

4 April 2006

Our Ref: L&A/R&D Ctte/Mar06
Your Ref:
Contact: Donna Levett
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To: Councillors J.M. Cunningham, Alan Bardett, Paul Clark and
M.R.M. Muir

You are invited to attend a meeting of the

LICENSING AND APPEALS COMMITTEE

to be held at

**COUNCIL CHAMBER , COUNCIL OFFICES, GERNON
ROAD, LETCHWORTH GARDEN CITY**

on

THURSDAY 13 APRIL 2006

at

3.00 p.m.

Yours sincerely,



David Miley
Democratic Services Manager

AGENDA
PART I

ITEM		PAGE
1.	PROCEDURE To consider and determine a procedure for Items 2 and 3.	1
2.	PLANNING APPLICATION REFERENCE NUMBER: 05/01403/1 - LAND OFF PICKNAGE CORNER, PICKNAGE ROAD, BARLEY REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL	3
3.	PLANNING APPLICATION REFERENCE NUMBER: 05/01901/1 - LAND SOUTH OF A505 AND NORTH WEST OF GREENFIELD, ROYSTON REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL	17

LICENSING AND APPEALS COMMITTEE 13 APRIL 2006
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*PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No. 1
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NORTH HERTFORDSHIRE DISTRICT COUNCIL

LICENSING AND APPEALS COMMITTEE

**SUGGESTED PROCEDURE FOR THE DETERMINATION OF APPEALS RELATING TO
PLANNING APPLICATIONS**

1. The Chairman to ask who appears on behalf of Planning Control in defence of a recommendation of refusal on Policy grounds and who appears on behalf of the Area Committee from which the application was referred in support of the application, and whether the applicant or applicant's representative wishes to speak or read a statement in support of the application and whether any person wishes to speak or read out a statement as an objector to the planning application.
2. The Committee to consider and determine the procedure for the hearing. The parties involved should be asked if they are in agreement with the recommended procedure. Any reasonable request for a revision should be agreed with all involved.
3. The Chairman to invite the officers appearing in support of their recommendation (i.e. Planning Control and Conservation Manager, Principal Planning Officer, Planning Officer, Conservation Officer) to present their case.
4. The Chairman, Members of the Committee, the applicant or the applicant's representative and the representative from the Area Committee to ask any questions of the officers on their presentation.
5. The Chairman to invite the applicant or applicant's representative to speak or read out a statement in support of the application.
6. The Chairman to invite the representative from the Area Committee to present the case in support of the application. (Note: The representative from the Area Committee may decline to speak if he/she feels that the applicant or the applicant's representative has covered all points).
7. The Chairman, Members of the Committee, the applicant or applicant's representative (if applicable) and officers to put any questions to the representative from the Area Committee.
8. The Chairman to invite any objector or objectors to the application to speak or read out a statement in support of their objection to the application.
9. The Chairman, Members of the Committee and officers to put any questions to the objector/s.

10. The Chairman to give the applicant or applicant's representative, the representative from the Area Committee, the objector/s and the officers the opportunity to make a final statement.
11. The Committee to make their decision in public.
12. The Chairman to notify all parties present of the Committee's decision.

**TITLE OF REPORT: PLANNING APPLICATION REFERENCE NUMBER:
05/01403/1 – LAND OFF PICKNAGE CORNER, PICKNAGE ROAD, BARLEY
REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL**

Erection of single storey office building (Class B1), single storey day care nursery (class D1), associated car parking and infrastructure and creation of new vehicular access off Picknage Road.

1. Background

- 1.1 The application proposes the erection of a single storey building, associated car parking and vehicular access. The building would consist of two elements, a children's day care nursery and a commercial office. The total floor space of the building would be approximately 615 square metres. The location of the site is at the corner of Picknage Road and Church End and is located within the Rural Area Beyond the Green Belt, outside the Selected Village Boundary of Barley, as designated in the North Hertfordshire District Local Plan No. 2 – with Alterations. A copy of my report to the Royston and District Committee meeting held on 15 March 2006 is attached as appendix A. It is concluded that the proposed development is contrary to the clear and tested policies of restraint which are applied to rural areas. Whilst there are arguments in favour of this proposal, particularly the need to enable the operation of a larger Children's day care nursery for the needs of Barley and the wider community, these 'other material considerations' are of insufficient weight to justify a departure from the development plan. The site is also partly located within a Conservation Area and a designated Landscape Conservation Area. In relation to these policies of restraint, which set out a clear objective of enhancing the rural landscape, it is considered that this form of development and associated encroachment into currently undeveloped open countryside would have an urbanising effect to the detriment of the character of the locality.
- 1.2 Members of the Royston and District Committee disagreed with this analysis. They considered that the proposed development would allow for the expansion of a Children's day care nursery for which the applicant's supporting information sets out a clear community need and that there are no other realistic sites for the development within the village of Barley or any other settlements. The Committee also recognised that by enabling the relocation of a Children's day care nursery from its current, congested and largely unsuitable site within a residential area, would improve the amenities enjoyed by occupiers of residents who live within the vicinity of the existing nursery. In terms of the wider impact on the character of the rural landscape, Members considered that the proposed building is of a high standard of design that would enhance the character of the area and improve the approach to the village. The Committee resolved to refer the application to the Licensing and Appeals Committee with a recommendation that planning permission be granted.

2. Planning Considerations

- 2.1 The following paragraphs will present a brief explanation as to how, in my opinion, the proposed development conflicts the policies of the development plan. I will go on to consider whether there exist any exceptional reasons to justify a departure from the development plan. As part of a conclusion I will set out details of a specifically worded Section 106 Obligation that would be required, should Members be minded to support the conclusions of the Royston and District Committee and grant planning permission for this proposal.
- 2.2 The scheme consists of two elements in one building. The applicant's agent has explained that the proposed office development is needed to finance and enable the proposed children's day care nursery. The applicant explains that the proposed day care nursery would enable the relocation of Pip's Nursery which currently operates from a property known as 'Spindrift', Picknage Road. This Nursery has a tightly restricted planning permission for a nursery of no more than 11 places, with restricted hours of use. This reflects the fact that the nursery operates from part of a residential property, within a wholly residential area in the village. The restrictive conditions are required to protect the amenities of surrounding occupiers from traffic movements and noise impact, for example.
- 2.3 The proposed development would involve the demolition of two disused and dilapidated agricultural buildings and would be developed on part of an existing apron of hard standing. The proposed replacement buildings are of complex design, details of which are set out in paragraphs 4.2.2 and 4.2.3 of my report to the Royston and District Committee attached as appendix A. The existing buildings on site cover a floor area of approximately 310 square metres. The replacement buildings would double this floor space and would also be significantly larger than the existing buildings in terms of overall height and massing. Moreover, the associated additional hard standing would cover an additional space of 600 square metres of currently open countryside.
- 2.4 Policy 6 of the North Hertfordshire District Local Plan No. 2 – with Alterations sets out the type of development which may be appropriate in the rural area beyond the Green Belt. Essentially development associated with agriculture forestry, appropriate rural economic diversification and development which meets an identified community need which cannot be met within a settlement. Local Plan policies 12 and 20 are also appropriate for this location and they aim to preserve the character and appearance of the conservation area, seek to protect the countryside for its own sake and enhance the character of the landscape.
- 2.5 The applicant's agent has presented evidence to demonstrate a community need for a larger children's day care nursery than can be accommodated on the existing site. They have not however explained that there exist any less environmentally damaging sites than this which for example, would not require the development of a large new building in the countryside. The applicant's agent has certainly not demonstrated any community need for the commercial office which represents over half of the floor space within the proposed building. The office use therefore requires a larger building than would be the case with a stand-alone nursery and adds to the impact on the character of the landscape.

