

**4/03857/15/FUL - RESIDENTIAL DEVELOPMENT OF 3 DWELLINGS WITH DETACHED GARAGES AND ACCESS DRIVEWAY THROUGH LONGFIELD. FORMATION OF NEW ACCESS TO HIGHWAY TO LANGLEY ROAD AND ASSOCIATED LANDSCAPING WORK INCLUDING THE CLOSURE OF TWO EXISTING VEHICULAR ACCESS CROSSOVERS.. LAND REAR OF LONGFIELD, LANGLEY ROAD, CHIPPERFIELD.**

**APPLICANT: Mr Clayton.**

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[Case Officer - Nigel Gibbs]

## **Summary**

The application is recommended for refusal.

The site is within the Green Belt site wherein residential development is regarded as inappropriate development which is by definition harmful. The land associated with the proposal involves providing an access road through the residential curtilage of Longfield from Langley Road to be connected to other land within the curtilage.

This other land 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.

In terms of Green Belt policy the land subject to the extant permission is not regarded as previously developed land. Therefore very special circumstances are required to justify support for the proposed housing. The associated roadway is an integral part of the proposal and has been considered in terms of its impact upon the Green Belt. There should also be no other harm.

Fundamentally this historic 'live' approval for residential development on part of the application site represents the lawful 'starting point' / 'fallback position' for the LPA's consideration of the very special circumstances.

In terms of the fallback position the proposed 3 dwellings reflect the 'development envelope'/land associated with decision 4/00127/11/LDP with fewer units and less floor space. The approved and proposed schemes are however otherwise fundamentally materially different in terms of the layout, form and means of access.

Due to the effect of the proposed roadway from Langley Road to serve the development there will be a significant resultant encroachment of the Green Belt adversely affecting its current openness and its 'lawful openness'. In comparing the extant permission's form/ layout fallback position with the proposal, the openness will also be significantly and harmfully changed by the position of the proposed dwellinghouse Plot 2 when the development is viewed and approached from Wayside.

Despite the weight that can be given to the fallback position in supporting residential development at the site due to the effect of the roadway and the dwellinghouse on Plot 2 these will individually and collectively fundamentally harm the openness of the Green Belt. Therefore the established fallback position is insufficient to outweigh identified harm to the Green Belt resulting from the proposal which will urbanise a large area of Green Belt due to the roadway.

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.

It has been taken into account that proposal's effect upon the residential amenity of Wayside and Megg Lane will be much less than the fallback position based primarily upon the impact of vehicular movements. However, this effect/ benefit does not outweigh the identified harm to the Green Belt.

## **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. The eastern driveway is split with a second driveway leading to the substantial rear garden.

There is a very substantial area 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 dwellings 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 upper part of application site closest to Wayside 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 (see History).

Longfield features an historic roadway between its curtilage and the rear of its land within the vicinity of Wayside. This is not in use.

## **Proposal**

The application is for the construction of 3 detached two storey gable roof 4 bedroom dwellings on land within the upper part of the rear of Longfield to the south west end of Wayside. Each will be served by a detached hipped roof double garage. The layout features the dwellings clustered around a turning head. Each dwelling will be served by a large garden.

Plot 1 will adjoin Pinetrees to the south and closest to Longfield. Plot 2 will occupy a central position facing onto the turning head and visible from Wayside. Plot 3 adjoining

Amberslea on the north western side will have access to a paddock to the north.

The 3 dwellings will be linked to Langley Road by an elongated roadway in a different position to the historic roadway at Longfield. The proposed approximately 300m length mainly 3.7m wide roadway will be designed to accommodate the requirements of emergency, refuse and service vehicles. The roadway will be located between Plots 1 and 2.

Access onto Langley Road will involve the replacing the existing 'in and out' access arrangements. The design will replicate that which LPA approved in 2012 for a single access to serve Longfield only. This access was designed with a width, radii and sight lines which could serve up to 4 dwellings. However, in granting permission this strictly limited to only Longfield. For clarification an associated access road shown by the submitted plans at that time was excluded from the permission. This permission has expired.

There will be no vehicular access from Wayside.

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.

Annex A is the Applicant's Supporting Statement submitted for Application 4/ 03490/15 /OUT .This refers to the legal fall back position, the Green Belt implications/ Very Special Circumstances and the Access from Wayside.

### **Procedural Issue: Wayside**

It is understood that Wayside is subject to multiple ownership with rights of way for all the dwellings.

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.

See Annex A.

### **Referral to Committee**

This is referred to the DCC due to the background history of other current applications whereby all 3 should be considered by the DCC(with the others called in ) and the level of public interest.

### **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 Counsel's Opinion in this matter. Counsel's Opinion was therefore sought and received during the course of the previous application.

The Counsel's 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 Counsel's 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 Counsel's 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 dwellinghouse (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. Building Regulation Approval B/16/01589/R. 9 dwellings following an earlier refusal based upon is understood be a technicality and taking into account the need to determine the application within the required 5 weeks.

