing.

It shows a straight 4.8m wide permeable block central roadway with 4 dwellings on each side. The dwellings are set back from the roadway featuring substantial front gardens served by elongated driveways and integral single garages and very long rear gardens.

The roadway will incorporate a vehicle turning head at its south western end. This is designed to accommodate the turning and loading requirements for refuse and emergency vehicles. This was smaller on the approved scheme. There will be footpaths on both sides linked/ continued to the existing end of Wayside in two short sections.

The development will be connected to the existing foul drainage system at the site with the opportunity for all services to be linked through Longfield.

The submitted indicative scheme shows two storey gable roof house types with an equal split between 3 and 4 bedrooms.

Annex A is the Applicant's Supporting Statement including reference to the legal fallback position, the Green Belt implications/ Very Special Circumstances and the Access from Wayside.

Procedural Issue: The Application Site Red Line and Highway Status of Wayside etc

It is understood that Wayside is subject to multiple ownership with rights of way for all the dwellings. On this basis the application site includes the whole length of Wayside edged in red (terminating at its junction with Megg Lane) in addition to the land to the rear of Longfield. Therefore the application has been accompanied with a Certificate B **confirming that the application site is not just owned by the applicant but a range of other residents in Wayside. The applicant has served notice upon these residents.**

Hertfordshire County Council Highways has confirmed that Wayside is not highway, the connecting Megg Lane is highway and Langley Road is highway maintained by the Highway Authority.

Procedural Issue: Use of Wayside to Serve the Development: Applicant's Case

See Annex A.

Referral to Committee

This is referred to the DCC at the request of Councillor Adam Barnes, the level of public interest and that the recommendation is contrary to the views of Chipperfield Parish Council.

Relevant Site Planning History

1. Planning Permission W/37/56 and Reserved Matters W/2224/64: 9 Dwellings at Land at the Rear of Longfield
2. Certificate of Lawful Development 4/00127/11/LDP : Continuation of Development of Site for 9 Dwellings under Implemented Planning Permissions W/37/56 and Reserved Matters W/2224/64.

In March 2011 the LPA confirmed that both the above are lawful and the owner is entitled to continue to construct and complete the development. This is with access via Wayside. Counsel's opinion was provided to the LPA.

The associated Officer Report noted the following, with regard to a previously withdrawn 'LDP' application:

"In assessing the previous LDE application, given the complexities of the case and given the strong local opinion expressed by the local residents, and the local Ward Councillor, Councillor Roberts, it was felt that it would be prudent to seek Counsels Opinion in this matter. Counsels Opinion was therefore sought and received during the course of the previous application.

The Counsels Opinion concludes that the digging of trenches and the construction of foundations at the site is sufficient to conclude, on the balance of probabilities that the development had begun, by way of a specified operation, in February 1967. The permissions were not subject to any time limits and he therefore concludes that they cannot have been abandoned.

Counsel states that there is no principle in planning law that a valid planning permission capable of being implemented according to its terms can be abandoned. He concludes that, provided that the 1956 planning permission is capable of being implemented according to its terms, it cannot be said to have been abandoned in law and the owner is entitled to continue to construct and complete the development in accordance with it.

The Counsels Opinion also deals with the issue of what weight should be afforded to the extant planning permission, once the Certificate was granted. Counsel concludes that, in order to be afforded any weight, there must be a real as opposed to a merely theoretical possibility of the 1956 planning permission being built out. Counsel makes it clear that he shares Officers skepticism on this issue.

Counsel concludes that, absent any evidence that there is a real possibility of the 1956 scheme being built out, the Council should have regard to the 1956 planning permission but afford it no weight in the determination of any future planning application on site.

Conclusion

Given the advice received in the Counsels Opinion summarized above, it is quite clear that the development of 9 dwellings to rear of Longfield is lawful and the owner is entitled to continue

to construct and complete the development. A Certificate can therefore be granted. "

3. Planning Permission 4/0518/12/FHA. Closure of two existing vehicular access crossovers onto Langley Road serving Longfield and the formation of new access to highway onto Longfield and associated landscaping scheme (incorporating future management). This decision was made by the DCC . This permission has expired. A range of conditions were imposed including that the access only to serve Longfield, with no associated connection to the current application site. Condition 2 specified:

Notwithstanding any details submitted with this application, the access, associated driveway and turning area hereby permitted and shown by Drawing Nos.SK -058/01, 3037-D and 12.167.01, shall only serve the existing dwelling house (Longfield) and this permission does NOT in anyway extend to any approval for the formation of the access road shown by withdrawn Drawing No.2785-D. In addition there shall be no further construction of access roads/drives/links from the access hereby approved without the formal approval of the Local Planning Authority.

Reason: The Local Planning Authority is satisfied that there are no Green Belt, highway safety or environmental objections to new access shown by the above mentioned approved drawings serving only Longfield. The Local Planning Authority has made its decision entirely/solely on this basis. Any increased use of the access would require separate consideration by the Local Planning Authority in relation to highways safety and impact on the amenity of Longfield and neighbouring properties.

4.Recently Building Regulation Approval B/16/01589/R. 9 dwellings following an earlier refusal based upon a technicality and taking into account the need to determine the application within the required 5 weeks. The approval is to carry out the historic permission.

5. Current Applications 4/03696/15 and 4/03857/15 for housing. See the agenda.

Note: The LPA also received a request for a minor material amendment to the approved historic scheme and has provided various pre application advice at Longfield.

National Policy Guidance

National Planning Policy Framework (NPPF)

Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS2 - Selection of Development Sites
CS5 - The Green Belt
CS8 - Sustainable Transport
CS9 - Management of Roads
CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS13 - Quality of Public Realm
CS17 - New Housing
CS19 - Affordable Housing
CS25 - Landscape Character
CS26 - Green Infrastructure
CS27 - Quality of the Historic Environment

CS28 - Renewable Energy
CS29 - Sustainable Design and Construction
CS30 - Sustainability Offset Fund
CS31 - Water Management
CS32 - Air, Water and Soil Quality
CS35 - Infrastructure and Developer Contributions

Saved Policies of the Dacorum Borough Local Plan

Policies 13, 15, 18, 21, 22, 51, 54, 58, 61, 62, 63, 99, 100, 101, 103, 111, 113 and 118

Appendices 3, 5 and 8

Supplementary Planning Guidance / Documents

Environmental Guidelines (May 2004)
Conservation & Sustainable Drainage (June 2005)
Energy Efficiency & Conservation (June 2006)
Landscape Character Assessment (May 2004)
Chilterns Buildings Design Guide and associated documents
Affordable Housing (Jan 2013)
Chipperfield Village Design Statement

Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)

Summary of Representations

Chipperfield Parish Council

Object. 'To not support this application due to the access'.

Having objected CPC would like to request that it is officially recorded that the residents of Wayside have objected very strongly and the Council support them for this. The application is assuming right of way through Wayside. If the application is approved there is a need for assurance that this does not establish a right of way through Wayside.

Councillor Adam Barnes

Requests herein that this matter is brought before the Development Control Committee, on the grounds that the application:

- is inappropriate development in the green belt,
- is not sympathetic to its surroundings,
- does not account for the significant further infrastructure issues that will result from the development,
- has access and parking problems, and
- will lead to huge disruption and significantly affect the users of a local right of way.

Strategic Planning & Regeneration

The application site is located within the village of Chipperfield and the property concerned is located off Langley Road and to the west of Wayside. The site is synonymous with the rear garden associated with Longfield and situated within the Green Belt (but outside of the boundary of the designated 'Small Village within the Green Belt').

Pre-application advice has previously been provided on a similar scheme at this site which proposed the construction of three detached dwellings, creating 594m² of new floor space (4/03323/14/PRE). Outline planning consent is now sought for the construction of eight detached dwellings and associated garages, including four 3-bed dwellings and four 4+ bed dwellings.

Planning History:

As previously alluded to within SP's earlier pre-application advice, SP are aware that planning permission was previously granted for the construction of 9 dwellings at this site in 1956 (W/37/56) and again in 1965 (W/2224/64). Subsequently, these planning consents were deemed to still be extant (and thus not abandoned) through the issuing of a Certificate of Lawful Development in 2011 (4/00127/11/LDP) on the basis of Counsel Advice. Within this Counsel Opinion, it was considered that the digging of trenches and construction of foundations was deemed to constitute commencement of the development and the respective planning permission did not impose any time limitations regarding the construction or completion of the approved development.