- 2.6 In terms of conservation and design, this site is located partly within a Conservation Area and central government and development plan policy require that any proposal must preserve or enhance the character or appearance of the conservation area. In the opinion of the Council's Principal Conservation Officer, this site represents part of the rural landscape outside the village and the proposed development would have an unacceptable urbanising impact on the character of the area that would not preserve the conservation area. The site is also located within a designated Landscape Conservation Area and for similar reasons it is concluded that development would not meet the principal objective of Local Plan Policy 12 which is to enhance the rural landscape.

3. Conclusions

- 3.1 My report (Appendix A) and the supplementary comments in the proceeding paragraphs deal with material issues relating to this planning application. Whilst acknowledging the views of the Members of the Royston and District Committee and their support for the application nevertheless I remain of the opinion that in planning policy terms there are no clear grounds to change my recommendation that permission be refused for the reasons set out in my report which for ease of reference are reiterated in Section 4.
- 3.2 Should the Licensing and Appeals Committee be minded to take the opposing view and consider the proposal favourably I consider the consideration should be given to grant planning permission subject to a specifically worded Section 106 Obligation. The Royston and District Committee considered that one benefit of this proposal would be to relocate Pip's Nursery from its currently congested site to this site just outside the village. This would improve the residential environment around 'Spindrift', Picknage Road, the site of Pip's Nursery. In order to enable this transition, the permission that exists for Pip's Nursery needs to be revoked (planning permission no. 04/00170/1). Moreover, to ensure continuity of service, the permission should not be revoked until the new nursery, part of this planning application, becomes operational. As well as a requirements for a Section 106 Obligation to enable this to happen it is my intention to present at the Committee an indication of planning conditions that would be required should Members resolve to grant planning permission.

4. Recommendation

- 4.1 That planning permission be REFUSED for the following reasons:
1. The application site is located within the Rural Area Beyond the Green Belt wherein applications for planning permission are determined by the local planning authority in accordance with policies 1 and 6 of the Hertfordshire Structure Plan Review 1991-2011 and Policy 6 of the North Hertfordshire District Local Plan No. 2 – with Alterations. These policies allow only proposals which accord with the principles of sustainable development and where it is necessary for an agricultural or forestry purpose, for any proven need for local community services which cannot be met within a settlement or in the event of very special circumstances being shown to exist. In the view of the local planning authority the

applicant has demonstrated a specific community need for the proposed nursery, but has not demonstrated that the need cannot be met within a settlement and avoiding new development in the countryside. No community need has been demonstrated for the proposed office development in this location, the proposal for which increases the scale of the proposed new development to a considerable degree. In these respects the application fails to demonstrate that the overall proposal complies with the policy criteria, or that there exists any special circumstances to justify it being considered as an exceptional case.

2. In the opinion of the local planning authority, the proposed development represents an inappropriate form of design taking account of the context of the site. The excessive scale of the proposed building, combined with the additional encroachment into open countryside over and above the scale and form of existing development on the site would have an urbanising effect in this rural location, to the detriment of the character of the area. This scale and form of development would also fail to positively enhance the character of the landscape and would not preserve or enhance the character or appearance of the Barley conservation area, within which the site is located. For these reasons the proposal fails to accord with Policy 43 of the Hertfordshire Structure Plan Review 1991-2011 and policies 12 and 20 of the North Hertfordshire District Local Plan No. 2 – with Alterations.

Background Papers: Application no. 04/01403/1

Contact Officer: Simon Ellis (Principal Planning Officer, East Team)
Telephone: 01462 474264
e-mail: simon.ellis@north-herts.gov.uk

ITEM NO: 1	<u>Location:</u>	Land off Picknage Corner, Picknage Road, Barley, SG8
	<u>Applicant:</u>	Pips Nursery & Finlow Holdings Ltd
	<u>Proposal:</u>	Erection of single storey office building (class B1), single storey day care nursery (class D1), associated car parking and infrastructure and creation of new vehicular access off Picknage Road (as amended by additional supporting information report and plans 507.100.02A; 507.100.03A; 507.100.04A; 507.100.05A. received 19/01/2006 and 507.100.03B received on 24 February 2006)
	<u>Ref.No:</u>	05/01403/ 1
	<u>Officer:</u>	Simon Ellis 01462 474264

Date of expiry of statutory period : 22 November 2005

Reason for Delay

Negotiation with applicant to seek design changes.

Reason for Referral to Committee

This application is reported to Members at the request of Councillor Marshall.

1.0 Relevant History

None relevant.

2.0 Policies

2.1 Central Government Guidance:

Planning Policy Statement (PPS) 1 'Delivering Sustainable Development'
Planning Policy Statement (PPS) 7 'Sustainable Development in Rural Areas'
Planning Policy Guidance note (PPG) 15 'Planning and the Historic Environment'

2.2 Hertfordshire Structure Plan Review 1991-2011:

Policy 1 'Sustainable Development'
Policy 6 'Settlement Pattern and Urban Concentration'
Policy 25 'Car Parking' (and supplementary guidance)
Policy 29 'Traffic and Road Safety Implications of Development'
Policy 43 'Landscape Conservation Areas'

2.3 North Hertfordshire District Local Plan No. 2 - with Alterations:

Policy 1 'Pattern and Character of North Hertfordshire'
Policy 6 'Rural Areas Beyond the Green Belt'
Policy 12 'Landscape Conservation, Improvement and Creation'
Policy 20 'Conservation Areas'

3.0 Representations

3.1 Hertfordshire County Council (Highways):

Concern that revised plans prepared by the applicant indicated a narrowing of Church End, from its current width of 4.8m. The road could not tolerate this localised narrowing. The later revised plan overcomes this problem. It illustrates a widening of the pedestrian access along Picknage Road up to the junction with Church End. This would improve pedestrian manoeuvrability without narrowing Church End. This plan is acceptable to the highway authority. All off site highway works required for this and access arrangements should be controlled by suitably worded planning conditions, which are recommended.

3.2 Planning Policy advice:

Considers that the applicant has not demonstrated a proven need for the proposed nursery and certainly not for the proposed office development. A proven need which cannot be met elsewhere is required to satisfy Local Plan Policy 6. As a consequence, planning policy cannot support the application.

3.3 Principal Conservation Officer:

In relation to the revised design, the principal conservation officer still objects to the proposal for the following reasons: The site forms part of the countryside setting of the Barley Conservation Area and does not form part of the built character of the village. The proposed design with curved profiles, large numbers of external windows and detailed design in general is representative of an urban, commercial building which would not preserve or enhance the character of the conservation area, or the rural area beyond.

3.4 Barley Parish Council:

Object to the proposal for the following reasons: The site is outside the village where the Local Plan sets out a presumption against development. The proposed building would be significantly larger than the existing, run down agricultural structures. The total ground area of development would also extend into open countryside. In relation to the amended plans, consider that the scale and bulk of the development would remain at the front of the site. The site is also on an elevated position and this development would harm the character of the locality at the entrance to the village. Under no circumstances should the width of Church End be reduced. Traffic generation from this overly large scale scheme would be excessive and increase road safety problems. There is not sufficient separation between the two functions on the site. The application is premature (i.e. before the Local Development Framework sets out new planning policies for the area).