5. Planning Applications 4/03490/15/OUT and 4/03696/15/FUL. Please see the Agenda.

### 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**

**( Please Note: Some of the consultations refer to the other applications at the site in combining advice. From a procedural perspective each application is to be considered upon its individual merits).**

#### Chipperfield Parish Council

Objects strongly. Please refer to the objection letter sent to DBC from one of the residents . CPC agree with all the comments and feel there is nothing else they could add to this. The letter was also sent to Highways, HCC Councillor Richard Roberts and Councillor Adam Barnes. There were again several Wayside residents at the Planning Meeting, all objecting strongly.

The letter raises a wide range of issues.

#### 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 594m<sup>2</sup> of new floor space (4/03323/14/PRE). Planning permission is now sought for the construction of 3 detached dwellings with associated garages taking access off Langley Road through the existing property known as Longfield.

The Council are also considering two further planning applications at this site including an outline application for 8 detached dwellings (4/03490/15/OUT) and a further application for full permission for 3 detached dwellings and garages but with access off Wayside (4/03696/15/FUL).

With regard to planning application 4/03696/15/FUL, which is pending the Councils consideration, there are clearly a number of similarities with that proposal and the

proposal contained within this subsequent planning application 4/03857/15/FUL, including the number and type of dwellings proposed, scale of the proposed development, and layout arrangements relating to the position of the proposed dwellings. The key variance relates to the proposed access arrangements with the former application proposing access off Wayside and this subsequent application proposing access off Langley Road via a driveway through the curtilage of the existing residential property known as Longfield. Therefore, the response below considers the proposed access arrangements only as the Strategic Planning Team's response to planning application 4/03696/15/FUL should also be considered material to this proposal..

#### *Access off Langley Road:*

The proposed development consists of the construction of three detached dwellings and detached garages which would be situated to the rear of Longfield (within the current rear garden of this property). These dwellings would be accessed via a new junction off Langley Road. There are currently two access points off Langley Road serving the existing property and the proposal seeks consent to close these two access points in favour of one access located centrally within the plot frontage.

Access to the existing property (Longfield) and the proposed dwellings would then be established via the construction of a proposed new driveway which would traverse through the current curtilage of Longfield (to the east of the dwelling) leading northward then northwest over approximately 300m. The access road would measure 3.7 metres wide with sections measuring up to 4.8 metres wide to connect to Longfield and the proposed dwellings to the north. It is proposed to be constructed using loose gravel hogging for the main length of the track with the first 10 metres back from the highway formed using some form of hard bound surface/materials (specific details not referred to within the application).

It is also noted that the applicant refers to, and relies upon, a former permission granted by the Council on 30<sup>th</sup> November 2012 for the closure of the two existing accesses and construction of a new, single access off Langley Road (planning permission 4/00518/12/FHA). However, as far as the Council are aware, this consent has not been implemented and the time period for implementation has now lapsed (i.e. 30<sup>th</sup> November 2015).

#### *Impact of the Proposed Access on the Green Belt*

In addition to comments provided in response to planning application 4/03696/15/FUL the proposed access arrangements from Langley Road to the proposed detached dwellings should be considered in respect of the appropriateness of development within the Green Belt. In isolation, the construction of a road could be deemed to constitute an engineering operation which might therefore be considered as appropriate development within the Green Belt (paragraph 90 of the NPPF). However, the development proposed and before the Council for consideration is *'Residential development of 3 Dwellings with detached garages and access driveway through Longfield. Formation of new access to highway to Langley Road and associated landscaping work including the closure of two existing vehicular access crossovers'* and should therefore be assessed in its entirety in respect of national and development plan policies relating to the Green Belt (i.e. the NPPF and Core Strategy Policy CS5).

Notwithstanding the above, as well as comments previously made in respect of planning application 4/03696/15/FUL which remain material to consideration of this planning application; SP would also note the impact of the proposed access road on the openness of the Green Belt. The proposed access road would traverse across the site and be formed of hard surfacing materials which would introduce an urbanised character on land that is currently undeveloped (i.e. a greenfield site) forming the garden of the existing dwelling. Additionally, the proposed development includes the erection of close-boarded fencing to delineate the garden areas for proposed plots 1 and 2 alongside the access track/driveway (as well as additional fencing to define the third residential plot). This would also cause further intrusion into the openness of the Green Belt at this location. As such, the proposed driveway, which would enable access to the three proposed dwellings, is considered to detrimentally impact upon, and reduce, the openness of the Green Belt in this part of the Borough. Mindful of paragraph 90 of the NPPF, which states that 'Certain other forms of development [engineering operations] are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt, the proposed development is considered to be contrary to the NPPF and Core Strategy CS5, particularly in the absence of very special circumstances which have not been advanced within this application.

#### *Other Matters:*

Both the ecology survey and tree survey/arboricultural assessment report submitted in support of this planning application were produced/published following assessments on site that took place during 2011. Given the time that has lapsed since these assessments, it would be reasonable to conclude that the situation on site may have changed over the intervening four years. As such, the applicant should be advised to carry a new and/or updated Phase 1 Habitat survey, to carry out any relevant protected species surveys and complete a new/updated tree survey and arboricultural assessment which covers the entire application site incorporating both the proposed access track and area proposed for housing. This information seems to only cover the area of the proposed access track off Langley Road and part of the application site within the curtilage immediately surrounding Longfield. It does not there provide any assessment of the part of the application site where the three new dwellings are proposed.