More crucially to this proposed development, it was established that the abovementioned planning permissions were material considerations in the determination of the Certificate of Lawful Development but considered that no weight should be afforded to the precedent set by the substantive 1956 permission in the determination of future planning applications.

Should it be concurred with this assessment and it be decided not to attach any, or very limited, weight to these former, extant planning permissions, the planning application should be determined in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. As such, the principle of the proposed development should consequently be considered against relevant development plan policies such as Core Strategy Policies CS1, CS5, CS11 and CS12; saved Local Plan Policies 18, 21 and 51; and the NPPF

Principle of Development:

Core Strategy Policy CS1 states that decisions on the scale and location of development will be made in accordance with the settlement hierarchy and the rural character of the borough will be conserved. Development will be supported where it does not damage the existing character of the village and/or surrounding area and is compatible with policies protecting (inter alia) the Green Belt. The application site is located within Chipperfield, which is identified as a Small Village within the Green Belt and therefore considered to be an area of development constraint. The proposed development would see the construction of eight detached dwellings in two linear arrangements (four dwellings in parallel with each other) extending from the western end of Wayside. The proposed layout and density of these properties is not reflective of the existing pattern of residential development surrounding Wayside and Megg Lane and would erode the existing undeveloped area between Wayside/Megg Lane and residential properties around Croft Lane. However, it is noted that the application site is relatively contained and well screened by existing mature trees and hedgerows.

Green Belt:

However, the application site is located within the Green Belt. Core Strategy Policy CS5 applies national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and physical separation of settlements. Paragraph 89 of the NPPF regards the construction of new buildings as inappropriate development where inappropriate development is, by definition, harmful to the Green Belt (paragraph 87). Although there are

exceptions to this policy approach which includes the partial or complete redevelopment of previously developed land subject to the impact upon the openness of, and purpose of including land within, the Green Belt. The NPPF defines previously developed land as:

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land...and any associated fixed surface infrastructure. This excludes: (inter alia) land in built up areas such as private residential gardens...; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.' (Annex 2: Glossary).

The site is generally characterised as a greenfield site (being that of an existing residential garden) and does not either currently contain any built development, nor previously had any built development on the land (i.e. permanent structures). However, following implementation of planning permissions W/37/56 and W/2224/64 granted in 1956 and 1965, respectively, part of the site could be construed as previously developed land by virtue of the existing (albeit subterranean) foundations/footings for the consented 9 no. new dwellings. This is evidenced by a photograph within the applicants' former planning application and supporting evidence for a lawful development certificate which was granted by the Council in 2011 (4/00127/11/LDP).

These foundations could be considered to constitute 'associated fixed surface infrastructure'; however, as per the definition of previously developed land described above, it could also be considered that if any such fixed surface infrastructure (or permanent structure) has blended into the landscape in the process of time it is excluded from the definition of previously developed land. With the passage of 48 years since the extant planning consents were first implemented and the fact that these foundations had to be excavated to prove implementation of the former consents as part of the 2011 lawful development certificate application, it would be reasonable to conclude that these foundations have blended into the landscape.

Alternatively, if a view is taken that this fixed surface infrastructure has not blended into the landscape (i.e. you consider that the part of the site synonymous with the foundations is considered to be previously developed land), not knowing the full extent or coverage of these foundations (i.e. whether they have been constructed for one or all nine of the consented dwellings), it is difficult to make a judgement on the proportion of greenfield and previously developed land within the application site. It would be helpful if the applicant could provide further information to determine this.

Therefore, for the parts of the site which are considered to be greenfield coinciding with the extent of the application area, the proposed development would not fall within any of the exceptions identified in national planning policy (paragraph 89 of the NPPF). In this respect, we note that the applicant has not provided any case for very special circumstances for the Council to consider. Paragraph 88 of the NPPF states that substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other (material) considerations. Although the application site is located outside of the defined 'Small Village within the Green Belt' boundary, Core Strategy Policy CS6 could also be considered relevant to development within Chipperfield. The policy lists a number of limited developments which could be considered acceptable. The proposed development, again, would not accord with the developments listed in (a) to (f) within this policy.

For the part/extent of the site which is deemed to be previously developed land, the proposed development could be considered to fall within one of the exceptions for built development within the Green Belt as identified by paragraph 89 of the NPPF. This exception states:

'Limited infilling or the partial or completed redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings),

which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.'

The key consideration in this instance would therefore be whether the proposed development would have a greater impact upon the openness of, and purpose of including land within, the Green Belt compared to the existing development. Given that the extent of existing development has been demonstrated to include the construction of some foundations and footings, the proposed development for 8 new dwellings would have a detrimental impact upon the openness of the Green Belt and contradict one of the purposes of including land within the Green Belt which is to safeguard the countryside from encroachment. Furthermore, the proposed development would also result in a physical and perceptual reduction in the gap between the existing development off Wayside/Megg Lane and the Croft estate to the west of the application site.

In conclusion of the foregoing, overall the proposed development is either considered to be inappropriate development within the Green Belt, for which very special circumstances have not been advanced for consideration; or, on the part of the site considered to be previously developed land, the proposed development is considered to have a detrimental impact upon the openness of, and purpose of including land within, the Green Belt when compared to the extent of existing development. Therefore, the proposed development is considered to be contrary to Core Strategy policies CS5 and CS6 and national planning policy relating to development within the Green Belt.

Access:

This outline planning application seeks consent for the access and scale of the proposed development. The proposed development indicates that access to the site would be taken off Langley Road and then onto Megg Lane leading to Wayside. Based upon representations made in response to this outline planning application, Wayside appears to be an un-adopted, private road and therefore not under the control of Hertfordshire County Council as Local Highway Authority. However, you should seek confirmation from the County Council regarding this assertion and also their advice about the capacity of Langley Road to accommodate any increase in traffic flows and to support additional egress/ingress on to Megg Lane and Langley Road.

Design:

It is noted that design and appearance details will be considered through an Approval of Reserved Matters application. However, in doing so, the applicant should have regard to the design principles set out within Core Strategy Policies CS11 and CS12, which state that development should incorporate a number of factors relating to typical densities, protecting and enhancing character areas, provide a safe and satisfactory means of access, provide sufficient parking, retain and incorporate appropriate planting and respect adjoining properties in terms of (inter alia) layout, scale, height, site coverage, bulk and materials. In terms of size of new dwellings, the applicant should also take account of saved Local Plan Policy 18. As aforementioned, the indicative layout plan provided with this Outline application shows a scheme which does not reflect the character of the surrounding and adjoining residential properties, particularly in terms of pattern of development and plot ratio.

Consideration should also be given to the guidelines contained within the Landscape Character Assessment and the Chipperfield Village Design Statement, both of which were adopted as a Supplementary Planning Guidance by the Council in 2004 and 2001, respectively. The former identifies the need to conserve and enhance the distinctive character of traditional settlements through high standards of new buildings with the consistent use of locally traditional materials and designed to reflect the traditional character of the area. It also guides the need to ensure that local highway improvements are sympathetic to the scale,

pattern and character of the existing road network. This is particularly pertinent if the applicant proposes any amendments to the existing access off Langley Road.

Affordable Housing:

Given the scale of the proposed development, Core Strategy Policy CS19 is relevant to consideration of this application. This policy states that affordable homes will be provided on sites providing a minimum of 0.16ha or 5 dwellings. As such, 35% of these new dwellings should be affordable homes (i.e. 3 homes). The views of the Strategic Housing team should be sought over the number and mix of units.

Conclusion:

The proposed development is considered to be inappropriate development within the Green Belt and the applicant has not advanced any very special circumstances to warrant an exception to the relevant national and development plan policies. However, consideration should also be given to the potential fall-back position and what weight (if any) should be afforded to this in the determination of this planning application.

Conservation & Design

It is understood the application 4/03490/15/OUT is effectively the same as a 1965 approval for a reserved matters application for 9 dwellings and garages, this scheme being deemed to have been commenced prior to 1967 although nothing exists above ground.

