

ITEM NO:	<u>Location:</u>	Land adjacent Royston Road, Barkway
	<u>Applicant:</u>	Mr Rand The Rand Brothers
	<u>Proposal:</u>	Outline application with all matters reserved other than strategic point of access onto Royston Road for the erection of up to 100 dwellings and a new shop (A1 use) with associated public open space, landscaping and drainage
	<u>Ref. No:</u>	16/02759/ 1
	<u>Officer:</u>	Simon Ellis

Date of expiry of statutory period: 01 February 2017

Reason for Delay

	The applicant has agreed to extend the statutory determination period to 30 June 2017.
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Reason for Referral to Committee

	This is a proposal for residential development and the site area is greater than 0.5ha. Under the Council's scheme of delegation this planning application falls to be determined by the Planning Control Committee.
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1.0 Relevant History

1.1	None
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2.0 Policies

2.1	<p>North Hertfordshire District Local Plan No.2 with Alterations</p> <p>Policy 6 - Rural Areas beyond the Green Belt. Policy 14 - Nature Conservation. Policy 16 - Areas of Archaeological Significance and other Archaeological Areas. Policy 29A - Affordable Housing for Urban Local Needs. Policy 51 - Development Effects and Planning Gain. Policy 55 - Car Parking Standards. Policy 57 - Residential Guidelines and Standards.</p> <p>Supplementary Planning Document.</p> <p>Vehicle Parking Provision at New Development. Planning Obligations SPD</p>
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2.2	<p>National Planning Policy Framework.</p> <p>Paragraph 14 - Presumption in Favour of Sustainable Development. Paragraph 17 - Core Planning Principles. Section 1 - Building a strong, competitive economy. Section 3 - Supporting a prosperous rural economy. Section 4 - Promoting sustainable transport. Section 6 - Delivering a wide choice of high quality homes. Section 7 - Requiring good design. Section 10 - Meeting the challenge of climate change, flooding and coastal change. Section 11 - Conserving and enhancing the natural environment.</p>
2.3	<p>North Hertfordshire District Local Plan 2011-2031 'Preferred Options Consultation Paper' and Proposals Map</p> <p>Policy SD1 'Presumption in Favour of Sustainable Development' Policy T1 'Sustainable Transport' Policy T2 'Parking' Policy HDS1 'Housing Targets 2011-2031' Policy HDS2 'Settlement Hierarchy' Policy HDS3 'Affordable Housing' Policy D1 'Design and Sustainability' Policy D3 'Protecting Living Conditions' Policy NE6 'Reducing Flood Risk' Policy NE7 'Water Quality and Environment' Policy NE9 'Contaminated Land' Policy ID1 'Infrastructure Requirements and Developer Contributions' Chapter 12 'Part 1': Development for North Hertfordshire's Own Needs' - Barkway.</p> <p>Proposals Map - proposed site allocation - part of site BK3.</p>

3.0 Representations

3.1	<p>Barkway Parish Council:</p> <p>See main objection set out in full as appendix 1. The extensive appendices attached to the letter of objection are not appended but can be viewed on the Council's website.</p> <p>Also as a separate response the Parish Council refer to paragraph 28 of the NPPF which supports the sustainable growth and expansion of rural enterprises. They argue that this proposal would not increase local employment opportunities. They also point out that arguably this may undermine local employment by threatening the viability of Newsells Park Stud which employs 30-35 local people.</p>
3.2	<p>Newsells Stud:</p> <p>Raise strong concerns about rearing foals on the part of the stud closest to the proposed housing development. The chalk bedrock on other parts of the stud leads to injury as the land is harder and unforgiving. With more homes and associated activity close to an important part of the stud site it would risk the future of the business in being able to rear and train thoroughbred race horses. The stud is an important local employer.</p> <p><i>'There can be no doubt that this housing proposal will inexorably damage the viability of Newsells Park Stud and I urge the Council as strongly as I possibly can, not to grant permission to this housing application.'</i> The full text of this representation can be viewed on the Council's website.</p>
3.3	<p>Barley Parish Council:</p> <p>Concern regarding the scale of development and likely traffic impact through Barley.</p>

3.4	<p>Highway Authority: No objection and recommend various conditions and an unspecified S106 fund to upgrade local bus stops. Note that the site is not well connected by footways on Royston Road and if permission is granted this would need to be addressed.</p>
3.4	<p>HCC (Archaeology): No objections. Require condition.</p>
3.5	<p>Herts CC (Planning Obligations): Require: £190,018 towards to expansion of Barkway First School, £157,312 towards the expansion of Roysia Middle School from 3fe to 4fe and £4,684 towards an upgrade to Meridian Youth Centre.</p> <p>To add to the uncertainty over the status of reserved school site HCC's position states as follows: <i>'Development coming forward in Barkway will need to contribute towards the provision of additional first school places. The current school site is constrained and the education planning team has not yet determined whether an option to provide additional places at the existing site would be possible. A full or partial relocation, for example the provision of detached playing fields, could be considered. The project nominated to mitigate the impact of this development would provide additional places at Barkway First School but no decision has yet been made on whether those places will be physically located on the existing reserve site.'</i></p>
3.6	<p>Herts CC (Ecology): No objections. Recommend various conditions.</p>
3.7	<p>Historic England: Question the conformity of this proposed land allocation and planning application with the NPPF. Consider that the development has the potential to impact on the setting of nearby heritage assets, listed buildings and the conservation area.</p>
3.8	<p>Herts CC (Countryside Access Officer, Rights of Way Service): Point out that any change to public rights of way in terms of surfacing or configuration would need their agreement and implementation.</p>
3.9	<p>Lead Local Flood Authority (LLFA): Maintain a holding objection which the applicant is attempting to overcome.</p>
3.10	<p>Env. Health (Contamination): No objections. Suggested conditions</p>
3.11	<p>Env. Health (Noise & Light): No objections. Suggested conditions</p>