3.5 Response to statutory site notice, press notice and neighbour notifications:

Three letters of objection received in response to the original plans. One letter received in response to the amended plans. The letters received were from the occupiers of 'Daubenton's Barn', Church End and 'Garden Cottage', Church End. The grounds of objection are as follows:

- 3.6 * Object to the principle of development other than for agricultural purposes on this site.
- * There are no exceptional circumstances to justify a departure from the development plan.
 - * The site is in open countryside and does not appear as part of the built character of the village.
 - * The development would break the natural boundary of the village and would appear incongruous.
 - * If permission is granted it would set a precedent for further development outside the village.
 - * No objection in principle to the relocation of the nursery or office. The circumstances of each business is however immaterial to the determination of the planning application.
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- * Noise pollution from the proposed nursery use.
 - * Loss of privacy at Daubenton's Barn.
 - * There are no details of external lighting. Any such lighting would cause light pollution in this rural environment.
 - * The proposed development would generate excessive traffic to the detriment of the area.
 - * The development would harm the character of the conservation area and lead to a loss of country views.
 - * The amended plans do not overcome previous objections. If the existing buildings are redundant the site should be returned to open countryside.
 - * The amended plans illustrate a play area fronting Chishill Road leading to even more noise pollution.
 - * South east and south west elevations now contain more windows, therefore more light pollution.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The application site consists of two single storey former agricultural buildings positioned on an apron of hard standing, located on a corner site at the junction of Picknage Road and Church End, Barley. The existing low level buildings are of light construction, corrugated sheeting for the elevations and roof for the larger building and block work with a corrugated sheeting for the roof of the smaller (almost collapsed) building. There is an existing vehicular access into the site from the corner of the junction off Picknage Road.
- 4.1.2 The application site is located just outside Barley and is bound by open fields to the north east and north west. The other two site boundaries are bordered by Church End and Picknage Road respectively. Opposite the application site to the south east are the grounds of 'Rectory House' with 'Daubenton's Barn' and 'Cannons Cottage', to the south west.

4.2 Proposal

- 4.2.1 Full planning permission is sought for the redevelopment of the site to form a new building, new vehicular access, associated car parking (22 spaces) and landscaping. The new building would consist of two elements. The first is a proposed children's day nursery incorporating ancillary office space, kitchen, pram room (or sleep room) and external playground within a courtyard. The second part

of the development would be commercial office space. This would include staff room, kitchen, meeting room and wc facilities. The two facilities within the same building would be linked and share a main entrance.

- 4.2.2 The building would be single storey in a "L" shape layout. The design is complex form and would incorporate a variety of external finishes. The Picknag Road elevation would have three elements, a double gable of stock brick with rubble wall inset, a central weather-boarded section with plain tiles and a further stock brick section with a slightly higher ridge. The Church End elevation would be perhaps more complicated, with three middle sections of varying height, brickwork and rendered finish, a large glazed section for the nursery area and a further terminating gable feature on the north eastern extremity. Whilst glazing is shown for part of the Church End elevation, a boundary fence is proposed to the front of this part of the building, behind which would be the outside playground. The internal, less public elevations of the building, consist of significant areas of glazing to allow natural light to enter the building.
- 4.2.3 The external treatment of the car park and courtyard would include walkways, steps and paved areas, some planting belts between car parking areas and clear hedge planting to demarcate the site from the surrounding countryside.
- 4.2.4 Whilst much of the proposed development would be positioned on the existing hard standing, this proposal would involve significant intrusion of hard standing into open countryside. Approximately 600 square metres of agricultural land would be transferred to hard standing associated with the proposed development. The footprint of the existing buildings is approximately 310 square metres, whilst the proposed buildings would cover a ground area of 615 square metres. Also, the volume and height of the proposed buildings would be significantly greater than the existing.

4.3 **Key Issues**

- 4.3.1 Taking account of relevant central government guidance, adopted development plan policies and comments received from interested parties, as reported above, I consider the main issues to be considered in relation to this planning application are as follows:

* Whether the proposed development is acceptable in principle, having regard to the development plan and any other material considerations, including arguments put forward by the applicant as to why planning permission should be granted.

* Notwithstanding the matters of principle, it is necessary to consider the design of the proposed development, in particular whether this form of development would respect the site context and wider character of the conservation area.

* It then becomes necessary to consider whether there would be any unacceptable impacts in relation to surrounding amenity, including traffic, road safety and noise, for example.

4.3.2 **The Principle of Development**

The application site is located within the Rural Area beyond the Green Belt and outside the Selected Village boundary of Barley as set out in the North Hertfordshire District Local Plan No. 2 - with Alterations. The prime aim of Local Plan policy 6 is to protect the countryside for its own sake. This leads to a strong

presumption against new development except when *'it is strictly necessary for the needs of agriculture, forestry or any proven need for local community services, provided that: a) the need cannot practically be met within a town, excluded village of selected village and b) the proposal positively improves the rural environment.'* Taking account of this policy objective, in order to be acceptable in principle the applicant needs to demonstrate that this proposal would meet a proven need for community services that cannot be met elsewhere within Barley, or other settlements.

- 4.3.3 The Local Plan does not contain relevant and up to date policies in relation to proposals for replacement buildings in the countryside. For guidance on this we need to turn to central government advice contained within Planning Policy Statement (PPS) 7 'Sustainable Development in Rural Areas'. This guidance was published in 2004. Paragraph 19 of the PPS states that *'the Government is supportive of replacement of suitably located, existing buildings of permanent design and construction in the countryside for economic development purposes.'* It goes on to argue that replacement buildings must offer an environmental improvement. It is up to local planning authorities to set out policies within their Local Development Documents (LDDs) as to how such applications should be assessed. Such a process is currently under way with the publication of options papers, which are subject to public consultation/community involvement.
- 4.3.4 To establish a community need, the applicant has set out a case in relation to the proposed nursery. Pips nursery currently operates on a tightly restricted planning permission (our ref. 04/00170/1), within part of a residential property, known as 'Spindrift', Picknage Road. The site is less than ideal and the expanding need for the facility cannot be met at the site. The applicant's evidence suggests that there is sufficient need within the local area to increase the attendees at Pip's Nursery from 11 (current restricted level by planning permission) to 21 within three months of opening. The proposed nursery space on site could accommodate up to 30 children.
- 4.3.5 The proposed office development would not meet an identified community need. It is designed to provide new premises for a company whose lease has expired on their current premises. The primary function of the office development is to provide funds to enable the proposed nursery.
- 4.3.6 Taking account of these factors I am satisfied that the applicant has put forward a case to conclude that the proposed nursery would meet an identified community need. This would suggest compliance with Local Plan Policy 6. However, the other important element of this policy is that it must be demonstrated that the need cannot be met elsewhere (i.e. on sites that do not require new development in the countryside). The applicant has failed to demonstrate that other less environmentally damaging sites are available locally within established settlements. There is also no community need for the proposed office development and I therefore conclude that the whole scheme conflicts with Local Plan Policy 6.
- 4.3.7 When considering the more up to date government guidance. This allows for replacement buildings in rural areas where the existing buildings are of permanent design and construction and where such development would enhance the environment. It is a matter of judgement as to what permanent design and construction means. No structural report has been submitted but upon site inspection I conclude that these buildings are in a very poor state of repair and are unlikely to remain on site given their current level of deterioration on a permanent basis. They are not therefore of permanent design and construction in my view.