#### *Conclusion:*

As per SP's conclusion for planning application 4/03696/15/FUL, the proposed development is considered to be inappropriate development within the Green Belt. The proposed access off Langley Road and the subsequent driveway leading to the proposed new dwellings would also have an additional detrimental impact upon the openness of the Green Belt by introducing built development and an urbanising character on land that is currently described as 'greenfield/undeveloped'. Therefore, in absence of very special circumstances' for the Council to consider, the proposed development is contrary to national planning policy contained within the NPPF and Core Strategy Policies CS5 and CS6.

( Note: Strategic Planning Response to Planning Application 4/03696/15/FUL)

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 594m<sup>2</sup> of new floorspace (4/03323/14/PRE). Planning permission is now sought for the construction of 3 detached dwellings with associated garages. The Council are also considering two further planning applications at this site including an outline application for 8 detached dwellings (4/03490/15/OUT) and a further application for full permission for 3 detached dwellings and garages but with access off Langley Road (4/03857/15/FUL)

#### *Planning History:*

As previously alluded to within SP's earlier pre-application advice, we 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 you concur with this assessment and decide 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:*

SP recognise this application is the second which has recently been submitted for development at this site and follows the submission of an outline planning application for the proposed construction of 8 dwellings, which is currently pending consideration. The following comments are therefore similar in nature to those provided for planning application 4/03490/15/OUT due to the comparative policy issues.

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 three 4+ bed detached dwellings arranged in a cul-de-sac layout with access taken off the western extent of Wayside via Megg Lane from Langley Road. With regard to the character of the surrounding area, the proposed layout and scale of these properties is reflective of the existing plots off Wayside in that they provide a detached property with a detached garage set within a substantial curtilage. However, it is also noted that the proposed development would be situated on land that currently forms part of an undeveloped gap between Wayside and residential properties around Croft Lane/Croft End Road, which separates these distinct character areas. The site also contains mature vegetated boundaries to the northeast and southwest of the application site which enhances the rural character.

#### *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 9no. 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. it is considered 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:*

The proposed development seeks to take access off Langley Road, onto Megg Lane and then along Wayside to the application site which forms land to the rear of Longfield. It is understood that both Megg Lane and Wayside are private, unadopted roads and are not therefore maintained by Hertfordshire County Council as the Local Highway Authority.

Nevertheless, consideration should be given to the impact of the proposed development in highway and traffic terms. Paragraph 32 of the NPPF states that decisions should take account of whether safe and suitable access to the site can be achieved for all people. Saved Local Plan Policy 51 states that all development proposals should be assessed to ensure there is no significant impact upon (inter alia) (a) the nature, capacity and use of the highway and its ability to accommodate traffic generated by development. It also states that in villages and countryside areas special regard will be paid to the effect on the safety and environmental character of country lanes.

Whilst the proposed development is not likely to generate significant amounts of traffic, consideration should be given as to whether any additional ingress/egress off of/onto Langley Road would impede the flow of traffic or detrimentally impact upon highway safety. The advice of the Local Highway Authority should be sought in this respect. Although both Megg Lane and Wayside are unadopted, private roads, the additional traffic generated by three dwellings is not likely to significantly alter the environmental character of this country lane.

*Design:*

In terms of design, the proposed development should be considered against Core Strategy Policy CS12, which states that development should provide a safe and satisfactory means of access, retain important trees and replace them with suitable species, integrate with the street character and respect adjoining properties in respect of (inter alia) layout, site coverage, scale, height, and materials. The proposed development would be consistent with nearby residential properties in terms of layout, height (being of two storeys) and scale of the nearby detached properties with particular use of the encouraged L- or T-plan layout for larger buildings. Also, the applicant has provided an indication of the location of replacement trees to be planted following any to be removed as result of the proposed development (drawing no. 14-017-11 Nov'15). However, in respect of trees, SP note that the tree survey provided with the planning application was carried out in November 2011 and relates to the proposed construction of an access track through Longfield. Additionally, no plan is included within the appendices and therefore it is not clear whether the trees within this application site have been surveyed. Additional or updated information should therefore be sought from the applicant to enable the Council to make an informed

judgement.

In terms of materials, the proposed development would be constructed using facing brick work with render and horizontal weatherboarding. The roof would be finished using interlocking tiles and the fenestrations would be either timber or uPVC double-glazed units. The applicant has not provided detail regarding the type and colouration of the above materials and therefore, it is difficult to assess whether the proposal would respect adjoining properties or the rural setting of the application site. Nevertheless, regard should be paid to the Chipperfield Village Design Statement (2001) and the guidelines contained within the Landscape Character Assessment (2004), both of which have been adopted as a Supplementary Planning Guidance by the Council. These documents identify the need to conserve and enhance the distinctive character of traditional settlements through high standards of new buildings with the consistent use of local traditional materials and designed to reflect the traditional character of the area.

Consideration should also be given to Core Strategy Policy CS11 and Saved Local Plan Policies 18 and 21 regarding the appropriate provision of new dwellings. In particular, regard should be paid to the density and character of development that is suitable to the area (Policy 18 (c)). On a site measuring 0.92 hectare, the proposed development would be constructed at a density of 3.26 dwellings per hectare. Saved Local Plan Policy 21 states that proposals which have a density of below 30 dwellings per hectare (net) should be avoided. However, SP recognise the context within which the application site sits and the surrounding character of residential development and, as aforementioned, consider that the proposed layout is reflective of the existing residential character off Wayside and Megg Lane.