3.12	<p>Hertfordshire CPRE: Point out that the site was only identified for consultation in the Local Plan in the Autumn 2017 round of consultation. It was previously rejected as a site in earlier versions of the plan as being unsuitable as a housing allocation. The development is not sustainable, Barkway has very few facilities and on this basis the proposal conflicts with the NPPF. Poor links from the development site to the local primary school. The Council's spatial strategy set out in the submission Local Plan is to concentrate development in and around major towns, this site allocation runs counter to this objective. This development would increase housing in Barkway by 28%. The submission Local Plan states the need to protect the East Anglian Heights, this proposal on the ridge line would undermine this important landscape objective. The Local Plan is still subject to examination and should be given very limited weight.</p>
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3.13	<p>Local residents: See table set out in appendix 2. Members must also note that the full text of all local representations are set out on the Council's website.</p>
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3.14	<p>Housing Enabling Officer: Require 40% affordable housing as follows: 65% affordable rent of which 21% should be one bed flats, 12% two bed flats, 26% two bed houses, 35% three bed houses and 6% four bed houses. For the remaining 35% intermediate tenure would require 8% 1 bed flats, 8% two bed flats and 20% 3 bed flats.</p>
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4.0 Planning Considerations

4.1 Site & Surroundings

	Arable land north of Barkway, to the east of Royston Road.
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4.2 Proposal

	Outline application for up to 100 dwellings and A1 retail unit with all matters reserved apart from strategic vehicular access point.
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4.3 Key Issues

4.3.1	Taking account of the development plan policies, other material considerations and representations received from all interested parties referred to above I consider the key material considerations to be addressed in the determination of this planning application are as follows:
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	<ul style="list-style-type: none"> * Whether housing development is acceptable on this site in principle, taking account of the presumption in favour of sustainable development set out in the NPPF and weight that can be attributed to emerging Local Plan policies; * Whether the proposed development is capable of delivering high quality and inclusive design, which can enhance the way the area functions (paragraphs 58-61 of the NPPF). This will include an assessment of any landscape impacts and relationship to the character and appearance of the surrounding village and heritage assets; * Whether the proposal would deliver necessary mitigation on local services through planning gain and S106 contributions to address the impact of the development on those services; * Whether the proposal is acceptable in terms of traffic impact and other infrastructure such as flood risk (see response from relevant technical consultees reported above); * Whether the proposal would have an acceptable relationship with nearby residential properties and other land uses in terms of living conditions and other amenity impacts;
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Each of these key issues will be addressed in the following paragraphs. Due to the complexity of the current planning policy position this report is structured more on the basis of policy relevance than topic areas.

4.3.2 The Principle of Housing Development on this site

Paragraph 49 of the NPPF states that *'housing applications should be considered in the context of the presumption in favour of sustainable development.'* Paragraph 14 of the NPPF defines the presumption in favour of sustainable development for decision makers as follows:

- * **'approving development proposals that accord with the development plan without delay; and**
- * **where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:**
 - **any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or**
 - **specific policies in this Framework indicate development should be restricted.'**

4.3.3 Under paragraphs 14 it is therefore clearly necessary to assess the weight that can be applied to relevant development plan policies to this application. The development plan for North Hertfordshire consists of the saved policies of the North Hertfordshire District Local Plan No. 2 - with Alterations (adopted 1996). This application site is a greenfield site located outside the village boundary of Barkway, as defined in the North Hertfordshire District Local Plan No. 2 - with Alterations proposals map (adopted 1996). Indeed the site is detached completely from the selected village boundary, separated by land owned by Hertfordshire County Council (identified as a potential reserved school site within the emerging Local Plan 2011-2031). Saved Policy 6 of the adopted Local Plan seeks to resist development proposals outside settlement boundaries except for various small scale development schemes that are appropriate in the countryside. The development proposal set out in this application is not one of these exceptions and as such the proposal is contrary to saved Local Plan Policy 6.

4.3.4 In order to consider how much weight to apply to development plan policies post publication of the NPPF (March 2012), paragraph 215 of the NPPF states that:

'[for policies contained in Local Plans adopted before the 2004 Act - i.e. the 1996 Local Plan] due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).'