The outline scheme would therefore appear such very much representative of the layout and design of that earlier approved scheme. The plots are relatively narrow and the new housing of a uniform design and fairly closely spaced, unlike the existing housing along Wayside that are set in larger grounds and are of a variety of different forms. That said the development does represent a natural continuation of the private road with housing either side of it.

It is noted that a relatively substantial wooded area on the south western barrier of the site would be lost under this proposal. This wooded area would seem now to be of environmental value and given the original application was 50 years ago this wooded would have become more established in that time and environmental concerns have become more to the fore in planning.

The submitted Ecology Report submitted with is application would appear to have been written in support of the application 4/03857/15/FUL at the site is much of the focus of the report with reference to the eastern side of the site where a new road is proposed to the new dwellings from Langley Road.

Building Control

No formal response.

Trees & Woodlands

The site visit confirmed that far fewer trees would be affected by the proposed development as originally assumed. The most valuable trees that would merit a Tree Preservation Order are situated near the existing entrance but these will not be affected as this entrance will be closed. Another issue to consider is that even if there were trees of good amenity value within the site, because they cannot be seen from a public place, the Council would be unable to justify a TPO them.

TW entirely agree with Hertfordshire Ecology that it is 'less concerned about the loss of trees to accommodate the access road from Wayside as some compensation for these could be provided where appropriate as part of any landscaping work'. The detailed tree survey submitted is of very high quality and has adequately addressed all the issues that would be of concern to TW. The tree survey makes good recommendations for necessary tree work and the 'no dig' method proposed will minimise any possible damage to Root Protection Areas. The total number of trees recommended for felling is 7 trees and TW recommend that these are compensated for in the landscape scheme that should also be submitted. The tree survey report states that 'the trees should not be considered a constraint on the proposed development'. TW agree with this assessment. The tree protection measures recommended in the tree survey of good quality.

Finally, TW is satisfied that very few trees on this site would be adversely affected by the proposed development and the recommendations set out in the tree survey would ensure that the impact on the existing trees would be minimised to an acceptable level. TW has no further concerns or comments.

Scientific Officer

The site is located within the vicinity of potentially contaminative former land uses. Consequently there may be land contamination issues associated with this site. It is recommended that the standard contamination condition be applied to this development should permission be granted. For advice on how to comply with this condition, the applicant should be directed to the Council's website (www.dacorum.gov.uk/default.aspx?page=2247).

Noise & Pollution

Does not wish to restrict the grant of permission.

Refuse Controller

No response.

Hertfordshire County Council: Highways

Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Hertfordshire County Council (HCC) has no objection to the proposed development.

Comment

1. Context. Wayside is a private road and does not form part of the public highway.

2. Analysis

The Roads in Hertfordshire: Design Guide 3rd Edition (RiH) only requires a Design and Access Statement for this level of development, this has been provided by the applicant.

Impact on Highway Network.

The application proposals include the erection of 8 dwellings. These dwellings are not likely to generate a significant number of trips. Therefore, HCC considers the proposals are acceptable.

3. Road Safety

No accident data has been provided to support the application. However, from a review of the accident data available on crash map there is no accident history within the vicinity of the site.

4. Highway Layout

Access Arrangements - It is understood that a 4.8m access road will be provided at the end of Wayside. As previously mentioned, Wayside is a private road and is not within HCC's jurisdiction. On this basis, HCC does not raise an objection, although would recommend that a swept path analysis is provided for a refuse and emergency vehicle be provided as this does not appear large enough to accommodate these vehicles.

Refuse Storage - The site layout shows space provided for refuse vehicles.

Parking - The proposals seek to provide 2 spaces per dwelling, which is acceptable to HCC. However, it will be for the Dacorum Borough Council to determine the appropriateness of the level of parking provided.

Cycle Parking - No details regarding cycle parking are provided. Cycle parking is required to be provided at 1 space per unit in order to adhere to the Dacorum Borough Council standards and guidance.

5. Accessibility

Public Transport

The nearest bus stops are located on Langley Road near the junction with Megg Lane. This currently comprises a flag and a pole.

Pedestrian and Cycle Access

There are no dedicated cycling facilities on the surrounding roads but the road is suitable for cyclists.

There are however no footways along Megg Lane and Wayside and these operate as a shared surface environment. Langley Road has a footway one side of the carriageway.

The accessibility of the site is considered to be adequate for level small level of trips generated by the residential development.

6. Planning Obligations/ Community Infrastructure Levy (CIL)

It is not considered that any planning obligations are considered applicable to the proposed development.

Hertfordshire Fire & Rescue Service

HFRS has examined the drawings and note that the access for fire appliances appears to be adequate and suitable water supplies (hydrant) is to be provided.

Further comments will be made when we receive details of the Building Regulations application.

Hertfordshire Constabulary: Crime Prevention Officer

Security – ADQ and SBD

As of 1st October 2011, Approved Document Q (ADQ) has come in that requires under Building Regulations dwellings are built to "Prevent Unauthorised Access". This applies to any "dwelling and any part of a building from which access can be gained to a flat within the building". Performance requirements apply to easily accessible doors and windows that provide access in any of the following circumstances:

Into a dwelling from outside
Into parts of a building containing flats from outside
Into a flat from the common parts of the building.

Achieving the Secured by Design award meets the requirements of Approved Document Q (ADQ), and there is no charge for applying for the Secured by Design award. The applicant should be informed.

Secured by Design Part 2 Physical Security

If the development were to be built to the physical security of Secured by Design part 2, which is the police approved minimum security standard and also achieves ADQ. This would involve:

All exterior doors to have been certificated by an approved certification body to BS PAS 24:2012, or STS 201 issue 4:2012, or STS 202 BR2, or LPS 1175 SR 2, or LPS 2081 SR B. Ground level (easily accessible) exterior windows to have been certificated by an approved certification body to BS Pas 24:2012. All glazing in the exterior doors, and ground floor (easily accessible) windows next to doors to include laminated glass as one of the panes of glass.

These standards are entry level security and meet the Secured by Design part 2 physical security standard. Building to the physical security of Secured by Design, which is the police approved minimum security standard, will reduce the potential for burglary by 50% to 75% and achieve ADQ. I would encourage the applicants to seek Secured by Design certification to this standard when it is built.

Otherwise as regards designing out crime HC have no comment.

HC hope the above is of use to the LPA and will help the development achieve that aims of the National Planning Policy Framework (NPPF).

- a. 69 – re safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

& the National Planning Practice Guidance (NPPG)

- . 010 – re Sec 17 of the Crime and Disorder Act 1984 – to prevent crime & disorder.
- . 011 – re taking proportionate security measures being a central consideration to the planning and delivery of new developments and substantive retrofits.

& Dacorum Core Strategy policies:

- . CS12 – re safe access, layout and security

Hertfordshire Ecology

HE have no data for this site. It would never have been looked at given its location and use as essentially garden land. The site benefits from long established planning permission, and this application seeks to modify the potential access.

Despite its location it is clear the site has been managed by mowing for around the last 50 years or so. Whether this was ever taken as a hay crop is unknown, possibly not for at least some of the time if foundations were present which would not have been visible under long grass when cutting.

Despite this the ecological survey – undertaken in October 2011 clearly describes and maps the open grassland as unimproved. It supports at least 10 indicator species (see below) sufficient for Wildlife Site status. However HE note the statement goes on to describe the sward as not species rich and not a Priority habitat. The grassland of this area is naturally acid-neutral and as such may not be particularly species rich and as such HE consider that any

sward including these species is likely to be a Priority Habitat and of WS status in supporting 10 neutral grassland indicators, although this would need to be confirmed with a survey at a better time of year.

'Dominant species identified included: cock's foot (*Dactylis glomerata*), common bent (*Agrostis capillaris*), sweet vernal grass (*Anthoxanthum odoratum*), meadow fescue (*Festuca pratensis*), ox-eye daisy (*Leucanthemum vulgare*), meadow buttercup (*Ranunculus acris*), common sorrel (*Rumex acetosa*), meadow vetching (*Lathyrus pratensis*), red clover (*Trifolium pratense*), white clover (*T. repens*), devil's bit scabious (*Succisa pratensis*), hawkbit (*Hieracium umbellatum*), cat's ear (*Hypochaeris radicata*), common knapweed (*Centaurea nigra*), bird's foot trefoil (*Lotus corniculatus*), dandelion (*Taraxacum* agg.), ribwort plantain (*Plantago lanceolata*), black medick (*Medicago lupulina*) and bristly ox-tongue (*Picris echioides*). Indicator species of neutral grassland are present but the sward is not considered species-rich and therefore not considered a BAP habitat.'