#### *Affordable Housing:*

Given the potential scale of the proposed development on the site, and size of the application site in particular (0.92 Ha), any permission granted should be subject to the provision of affordable homes (Policy CS19). 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. 1 home in this instance).

However, the LPA obviously has a choice as to whether to apply the policy strictly or take a more pragmatic approach (subject to justifying circumstances) given that generally a waiver exists for contributions for smaller schemes (i.e. where they are below both the size and area thresholds). For example, there may be advantages for the openness of the Green Belt in supporting a smaller scale of development, if fully justified in planning terms, over a larger scheme on the site (i.e. that under 4/3490/15/OUT). This approach would require a clear justification of site-specific reasons to ensure that the decision did not undermine the application of the policy in other instances. SP would also need to be satisfied that the site would not ultimately form part of a larger site which would normally be subject to the charge. The Strategic Housing team may have a view about whether a pragmatic approach is justified here or not.

Whilst located just outside of the defined boundary of the Chipperfield 'Selected Small Village in the Green Belt', the LPA may wish to also consider if any weight should be attributed to Core Strategy CS20, although it is recognised that this is a market housing -led scheme. This policy states that small-scale schemes for local affordable

homes will be promoted in *and adjoining* small villages in the countryside, and exceptionally elsewhere with the support of the local Parish Council. If pertinent to consideration of this application, development should only be permitted if (a) it meets an identified local need for affordable housing; (b) the housing is for people who have a strong local connection with the village or parish through work, residence or family; and (c) the scheme is of a scale and design that respects the character, setting and form of the village and surrounding countryside. The applicant has not provided sufficient detail regarding the provision of affordable homes as part of the proposed development and therefore additional information should be sought for consideration.

#### *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 local development plan policies. Therefore, the principle of the proposed development is not considered to be acceptable. 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

Whilst Conservation & Design recognise the proposal under this application for 3 dwellings to be identical to that 4/03696/15/FUL in terms of the design of the three dwellings and layout is the same as 4/0369/15FUL the main difference is the means of access for the new dwelling, which would be directly from Langley Road, rather than Wayside. This is by means of a new access drive through the rear garden of the existing early Edwardian Longfield, with a new access point created on the highway and providing joint access to the existing dwelling.

This scheme is considered to be adversely harmful to the character of the area with respect to this proposed driveway, which is considered to be uncharacteristically long, convoluted, and intrusive in nature. This proposal effectively creates a very small residential enclave, which whilst directly adjacent to existing residential development is physically disconnected and isolated from it despite appearing to an extension to it. That said it is also considered this driveway has an adverse impact on the setting of Longfield.

Whilst the design and layout of the 3 dwellings would be unchanged the proposed driveway is considered to be incongruous awkward feature that ultimately is harmful to the character and grain of this part of Chipperfield. As such Conservation & Design would raise an objection to 4/03857/15/FUL.

#### Building Control

No formal response.

#### Trees & Woodlands

After visiting the site TW became aware that far fewer trees would be affected by the proposed development as originally assumed. The most valuable trees that would merit TPO 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, we would be unable to TPO them.

TW entirely agree with Hertfordshire Ecology stating '... am 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 me. 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 and also find 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.

#### 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 Councils website ([www.dacorum.gov.uk/default.aspx?page=2247](http://www.dacorum.gov.uk/default.aspx?page=2247)).

#### Noise & Pollution

No response.

#### 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 subject to a condition ( see below).

##### Comment

1. Overview. Hertfordshire County Council has no objection in principle to the proposed three new dwellings with new access road off Langley Road subject to the permanent closing off of the two existing vehicle crossovers (Allowed under planning permission 4/00518/12/MFA). The latter offsite works will be subject to a legal section 278

agreement and highway authority would ask that the following condition and informatives are also included within any permission to grant.

S278 Agreement Any works within the highway boundary, including alterations to the footway reinstatement and the new site access off Langley Road, C74, known as 'off site works' will need to be secured and approved via a legal S278 agreement with HCC.

## 2.Recommended Condition

Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted) a visibility splay measuring 2.4 metres x 80 metres to the left and 2.4 metres x 88 metres to the right hand side when exiting, shall be provided to each side of the new centre access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: In the interests of highway safety.

## 3. Recommended Advisory Notes

The Highway Authority recommends inclusion of the following Advisory Notes (AN) to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980.

AN1) Where works are required within the public highway to facilitate a new vehicle access or modify an existing, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to Hertfordshire County Council Highways team to obtain their permission and requirements.

AN2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

AN3) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway.

## 3.Description of the Proposal

The proposal is for the construction of three new detached dwellings and garages with a new private access drive off Langley Road to the rear of 'Longfield'. The new access drive will also serve the existing house, 'Longfield'. The two existing vehicular accesses either ends of the frontage of 'Longfield' will be closed off permanently. This change of access arrangement was subject to a planning application made in 2012 which the highway authority understands has now been granted.