Moreover, whilst government guidance gives no steer on what size replacement buildings would be acceptable, a more than doubling of the building mass on site does not sit comfortably with the objectives of rural planning policy.

4.3.8 Taking account of these factors I am satisfied that the proposed development conflicts with clear development plan policies and central government guidance on rural planning. The proposal is therefore unacceptable in principle and the applicant's case, whilst demonstrating a need for one element of the scheme, has not explained why other sites cannot be utilised and in essence cannot justify the whole scheme in any event.

4.3.9 Conservation and Design:

In relation to this site, matters of design are virtually inseparable from matters of principle. Since it is the Local Plan designation which relates to the wider context, the site being outside the village, within a conservation area and a Landscape Conservation Area. These constraints must influence design. Central government guidance in PPS 1 'Delivering Sustainable Development' advises in paragraph 34 that *'design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.'* Whereas Local Plan Policy 12 only allow developments in Landscape Conservation Areas which *'positively enhance the landscape'*. Also Local Plan Policy 20 seeks to ensure that new development would preserve or enhance the character and appearance of the conservation area.

4.3.10 Taking account of this policy background I consider that the design of the proposal must be judged on its contribution to the wider landscape and whether it preserves the conservation area. As is mentioned above, the development would more than double the building mass on this site. The associated infrastructure would encroach further into the countryside than the current apron of hard standing to a considerable degree. In my view the excessive size of the development and associated infrastructure would not enhance the landscape or the wider conservation area. The result would be an urbanising effect in a rural location. Such an overall design approach sits very uncomfortably with the policy objectives mentioned above.

4.3.11 In terms of more detailed design considerations, the applicant's architect has amended the plans and come up with a design approach that tries to take account of the surrounding built context whilst enabling the function of two linked land uses (the office and nursery). A suggested design alternative was to separate the two functions and create the appearance of two farm buildings sited at right-angles to each other. This suggestion has not been taken up. The result, in my view, is an improved design on the previous scheme as the mass of buildings and type of material has been broken up to add visual interest and pay reference to architectural features found within the village. However, the resultant building would still have an urbanising effect and due to its excessive size in relation to the surrounding rural landscape I conclude that the development would not preserve or enhance the landscape or wider conservation area.

4.3.12 Traffic and amenity considerations:

The amended plans (third version) have overcome the original concerns expressed by Hertfordshire County Council (Highways) in relation to improving pedestrian access to the site. The latest plan demonstrates how the walkway opposite the site on Picknag Road can be widened with a suitable pedestrian crossing point shown.

In terms of function therefore, it is possible to link the development to the village pedestrian links without the need to narrow Church End or remove sections of the listed wall around the Manor Farm complex. If Members are minded to grant planning permission, the requirement for off-site highway works can be ensured by the imposition of suitably worded planning conditions.

- 4.3.13 The County Council Highway Authority have also not raised any objections in relation to the inevitable increase in traffic movements into and out of the site. Taking account of this advice I conclude that the surrounding road network can safely accommodate this extra traffic.
- 4.3.14 Concern has been expressed by local residents in relation to noise impact. Whilst the proposed development would generate noise in relation traffic movements and children playing outside for example, the site is a reasonable distance from nearby residential properties. Moreover, the pattern of use is likely to be that maximum noise emanating from the site would be during week days and not during unsociable hours. Moreover, if Members are minded to grant planning permission consideration could be given to limiting the hours of operation to ensure no use on Sundays, bank holidays and evenings, for example.
- 4.3.15 The issue of potential light pollution from external lighting can also be controlled via suitably worded planning conditions in relation to details of lighting and/or control via hours of opening restrictions.
- 4.3.16 It could also be argued that the proposed development has the potential to improve residential amenities in the immediate locality close to Pip's Nursery. With the proposed re-location of the nursery away from its currently congested location, the amenities enjoyed by occupiers of adjoining residential properties would be improved. However, such an improvement can only be secured by the revocation of the existing planning permission for Pip's Nursery at Spindriff, Picknage Road. One mechanism available to secure the revocation of this permission, should Members be minded to grant planning permission, is through the applicant entering a suitably worded Section 106 Obligation. The terms of such an obligation would need to set a clear timetable whereby the existing permission is not revoked until the proposed Nursery becomes operational. This would enable a continuity of service and proper relocation as set out in the application.

4.4 Conclusion

- 4.4.1 There are arguments in favour of this proposal. However, in the rural area planning policy sets out a clear presumption against development. Exceptional circumstances need to exist to justify a departure from this strategy. Whilst the applicant has in my view set out a case that there is a community need for a larger Nursery than exists at present, there is no clear explanation as to how other, less environmentally damaging sites have been explored and discounted. Whilst the office space is needed to enable the Nursery, in itself the office use is not of specific community benefit. Moreover, the need for the office leads to the need for an excessively large building that would have an urbanising effect within this conservation area location. As such I conclude that the development would not enhance the rural environment and planning permission should therefore be refused.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country

Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 That planning permission be **REFUSED** for the following reasons:

1. The application site is located within the Rural Area Beyond the Green Belt wherein applications for planning permission are determined by the local planning authority in accordance with policies 1 and 6 of the Hertfordshire Structure Plan Review 1991-2011 and Policy 6 of the North Hertfordshire District Local Plan No. 2 - with Alterations. These policies allow only proposals which accord with the principles of sustainable development and where it is necessary for an agricultural or forestry purpose, for any proven need for local community services which cannot be met within a settlement or in the event of very special circumstances being shown to exist. In the view of the local planning authority the applicant has demonstrated a specific community need for the proposed nursery, but has not demonstrated that this need cannot be met within a settlement and avoiding new development in the countryside. No community need has been demonstrated for the proposed office development in this location, the proposal for which increases the scale of the proposed new development to a considerable degree. In these respects the application fails to demonstrate that the overall proposal complies with the policy criteria, or that there exists any special circumstances to justify it being considered as an exceptional case.
2. In the opinion of the local planning authority, the proposed development represents an inappropriate form of design taking account of context of the site. The excessive scale of the proposed building, combined with the additional encroachment into open countryside over and above the scale and form of existing development on the site would have an urbanising effect in this rural location, to the detriment of the character of the area. This scale and form of development would also fail to positively enhance the character of the landscape and would not preserve or enhance the character or appearance of the Barley conservation area, within which the site is located. For these reasons the proposal fails to accord with Policy 43 of the Hertfordshire Structure Plan Review 1991-2011 and policies 12 and 20 of the North Hertfordshire District Local Plan No. 2 - with Alterations.

**TITLE OF REPORT: PLANNING APPLICATION REFERENCE NUMBER:
05/01901/1 - LAND SOUTH OF A505 AND NORTH WEST OF GREENFIELD,
ROYSTON**

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

Erection of industrial building for purposes within use class B8 (warehouse storage and distribution) and B1 (offices) and ancillary facilities, provision of service yard, 132 car parking spaces, new vehicular access, access road, landscaping (including earth bunding) and all associated infrastructure.