Continued regular mowing management for over 50 years would have ensured the grassland did not revert to scrub or rank grassland, although some nutrient build-up may have occurred.

HE note some old fruit trees are being removed, in particular an old pear. The site is associated with a small orchard close to Longfield itself in the 1930s and this tree may be connected with this. HE also note that the remaining open land within the ownership of the applicant has no development proposals although this will remain entirely landlocked with no access.

The development itself will result in the loss of an area of unimproved grassland. The remaining open area should be considered for retention for ecological purposes although its management will pose a significant problem if it is to remain inaccessible. HE is less concerned about the loss of trees to accommodate the access road from Wayside as some compensation for these could be provided where appropriate as part of any landscaping works.

The presence of badgers will need to be addressed as necessary, although this is recognised by the Consultant ecologists.

HE's main concern lies in the loss of unimproved grassland irrespective of its lack of Wildlife Site status. **Biodiversity Offsetting should be considered as a Condition of approval to address this** issue given the impact of the proposals and the lack of such resource within the county generally and continued local losses. This could best be achieved with some topsoil striping and / or hay cut to help translocate some grassland interest if a suitable receptor site could be found locally.

HE is not aware of any other ecological issues associated with these proposals for which HE have any significant concerns.

Hertfordshire Lead Local Flood Authority

General Advice as the site is under the threshold for formal advice.

Hertfordshire Property Services

No response.

Hertfordshire County Council: Historic Environment

The site lies along the northern outskirts of the village of Chipperfield. Although there are very little known heritage assets within or directly adjacent to the application site (not due to the lack of assets, but due to the absence of development led investigation in the area), the site is

located on chalk uplands overlooking the River Chess valley to the south and the River Bulbourne valley to the north. This location lends itself to prehistoric and Roman settlement and land-use, and can be seen in nearby finds such as flint implements (HER No's 948 & 4570) and possible Romano-British coin hoard (HER No. 947).

HE believe that the position and details of the proposed development are such that it should be regarded as likely to have an impact on heritage assets with archaeological interest that may require mitigation through the planning process.

HE recommend, therefore, that the following provisions be made, should you be minded to grant consent:

- a programme of archaeological evaluation by means of trial trench methodology (including new driveways etc.)
- a contingency for the archaeological investigation of any remains encountered
- the analysis of the results of the archaeological work and the production of a report and an archive
- such other provisions as may be necessary to protect the archaeological interest of the site.

These may include the preservation of any remains in situ, if warranted:

- a). appropriate archaeological excavation of any remains before any development commences on site,
- b). archaeological monitoring of the groundworks of the groundworks

HE believe that these recommendations are both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal. These recommendations closely follow para. 141, etc. of the National Planning Policy Framework, relevant guidance contained in the National Planning Practice Guidance, and the recently issued Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015).

In this case two appropriately worded conditions on any planning consent relating to these reserved matters would be sufficient to provide for the level of investigation that this proposal warrants:

Condition A

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

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation

6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Condition B

i) Demolition/development shall take place in accordance with the Written Scheme of Investigation approved under condition (A).

ii) Each phase of the development shall not be occupied until the site investigation has been completed and the provision made for analysis in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A). The final phase of development shall not be occupied until the site investigation has been completed and the provision made for analysis in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Environment Agency

EA have reviewed the information submitted and have no comments to make. This is because the EA ceased to be a statutory consultee on surface water flood risk and non-mains drainage for non-major development.

As non-mains drainage is proposed for this development, the EA suggest the applicant fully investigate whether it is feasible to connect to the main foul sewer network. If this is not possible they should follow our Pollution Prevention Guidance (PPG4).

Thames Water

Waste . There are public sewers crossing or close to the development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the construction of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. .

Surface Water Drainage. It is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

Sewerage infrastructure capacity. No objection.

Water Supply. This is under the jurisdiction of Affinity Water Company

Affinity Water

No response.

British Gas

No response.

EDF Energy

No response.

Civil Aviation Authority

No response.

NATS

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

Response to Neighbour Notification / Publicity

A. Petition of Opposition (Representing Hyttten, Aspens, Greenbanks, Pinetrees, Amberslea, Hazelgrove, Briery Hillsfield, Southcott, Hillcrest, Keston, Silvertrees, Sylvanglade, Windrush, Wayside Bungalow, Wayside, The Woodlands, Merrilees, Wayside, Willow House, Wayside Cottage Wembury).

Issues/ Objections:

- Wayside is a private road. Signatories believe that the applicant does not have access and do not propose to agree access.
- The junction of Megg Lane to Langley Road is already an extremely dangerous junction. Any additional traffic would further increase danger to all residents and other local road users.
- The junction of Wayside and Megg Lane has no visibility at all with the risk of a 'head on collision'.
- The development is not in keeping with Dacorum Local Plan provision for Chipperfield.
- The infrastructure of Wayside road would not support increased or construction traffic.
- The current infrastructure cannot support additional utilities at the development.

B. 23 separate representations raising the above and many other objections in great detail including:

- Green Belt and associated precedent.
- Loss of open space.
- Development not in keeping with local area and too large for Chipperfield development plan.
- No affordable housing.
- Multiple Highway Reasons.
- Utilities / Infrastructure Inaducacies.
- Legal Issues.
- Consultations.
- Ecological Walkover Survey. Out of date.
- Design and Access Statement.
- Layout.
- Flood Risk.
- Waste collection.
- 'The consented Dwellings' are out of character with the surrounding area

- Planning Applications. Details of the pre application advice received by the applicant from the Council is unknown.
- Rights of Way.
- Parking spaces.
- Existing footings.
The grant of the 1956 permission as a “novelty in planning law not provided for by statute” relies partly on the declaration by a local resident that in the past was involved in grass cutting. Questions over whether this statement has been collaborated.
In addition has any change been made to these footings since 1956, surely this would render permission void? The footings are currently derelict and buried. It cannot be understood how these footings can be now used for development again surely this renders the permission void. Even if these footings can legally be taken up and replaced surely they need to occupy the same footprint exactly as the original granted permission? Also the original permission was granted before a lot of the houses were built in Wayside. Has this been taken into account?
- Statement from the applicants regarding purchase of Longfield and its prospects
- Emergency Services
- Access closed through Longfield
- Counsels’ opinion 23/3/2011
“Absent any evidence that there is a real possibility of the 1956 scheme being built out the Council should have regard to the 1956 planning permission but afford it no weight in the determination of any future planning application on site”
This can only be interpreted that no varied proposals can rely on the 2011 grant and both subsequent proposals (4/03490/15/OUT and 4/03696/15/FUL) must be treated as new planning applications in which case the Dacorum Local Plan and Highways Plan cannot be ignored as clearly highlighted in yellow in our objection letter.
- In the 1950s, the initial planning application for 9 houses on the Longfield site had an access directly on to the Langley road. This was rejected but a planning application with access via Wayside was approved (Wayside residents were not consulted by the applicant). The effect of this is that the planning committee just moved a dangerous situation 180 metres further down Langley Road to another blind bend. The development wasn’t built and the current application is a new application

Considerations

Principle

Green Belt

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies such a designation as serving 5 purposes, one of which is to safeguard the countryside from encroachment.

Core Strategy Policy CS5 applies national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and physical separation of settlements. Paragraph 89 of the NPPF regards the construction of new buildings as inappropriate development where inappropriate development is, by definition, harmful to the Green Belt (paragraph 87).

There are exceptions to this policy approach which includes the partial or complete redevelopment of previously developed land subject to the impact upon the openness of, and purpose of including land within, the Green Belt. The NPPF defines previously developed land as:

‘Land which is or was occupied by a permanent structure, including the curtilage of the

developed land...and any associated fixed surface infrastructure. This excludes: (inter alia) land in built up areas such as private residential gardens...; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.' (Annex 2: Glossary).

The 1960's foundations at the site have blended into the landscape in the process of time and therefore it is interpreted that **the site does not fall within the working definition of previously developed land**. These foundations had to be excavated to prove implementation of part of the 2011 lawful development certificate application.

