

Delegated Officer Report

Recommendation: Refuse Planning Permission

Application number: 3/24/0085/FUL

Proposal: Construction of new residential dwelling with associated landscaping and access

Site Address: Woodland At Thorley Lane East Bishops Stortford Hertfordshire

Planning History:

Reference No.	Proposal	Decision	Decision Date
3/02/2114/OP	ERECTION OF A SINGLE STOREY DWELLING & GARAGE.	Refuse Appeal dismissed	13th December 2002
3/94/1094/OP	ERECTION OF A SINGLE DWELLING & GARAGE.	Refuse Appeal dismissed	22nd September 1994

Neighbour Responses:

Neighbour Consultations	Contributors	Neutral	Objections	Support
13	258	1	253	4

Summary of Neighbour Responses

Representations have been received in support and in objection to the proposed development. A summary of the comments received are as follows:

- Lovey suiting build, will make positive use and keep the wider tree land maintained, as opposed to the existing fly tipping and dead rotting trees
- The wooded area is not an attractive one, the trees look in a terrible condition, with some looking as if they are dead and need felling.
- The land should be fenced off to prevent trespassers wandering onto the area and possibly tripping or falling on the various hazards within. The land is privately owned and as such should be treated as such.
- The construction of the proposed structure is an asset to this area of the site, and I believe there is only one tree subject to a TPO that would be felled.
- I have never in the many years I have frequented this area seen any evidence of the abundance of wildlife suggested
- It is possible that the remaining area of the site may be gifted or sold to the local authority to utilise for the good of all.
- How can anyone object to a vast improvement of a small area of the wooded area, which poses no significant increase in pollution or road traffic.
- Inappropriate development within the Green Belt
- Loss of protected woodland
- Loss/harm of habitats and biodiversity
- Increase in highway traffic (Thorley Lane)
- Concerns regarding quality of Ecology Report

- Uncertainty regarding proposed benefits/improvements to the woodland
- Site is allocated as Local Green Space in Neighbourhood Plan
- Planning permission has already been refused for a house on the site
- Building would set a precedent
- Development would constitute urban sprawl
- Site cannot be accessed because of ditch which is in different ownership
- No vandalism or damage has been seen contrary to planning statement
- Proper Ecology surveys should be done
- Thorley Lane is narrow and unlit - proposal danger to pedestrians and cyclists
- Protected species in wood (bats)
- Ecology Report fails to acknowledge presence of Rookery close to site of house. Development could potentially disrupt or result in loss of Rookery.
- Woodland provides habitat for red listed species such as hedgehogs. The proposal could result in loss or damage to this habitat.
- Illumination will cause light pollution
- Site only accessible by crossing Highway verge
- Out of character with area
- No details relating to disposal of foul water/sewerage

Consultee Responses

Consultee	Comments
Members	<p>The application for an Eco House on the site is totally out of keeping of the traditional rural look and feel to Thorley Lane East which features traditional character buildings.</p> <p>The site is designated Green Belt and is an important habitat for wildlife and contains TPO listed trees.</p> <p>The Design and Access Statement states that Rooks Wood has become dilapidated and unusable. The proposed dwelling would provide funds to revitalise the woodland to make it a usable space for the surrounding community - This is not a Planning issue and there is no guarantee that this would happen.</p> <p>The access point is on a corner with limited ingress and egress visibility.</p> <p>The site is detailed in the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley Parish as a Green Space with intrinsic value green space within the plan area.</p>
Parish Council	<p>The Committee strongly object to this application for the following reasons:</p> <ul style="list-style-type: none"> - There are numerous objections from nearby residents. - The application is on green belt land and is mentioned in the Bishop's Stortford Neighbourhood Plan as an designated green space area. - The woodland is important to the biodiversity and wildlife within the area including the hundreds of hedgehogs that would suffer if the building is permitted. - The applicant has given no guarantee that the access will be improved. They state that is the application is rejected they will block the access.

	<p>- The eco house on rural land is out of keeping with the scenery.</p>
Forestry Commission	<p>If the local planning authority intends to approve this application, we recommend that BNG is included in any approved plans, and the Council is satisfied undertaking any Environmental Impact Assessment. We would also recommend that an Arboricultural Survey and Report is undertaken for the site, including a tree protection plan detailing the protection of trees to be retained onsite.</p> <p>Please also note that a felling licence may be required under the Forestry Act 1967. An exemption applies where felling of trees is immediately required for the purpose of carrying out development that is authorised by the approval of full planning permission. For trees to be exempt from the need for a planning licence, at least one of the following conditions must be met:</p> <ul style="list-style-type: none"> -Trees must be explicitly identified in the planning consent as being permitted for removal. -The trees must stand within the footprint of the proposed development; or -The removal of the trees must be necessary in order to carry out the proposed development (eg, they block and access route to which there is no alternative or lie in such close proximity to the proposed development that they prevent the carrying out of that development. <p>We would recommend that a woodland management plan is produced for the wood to improve the quality of the woodland and ensure its future. A well-managed woodland is better able to withstand extreme weather events, be more resilient to the threat of pests and diseases and can increase biodiversity.</p>
HCC Highway Authority	<p>The Highway Authority does not wish to restrict the grant of permission subject to conditions.</p>
Waste Services (EHDC)	<p>The waste collection service provision is not outlined. Without sufficient information it is not possible to determine whether the requirements would be met.</p>
Hertfordshire Ecology	<ul style="list-style-type: none"> -None of the ecological reports can be considered fit for purpose; -All should be replaced with those that meet established best practice guidance; -These should be accompanied by a new biodiversity net gain assessment; and -Given these circumstances, further comment at this stage would be premature. <p>The Hertfordshire Environmental Records Centre (HERC) has no records of notable ecological interest from this site. However, this does not necessarily mean that it does not support ecological value despite the overall picture painted by the Ecology report; it has the potential to represent a Habitat of Principal Importance under the NERC Act 2006 although, at present this cannot be determined. Whilst the use of historical evidence is useful,</p>