1. Background

1.1 The application proposes the erection of a commercial warehouse and distribution centre, office space and associated infrastructure on land north west of Greenfield, south of the A505. The application site area is 3.5ha and the total floor space of the building would be just under 16,000 square metres. The land in question is a greenfield site and is outside the Royston Development Limits as clearly defined in the North Hertfordshire District Local Plan No. 2 – with Alterations. A copy of my report to the meeting of the Royston and District Committee held on 15 March 2006 is attached as appendix A, in which the proposal is considered against the relevant development plan policies. It is concluded that the applicant's stated 'other material considerations' are of insufficient weight to justify a departure from the well established policies of the development plan which seek to restrict development in the rural area outside the Royston Development Limits. As well as the conflict with the current development plan the second recommended reason for refusal explains how to allow this development would pre-empt and undermine the careful process involved in creating a Local Development Framework to replace the Local Plan, for the district. Notwithstanding the 'in principle' problems with this proposal, it is concluded that the visual impact of the development would be unacceptable in terms of the impact on the rural setting of Royston and that proposed tree planting to soften the appearance of the building may not even be feasible.

1.2 Members of the Committee disagreed with this analysis. The Committee concluded that the application presented a good business case. They thought it extremely likely that the forthcoming Local Development Framework would allocate this land for additional employment space as there is strong pressure for growth in this area. They also concluded that the existing Local Plan is dated and this combined leads to an exception to Policy 6 of the North Hertfordshire District Local Plan No. 2 – with Alterations. They also considered that the proposed planting was feasible, would soften the appearance of the building, and would therefore not harm the objectives of Local Plan Policies 12 and 21. The Committee resolved to refer the application to the Licensing and Appeals Committee with a recommendation that planning permission be granted.

2. Planning Considerations

2.1 The following paragraphs will present an explanation of the current policy framework for this application and set out the LDF process, including contents and the timetable of implementation. The report will then go on to consider other related arguments; particularly focusing on the issue of precedent, why the needs of the end user as presented in the application should not be a reason to depart from policy, the visual impact of the proposed development and the potential problems of the proposed planting/mitigation strategy.

Current development plan policy

2.2 During the discussion of the proposal the Members of the Royston and District Committee raised concerns about the legitimacy of Local Plan policies given that it was adopted in 1996 and the stated plan period ended in 2001. In relation to this application there was a strong feeling that the land allocation policies are not meeting current market pressures. The applicant's agent certainly pressed this point in the presentation of the application. In addition to which queries were raised in respect of the timing of the Local Development Framework (LDF).

2.3 For clarity, and to assist the Licensing and Appeals Committee in the consideration of the application I feel it is appropriate to clarify the position with regard to development plan policies and the future timing of the LDF process.

2.4 Firstly, as a matter of law, the current Local Plan is not out of date. Its policies form part of the development plan framework, which is always the first point of reference when determining planning applications. Whilst it could be argued that the preparation of the plan and its policies are dated, the law Courts have consistently held that the vintage of a development plan is not of sufficient weight in itself to 'indicate otherwise', or to conclude against policy. It must also be borne in mind that Local Plan policies continue to be very successful when tested on appeal.

Local Development Framework

2.5 Turning to the new policy framework following the passing of the Planning and Compulsory Purchase Act 2004, the Council are preparing a Local Development Framework (LDF) to replace the Local Plan. However, the Local Plan is still to be used for planning decisions. Under the transitional arrangements of the Act, the Local Plan is 'saved' for a period of at least three years from September 2004, with the exception that this period will be extended until such time as it is replaced by the new LDF.

2.6 The timetable for the preparation of the LDF is known as the Local Development Scheme. Two of the documents within the LDF are particularly relevant to this case. Firstly, the Core Strategy provides guiding principles for new development, including identifying broad locations for growth or restraint. Secondly, the Land Allocations process, which will identify individual pieces of land (in accordance with the broad locations referred to in the Core Strategy) to meet the District's needs and requirements for new housing, employment and other land uses. A thorough Employment Land review will feed into this process.

- 2.7 Work is already underway on the Core Strategy and it is anticipated that this will be submitted to the Secretary of State in late 2007 and adopted in 2009. Work on the land allocations will not start until the proposed modifications to the East of England Plan are published in the Autumn, after which it is expected that public participation on proposed land allocations will start in early 2007. The land allocations document would be submitted to the Secretary of State in late 2008 and adopted in 2010. Whilst these timetables are long, they have been negotiated with and accepted by the Government Office for the East of England as realistic for the amount of work required to support these documents.
- 2.8 As advised by central government within Planning Policy Statement (PPS) 1 'Delivering Sustainable Development' and as envisaged in the Planning Acts, it is through the policy making process that questions of whether or not the Royston Development Limits should be reviewed. This is the plan led system, which is central to government legislation and planning policy. The process enables proper consideration of whether there is a need for the proposed amount of employment land in the district; where within the district would be appropriate locations for it; and if Royston were an appropriate location, which sites around Royston would be most appropriate. This process involves a careful programme of community involvement and strategic environment assessment. Such questions cannot be resolved on an ad-hoc case by case basis when determining individual planning applications. This is the incorrect forum for considering land use allocations. To grant planning permission for this development would prejudice the careful implementation of the LDF process described above.

Precedent

- 2.9 In my mind it is unlikely that this planning application would have been submitted had the Council not resolved to grant planning permission for an industrial building outside the Royston Development Limits on land off York Way in March 2005 (planning application no. 04/01997/1). This was a planning application for Royston Labels. In this case the Royston Area Committee, supported by the Licensing and Appeals Committee resolved that the particular needs of the applicant, a local company, to expand justified an exception to policy. The floor space of the building permitted in this case would be 2647 square metres. In my mind this has already set a precedent for the current application, a proposal for a building with a floor space approaching 16,000 square metres. In essence, I consider that the Royston Labels decision to "un-lock" this area of land has lead to increased pressures for development between the edge of Royston and A505. The possible precedent that a decision to grant planning permission for a building of this size, outside the Royston Development also needs to be taken into account.
- 2.10 The precedent argument does not stop at employment land, in my view. If the Council conclude that the adopted Local Plan is now so dated that it has become an irrelevance, where does this logic stop? How would the Council respond to an application for additional housing outside the Royston development limits, or any other settlement in the District, for that matter?

The operational requirements of the applicant

- 2.11 The applicant's agents have argued that a case for this development could not be made if the end user was not known. They argue that it is the operational needs of John Dickenson Stationary that offer the material

considerations which should indicate otherwise and pursued the Council to abandon development plan policy. Therefore, even the applicant feels that a wholly speculative application for such a development on this site should be refused planning permission.

- 2.12 This argument is completely flawed. The Council does not have the legal ability to grant planning permission for John Dickenson Stationary. The permission cannot be personal to that company. Planning permissions run with the land. This company may make a business decision not to implement any permission that this Council may grant. Any other company could then implement the permission. This is the same for the Royston Labels decision even though the Council resolved that the needs of this local company justified the permission.

Visual Impact and Landscaping

- 2.13 The Royston and District Committee resolved that this building would not have an unacceptable visual impact and would not undermine the policy objective of enhancing the landscape. The Council's landscape architect has concluded that the development would have a significant visual impact and that the proposed planting of large trees may not be feasible given that the soil depth above bedrock is only 300mm in many places (as revealed by the applicant's own report). The Council's landscape architect therefore considers that a full geological survey of the proposed planting area is required before the Council can come to a conclusion on the ability of the proposed planting to grow, thrive and effectively screen the proposed building.