## 4.Assessment

The applicant has not submitted any transport information ie - Transport Assessment, Transport Statement or a Travel Plan. However, the applicant has submitted a Design and Access statement.



## 5. Langley Road.

This is a classified road, C74/530, L1 local distributor and is maintained by HCC as the highway authority. The section from the 40 mph sign to the junction of Megg Lane (U88) is 304 m long. The road is unlit and there are no current volume counts either. This information can be obtained from the Gazetteer or Webmaps.

Looking at the rolling 5year RTC data there has been two recorded RTC's in this period RTC details Slight injury incident. Date: 2 December 2011. At 08:20am. Location o/s Chipperfield Lodge. Weather conditions were recorded as fine and road surface was wet. The location of this RTC is around the corner from this site some 510 metres away and it would appear that it had no bearing on this particular site The second RTC Slight injury incident. Date: 26th April 2011. At 16:50pm . Weather conditions were recorded as fine and road surface was dry. The location of this RTC was some 480m away heading towards Kings Langley. Again it is unlikely that this RTC has anything to do with the current accesses to Longfield.

## 6. Analysis

As part of a Design and Access statement, the application should take account of the following policy documents:

7. National Planning Policy Framework (March 2012); • Hertfordshire County Council (HCC) Local Transport Plan 3-2011-2031 • Roads in Hertfordshire Design Guide 3rd Edition • Dacorum Borough Local Plan saved Appendix 5 Parking Provision.

## 8. Trip generation and distribution

9. As there are no supporting/mitigating details from the applicant regarding trip generation and distribution that this level of development will generate. However, this level of development is unlikely to generate significantly high levels of movements which would ultimately lead to demonstrable harm to the highway network in terms of free flow and capacity.

## 10. Impact on Highway Network

The creation of three new detached dwellings on this site will only impact on the highway if the development fails to provide sufficient off street parking space. This includes visitor parking if applicable.

11. Highway Layout The applicant already has permission for a new centrally located access and drive as part of a previous planning application. The access drive will not be adopted. The works to create this new access will be covered in a legal section 278 agreement.

Parking .Although parking is a matter for the Local Planning Authority (LPA), the applicant should provide details of parking provision and whether or not there will be any impact on the highway. In this case the applicant is providing 4 off street parking spaces which is a slight reduction from the present which stands at 6. It is unclear if the spaces will be DDA compliant though. The applicant is also providing 2 cycle spaces.

Roads in Hertfordshire highway design guide 3rd Edition states that the dimension and location requirements for parking bays, driveways shall be in accordance with the guidance in DfT Manual for Streets.

## 12. Accessibility

Forward Planning Officers (Passenger Transport Unit) have not supplied any details of bus services and bus infrastructure to identify gaps in the service. Refer to HCC's Bus strategy (<http://www.hertsdirect.org/docs/pdf/b/busstrategy.pdf>).

Public Rights of Way (PRoW). There appears to be no Public Rights of Way affected by this proposal. If this is incorrect then feedback from Right of Way Officer should be requested. Note that the granting of planning permission does not entitle the developer to obstruct the Public Right of Way and permission would need to be granted to temporarily close the route if required. The applicant must ensure all necessary legal procedures for any diversions are implemented. Enforcement action may be taken against any person who obstructs or damages a Public Right of Way.

13. Servicing Arrangements. Refuse and recycling receptacle storage will need to be provided. No information is provided regarding servicing of the property and a servicing arrangement is required. However, it is likely that the refuse vehicle will be able to get to the houses via the new drive. Track runs on the previous submission showed this but this will need to be confirmed as part of this application.

14. Travel Plans. The applicant has not submitted a travel plan as part of this application. The scale of the development falls below the threshold that requires either a Travel Plan or a Statement

15. Planning Obligations/ Community Infrastructure Levy (CIL)

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

16. Conclusion

The assessment does not indicate any significant issues with the proposal. The highway authority would not wish to restrict the grant of planning permission subject to the inclusion of the above conditions.

#### Hertfordshire Fire & Rescue Service

Fire Safety Inspector :HFRS has examined the drawings and note that the access for fire appliances and provision of water supplies appears to be adequate.

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

#### Hertfordshire County Council: Development Services

Response on behalf of Hertfordshire Fire and Rescue Services.

In respect of planning obligations sought by the County Council towards fire hydrants to minimise the impact of development on Hertfordshire County Council Services for the local community.

Based on the information provided to date DS seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit. DS reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in accordance with standard practice.

All dwellings must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. HCC therefore seek the provision of hydrants required to serve the proposed buildings by the developer through standard clauses set out in a Section 106 legal agreement or unilateral undertaking.

Buildings fitted with fire mains must have a suitable hydrant provided and sited within 18m of the hard-standing facility provided for the fire service pumping appliance.

The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22). In practice, the number and location of hydrants is determined at the time the water services for the development are planned in detail and the layout of the development is known, which is usually after planning permission is granted. If, at the water scheme design stage, adequate hydrants are already available no extra hydrants will be needed.

Section 106 planning obligation clauses can be provided on request.