4.3.5 Moreover, where local planning authorities cannot demonstrate a five year land supply of deliverable housing sites, the NPPF places a further restriction on weight that can be attributed to development plan policies which seek to restrict the supply of housing (NPPF paragraph 49). The Council has recently published a Housing and Green Belt Background Paper together with the proposed submission Local Plan (2011-2031). This paper argues that from the date that Full Council decided to submit the Local Plan to the Secretary of State for examination at the meeting held on 11 April 2017, the Council can demonstrate a deliverable five year land supply of housing sites, at 5.5 years land supply. This claim will of course be tested at the forthcoming Examination in Public (EiP) into the Local Plan. Therefore as a precautionary approach it is in my view necessary to consider the relevance of saved Policy 6 on the basis that the Council cannot at this stage with any degree of confidence categorically claim it has a five year land supply of deliverable housing sites. The weight to be attributed to saved Policy 6 must therefore be tested through paragraph 49 of the NPPF as well as paragraph 215. Paragraph 49 states that:

'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year land supply of deliverable housing sites.'

4.3.6 Whilst Policy 6 clearly has a role in directing new housing development towards existing settlements and in this respect it is out of date, it is not explicitly a policy that relates to the supply of housing. It has a broader planning purpose that of protecting the character of the countryside, which has a degree of consistency with the 'Core Planning Principles' set out in the NPPF at paragraph 17 that:

'take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.'

4.3.7	<p>On this basis and recent appeal decisions have re-affirmed this view, in terms of Policy 6 acting as a tool to restrict the supply of housing it is out of date and must be given very limited weight, particularly as in this case where I cannot be wholly confident of the Council's position on five year land supply. Paradoxically however the policy's method of restricting the supply of housing is to protect the countryside which the NPPF recognises has intrinsic value. Therefore when applying saved Local Plan Policy 6 which has a degree of consistency with the core planning principles set out in the NPPF, in my view this development proposal clearly conflicts with the aim of protecting the countryside to maintain its intrinsic beauty. In my view the conflict with this policy represents a clear element of harm which may only be outweighed on confirmation of the sites adoption, that housing development of the potential scale and quantum identified in this outline planning application would cause to the intrinsic value of the countryside on which the site is located. The policy is however to be replaced by Policy CGB1 of the submission Local Plan (2011-2031). As the site would be located within a new settlement boundary of Barkway (to be identified as a Category A village) there is a risk that very soon the status and weight than can be attributed to Saved Policy 6 of the 1996 Local Plan will diminish further. On this basis and as precautionary approach I give this conflict with saved Policy 6 very limited weight in and of itself.</p>
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4.3.8	<u>Emerging Local Plan Policies (2011-2031)</u>
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	<p>Full Council agreed to submit the North Hertfordshire Local Plan (2011-2031) to the Secretary of State for examination at the meeting held on 11 April 2017. This is another step in the progress of the Local Plan which means that the policies contained in the Local Plan now carry more weight in development management decisions than it did before the decision of Full Council on 11 April 2017.</p>
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4.3.9	<p>Within this document this site is identified as part of proposed housing allocation BK3. The Local Plan also proposes (as with all rural or edge of urban land allocations) to take the site out of the rural area and within a revised settlement boundary of Barkway. The dwelling estimate for the whole BK3 site is 140 dwellings. This outline planning application is for 4.6ha of developable area (i.e. land within the application red line and under the control of the applicant). The remainder of the proposed BK3 land allocation comprises land south of Bridleway 018, east of Footpath 017 and west of Cambridge Road. There is no current planning application for any development on the remainder of proposed site allocation BK3. The requirements of any housing delivery on site BK3 are listed in the Local Plan as follows:</p>
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	<ul style="list-style-type: none"> * Development should be set back from the road; * Lower density housing would be appropriate on the eastern part of the site; * Incorporation of footpath Barkway 017 as a north-south green corridor through the site; * Appropriate treatment of northern boundary to maintain alignment and integrity of Bridleway Barkway 018; * Explore opportunities for connecting road from Royston Road to Cambridge Road having regard to heritage considerations (below); * Sensitive integration into existing village, particularly in terms of design, building orientation and opportunities for pedestrian and cycle access; * Provision of local convenience shop; * Site layout designed to integrate with any future use of adjoining reserved school site; * Development should include extensive tree planting, maintenance of the existing boundaries and hedgerows; * Sensitive design to respect setting of Cokenhach Registered Park and Garden and listed buildings within Newsells estate to include: <ul style="list-style-type: none"> - reinforcing of hedgerows and landscaping along site boundaries; and - access arrangements to minimise harm to heritage assets.'
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4.3.10	Insofar as this is an outline planning application with all matters reserved apart from means of vehicular access, it is not possible at this stage to assess this application against all of the requirements of the proposed BK3 land allocation listed above. Matters such as detailed design and layout of buildings for example are reserved and can only be considered as part of an assessment of any submission of reserved matters. There are however some requirements which need to be addressed within this outline planning application in order for the overall scheme to deliver the BK3 land allocation.
4.3.11	On this basis the following section of the report sets out an assessment of the outline planning application against the requirements of proposed land allocation BK3; explaining whether such matters are relevant at this stage or are reserved for future consideration:
4.3.12	<p>1) Development should be set back from the road:</p> <p>This matter is reserved for future consideration as it relates to detailed design and layout. Whilst this outline planning application is for up to 100 dwellings it is not the eventual quantum and layout of development would be require approval through any reserved matters submission.</p>
4.3.13	<p>2) Lower density housing would be appropriate on the eastern part of the site:</p> <p>As above, any outline planning permission for up to 100 dwellings does not fix a development density and on this basis this requirement of proposed land allocation BK3 can only be assessed through any full planning application or reserved matters approval following an outline planning permission. It is also worth noting that this application mainly relates to the western part of the proposed land allocation site. As is explained above, there is no current planning application for development on the eastern part of the proposed land allocation.</p>
4.3.14	<p>3) Incorporation of footpath Barkway 017 as a north-south green corridor through the site:</p> <p>To consider the full treatment and creation of a green corridor any housing proposed within this application site would need to be considered as a wider development scheme for the remainder of the proposed land allocation site. Without such an application it is not possible to consider how to deliver the 'green corridor' on the basis of a piecemeal proposal for only part of the land allocation. Having said that if Members were minded to grant outline planning application for this development proposal consideration of layout, design and landscaping of the development would be able to ensure that the green corridor is retained and maintained and on that basis this requirement is also a matter that cannot realistically be controlled at this outline stage.</p>
4.3.15	<p>4) Appropriate treatment of northern boundary to maintain alignment and integrity of Bridleway Barkway 018:</p> <p>This is also a matter that can only be addressed through a reserved matters submission. In my view there is no reason to consider that a development of up to 100 dwellings this site could not be designed in such a way which would achieve this requirement.</p>
4.3.16	<p>5) Explore opportunities for connecting road from Royston Road to Cambridge Road having regard to heritage considerations below:</p> <p>This requirement cannot be fulfilled as the development scheme does not relate to the whole site of the proposed land allocation. Any new road within a reserved matters scheme could not extend from Royston Road to Cambridge Road as the applicant does not have control over the eastern part of the proposed land allocation. On that basis, this current outline planning application does nor fulfil this requirement.</p>