Therefore the residential development of the site has to be justified based upon very special circumstances. Paragraph 88 of the NPPF states that substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other (material) considerations.

The applicant's case for very special circumstances relies upon the fallback/ starting position that there is an extant permission for substantial residential development at the site. Counsel considered that no weight should be afforded to the precedent set by the substantive 1956 permission in the determination of future planning applications.

It is interpreted that substantial weight can be given to the extant / live permission. The issue is referred to below.

The Fallback Position and Very Special Circumstances

The applicant's case for very special circumstances relies upon the fallback/ starting position that there is an extant permission for substantial residential development at the site. Counsel considered that no weight should be afforded to the precedent set by the substantive 1956 permission in the determination of future planning applications.

It is interpreted that substantial weight can be given to the extant / live permission. The issue is referred to below.

The key issues are:

1. There is an extant planning permission at the site to build 9 dwellings. This is the fallback position.
2. Notwithstanding the very significant time interval since the foundations were installed the construction of the development can be carried out in part or wholly from a **planning perspective**. The onus will be with the landowner / developer if / when this happens, being entirely outside the local planning authority's jurisdiction/ remit.
3. The recent approval of Building Regulations enables the landowner / developer to start again upon the construction of the extant permission at any time within the next 3 years.
4. In 2011 Counsel's opinion to the LPA was amongst a range of issues:

'My guidance would that, absent any evidence that there is a real possibility of the 1956 scheme being built out, the Council should have regard to the 1956 planning permission but afford it no weight in the determination of any future planning application planning application on site'.

5. After this advice LPA has reviewed the situation with reference to planning case law, with input from the Council's legal officers at different times. This has been at pre application and

since the receipt of applications at the site.

6. It can be viewed that the prospect of the fallback position does not have to be probable or even have a high chance of occurring. It has to be only more than a merely theoretical prospect. Where the possibility of the fallback position happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the position a material consideration in the determination of a planning application.

7. Set against this background the weight to be given to the fall back position is, then, a matter for the decision maker.

8. Officers consider that with the very recent Building Regulations Approval in place to carrying out the original permission and based upon content the submitted Annex A regarding to legal access to the site from Wayside, there is a distinct prospect that the 9 dwellings could be built.

9. There are no apparent overarching planning /legal/ procedural/ building construction/ environmental /utilities/ servicing reasons that would prevent the lawful scheme being started or built partially or in full.

10. For clarification it is understood that at the commencement stage there will be no other separate approvals required such as those for various utilities / infrastructure to 're start' construction at the site. Also there will be no requirement to address site archaeology, contamination, protected trees etc. This is notwithstanding the need for a licence(s) regarding protected species, given the presence of badgers and notwithstanding this based upon Hertfordshire Ecology's expert advice their presence is not an overarching factor.

11. Therefore it could be argued that with the principle of residential development established for 9 dwellings at the site this is a robust fallback position. In this respect it can be a significant material consideration in considering the individual merits of any application for new development at the site. Whatever the outcome of any application, each of which has to be considered upon its individual merits.

12. Of course, the fallback position is one of a wide range of material considerations in the determination of any applications at the site.

Subject to some 'fine tuning' /modifications to the approved 1956/1964 layout/ template/ scheme to satisfy modern / current Building Regulations / Fire- Refuse Access, residential development at the site following the approach to the lawful approval can be carried out.

In this context in terms of assessing the impact upon openness the 'starting point is the 'live' template provided by the approved 9 dwellings in the Green Belt. Therefore whatever form the development takes place there is an inbuilt acknowledgement that 9 dwellings will affect the existing openness of the Green Belt. In a way it could even be argued that despite the time lapse the current openness it is an 'artificial'/ temporary openness .

It is fully acknowledged that in considering an outline application the assessment is materially different to a full application and only limited weight can be given to an indicative layout, as in the current application. However, the layout echoes the overall approach of the historic permission with the means of access forming part of the consideration at this stage. The scale of the development is also part of the submission which is demonstrated by the indicative/ illustrative layout/ designs.

Effectively the approved scheme provides a template to demonstrate what can be accommodated, with the current layout a version / reinterpretation of this. Whilst it is unimaginative the form is compact with the uniform alignments to each side of the roadway enabling the provision of large rear gardens and sizeable front gardens. The layout

demonstrates that in the context of the very unusual ' fallback' position 8 dwellings can be built maintaining openness -it's compactness resulting from the set- back alignments of the dwellings is a very positive element in the maintaining the Green Belt's openness in relation to the Wayside end of cul de sac with views through.

If permission is granted it would be appropriate to withdraw permitted development rights to control the attrition of the openness (see below).

Design Visual Amenity of the Green Belt

In accepting fallback position there is a case to support 8 dwellings the template provided by the approved layout provides a valuable understanding and context in considering the feasibility of an alternative scheme at the site.

The approved site layout represents a higher density extension of Wayside. The plots may not be entirely commensurate with Wayside , **but** the layout does ensure the opportunity to establish a very high quality development in this rural setting .

The deeply inset alignment of the dwellings on both sides of the central roadway provides excellent opportunities for strong structural planting within the front gardens. This would reinforce and frame important views when approaching and from the end of Wayside with the dwellings themselves being very discreet/ not visible. This is due to their very recessed/ set back positions.

The expected strong structural frontage planting would also screen the elongated driveways with the roadway designed to restrict on street parking. With one less unit than the approved scheme there is even more opportunity to achieve a very subtle transition between the cul de sac head and the new development. This is not about screening a development to make it acceptable, but a structured approach to design in the ensuring respect for the location's sensitive rural setting. The location of the buildings will also limit the effect of light pollution in relation to Wayside.

What is very disappointing is the potential loss of a substantial part of the strong tree buffer at the south western end of the site if the approved layout is followed. This could be reduced if there is an alternative approach to this part of the layout at the Reserved Matters stage. Again the fallback position enables this, with no TPO justifiable.

Impact on Neighbours

This is in the context of Core Strategy Policies CS12 and CS32 and the NPPF paragraph 133.

There will be increased activity arising from vehicular movements to the Wayside and Megg Lane residents. However given the fallback position this would be the case if the extant permission is carried out involving an additional dwelling. On this basis an objection based upon resultant noise and disturbance could not be substantiated.

There will be no harm to the residential amenity of Pinetrees in terms of privacy, physical impact and noise/ disturbance. The front of Amberleas will be most affected due to the dwelling on Plot 6. A condition can be imposed to control the design of this dwelling and addressed at the Reserved Matters stage.

Highway Safety/ Access/ Emergency - Refuse- Service Access/Parking/ Traffic Generation/ Sustainable Location /Inclusive Access/ Access for Persons with Disabilities/ Rights of Way

Access

From the fallback position there is an extant permission for 9 dwellings with access from Wayside.

Access from Wayside: Can it be Used?

As confirmed this has been subject to detailed consideration. Officers (including DBC Legal and HCC Highways) have given significant consideration to the means of access. This is with due regard to the applicant's clarification at Annex A that a right of way from Wayside to the site exists. In this context the site - based upon the LPA's best endeavours and knowledge - is **not** 'legally landlocked'. Wayside connects to Megg Lane which as clarified is recognised by HCC Highways to be highway but not under its maintenance. Megg Lane is linked to the adopted Langley Road. It is against this background that the LPA should consider the application with due weight to HCC Highways advice.

Access from Wayside: Is this physically acceptable in terms of all vehicular movements including emergency/refuse/ serving etc with access on Langley Road?

These issues were very comprehensively considered at the pre application stage. This was with requests for advice from HCC Highways, Hertfordshire Fire & Rescue Service and the Refuse Controller. Despite Wayside's and Megg Lane's there have no overarching objections from the respective consultees. With regard to fire access there is an existing hydrant and a condition can be imposed regarding such an important facility. The concerns of the residents regarding the implications are fully understood, however due weight must be given to the advice of the expert consultees. It is **not** considered that there would be case to withhold the grant of permission due to adequacy of Wayside/ Megg Lane.

Access onto Langley Road/ Traffic Generation. HCC Highways raise no objections. This assessment would have taken into account the sight lines, the position of the 'bus stop' traffic island, the condition of the adjoining Megg Lane, in association with the footpaths in Langley Road, as well the traffic highway data and the expected increase in traffic movements.