#### Justification

Fire hydrant provision based on the approach set out within the Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements) document, which was approved by Hertfordshire County Council's Cabinet Panel on 21 January 2008 and is available via the following link:  
[www.hertsdirect.org/planningobligationstoolkit](http://www.hertsdirect.org/planningobligationstoolkit)

The County Council seeks fire hydrant provisions for public adoptable fire hydrants and not private fire hydrants. Such hydrants are generally not within the building site and are not covered by Part B5 of the Building Regulations 2010 as supported by Secretary of State Guidance "Approved Document B".

In respect of Regulation 122 of the CIL Regulations 2010 the planning obligations sought from this proposal are:

(i) Necessary to make the development acceptable in planning terms.

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development (Circular 11/95: Use of conditions in planning permission, paragraph 83).

All dwellings must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22).

(ii) Directly related to the development;

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

(iii) Fairly and reasonable related in scale and kind to the development.

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

Further Advice

As above. Also:

A Section 106 legal agreement would be the County Councils preferred method of securing fire hydrants. However, it is recognised that Dacorum Borough Council is now required to scale back the use of such agreements. If a Section 106 agreement is not otherwise anticipated for this development we would seek the inclusion of a condition to the planning permission. DS propose the following wording:

*"Detailed proposals for the fire hydrants 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 thereafter implemented prior to occupation of any building forming part of the development."*

Hertfordshire County Council: Lead Flood Authority

As it is a minor application the LLFA are not a statutory consultee. However LFA have been asked by the LPA to offer advice to place DBC in a position to make its own decision regarding surface water and drainage.

The information submitted in relation to surface water does not demonstrate the proposed development site can be adequately drained.

The Proposed Site Plan carried out by Sidey Design reference 14/017/14 states that the access road will be constructed of permeable block pave. However no further information regarding discharge location has been given. LFA acknowledge that there no surface water sewers in the vicinity therefore should infiltration be proposed. LFA recommend to LPA that infiltration tests should be carried out in accordance with BRE Digest 365.

For further guidance on HCC's policies on SuDS, HCC Developers Guide and Checklist and links to national policy and industry best practice guidance please refer to our surface water drainage webpage:

<http://www.hertsdirect.org/services/envplan/water/floods/surfacewaterdrainage/>

Informative to DBC

As the site lies over a Groundwater Source Protection Zone 3, two SuDS treatment stages should be provided to manage any potential contaminants from surface water run-off from car parking areas and access roads. The current proposals are only

proposing 1 treatment stage. The LPA should have regard to the Water Framework Directive in relation to water quality.

#### Hertfordshire Constabulary: Crime Prevention Officer

As regards designing out crime no comments.

#### 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 in bold) 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 naturally be particularly species rich. However, HE consider that any sward including these species is highly likely to be a Priority Habitat and of potential WS quality in supporting 10 neutral grassland indicators. This could be confirmed with a survey at a better time of year. Whilst all such species cannot be dominant, this description would suggest that at least some of the Indicator species are not simply rare or restricted to one or two individuals, especially given the poor survey time and conditions. This further confirms the potential quality of the grassland:

‘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 1930's and this tree may be connected with this. HE also note that the remaining open land within the ownership of the applicant has no built development proposals although this will remain entirely landlocked with no external access.

The development itself will result in the loss of an area of unimproved grassland. The remaining open area at the NW end of the site is identified as a 'paddock' to plot 3'. This implies it will be incorporated as another horse grazed field. Would this also require a Change of Use? Given the potential grassland interest, this area should be considered for retention for ecological purposes although its management will pose a significant problem if it is to remain inaccessible other than through the new residential garden.

HE is less concerned about any loss of trees to accommodate the access road from Langley Road. These may have an impact at the site level but the area is already reasonably well treed with remnant or new boundary hedgerows and woods throughout the increasingly urban veneer of Chipperfield. In any event it may be possible to provide some compensation as part of any landscaping works if appropriate.

The presence of badgers will need to be addressed as necessary, although this is recognised by the Consultant ecologists. The access road will pass very close to three outlier badger setts along the NE boundary. Appropriate provision will need to be made and a suitable Method statement adopted if works proceed in this area. However HE have no reason to believe that with appropriate guidance, this could not be achieved.

HE's main concern lies in the loss of unimproved grassland irrespective of its lack of formal Wildlife Site status. **Retention of the paddock for wildlife and / or Biodiversity Offsetting should be considered as a Condition of approval to address this.** The proposals will be damaging to the areas to be developed and the creation of gardens cannot be reasonably relied upon to maintain any existing grassland interest. The grassland interest of the paddock area will depend entirely upon its management and use – if intensive pony grazing, which is most likely the intention, this would be damaging. Unimproved grassland is a very vulnerable ecological resource within the county and locally and is still subject to losses. If the paddock area cannot be secured with an appropriate ecological management plan, then offsetting this interest away from this area should also be required. This could be aided by a translocation of the existing grassland using some topsoil striping and / or hay cut, but only if a suitable receptor site could be found locally.

Consequently, if planning permission is deemed to be already in existence and would simply be modified by this application, **there would seem little reasonable point in objecting to the proposals.** However there will be impacts on the existing unimproved grassland, directly from the built development and indirectly from the paddock creation. Whilst the latter could be retained and managed in situ, the loss to houses and gardens will not otherwise be compensated. However even the paddock will not survive under poor management.