4.3.17	<p>6) Sensitive integration into existing village, particularly in terms of design, building orientation and opportunities for pedestrian and cycle access:</p> <p>Matters such as detailed design and building orientation are not part of this outline planning application (matters are reserved). However, I have concerns regarding the piecemeal approach to development set out in this application. If a development of up to 100 dwellings is delivered on this site alone with no certainty that it would be part of a wider comprehensive development of the whole land allocation and integration with a potential new school on the reserved school site, in my judgement any such development would appear isolated and largely divorced from the existing village. In my view such a form of development would harm the character and appearance of this locality, which is open and rural in nature and in townscape terms remote from the core of the village.</p>
4.3.18	<p>On this basis I consider that it would be inappropriate and poor planning to grant outline planning permission for this development proposal as the successful integration of the development scheme to the wider village cannot be secured at this stage. Moreover, the applicant has not put forward any proposals for improved pedestrian and cycle access to the wider village, largely on the basis that they do not have control over land beyond the red line. However, land assembly is a key part of delivery of land allocations and / or joined up working with other land owners. Even if the Council are not at this stage intending to deliver a development on the reserved school site; I am concerned that this planning application does not resolve key considerations that would be necessary to achieve a successful and well designed development on this site which integrates with the existing village. For example, how would the reserved school site function? It is at present part of the same arable field upon which this proposal has been brought forward. If housing is developed on this site alone, without any development on the reserved school site or indeed the remainder of the land allocation, what land use would the remainder of the site become? To have the remainder of an arable field with no public access or any new pedestrian / cycle route into the wider village would in my view represent poor design and would mean that any development on this application site alone could not be properly integrated into the village.</p>
4.3.19	<p>On the specific point of pedestrian and vehicular access it is necessary to consider the fact that pedestrian footpath links along Royston Road linking to the site are patchy at best and there are no street lights along this section of Royston Road (a development of up to 100 dwellings would generate significant pedestrian movements from the site and into the wider village). The planning application presented here does not propose any improvements to these linkages outside the site.</p>
4.3.20	<p>On this basis and despite the limited range of issues that can be fully considered at this outline stage in my view this piecemeal development proposal if developed in isolation is not capable of achieving this important requirement of proposed land allocation BK3.</p>