3. Conclusions

- 3.1 My report (Appendix A) and the supplementary comments in the proceeding paragraphs deal with the material issues relating to this planning application. Whilst acknowledging the views of the Members of the Committee and their support for the application nevertheless I remain firmly of the opinion that in planning policy terms there are no grounds to change my recommendation that permission be refused for the reasons set out in my report which for ease of reference are reiterated in Section 4.
- 3.2 Should the Licensing and Appeals Committee be minded to take the opposing view and consider the proposal favourably the application represents a major departure from the development plan and it is a requirement under planning legislation to refer the application to the Secretary of State for a decision as to whether or not he would wish to 'call-in' the application for his own determination. It is considered that should this application be granted it would significantly prejudice the policies and proposals of the development plan and the emerging Local Development Framework. It is my intention to present at the Committee an indication of the details of the required Legal Obligation and conditions which would be required should Members resolve to grant planning permission.

4. Recommendation

- 4.1 That planning permission be REFUSED for the following reasons:

1. The application site is outside the Royston Development Limits as defined in the North Hertfordshire District Local Plan No. 2 – with Alterations and is within a part of the rural area where applications for planning permission are determined by the local planning authority in accordance with policies 1 and 6 of the Hertfordshire Structure Plan Review 1991-2011 and Policy 6 of the North Hertfordshire District Local Plan No. 2 – with Alterations. These policies allow only proposals which accord with the principles of sustainable development and where it is necessary for an agricultural or forestry purpose, for any proven need for local community services that cannot be met within a settlement or in the event of very special circumstances being shown to exist. In the view of the local planning authority the application fails to demonstrate that the proposal complies with the policy criteria, or that there exists any special circumstances to justify it being considered as an exceptional case.
2. The planning application pre-empts the outcome of the Local Development Framework process including all associated public consultations, sustainability appraisals and strategic environmental assessments that would be required prior to land allocations coming forward. To accept the principle of commercial development of this scale, on this site, is therefore at the least, premature.
3. The proposed development, by reason of its siting, excessive height and scale in comparison to surrounding buildings would detract from the landscape characteristics of the rural area within which the site is located. The applicant's Visual Impact Assessment does not clarify that all the proposed tree planting is feasible given the soil type and depth in certain locations. These factors together with the failure of the scheme to positively enhance the landscape lead the local planning authority to conclude that the proposed development would conflict with the provisions of Policy 43 of the Hertfordshire Structure Plan Review 1991-2011 and policies 12 and 21 of the North Hertfordshire District Local Plan No. 2 – with Alterations.

Background Papers: Application no. 05/01901/1

Contact Officer: Simon Ellis (Principal Planning Officer, East Team)
Telephone: 01462 474264
E-mail: simon.ellis@north-herts.gov.uk

ITEM NO: 2	<u>Location:</u>	Land South of A505, and North West of, Greenfield, Royston, SG8
	<u>Applicant:</u>	Wrenbridge Investments (Cambridge) Ltd
	<u>Proposal:</u>	Erection of industrial building for purposes within use class B8 (warehouse storage and distribution) and B1 (offices) and ancillary facilities, provision of service yard, 132 car parking spaces, new vehicular access, access road, landscaping (including earth bunding) and all associated infrastructure.
	<u>Ref.No:</u>	05/01901/ 1
	<u>Officer:</u>	Simon Ellis 01462 474264

Date of expiry of statutory period : 14 February 2006

Reason for Referral to Committee

The application site area, at 3.5ha dictates that this planning application must be reported to the Royston and District Committee for determination.

1.0 Relevant History

1.1 None relevant.

2.0 Policies

2.1 Central Government Guidance:

Planning Policy Statement (PPS) 1 'Delivering Sustainable Development'
Planning Policy Guidance note (PPG) 4 'Industrial and Commercial Development and Small Firms'

2.2 Regional Planning Guidance:

Draft Regional Spatial Strategy for East of England (RSS) 14 'East of England Plan'

2.3 Hertfordshire Structure Plan Review 1991-2011:

Policy 1 'Sustainable Development'
Policy 6 'Settlement Pattern and Urban Concentrations'
Policy 7 'Main Development Strategy'
Policy 14 'Development for Employment Needs'
Policy 25 'Car Parking' (and supplementary planning guidance)
Policy 43 'Landscape Conservation Areas'
Policy 44 'Landscape Regions'

2.4 North Hertfordshire District Local Plan No. 2 - with Alterations:

Policy 1 'Pattern and Character of North Hertfordshire'
Policy 6 'Rural Areas beyond the Green Belt'
Policy 9 'Royston Development Limits'
Policy 12 'Landscape Conservation, Improvement and Creation'
Policy 13 'Countryside Areas'
Policy 21 'Landscape and Open Space Patterns in Towns'
Policy 36 'Employment Provision'

3.0 Representations

3.1 Environment Agency:

No comments.

3.2 Hertfordshire County Council (Highways):

Have carefully assessed the applicant's comprehensive Transport Impact Assessment. And have concluded that the assessment under-estimates the level of congestion that would be generated by this development. Conclude that this congestion can be off-set by requiring a commuted sum from the applicant towards the provision of sustainable transport infrastructure improvements. This would need to be achieved through the applicant entering a Section 106 Obligation with the Council, should planning permission be granted.

3.3 Health and Safety Executive:

Does not advise, on safety grounds, against the granting of planning permission in this case.

3.4 Housing and Environmental Health Services (Environmental Protection):

The application was not accompanied by a noise survey or details of external lighting. Given that it is proposed to operate 24 hours a day, recommend that if the Council is minded to grant planning permission conditions are imposed which require a noise mitigation scheme and details of external lighting.

3.5 Housing and Environmental Health Services (Contaminated Land):

Recommend a condition requiring a survey of pollution and contaminants on the site, a risk assessment, method statement and a contingency plan to remediate any pollution/contaminants found.

3.6 Planning Policy advice:

The site is outside the Royston Development Limits, such as there is a presumption against development of this type. The applicant therefore needs to demonstrate exceptional reasons as to why planning permission should be granted, contrary to the development plan. The expansion of employment areas should be governed by the Local Development Framework (LDF) process.

3.7 Landscape Advice:

The application and its supporting Visual Impact Assessment has been examined by the Council's Landscape Architect. His response is comprehensive. Essentially he has offered three broad conclusions as follows:

- 1) The visual impact of the development would be "moderate", rather than "negligible to slight", as suggested by the applicant's consultant. Suggests that to lessen the visual impact of the building it should be smaller.
- 2) The landscaping/mitigation scheme would be extensive. Would suggest that it should provide more public access in to a woodland belt, incorporating footpaths and bridleways, for example. Some of the suggested planting may not be appropriate for the soil type in this area.
- 3) A geological survey is therefore required before the effectiveness of the planting scheme can be assured.

3.8 Royston Town Council:

Strongly object to this application. The proposed development would be outside the development area, it would have a huge visual impact and is contrary to District, County, Regional and National planning guidelines.

3.9 The Campaign to Protect Rural England (CPRE):

Object to the proposed development for the following reasons. The site is outside the Royston Development Limits, wherein Local Plan Policy 6 states that development proposals will be refused unless they are acceptable in rural areas. The proposed national distribution centre of nearly 16,000 square metres does not comply with this policy. The proposal would also be sited within the area where Local Plan Policy 21 aims to protect the landscape and open space pattern of Royston. The proposal is also contrary to Local Plan Policy 36 since it does not comply with the criteria used to assess applications for new employment development. The proposal would be unacceptable in highway and amenity terms and would not be located within an area designated for employment generating development.