Therefore **retention and biodiversity offsetting** or a **wholly biodiversity offsetting approach** would seem to be necessary either as a **Condition of Approval** or submitted as **further information prior to determination** in support of the proposals, in order to adequately deal with grassland conservation / translocation / replacement on this site. The need for this could be confirmed with an appropriate survey during summer months if the grassland is not destroyed in the meantime. However in HE's **the Consultant's report clearly demonstrates unimproved grassland of Wildlife Site quality is highly likely to be present. This is sufficient to justify the mitigation / compensation measures proposed.**

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

#### Environment Agency

Based on the information submitted the EA have no formal comments to make as the constraints now fall outside of our remit. However, the EA is pleased to see that the applicants are now proposing to connect to mains.

#### Thames Water

Waste .Sewerage infrastructure capacity. No objection.

There are public sewers crossing or close to your 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 erection 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. The applicant is advised to contact Thames Water Developer Services to discuss the options available at this site.

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. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Water .This is within the area covered by the Affinity Water Company.

#### Affinity Water

No response.

#### EDF Energy

No response.

#### British Gas

No response.

#### NATS

No safeguarding objection.

## Civil Aviation Authority

No response.

## Response to Neighbour Notification/ Publicity

6 objections. There are many reasons :

Green Belt.

Precedent.

Incompatibility with surroundings. Out of keeping.

Conflicts with Conservation and Environmental Objectives.

Does not reflect the former plan for the site.

Conflict with relevant local policies.

Highway safety/ access.

Effect upon trees.

Out of date ecological surveys.

Gaining access via Wayside.

Utilities/ Infrastructure.

Lighting.

Legal position in relation to planning permission at the site.

## **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.

This position has been reviewed. It is interpreted that substantial weight can be given to the extant / live permission. This 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 Fall Back Position and Very Special Circumstances*

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 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.

Effectively the approved scheme provides a template to demonstrate what can be accommodated at the site.

In terms of the fallback position the proposed 3 dwellings reflect the 'development envelope'/land associated with decision 4/00127/11/LDP with fewer units and less floor space. The approved and proposed schemes are however otherwise fundamentally materially different in terms of the layout, form and means of access.

Although the proposal comprises of two components – the housing and the access road – they should be considered together.

*The impact of the proposed access road on the openness of the Green Belt.* In isolation, the construction of a road is an engineering operation which is defined as appropriate development within the Green Belt (paragraph 90 of the NPPF). However, the development proposed and before the Council for consideration is '*Residential development of 3 Dwellings with detached garages and access driveway through Longfield. Formation of new access to highway to Langley Road and associated landscaping work including the closure of two existing vehicular access crossovers*' and should therefore be assessed in its entirety in respect of national and development plan policies relating to the Green Belt (i.e. the NPPF and Core Strategy Policy CS5).

The proposed access road represents a significant scale of new development. To satisfy fire/ emergency access the very elongated roadway is required to be 3.7m, with passing bays and a loading/ surfacing capacity of 13.5 tonnes across a significant part currently undeveloped (i.e. a greenfield site) forming the garden of the existing dwelling introducing an urbanised character to the large tract of 'development free' land. The impact upon the openness is reinforced by the proposed development includes the construction of close-boarded fencing to delineate the garden areas for proposed Plots 1 and 2 alongside the access track/driveway (as well as additional fencing to define Plot 3) . This would also cause further intrusion into the openness of the Green Belt at this location.

The proposed roadway would have a detrimental impact upon, and reduce, the openness of the Green Belt. With due weight to paragraph 90 of the NPPF, which states that '*Certain other forms of development [engineering operations] are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt*, the proposed development is considered to be contrary to the NPPF and Dacorum Core Strategy CS5.

It is acknowledged that permitted development rights for domestic outbuildings and boundary fences, and hardsurfacing within the residential curtilage of Longfield could be carried out as a fallback position again with a resultant impact upon the openness of the Green Belt without planning permission. However, it would be most unusual for so much permitted development be exercised and therefore little weight should be given to this scenario. For clarification the formation of the roadway within the curtilage is considered to be an engineering operation which falls outside the remit of 'permitted development' within the curtilage of a dwellinghouse.

*The dwellinghouse on Plot 2.* The openness of the Green Belt will be significantly, noticeably and harmfully changed by the position and visibility of the proposed dwellinghouse on Plot 2 when the development is viewed and approached from Wayside. Although in terms of established design practice a dwellinghouse positioned at the termination/ head of a cul de sac would normally form a sense of enclosure set against the backdrop of trees the dwelling's position and size will significantly change the openness of this part of the Green Belt. This contrasts with the approved layout/ fallback position which features the dwellings aligned and set back on both sides of the access road maintaining a sense of openness with long views maintained, notwithstanding the loss of trees.

A repositioned lower profile dwelling on Plot 2 would establish more openness at this critical vista.

Reliance alone upon the very special circumstances based upon the otherwise robust fallback position of the extant planning permission for 9 dwellings cannot justify the proposal's harm to the openness of the Green Belt. There is significant material difference between the approved and proposed schemes.

#### Design/ Visual Amenity of the Green Belt

The roadway will significantly urbanise and irrevocably harm a significant tract of undeveloped countryside by fundamentally changing its character. This takes into account the necessary design standards, its position and use. This is regardless of whether it is lit. Due to the roadway there is no physical / geographical cohesion between the housing and Wayside which is expected in respecting the character of a locality.