4.3.21	<p>7) Provision of local convenience shop: This outline planning application does seek permission for a local convenience shop. However, there is no clear explanation over the timing of delivery, whether it would be viable without development on the remaining part of the proposed land allocation. And whilst planning conditions and clauses within any necessary S106 Obligation could be drafted which could ensure suitable triggers are in place to ensure the delivery of the convenience no such realistic mechanisms have been put forward within the planning application and at this time officers and the applicant have not even commenced any realistic discussions over the future details of a S106 Obligation. There would potentially be the need for a start up subsidy and such a subsidy would be necessary from this proposed development as well as from any development on the wider BK3 land allocation, but with no such planning application submitted there cannot be at this stage any linkages between the two.</p>
4.3.22	<p>Notwithstanding the fact that the proposal specifically proposes a convenience store at this stage the applicant has not put forward sufficient information to explain whether the store is deliverable or how the local planning authority can ensure its delivery and future longevity. At this stage therefore I can only conclude that this requirement of the proposed land allocation cannot be realistically fulfilled.</p>
4.3.23	<p>8) Site layout designed to integrate with any future use of adjoining school: Notwithstanding my wider concern about the piecemeal nature of this development proposal and the fact that as it reported above at this stage Hertfordshire County Council (Planning Obligations team) have stated that this development proposal does not trigger a requirement for the development of a new first school on the reserved school site, this specific design requirement can be controlled through any future reserved matters submission.</p>
4.3.24	<p>9) Development should include extensive tree planting, maintenance of existing boundaries and hedgerows: This matter can be controlled through a reserved matters application relating to design, layout and landscaping of the site.</p>
4.3.25	<p>10) Sensitive design to respect setting of Cokenhach Registered Park and Garden and listed buildings within Newsells estate to include: - reinforcing of hedgerows and landscaping along site boundaries; and - access arrangements to minimise harm to heritage assets: Again, these detailed matters can be controlled through the submission of reserved matters. In terms of the principle of up to 100 dwellings in this location I do not consider that the development scheme would cause any significant harm to these specifically listed heritage assets.</p>
4.3.26	<p>Other policies which are of relevance within the emerging Local Plan include a requirement for 40% affordable housing within the scheme (Policy HS2) are set out in the list given above. Many of these policies such as 'Protecting Living Conditions' (Policy D3) are not fully engaged until details of design and layout are assessed or relate to highly specialised technical matters, such as contaminated land (Policy NE9) which are addressed through specific consultees detailed above.</p>
4.3.27	<p>On the affordable housing requirement the applicant has expressed a willingness to include 40% affordable housing within the scheme however at this stage there has been very little progress on S106 discussions; and a completed S106 Obligation would be required to secure the necessary provision of affordable housing on this site.</p>
4.3.28	<p><u>Weight Attributed to Emerging Local Plan Policies</u></p>

	<p>Whilst I have identified some conflict with emerging Local Plan policies in the earlier section of this report, as the emerging Local Plan is not as yet the development plan it is at this stage an 'other material consideration' which must be taken into account in the determination of this planning application. At this time and before adoption of the new Local Plan the development plan remains the Saved policies of the North Hertfordshire District Local Plan 1996 - with Alterations. In relation to the development plan I have identified above conflict with Saved Policy 6 of the 1996 Local Plan, albeit and is explained this policy carries limited weight as advised in the NPPF.</p>
4.3.29	<p>The NPPF also offers clear guidance on the weight that can be attributed to emerging Local Plan policies which is set out in paragraph 216 of the Framework as follows:</p>
	<p>'From the day of publication [of the NPPF, March 2012], decision takers may also give weight to relevant policies in emerging plans according to:</p> <ul style="list-style-type: none"> * the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); * the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater weight that may be given); and * the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in this Framework, the greater the weight that may be given).'
4.3.30	<p>As is mentioned above, I have found conflict with certain aspects of land allocation policy BK3 contained within the emerging Local Plan (land allocations are classed as 'policies' for the interpretation of paragraph 216 of the NPPF). In order to establish how much weight to attribute to land allocation policy BK3 it is clearly necessary to assess its status in light of the three tests set out in paragraph 216 and in this respect I make the following observations:</p>
4.3.31	<p>Stage of preparation: On the 11 April 2017 Full Council agreed to submit the Local Plan to the Secretary of State for examination. This decision represents another important step in plan preparation and as is set out above, the more advanced the stage in preparation, the more weight that should be attributed to the policy.</p>
4.3.32	<p>Extent of unresolved objections: I have examined key consultation responses to the submission Local Plan consultation which took place in Autumn 2016 and there are no fundamental unresolved objections to the delivery of housing on the BK3 site from important technical consultees. There are of course a number of local concerns expressed but for the purposes of paragraph 216 I am of the view that the key test is any significant, evidence based planning objections from key consultees, such as the highway authority, education authority, or utilities for example.</p>
4.3.33	<p>This test is also often satisfied through an assessment of the planning application and as can be seen above other than a probably resolvable technical objection from the Lead Local Flood Authority (negotiation on this is on going) there are no clear unresolved technical objections to development on this site.</p>
4.3.34	<p>Compliance with the NPPF: The requirements of proposed site allocation BK3 are in my view consistent with the policies set out in the NPPF.</p>

4.3.35 On this basis and in relation to this planning application I consider that considerable weight can be attributed to proposed allocation policy BK3. And since I find conflict with many aspects of this policy I consider that a refusal of outline planning permission based on conflict with the emerging Local Plan can be sustained at an appeal.

4.3.36 **Applying the NPPF Direct**

As is mentioned above, paragraph 49 of the NPPF requires that housing applications must be assessed within the context of the presumption in favour of sustainable development. Paragraph 14 of the NPPF explains how the presumption should be applied. It clearly directs consideration of planning applications to be tested against the policies of the Framework taken as a whole. Particularly where relevant development plan policies are out of date and clearly in all other circumstances the policies contained within the NPPF are an important material consideration.

4.3.37 In the preceding section of this report I have identified a number of areas where this particular proposal fails to achieve important design objectives set out for the proposed land allocation BK3 in the submission Local Plan. In particular the piecemeal nature of the development scheme, consisting of only part of the overall land allocation and not being linked to any potential development on the reserved school site represents in my view a poor standard of design and layout.