3.10 South Cambs District Council:

Nothing received.

3.11 Response to site notice, press notice and neighbour notifications:

One letter of objection received from Hamley's, occupiers of an adjoining industrial premises. The grounds of objection are as follows:

- 3.12
- * The design of the proposed building would not be in keeping with the surroundings.
 - * Environmental damage of continuous development outside the Royston Development Limits.
 - * Poor separation between pedestrian and vehicle areas on the plan may lead to road safety problems.
 - * The approach roads are too narrow to accommodate HGVs safely.
 - * Employees are likely to travel to work by car, adding to congestion problems on the surrounding highway network. HGV movements will add to this problem.
 - * Impact on local wildlife.

- * The local fire service is in the process of being down sized. Continual expansion of the town will further stretch the service.
- * There is a cumulative impact of recent large industrial developments at the edge of Royston. Particularly in terms of traffic impact.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The application site consists of undeveloped land between the A505 and Greenfield, Royston. The site area as stated on the application forms is 3.5ha. The site is relatively level.
- 4.1.2 The site is bordered by a group of industrial units, accessed off Greenfield, to the south of the site. Vehicular access would be gained off Greenfield, close to the entrance of the Hamley's site.

4.2 Proposal

- 4.2.1 Full planning permission is sought for the development of an industrial building containing warehouse and office space. The total floor space of the building would be just under 16,000 square metres. The application forms indicate that 1,200 square metres of this space would be for office purposes and the remainder as warehouse storage space.
- 4.2.3 The proposed building would be clad by steel sheeting. The cladding would use different profiles and colouring to create a modern, clean appearance. The roof would be hipped and concealed behind a parapet. The overall height of the building would be just over 15m from ground level.
- 4.2.4 Associated infrastructure would include vehicle access/manoeuvring space and car parking for 132 cars. HGV loading bays and space would be provided on the northern side (A505 side) of the building.
- 4.2.5 The application site contains a large belt of land to the north and west of the position of the proposed building and hard standing. Within this area a comprehensive landscaping scheme is proposed, including earth bunding and substantial tree planting. A dense tree belt is also proposed on the boundary of the site adjacent to the Hamley's building.

4.3 Key Issues

- 4.3.1 Taking account of the relevant central government, regional, County and District Local Plan policies referred to above and the comments received from interested parties I consider the main issues to be taken into account in relation to this planning application are as follows.

* Whether the applicant has put forward any exceptional reasons as to why a decision should be made to grant planning permission for this proposal that would be contrary to the development plan.

* Notwithstanding the policy presumption against this proposal; whether the development would cause demonstrable harm to the character and amenities of the locality, particularly in terms of its visual impact.

* Whether the proposal would be acceptable in highway safety/traffic impact terms, taking account of the applicant's Traffic Impact Assessment and the advice received from Hertfordshire County Council (Highways).

4.3.2 Policy conflict

Before considering the applicant's arguments that have been put forward in detail as to why planning permission should be granted it is necessary, in my view, to clarify what policies are relevant and how this proposal does not comply the development plan strategy.

4.3.3 Planning Policy Guidance note (PPG) 4 'Industrial and Commercial Development and Small Firms' was published in 1992. Whilst it is still relevant and contains many principles which have been developed and expanded upon, it is now of limited assistance in relation to this planning application. However, the guidance contained in this PPG supports the 'plan led' system that was first established by the 1990 Town and Country Planning Act (as amended). It makes it clear that the location of new employment land should be the subject of development plan policy. It reiterates statute and advises that applications for new employment development should be determined in accordance with the development plan, unless material considerations indicate otherwise. In terms of general advice on the location of new commercial development, this PPG advises that an assessment of industrial location must be guided by the principles of sustainable development.

4.3.4 Planning Policy Statement (PPS) 1 'Delivering Sustainable Development' (published January 2005) expands upon and modifies the principles that were first established in the early 1990s. The first section of this PPS sets out the Government's objectives for the planning system. Paragraphs 7 and 8 are of particular relevance. In these sections it is set out that '*National policies and regional and local development plans (regional spatial strategies and local development frameworks) provide the framework for planning for sustainable development and for the development to be managed effectively.*

Plans should be drawn up with community involvement and present a shared vision and strategy of how the area should develop to achieve more sustainable patterns of development. This plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives.' The PPS goes on to re-emphasise the principles first set out in the 1990 Act, now incorporated in the 2004 Planning Act by clearly stating that '*Where the development plan contains relevant policies, applications for planning permission should be determined in line with the plan, unless material considerations indicate otherwise.'*

4.3.5 Following the Planning and Compulsory Purchase Act 2004 and the clear guidance contained in PPS1, the Council is now preparing a Local Development Framework (LDF) to replace and supplant the existing Local Plan. This involves a process of community involvement and consultation. Following the publication of the options paper and the associated public consultations, a 'preferred options' paper is being prepared, in line with the timetable and procedures set out in law, which will be the subject of further consultations. Specific land allocations (e.g. housing and employment land) which will be informed by this community involvement process will not be prepared for some time. At present therefore the policies of the development plan are the key guiding policies for the determination of planning applications.

- 4.3.6 Regional policy guidance in the form of the draft Regional Spatial Strategy (RSS) 14 contains a Policy E3 which states that the LDF must be the basis on which new employment land is allocated. It then lists principles upon which this should be done. Essentially looking at existing urban areas first and other sites that will minimise car travel.
- 4.3.7 In the absence of clearly thought out land allocations the development plan must be the starting point. The application site is outside the Royston Development Limits, as set out in the North Hertfordshire District Local Plan No. 2 - with Alterations. The land is not allocated for employment and is therefore open countryside for the purposes of this document. The proposed development is therefore unacceptable in principle and to grant planning permission would prejudice the need to protect the countryside for its own sake and would be against the development strategy of promoting urban concentration and minimising car travel. The proposal therefore conflicts with Local Plan policies 6 and 9.
- 4.3.8 Perhaps as important as this policy conflict, is that to grant planning permission for this proposal now is premature. It would prejudice the careful process of the Local Development Framework and all its associated community involvement and strategic environmental assessments. Decisions relating to the future needs and location of industry should be guided through this plan-led system and should not be decided in an ad-hoc, case by case basis. To do so would undermine the planning system as it is applied locally, in my view.
- 4.3.9 **Exceptional Reasons**
- The policy conflict is clear, however, the planning acts require that other material considerations must be examined. As decisions should be made in accordance with the development plan unless material considerations indicate otherwise (PPS1). What are the applicant's stated 'other material considerations'?
- 4.3.10 The first other material consideration put forward by the applicant is that the development plan is out of date. The land use allocations are based on work that took place during the 1990s and the Council have not fulfilled their stated objective of monitoring employment land availability.
- 4.3.11 In response to this point, whilst the current Local Plan was adopted ten years ago, it's policies remain relevant and are still as a matter of law the first point of reference when determining planning applications. In terms of monitoring, the Council have recently commissioned an Employment Land Review. The report has concluded that since 2001 there has been continuous pressure for expansion of employment land to the north of Royston. The analysis and conclusions of the Employment Land Review will assist and inform the LDF process. The conclusions do not however undermine the existing land use allocations in the Local Plan. Moreover, in interpreting the planning acts, the law courts have consistently held that the vintage of a development plan cannot in itself 'indicate otherwise' (or conclude against the development plan) when determining planning applications. Taking account of these factors I am satisfied that this argument is not of sufficient weight to abandon clear and tested development plan policies.
- 4.3.12 The second and third arguments put forward by the applicant are that there are no suitable alternative sites to meet the needs of John Dickenson Stationary and that this site suits their operational needs perfectly. Whilst the supporting statement outlines a number of alternative sites that have been considered and loosely

explains why the company wish to relocate their existing warehouse functions, this does not justify a departure from the development plan in my judgement. To use the needs of this specific company as an argument to depart from the development plan the Council would be stating that they would not grant planning permission for a speculative application for similar development but would view this company's particular circumstances as a reason to depart from the development plan. Such an approach does not amount to proper land use planning. For example, planning permission could be granted for this development and the applicant may then decide not to implement it, leaving a planning permission for commercial development available for any other business.