Internal Layout. Based upon the illustrative layout plan general, fire and emergency access, refuse servicing and turning can be accommodated in any detailed layout. Full details including swept paths can be addressed at the Reserved Matters stage. Access for persons with disabilities/ limited mobility will assured at the reserved matters stage in terms of the layout. It is acknowledged that in terms of accessibility is very poor along Wayside. Curtilage parking is acceptable.

Sustainable Location/ No Car Modes of Access. It is acknowledged that the site has no footpath link and cycling along Wayside is problematical. Langley Road is served by a footpath linked to the village centre which features a range of services and there is the aforementioned bus stop at the Megg Lane junction with links to the wider area. It would be questionable whether a refusal could be substantiated based upon the issue of sustainable location. It is acknowledged that in terms of accessibility is very poor along Wayside.

Upgrading Wayside. If permission is granted with the cooperation of the other owners of Wayside a 'flexible' Grampian condition could be imposed however securing a proportionate/ phased upgrading to benefit the community/ all users, given the extent of the red line (see Procedural Issues). This would be based upon the reasonable prospect and worded in such a way to be a benefit arising from the development.

Construction. A range of conditions are recommended given the character of Wayside. It should be clarified that if construction traffic were to use be via Longfield only there is an existing access road at the site. The Developer would need to consider its feasibility. Alternatively, the **temporary only formation** of an access road across the Longfield's curtilage could be considered. This would require full engineering assessment given the site conditions.

Ecological Implications/ Biodiversity

Hertfordshire Ecology and the Trees & Woodlands Officer have considered the implications.

There are no fundamental objections. There will be the need to separately address the badger sett/ movement implications through licensing given the relationship with the layout, requiring separate approval.

Hertfordshire Ecology's main concern lies in the loss of unimproved grassland irrespective of its lack of Wildlife Site status. As confirmed Biodiversity Offsetting should be considered as a condition of approval to address this issue given the impact of the proposals and the lack of such resource within the county generally and continued local losses. This could best be achieved with some topsoil striping and / or hay cut to help translocate some grassland interest if a suitable receptor site could be found locally.

Drainage/ Contamination/ Land Stability

Foul Drainage. Thames Water raises no objections. This is with due regard to the existing link available within the site. The existing FW drain is within the vicinity of the shown proposed new access road and path and would be fully accessible for maintenance

Surface Water. This can be addressed through a 'SUDS' based condition, with on site storage if necessary, with the opportunity to use the 'blue land' at Longfield if necessary.

Flooding. The site is not identified as one of risk.

Contamination. A condition is recommended by the Scientific Officer which is fundamentally disagreed by the agent:

The Scientific officer mentions that there should be a condition applied to any approval regarding contaminated land from former land uses in the vicinity. As far as we are aware there has been no known former useage of this land, except garden or paddock associated with Longfield in the vicinity. We attach some historic maps which are dated between 1873 and 1988. These maps all show the site as vacant, associated with the house Longfield with no buildings sited in the vicinity of the proposed development. As such we request that this condition is NOT attached to any approval'.

An informative would be an appropriate alternative.

Land Stability. The onus is with developer to ensure that land is not subject to any known natural or artificial geological conditions which would militate against the construction of the development. A informative would be appropriate.

Water Supply. There have been no responses from Affinity Water. This issue was investigated at the pre application stage with regard to the issue of fire hydrants and fire access with Hertfordshire Fire & Rescue Service. It will be expected that the Reserved Matters stage water supply/ hydrants is addressed through a condition..

Sustainable Construction

A condition is necessary with due regard to the expectations Policy CS29 based upon the principles referred to by the submitted Design & Access Statement.

Crime Prevention/ Security

The Crime Prevention Officer raises no fundamental objections. The illustrative layout has inbuilt natural surveillance with cul de sac designs are regarded as safe forms of development. In this location there will be some inevitable individual external lighting requirements, especially given that it is unlikely that the scheme would be served by its own street lighting scheme.

Lighting

This is a sensitive E1 Lighting Zone. Wayside is an unlit rural roadway.

The group of dwellings could transform and inevitably harm this tract of 'undeveloped land' through the combined effect of internal and poorly designed exterior lighting associated with any modern residential development. If the approved development is constructed the effect of the lighting could be far more brutal. This is regardless of the provision of any communal private street lighting.

External lighting should must be controlled by a condition. The use of anti light pollution glass could also be considered at the reserved matters stage. As explained above the layout can however limit the visible impact of the development from Wayside.

The lighting controls are also necessary to safeguard the existing ecological environment as observed by the submitted ecological report.

Archaeological Implications

Standard archaeological conditions would be recommended if permission is granted.

Conditions

These will need to satisfy the normal legal tests.

Due to the extenuating circumstances these are recommended to include the withdrawal of permitted development rights, lighting, an ecological management plan, no vehicular link to Langley Road and even the upgrading of the Wayside through a Grampian type condition, notwithstanding the current local views.

Reserved Matters

If permission is granted considerable weight should be given to the indicative / illustrative plans which echo the historic permission in conditioning the reserved matters. This is because of the impact upon the Green Belt.

The LPA would be unable to support any housing at the site if was not for the extant permission. There has to be measured change to safeguard the Green Belt. Therefore much weight should be given to any reserved matters scheme in terms of its scale as compared with the current starting point of the footprint, height, volume, floor space, parking etc of the historic

scheme. Otherwise there will be the cumulative attrition of its openness. The fallback layout plan provides a 'best opportunity' to provide a robust template to ensure a high quality development.

In this respect Members attention is given to the long established and robust approach to the control of the enlargement of dwellings in the Green Belt. This is reflected through saved DBLP Policy 23 and the NPPF. In this respect given the extenuating circumstances it would not be expected that the sizes of the dwellings are much in excess of those shown by the illustrative plans or follow a different layout , but reasonably allowing in the original design for adaptable accommodation by taking into account the scope provided for enlarging the dwellings at the outset in the design with the withdrawal of permitted development rights in this context. This is not unreasonable given the background of why there is even a case to consider positively any residential development at the site.

Moreover, there is the opportunity to consider the designs to incorporate lifetime home adaptations.

Affordable Housing

Core Strategy Policy CS19 expects that affordable homes will be provided on sites providing a minimum of 0.16ha or 5 dwellings. Therefore 35% of these new dwellings should be affordable homes (i.e. 3 homes). Accordingly a planning obligation is recommended. This will be a resultant community benefit of the proposal. It is acknowledged that the fallback position of building 9 units through the extant permission will not support any such units, however, appropriate weight should be given to ensuring compliance with such an important expectation. The issue in principle was confirmed at pre application stage.

At reserved matters stage the provision of lifetime home opportunities can be considered.

Air Safeguarding

There are no implications.

Community Infrastructure Levy

This will be necessary.

Environmental Impact Assessment

This is not required.

Article 35 Dialogue

This has been extensive, exaggerated by the unusual legal/ historical background with reference to the fallback position and questions regarding the right of way along Wayside and highway link to Langley Road.

Conclusions

This application is far from straightforward due to the lawful position and the Green Belt implications, with due regard to the significant time lapse between the grant of the 1956 permission and the termination of construction in 1967.

Regardless of the decision upon this application there is planning permission for 9 detached two storey dwellinghouses at the site which can be built. Building Regulation Approval has been granted by DBC, implementable within 3 years. This is notwithstanding that the development will represent a significant encroachment into the Green Belt and will harm its openness.

The proposal offers alternative to the extant permission involving one less unit and three affordable dwellings and a community infrastructure levy.

Fundamentally due to the established fallback position of the approved implementable extant permission and the material differences between the approved and proposed indicative schemes in terms of footprint, floor space and scale there is a case to recommend permission based upon these very special circumstances. A wide range of conditions are necessary.

Due to the background the application should be referred to the Secretary of State as a departure.

RECOMMENDATION

That in accordance with paragraph 5. (1) of the Town and Country Planning (Consultation) (England) Direction 2009 the application be **REFERRED** to the Secretary of State (DCLG).

1. In the event that the Secretary of State does not call in the application that the application is **DELEGATED** to the Group Manager - Development Management & Planning with a view to approval subject to the completion of a planning obligation under s.106 of the Town and Country Planning Act 1990 and the draft list of conditions below.

That the following Heads of Terms for the planning obligation be agreed:

- The provision of 3 affordable dwellings.