4.3.38 Paragraph 64 of the NPPF states that:

'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

4.3.39 In my view insofar as I am able to assess given that this application is outline with all matters reserved apart from the main vehicular access point, I consider that the proposal conflicts with the requirements of paragraph 64 on the following basis:

* The design is poor in that the scheme has been brought forward in isolation from any wider area development scheme (paragraph 57 of the NPPF). If developed in isolation it would be largely divorced from the village as it would remain separated from the reserved school site, which would remain as an area of open countryside between the village and the development of up to 100 dwellings on the application.

* By failing to meet key requirements of land allocation policy BK3, in particular no certainty over a road linkage between Royston Road and Cambridge Road (simply on the basis that the application has been submitted for development on only part of the proposed land allocation site); A total lack of explanation as to how the proposed new convenience store would be viable or even feasible; No improved pedestrian or cycle linkages to the wider village outside the site and a general lack of detail as to how the proposal would integrate successfully with the village.

4.3.40 In my view these weaknesses of the scheme represent clear evidence as to how the proposal conflicts with the requirements of the NPPF in seeking high quality and inclusive design for all development and to ensure an enhancement to the character of an area and the way it functions (paragraphs 57 and 64 of the NPPF).

4.3.41 **Sustainability**

	There are three roles to sustainable development set out in the NPPF, an economic, social and environmental role. All roles must be satisfied to achieve the objective of a genuine sustainable development. I briefly address each role in turn:
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4.3.42	In terms of an economic role there are obvious economic benefits associated with the delivery of new homes on this site, through new employment opportunities in construction and new households to serve local businesses and services. The social role can be satisfied with the completion of any necessary S106 Obligation in my opinion which would deliver the necessary enhancements to local infrastructure, however, with the current absence of a S106 Obligation (see section below). I cannot at this time state that the social role of sustainable development is satisfied through this planning application. Likewise the environmental role, whilst the submission Local Plan identifies Barkway as a category A village, capable of supporting significant housing growth (not least on proposed site allocation BK3) many aspects of this scheme have not been properly addressed within the application, such as; how can the proposed convenience store be sustained if only part of the land allocation is delivered? what proposals are there to improve pedestrian and cycle linkages into the wider village?
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4.3.43	On this basis and whilst I consider that a sustainable form of development is capable of being delivered on this site, if planned and delivered properly, the current application does not in my view present a genuinely deliverable social and environmentally sustainable form of development on the basis of the shortcomings outlined in this report.
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4.3.44	<u>Living Conditions</u>
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	At this outline stage with all matters reserved save for access it is not possible to fully assess living conditions relating to surrounding properties and land uses. In relation to the representation from Newsells Stud to the north of the application site, I consider that a development scheme of up to 100 dwellings on this site could be designed in such a way as to ensure a sensitive interface between the development and the safe operation of the stud and bridleway.
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4.3.45	Likewise for living conditions of future occupiers of the development all spatial matters relating to this would be considered as part of a reserved matters submission.
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4.3.46	<u>The Planning Balance</u>
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Within the preceding paragraphs I have framed broad areas of how I consider this planning application is unacceptable in terms of design and practical considerations relating to how development of this site alone would function, or rather fail to function properly as a new housing development in this location. As a result of these fundamental objections to the application I have suspended negotiation with the applicant on any on-going matters such as seeking agreement over the terms of a S106 Obligation and whilst I can facilitate further discussion between the applicant and the Lead Local Flood Authority, if as is my view there is no prospect of this planning application being granted permission in its current form it is perfectly reasonable to determine the planning application now rather than string out further discussions with no prospect of a positive outcome for the applicant. Whilst paragraph 187 of the NPPF requires local planning authorities to act pro-actively and seek to find solutions, in my view the weaknesses of this scheme are unsolvable without a fundamental re-think as to how any development on the whole of the proposed land allocation BK3 can be delivered and ideally combined with development on the reserved school site so as to achieve a more sensitive and fully integrated development within a new Barkway village boundary. Unless of course the site is removed from the Local Plan at EiP then any development on the whole site would become unacceptable in principle.

4.3.47 In the absence of a five year land supply where relevant policies which restrict the supply of housing can be considered out-of-date (paragraph 14 of the NPPF) the weighted planning balance is tipped in favour of granting planning permission for sustainable development. Planning permission should only be refused in such circumstances where:

'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of [of delivering new homes], when assessed against the policies in this Framework taken as a whole.'

4.3.48 Whilst the Council now claims to be able to demonstrate an up to date five year land supply of deliverable housing sites (since the decision of Full Council to submit the Local Plan to the Secretary of State for Examination on 11 April 2017), applying a precautionary approach I have assessed this application within the paragraph 14 framework referred to above, whereby any adverse impacts must significantly and demonstrably outweigh the benefits of delivering new homes. This precautionary approach would avoid the necessity of having to defend the Council's five year land supply position in any appeal against a refusal of planning permission for this application. If it is found that the harm identified does significantly and demonstrably outweigh the benefits of delivering new homes then any refusal of planning permission on this basis is defensible irrespective of whether an Inspector in a S78 appeal or indeed at a future Examination in Public (EiP) into the submission Local Plan (anticipated Autumn 2017) concludes that the five year land supply position is not secure.