However, the housing scheme itself respects the varied character and change in Wayside, maintaining the perception of a 'logical' modern extension and termination of the cul de sac.

The position and size of Plot 1 echoes the established character of Wayside. This to a lesser extent also applies to Plot 3 opposite with aforementioned Plot 2 facing the turning head as a terminal feature. The layout also maintains the wooded backdrop for views from the end of the cul de sac.

Where it fails as confirmed above is if the locality's openness is to be maintained there needs to be some design / layout change in relation to Plot 2 in order to seamlessly visually fuse the development within its context/ setting with minimal perceived visual impact. This is achieved through the extant scheme due to the set back alignment of the dwellings on either side of the access road in relation to the end of Wayside with the opportunity for substantial front garden structural planting.

There are no arbiricultural objections. The layout provides space to retain the south western backdrop of trees.

#### Impact on Neighbours

This is in the context of Core Strategy Policies CS12 and CS32 and the NPPF paragraph 133. There will be no harm.

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

Access onto Langley Road/ Traffic Generation . HCC Highways raise no objections. This assessment would have taken into account the sight lines, the traffic highway data and the expected traffic movements.

Internal Layout. The layout plan confirms that general, fire and emergency access, refuse servicing and turning can be accommodated. Access for persons with disabilities/ limited mobility is feasible and can be addressed at the Building Regulations stage. Curtilage parking is acceptable.

Sustainable Location/ No Car Modes of Access. The layout of the roadway is not pedestrian friendly by day, even less at night. A footpath could be incorporated within the design but is unlikely to be used . Langley Road is served by a footpath linked to the village centre which features a range of services on a key bus route. It would be questionable whether a refusal could be substantiated based upon the issue of sustainable location.

Construction. There are no fundamental objections. It would be expected that the upgraded access from Langley Road is used rather than Wayside.

#### 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.

Surface Water. This can be addressed through a 'SUDS' based condition, with on site storage 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 use 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.

Water Supply (including Fire Hydrants). 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. If granted a condition would be necessary.

#### Sustainable Construction

If granted a condition would be necessary to address the expectations Policy CS29.

#### Crime Prevention/ Security

The Crime Prevention Officer raises no fundamental objections. The layout has inbuilt natural surveillance with this cul de sac design. In this location there will be some inevitable individual external lighting requirements. The access road is unsuitable for night time use by pedestrians.

#### Lighting

This is a sensitive E1 Lighting Zone.

As in the case of the fallback position the development will transform this tract of 'undeveloped land' through the combined effect of internal and exterior lighting

associated with any modern residential development. This should be to a lesser extent due to the number of units.

Any lighting of the access road would exacerbate the harmful impact of the dwellings , even setting aside the ecological implications as observed by the submitted ecological report. It will urbanise a wide tract of countryside.

#### Archaeological Implications

There are no archaeological objections.

#### Conditions

If granted these will need to satisfy the normal legal tests.

Due to the extenuating circumstances these could extend to the withdrawal of permitted development rights, lighting, an ecological management plan, no vehicular link to Wayside.

#### Affordable Housing

Dacorum Core Strategy Policy CS19 expects that affordable homes will be provided on sites providing a minimum of 0.16ha or 5 dwellings. One of the dwellings is required to be for affordable purposes.

The dwellings can be adapted to provide lifetime homes

#### 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 not 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 on part of the application the site which can be built. This is the fallback position and is the basis of the very special circumstances.

Although the amount of the proposed development in terms of buildings is less than the extant permission and it is acknowledged that engineering operations such as access road are not regarded as inappropriate development within the Green Belt, the proposal's impact upon the openness of the development will be significant and much more than the fallback position.

The openness and character of this whole tract of Green Belt land will be significantly harmed due to the roadway resulting in substantial physical encroachment and the effect of the position of the dwelling on Plot 2 when viewed and approached from Wayside. Any lighting of the roadway would be extremely harmful to the night time landscape.

Also HCC Highways raise no objection to an access serving the 3 dwellings and Longfield from Langley Road. In addition the impact of this development will be far less than the extant permission in terms of the residential amenity of Wayside with regard to vehicular movements and will be served by a modern roadway with a safe access onto Langley Road.

RECOMMENDATION - That planning permission be **REFUSED** for the following reasons:

- 1 **The proposal is considered to be inappropriate development in the Green Belt which results in harm to the openness of the Green Belt. No very special circumstances have been put forward which outweigh the harm by reason of inappropriate development. As such, it is considered that the proposal by reason of the impact of the elongated access road and the position of the dwelling house on Plot 2 would significantly harm the current and lawful openness of a substantial area of land within the Green Belt, failing to meet the expectations of the National Planning Framework and Policy CS5 of the adopted Dacorum Core Strategy.**

### ARTICLE 35 STATEMENT

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted pro-actively through positive engagement with the applicant at pre application stage in an attempt to



narrow down the reasons for refusal but fundamental objections with in particular reference to the roadway could not be overcome. 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.

ANNEX A: APPLICANT'S PLANNING STATEMENT- SEE ANNEX A OF APPLICATION 4/03490/15