- 1 **Application(s) for approval of reserved matters (layout, appearance and landscaping) shall be made no later than three years beginning with the date of this permission and the development shall be commenced not later than 2 years from the final approval of the reserved matters or, in the case of approval of the reserved matters on different dates, the final approval of the last such matter to be approved.**

Reason: To comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

- 2 **Plans detailing the site layout, the dimensions, height, layout and materials of the dwellings and any associated outbuildings and access to each dwelling house shall be submitted at the reserved matters stage and be approved by the local planning authority before development commences. Details submitted under this requirement shall include the following:**

- **No dwelling house shall be more than two storeys.**

- The dwelling house on Plot 5 shall be single storey unless of a design which in the opinion of the local planning authority avoids any harm to the residential amenity of Amberslea.
- The proposed slab, finished floor and ridge levels of the dwellings in relation to the existing and proposed levels of the site and the surrounding land.
- The dwellinghouses shall aligned /set back from the access road and served by individual driveways and associated internal turning areas with the remainder of all the front gardens subject to soft landscaping in accordance with the principles shown by the indicative layout plan.
- The pedestrian visibility splays of 2 m x 2 m serving each dwelling house access shall be provided at all times within which there shall be no obstruction to visibility between 600 mm and 2 m above the carriageway at ant time.
- Vehicular access for all the dwellings from the approved access road from only Wayside.
- Refuse facilities for each dwelling house.
- The approach to sustainable construction.
- The design to accommodate lifetime home opportunities.

The development shall be carried out fully in accordance with the approved details.

Reason: To accord with the expectations of Policies CS5, CS8, CS11, CS12, CS25 and CS29 of Dacorum Core Strategy and saved Policy 54 of the Dacorum Borough Local Plan.

3 The submitted details of both hard and soft landscape works under the Reserved Matters shall include:

- hard surfacing materials;
- means of enclosure and boundary treatments;
- all services ;
- soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of trees and plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- a biodiversity /ecological /landscape management plan for the application site and the area edged blue.

The approved hard landscape works shall be provided prior to the first occupation of the development hereby permitted and thereafter shall be retained at all times unless otherwise agreed in writing by the local planning authority.

The approved soft landscaping shall be planted in the planting season following the first occupation of any of the dwellinghouses hereby permitted . For the purposes of this condition the planting season is between 1 October and 31 March.

The biodiversity/ ecological/ landscape management plan shall be carried out and maintained at all times fully in accordance with the approved details.

Reason: To safeguard the local environment, in the interests of residential amenity visual amenity and biodiversity in accordance with the requirements of Policies CS5,

CS12, CS26 and CS29 of the Dacorum Core Strategy.

- 4 **Any tree, hedge or shrub which forms part of the approved landscaping scheme which within a period of ten years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by another tree, shrub or section of hedge of the same species and size as that originally planted shall be planted at the same place in the next planting season, unless the local planning authority gives its written consent to any variation. For the purposes of this condition the planting season is between 1 October and 31 March.**

Reason: To safeguard the local environment, in the interests of residential amenity, visual amenity and biodiversity in accordance with the requirements of Policies CBS 5, CS12, CS26 and CS29 of the Dacorum Core Strategy.

- 5 **Details of the tree and hedge protection measures (including site compounds, any temporary construction roads , protective fencing, service trenches/ underground etc) shall be submitted to and agreed in writing with the local planning authority prior to commencement of development and including where relevant the land edged blue .The protective measures shall be maintained for the entire period of construction, removed only after the completion of the whole development**

Reason: In order to ensure that damage does not occur to the trees during building operations in accordance with Dacorum Core Strategy Policies CS5 ,CS12 and saved Policy 99 of Dacorum Borough Local Plan.

- 6 **No dwelling house hereby permitted shall be occupied until the approved roadway, footpaths and turning head (including swept paths) are provided fully in accordance with the approved reserved matters for these details. The roadway and turning head shall be constructed with a loading capacity necessary to accommodate fire tenders.**

Reason: To ensure the provision of an acceptable means of access to the site for all vehicles including emergency and refuse vehicles and so as not to compromise highway safety in accordance with Dacorum Core Strategy Policies CS8 & CS12 and saved Dacorum Borough Local Plan Policies 54 and 55.

- 7 **The parking spaces shown by the approved drawing subject to the reserved matters shall be provided fully in accordance with the approved plans before the first occupation of the respective dwellinghouses hereby permitted and thereafter shall be retained at all times and shall be only used for the parking of vehicles.**

Reason: To ensure the adequate and satisfactory provision of off-street vehicle parking facilities in accordance with Policies CS8 & CS12 of the DBC Core Strategy and Policies 54 and 58 and saved Appendix 5 of the Dacorum Borough Local Plan.

- 8 **Details of the upgrading of Wayside (with a programme of works) shall be provided and agreed in writing with the local planning authority prior to commencement of development hereby permitted. The upgrading shall be carried out fully in accordance with the approved programme of works unless there is written justification from the Developer that it is not legally feasible**

to carry out such upgrading and subsequent approval by the local planning authority to this approach.

Reason: TIn the interests of highway safety in accordance with Policies CS8 & CS12 Dacorum Core Strategy and saved Policies 54 and 55 of Dacorum Borough Local Plan.

- 9 **Detailed proposals for the fire hydrant(s) serving the development as incorporated into the provision of the mains water services for the development whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development and in accordance with the approved details. The fire hydrant(s) shall be provided prior to occupation of any dwelling house forming part of the development hereby permitted and thereafter retained at all times.**

Reason: To enable appropriate development to occur, ensure a safe, sustainable form of development which provides for its own infrastructure for fire emergencies in accordance with Dacorum Core Strategy Policies CS12 and CS29 and Saved Policy 54 of Dacorum Borough Local Plan.

- 10 **Prior to the commencement of the development hereby permitted details of a surface and foul water drainage system shall be submitted to and approved in writing by the local planning authority. The surface water drainage system shall be a sustainable drainage system and shall provide for the appropriate interception of surface water runoff so that it does not discharge into the highway or foul water system. The development shall be carried out and thereafter retained fully in accordance with the approved details.**

Reason: To ensure that the site is subject to an acceptable drainage system serving the development in accordance with the aims of Policies CS12 and CS31 of the Dacorum Core Strategy and to protect groundwater to accord with the requirements of Policies CS31 and CS32 of the Dacorum Core Strategy.

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

1. **The programme and methodology of site investigation and recording,**
2. **The programme for post investigation assessment,**
3. **Provision to be made for analysis of the site investigation and recording,**
4. **Provision to be made for publication and dissemination of the analysis and records of the site investigation,**
5. **Provision to be made for archive deposition of the analysis and records of the site investigation, and**
6. **Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.**

Reason: In order to ensure investigation and preservation of archaeological findings

in accordance with Policy CS27 of the adopted Core Strategy

- 12 **Development shall take place in accordance with the Written Scheme of Investigation approved under Condition 11 and the development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 11 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.**

Reason: To safeguard the site's archaeology to comply with Policy CS27 of Dacorum Core Strategy.

- 13 **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending or re-enacting that Order with or without modification) no development falling within the following classes of the Order shall be carried out without the prior written approval of the local planning authority within the residential curtilages of the dwellinghouses hereby permitted:**

Schedule 2 Part 1 Classes A, B, C, D and E

Part 2 Classes A and B

and the garages of the dwellinghouses hereby permitted shall only be used as garages for the parking of vehicles.

Reason To enable the local planning authority to retain control over the development in the interests of safeguarding the character and appearance of the locality in accordance with and to ensure the provision of adequate off street parking in accordance with Policies CS5, CS8 and CS12 of Dacorum Core Strategy .

- 14 **Details of any exterior lighting shall be submitted to and approved in writing by the local planning authority. The exterior lighting shall be installed and thereafter retained and maintained fully in accordance with the approved details.**

Reason To safeguard the local environment in accordance with the requirements of Policies CS5, CS12, CS26 and CS29 of the Dacorum Core Strategy and saved Policy 113 and Appendix 8 of Dacorum Borough Local Plan.

- 15 **No development hereby permitted shall commence until the following are submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.**

- **Details of wheel cleaning facilities for construction vehicles,**
- **Construction Traffic Management Plan and Access Route ,**
- **A scheme of on-site parking for construction workers s submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.**

During the whole period of construction or thereafter there shall be no vehicular link formed or retained between the area edged blue and Wayside.