4.3.49 **The Benefits of Delivering New Homes**

This planning application proposes up to 100 new homes which would make an important contribution towards improving the five year land supply but also helping to meet the objectively assessed housing need for at least 14,000 (+ 1,950 for Luton's un-met need) new homes across the District through the plan period (2011-2031). Meeting housing need is in itself a clear benefit of the proposed development.

4.3.50	The applicant has also proposed to provide 40% affordable housing on this site. This offer exceeds the 25% affordable housing requirement in saved Local Plan Policy 29A and complies with emerging Local Plan policy HS2. The proposal therefore seeks to deliver new homes to meet the emerging Local Plan housing target and deliver much needed new affordable homes to meet identified affordable housing needs also. Other potential S106 benefits are referred to in later sections of this report.
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4.3.51	However, in terms of economic benefits it is clear that the proposed development would create employment opportunities in construction and by providing homes for new households in the local area, the development would help to support existing local businesses and services.
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4.3.52	Since the enactment of the Localism Act 2011, Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires planning applications to be determined in accordance with the development plan, any local finance considerations and any other material considerations. The Act defines local finance considerations for the purposes of determining planning applications as income derived from the Community Infrastructure Levy (CIL) and the government's Homes Bonus scheme as a top up to revenue grant to support the delivery of new homes.
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4.3.53	Whilst the Council has not adopted a CIL it is necessary to consider homes bonus income to the Council that would result from this development proposal. This is in my view another benefit of the scheme that must be considered, albeit, a non-land use factor.
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4.3.54	The above is not an exhaustive list of the benefits of delivering new homes on this site, it does however provide a useful summary. Applying the presumption in favour of sustainable development it is necessary to critically assess this planning application against the policies of the NPPF taken as a whole before judging whether any identified harm as a result of this analysis would 'significantly and demonstrably' out weigh the benefits of delivering new homes on this site.
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4.3.55	<u>Conclusion on Planning Balance</u>
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	In my opinion the harm I have identified in earlier sections of this report which are essentially that this development proposal would cause in terms of a piecemeal form of development that cannot achieve the requirements of land allocation Policy BK3 and the overall poor standard of design would in my view significantly and demonstrably outweigh the benefits of delivering new homes on this site. Moreover, as can be seen from the recommended reasons for refusal set out below; the critique of this planning application does not strike at the heart of the potential delivery of new homes on proposed allocated site BK3 within the plan period (i.e. up to 2031). There is more than a reasonable prospect that an appropriately designed and fully integrated development scheme across the whole site including a new school or integrating the BK3 allocation with this land in some other form if the school is ultimately not required can be achieved as part of a properly planned and integrated scheme, should the site remain in the Local Plan post EIP.
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4.3.56	<u>S106 Requirements</u>
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	Should Members be minded to grant outline planning permission for this scheme I recommend that such a resolution would be subject to the completion of a necessary S106 Obligation to achieve the following aims:
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Element	Details	Justification
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Arrangement for provision of local convenience store facility	Start up costs, phasing of development – cross subsidy with other part of the land allocation should it come forward – applicant has provided limited detail on this element	Policy / land allocation BK3 North Hertfordshire Submission Local Plan (2011-2031)
Affordable Housing	40% of which 65% affordable rent as follows: 21% one bedroom flats (5 units) 12% two bedroom flats (3 units) 26% two bedroom flat houses (7 units) 35% three bedroom houses (9 units) 6% four bedroom houses (2 units) 35% intermediate tenure as follows: 8% one bedroom flats (1 unit) 8% two bedroom flats (1 unit) 20% two bedroom houses (3 units)	Policy HS2 North Hertfordshire Submission Local Plan (2011-2031) Planning Obligations SPD As required by housing enabling officer
Waste collection and recycling	£71 per dwelling index linked from 2 nd quarter 2006	Planning Obligations SPED
Open Space management and maintenance	Private management body or adoption by NH DC if adoption commuted sum required for 10 year management and maintenance period based on current contract costs	Planning Obligations SPD
HCC First School education	Expansion of Barkway School: £190,018 based on 100 dwellings or apply table within SPD if lower number (index linked)	HCC toolkit and Planning Obligations SPD
HCC Middle School contribution	Expansion of Roysia Middle School from 3fe to 4fe: £157,312 based on 100 dwellings or apply table in SPD if lower (index linked)	HCC toolkit and Planning Obligations SPD
HCC Youth Services	Towards Meridian Youth Centre – to update facility to support the delivery of youth curriculum: £4,684 based on 100 dwellings or apply table in SPD if lower (index linked)	HCC toolkit and Planning Obligations
Fore hydrant provision across the site	HCC requirement	HCC toolkit
Sustainable transport contribution	Provide upgrades to bus stops in the vicinity of the site as part of the planning process in order that they are fully Accessibility Act-compliant and all the details would have to be negotiated with passenger services at HCC (no amount specified at the time of writing)	Planning Obligations SPD and requirement of HCC (Highways)