Planning permissions run with the land and as such the system cannot be based on the specific operational needs of particular companies. In essence the Council need to determine whether or not this development is acceptable on this site and cannot focus on the requirements of a particular applicant.

- 4.3.13 The fourth argument put forward is that this development presents economic advantages to Royston. This may well be the case. The proposal would generate 60 extra jobs and would also assist the local economy in terms of other businesses feeding off this extra commercial activity. However, the economic gain arguments are also weak in my view. Latest figures indicate that the unemployment rate in Royston is 0.6% (total 58 claimants), the lowest level of almost every town in Hertfordshire. Latest figures also reveal that 49% of this employment is self contained in Royston, a level that is relatively high in Hertfordshire. This suggests that there are at present no real overarching economic needs for this proposal, in my view.
- 4.3.14 The final argument is somewhat spurious. It states that the proposal would enhance the landscape in this location, in the form of associated planting and landscape improvements around the perimeter of the site. If landscape enhancement was an objective of the applicant this could be carried out on the site, without the development of a large industrial building. To illustrate this point, such peripheral planting has already taken place around the site.
- 4.3.15 Taking account of all these arguments I am satisfied that there are not strong "other material considerations" or "exceptional circumstances" to justify this proposal for large scale commercial development in the Rural Area beyond the Green Belt. I therefore recommend that the planning permission be refused for this proposal on the basis of clear conflict with the development plan.
- 4.3.16 Moreover, in terms of the prematurity argument, as is mentioned above, the LDF process which is currently underway is a careful programme set out in law. It requires public involvement in decision making in terms of land use allocation and strategic environmental assessments of such allocations. Even if part or all of this application site is allocated for additional employment land in the future it is likely that the LDF would set out a design brief to influence the form and design of development and associated structural landscaping and infrastructure. A decision to grant planning permission for this development would clearly undermine and prejudice this process, in my view.

4.3.17 Visual and Traffic Impact:

The application is accompanied by a Visual Impact Assessment and includes proposals for substantial tree planting around the perimeters of the site in order to soften the appearance of the building. The applicant's consultant concludes that

when considering this landscaping the visual impact would be slight. The Council's Landscape Architect has queried many aspects of the Visual Impact Assessment. Firstly, given the scale of the building in relation to its context (i.e. much larger than virtually all other industrial buildings in the locality), within an open setting, the visual impact would be at least moderate. He also queries the planting proposal. The mature woodland belt would clearly not become established for many years after the development is complete and the applicant's geological survey reveals that the soil depth is often thin (at only 300mm above bedrock level). Given this finding it is not clear how large trees can grown and thrive on this soil type. If this planting cannot be achieved the mitigation measures are untenable. Even if such planting were possible when would the full mitigation effect be felt, 20 or 30 years?

4.3.18 In terms of the visual and landscape impact of the proposed development. Support is offered by policies 12 and 21 of the North Hertfordshire District Local Plan No. 2 - with Alterations. The site is located in a Landscape Conservation Area, wherein Policy 12 states that planning permission should be refused for proposals which do not '*positively enhance the landscape*' by reason of a building's siting and design, for example. Local Plan policy 21 also aims to protect the landscape and open space pattern within and around Royston. This policy states that the Council will normally refuse proposals '*which would have a significantly detrimental effect on the character, form, extent and structure of the pattern.*' Taking account of the advice received from the Council's Landscape Architect and the clear policies aimed at protecting and enhancing this landscape area, I consider that the proposed development would cause demonstrable harm to the character of the locality and would have a significant visual impact.

4.3.19 In terms of traffic impact. Hertfordshire County Council (Highways) have analysed the applicant's Traffic Impact Assessment and conclude that it underestimates the additional congestion that this development would cause. Nonetheless, they do not consider that this additional congestion would amount to reason for refusal of permission. They argue that the applicant can pay a commuted sum towards as yet unspecified sustainable transport measures, within the immediate locality. This, the County Council argue, would off set the increase in congestion that this proposal would generate.

4.4 **Conclusion**

4.4.1 Taking account of all the above factors it is clear that this proposal conflicts with the well established policies of restraint which are contained in the development plan. Such policies seek to restrict development outside urban areas and selected villages and therefore within the Rural Area Beyond the Green Belt. I am also satisfied that despite a comprehensive package of supporting documents, the applicant's have failed to demonstrate any realistic, planning based, exceptional circumstances as to why a decision, contrary to the development plan should be made in this instance. The application also pre-empts and prejudices the Local Development Framework process, and is therefore at the very least premature. I also conclude that the proposal would have an unacceptable visual and landscape impact to the detriment of the character of the area.

5.0 Legal Implications

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise.

Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 That permission be **REFUSED** for the following reasons:

1. The application site is outside the Royston Development Limits as defined in Policy 9 of the North Hertfordshire District Local Plan No. 2 - with Alterations and is within a part of the rural area where applications for planning permission are determined by the local planning authority in accordance with policies 1 and 6 of the Hertfordshire Structure Plan Review 1991-2011 and Policy 6 of the North Hertfordshire District Local Plan No. 2 - with Alterations. These policies allow only proposals which accord with the principles of sustainable development and where it is necessary for an agricultural or forestry purpose, for any proven need for local community services that cannot be met within a settlement or in the event of very special circumstances being shown to exist. In the view of the local planning authority the application fails to demonstrate that the proposal complies with the policy criteria, or that there exists any special circumstances to justify it being considered as an exceptional case.
2. The planning application pre-empts the outcome of the Local Development Framework process including all associated public consultations, sustainability appraisals and strategic environmental assessments that would be required prior to land allocations coming forward. To accept the principle of commercial development of this scale, on this site, is therefore at the very least, premature.
3. The proposed development, by reason of its siting, excessive height and scale in comparison to surrounding buildings would detract from the landscape characteristics of the rural area within which the site is located. The visual impact of the proposed development would be significant, to the detriment of the character and visual amenities of the locality. The applicant's Visual Impact Assessment does not clarify that all the proposed tree planting is feasible given the soil type and depth in certain locations. The mitigation planting may therefore not be realistic in this instance. These factors together with the failure of the scheme to positively enhance the landscape lead the local planning authority to conclude that the proposed development would conflict with the provisions of Policy 43 of the Hertfordshire Structure Plan Review 1991-2011 and policies 12 and 21 of the North Hertfordshire District Local Plan No. 2 - with Alterations.