Reason: In the interests of highway safety and residential amenity in accordance with Policies CS8 and CS12 of Dacorum Core Strategy.

- 16 **The outline permission hereby permitted is granted with respect to Indicative Site Plan 14-017-02 Rev A with reference to the means of access from Wayside, the position of the access road and the turning head.**

The scale of the development shall be no greater than the footprints of each dwelling house shown by this drawing (subject to permitted development changes under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending or re-enacting that Order with or without modification) Schedule 2 Part 1 Class A.

Plans detailing the dimensions, height, scale, layout, materials of the dwellings and any associated outbuildings and access to them shall be submitted at the reserved matters stage and be approved by the local planning authority before development commences.

Reason: For the avoidance of doubt and in the interests of proper planning and to ensure a satisfactory form of development in accordance with Dacorum Core Strategy Policies CS5 and CS12 and Saved DBLP appendices 3 & 7.

ARTICLE 35 STATEMENT

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.

INFORMATIVES

Badgers

Any works must be carried out under the legal conditions of a European Protected Species (EPS) development licence obtained from Natural England.

Note: All works, including vehicle movements should fully take into account the impact local habitats.

Contamination

The developer should keep a watching brief during ground works on the site for any potentially contaminated material.

Should any such contaminated material be encountered, then the Council must be informed without delay, advised of the situation and an appropriate course of action confirmed to the Council's Environmental Health Department.

Guidance document relating to land contamination is available in the Council's website: <http://www.dacorum.gov.uk/default.aspx?page=2247>

Note: The local planning authority has not imposed contamination conditions as recommended by the Council's Scientific Officer. This is in direct response to the Agent's response to the expert advice. In developing the site the responsibility for securing a safe development rests entirely with the Developer and/or landowner. Therefore the Developer is expected to ensure that before the occupation of any dwellinghouses and following completion of the development site any contamination has been comprehensively and safely addressed which will be entirely outside the Council's jurisdiction due to the lack of the recommended contamination conditions.

Should any such contaminated material be encountered, then the Council must be informed without delay, advised of the situation and an appropriate course of action confirmed to the Council's Environmental Health Department.

In discharging Condition 10 the onus will be with the Developer to ensure that the drainage scheme is designed to ensure that there is no groundwater pollution from on site contamination. This takes into account the lack of recommended contamination conditions.

Land Stability

The government advice is that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

ANNEX A: APPLICANT'S PLANNING STATEMENT

1. INTRODUCTION

1.1. This statement is submitted in support of planning application ref 4/03490/15/OUT

1.2. The proposed development is as set out in the Application Forms and Design and

Access Statement and involves the construction of 8 detached dwellings.

1.3. The site is located in the metropolitan Green Belt where there is a presumption against

inappropriate development except where it can be demonstrated there are Very Special Circumstances (NPPF para 87).

2. VERY SPECIAL CIRCUMSTANCES

2.1. The purpose of this statement is to explain what the Very Special Circumstances are

and to make the case in support of the application and why planning permission should be granted as an exception to Green Belt policy.

2.2. Although the application site is currently undeveloped garden land to the rear of Longfield and is designated Green Belt, it is within an area which is predominantly developed land and has a long planning history.

2.3. In February 1956, planning permission was granted for residential development comprising 9 dwellings and an access roadway to serve the development from Wayside. (Planning Ref W/37/56 - copy attached)

2.4. In 1965 the planning authority approved the reserved matters application - W/2224/64

(copy attached).

The permission was implemented prior to the 16th 2.5. February 1967 and a Certificate

Lawful Use was granted on 23rd March 2011 (copy attached).

2.6. The development was not completed but the permission remains extant.

2.7. The layout of the consented development is not considered to be the optimum / most

appropriate having regard to current design standards.

2.8. The design of the consented dwellings is not considered to be of the highest standard.

2.9. In consultation with the planning authority over an extended period the applicant has

sought to make improvements to the layout and design of the consented development

through the submission of applications for non-material minor modifications

(16/04/2013), an alternative access to the highway (4/00518/12/FHA) and under a pre

application enquiry (4/02242/14/PRE).

2.10. Although due process has been applied in the determination of the applications referred to in the preceding paragraph, the planning authority has not embraced the opportunity to secure the benefits in design and environment that would be realised from a slightly revised / amended form of development.

2.11. It is in fulfilment of those objectives that this application is made.

3. FALLBACK

3.1. The fallback remains the extant planning permission for 9 dwellings as authorised

under the CLU (4/0127/11/LDP).

3.2. Should this application not be approved, the applicant will complete the authorised

development in accordance with the approved plans.

3.3. A full plans application for Building Regulations approval for the development authorised under W/37/56, W/2224/64 and 4/0127/11/LDP was submitted in November

2015 under ref B/15/16043.

3.4. The Very Special Circumstances in this case concern 'fallback', which is a material

consideration in any event, and the benefits that would flow from a more suitable, sensitively planned and designed housing development. In addition, it is considered that in assessing the balance and the weight that must necessarily be given to potential harms and benefits, the contribution that the land is currently making to the

5 purposes of Green Belt (NPPF para 80) should also be taken into account.

3.5. This planning application - for 8 dwellings - is demonstrably less harmful to the Green

Belt than the permitted development comprising 9 dwellings.

3.6. The application site does not make a significant contribution to any of the 5 Green Belt

purposes.

3.7. This planning application provides for access to serve the development over Wayside -

a private road. The applicant is satisfied that it is an acceptable and appropriate means of access and that the land can be accessed in this way.

4. ACCESS FROM WAYSIDE

4.1. It is not generally necessary to evidence formal rights of access in support of a planning application as it is not generally considered to be a material planning consideration.

4.2. However, where there is a reliance on fallback (as in this case) and that may be affected by the existence of formal rights, it may be considered a material consideration.

4.3. In determining the weight that should be given to the fallback position in this case, regard should be to be given to existence or lack of rights and the evidence in support or against.

4.4. There appear to be no express rights of access reserved over Wayside for the benefit of Longfield and no case to claim prescriptive rights (other than for the existing use). This may be cited by objectors as a reason why the development commenced in the 1960's was never completed. However, from the legal investigations that have been carried out more recently, the rationale for this is unclear.

4.5. There is actually no evidence to show that Longfield does **not** benefit from satisfactory rights of access and no reliable evidence that the development was not completed in the 1960s for reasons relating to access. On account of both of these points it would be wrong to make an assumption that insufficient rights existed.

Against 'no evidence' on one side of the balance scale, the evidence 4.6. of rights existing is overwhelming. The gates serving Longfield from Wayside, and the longstanding use of Wayside (for as long as anyone can remember) at all times and for all purposes might be sufficient in itself.

4.7. Also, the express grant of rights affecting that part of Wayside that remains 'outside' the gates into Longfield, (that forms part of the Longfield registered freehold title) over which the property known as Amberslea takes access, would not be available to it were it not for the fact that Grantor of those rights had similar rights and could grant the same.

4.8. Finally, the conveyancing history of land sold off from the Whippendell Park Estate from the 1920's puts matters beyond doubt. As the appended plans, title information and copy conveyance dated 15th April 1924 reveal, the whole of the Wayside development was in common ownership (Ellen Harwood) in the 1920s. As each plot was sold, the necessary rights of access and servicing were granted over Wayside and Megg Lane and similar rights were reserved for the benefit of the retained land. The express rights provided for the benefit of the Wayside properties as they were progressively sold off were contingent on those rights being available to the vendor at the time. Reciprocal rights were reserved for the vendor and her successors in title. Also consistent with this are the rights referred to in the 'Windrush' title (HD 386447) from the original conveyance by Ellen Harwood in November 1929 - which specifically refers to rights being reserved for the benefit of her retained 'Whippendell Park Estate'.

5. CONCLUSION

5.1. For the reasons set out above and evidenced in the appended documents, it would be wholly inappropriate to discount the weight of the fallback position on account of an assumption that the site did not benefit from adequate rights of access.

5.2. Accordingly, having regard to the merits of the planning application and the benefits that would be achieved by comparison to the consented scheme, we believe that requirements to demonstrate very special circumstances are fully satisfied and that the application should be approved on this basis.