4.3.57	As is set out in the report above all negotiations on this planning application have been suspended on the basis that I do not consider that even with a completed S106 Obligation that planning permission can be granted for this scheme in its present form. Had negotiations continued with the aim of a positive outcome it is possible that a suitably worded S106 Obligation could have been completed. However, since at the time of determination there is no completed S106 Obligation this forms a separate recommended reason for refusal as set out below.
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4.3.58	Outstanding Technical Matters
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	As can be seen from the technical consultation responses outlined above. All technical consultees have been satisfied with the applicants submission and there are no objections from any of the technical consultees apart from the Lead Local Flood Authority LLFA. The applicant has continued to liase with the LLFA in order to overcome their objections and any further updates will be reported orally at Committee.
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4.3.59	On traffic and highways impact, there has been considerable local opposition to the planning application on this basis. However, Members will note that there is no objection to this planning application from Hertfordshire County Council (Highways) and on this basis and despite the level of local opposition I do not recommend that Members refuse planning permission on the basis of a highway impact.
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4.3.60	Paragraph 32 of the NPPF states that:
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	'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.'
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4.3.61	On this basis I can only advise Members to that to justify a refusal of planning permission on the basis of unacceptable impact to the local area from traffic generation the Committee would need technical evidence to demonstrate how the impact would be severe. Without support from the Highway Authority it would very difficult for the Committee to substantiate such a refusal with their own clear technical evidence at any appeal.
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4.4 Conclusion

4.4.1	Members must note that in the recommended reasons for refusal set out below I do not consider that outline planning permission should be refused for this development proposal in principle. Full Council has agreed to submit the North Hertfordshire Local Plan (2011-2031) to the Secretary of State for Examination at the meeting held on 11 April 2017. Proposed land allocation site BK3 and the associated expansion of the Barkway settlement boundary to incorporate the whole land allocation and the associated reserve school site is clearly set out in the submission Local Plan which Full Council has agreed to submit. On this basis the principle of whether to allocate this site for housing will be considered by an Inspector at EiP. As can be seen from the report above I give considerable weight to the submission Local Plan and indeed find this proposal unacceptable on the basis of conflict with policies contained within the document.
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4.4.2	The principal objection I have against this planning application is that it proposes a piecemeal form of development which if developed in isolation would cause harm to the character and appearance of the locality on the basis of poor design. Any development on the BK3 site must in my opinion be carried out comprehensively as part of a wider area development scheme which resolves the question of the need for the reserved school site and how to integrate the development with the wider village. By bringing forward an outline planning application for only part of the site it is not possible in my view for the local planning authority to fully consider and indeed control how this piecemeal scheme would create a new sense of place integrated with the village. On this basis and for detailed reasons refusal set out below I recommend that Members refuse planning outline planning permission for this development proposal.
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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.
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6.0 Recommendation

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

1.	In the opinion of the Local Planning Authority due to the relatively isolated nature of this planning application site, separated from the main body of Barkway village by a reserved school site and indeed from any wider area development scheme between Royston Road and Cambridge Road, if developed in isolation a development scheme of up to 100 dwellings on this site would appear divorced from and poorly integrated with Barkway village. Such a piecemeal form of development would as a result harm the character and appearance of the locality. The proposal therefore conflicts with saved Policy 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations, Policy D1 of North Hertfordshire Submission Local Plan (2011-2031) and paragraphs 57 and 64 of the National Planning Policy Framework.
2.	The piecemeal nature of the development proposal is not capable of delivering key objectives of proposed land allocation BK3, as set out in the North Hertfordshire District Submission Local Plan (2011-2031). As the site only covers part of the proposed land allocation it is not possible to explore possibilities for connecting Royston Road to Cambridge Road; No realistic proposals have been put forward in the application to secure the delivery and long term sustainability of the proposed convenience store; No improved pedestrian and cycle linkages are proposed outside the site. As a consequence the proposed development fails to take the opportunities available for improving the character and quality of an area and the way it functions. On this basis the proposed development fails to comply with site allocation Policy BK3 set out in the North Hertfordshire District Submission Local Plan (2011-2031) and paragraph 64 of the National Planning Policy Framework (NPPF).

3.	<p>The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing the provision of affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Polices 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary of the requirements of the National Planning Policy Framework (NPPF).</p>
4.	<p>The submitted and revised Flood Risk Assessment does not overcome the stated objections from the Lead Local Flood Authority as set out in their consultation response of 24 November 2016 to the local planning authority. As a consequence of the insufficient information contained in the applicants' submission the Lead Local Flood Authority has been unable to advise the local planning authority that sufficient flood mitigation measures can be designed and implemented in association with this development proposal.</p>
	<p><u>Proactive Statement</u></p> <p>Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.</p>
	<p><u>Informative</u></p> <p>The applicant is advised that any future planning application for housing on this site or as a combined application for housing on the combined BK3 proposed land allocation should be in the form of a full planning application to enable the Local Planning Authority to fully assess how the development scheme can be integrated with the wider village area. Any outline submission will be at risk of the Council invoking its powers under the Development Management Procedure Order (2015) requiring the submission of full reserved matters within 28 days of submission.</p>