	<p>fundamentally, the ecological report submitted does not meet the standards set by established best practice guidance and so I do not consider it fit for purpose lacking, as it does, an impact assessment based on standard criteria, clear reference to the mitigation hierarchy and clear avoidance, mitigation or compensation proposals; although some evidence of the latter can be drawn from the Design and Access and Planning Statements, this is not sufficient. The same is true of the 'Bio Diversity' (sic) plan which is neither authored nor dated leaving it unclear what its purpose is.</p> <p>Furthermore, although submitted prior to the 12 February 2024 deadline when the delivery of a biodiversity net gain became mandatory for a site of these physical characteristics, the proposed development is still captured by Policy NE2 and NE3 of the East Herts Local Plan 2018. However, no attempt to quantify habitat losses and gains or to set out a suitable management strategy appears to have been made. Accordingly, none of the ecological evidence submitted can neither be relied upon nor considered fit for purpose. Further, a new biodiversity net gain assessment, supported by a contemporary metric (submitted in spreadsheet form) is required.</p>
Environmental Health And Housing (Contamination)	Environmental Health (Contamination) does not wish to restrict the grant of permission subject to conditions.
Environmental Health (Noise And Light)	Environmental Health (Noise and light) does not wish to restrict the grant of permission subject to conditions.
Landscape Officer	<p>Impact on existing trees and surroundings</p> <p>The proposed development site is within the Green Belt and comprises protected woodland - subject to TPO73 W3 (woodland)</p> <p>Landscape proposals</p> <p>Indicative layout to show access and building footprint but no details as such.</p> <p>Summary</p> <p>The proposed development is in contravention of TPO 73 - the purpose of which is to protect the integrity of the woodland unit. The fallback position is to not allow residential development within protected woodland.</p> <p>Strong objection to the proposed development based on the above policies as well as landscape and arboricultural grounds.</p>

Planning Policies:

INT1 - Presumption in Favour of sustainable Development - East Herts District Plan 2018
DPS1 - Housing, Employment and Retail Growth - East Herts District Plan 2018
DPS2 - The Development Strategy 2011-2033 - East Herts District Plan 2018
GBR1 - Green Belt - East Herts District Plan 2018
CLFR2 - Local Green Space - East Herts District Plan 2018
DES2 - Landscape Character - East Herts District Plan 2018
DES3 - Landscaping - East Herts District Plan 2018
DES4 - Design of Development - East Herts District Plan 2018
TRA1 - Sustainable Transport - East Herts District Plan 2018

TRA2 - Safe and Suitable Highway Access Arrangements and Mitigation
- East Herts District Plan 2018
TRA3 - Vehicle Parking Provision - East Herts District Plan 2018
NE2 - Sites or Features of Nature Conservation Interest (Non-Designated) - East Herts
District Plan 2018
NE3 - Species and Habitats - East Herts District Plan 2018
NE4 - Green Infrastructure - East Herts District Plan 2018
CC1 - Climate Change Adaptation - East Herts District Plan 2018
CC2 - Climate Change Mitigation - East Herts District Plan 2018
EQ1 - Contaminated Land and Land Instability - East Herts District Plan 2018
EQ2 - Noise Pollution - East Herts District Plan 2018
EQ3 - Light Pollution - East Herts District Plan 2018
EQ4 - Air Quality - East Herts District Plan 2018
HOU7 - Accessible and Adaptable Homes - East Herts District Plan 2018
WAT1 - Flood Risk Management - East Herts District Plan 2018
WAT4 - Efficient Use of Water Resources - East Herts District Plan 2018
WAT5 - Sustainable Drainage - East Herts District Plan 2018
Bishops Stortford -All Saints, Central, South and Part of Thorley - Adopted Neighbourhood
Plan
NPPF - National Planning Policy Framework -

Considerations

The application site is located to the south of the built-up part of the main settlement of Bishop's Stortford and is occupied by mature lowland deciduous woodland. The site is flanked on its southern and western sides by Thorley Lane East, which is a narrow rural country road. To the north of the site is a further section of the woodland and to the east is a housing development which was constructed in the 1980's. The trees within the application site and the wider area of woodland to the north are protected by way of a woodland tree preservation order (TPO ref. 73-W3), the woodland unit as a whole is also identified as a priority habitat (lowland deciduous woodland). The site is also identified and as an area of local green space and is within the Metropolitan Green Belt.

The application site is located within the Bishop's Stortford Neighbourhood Plan area for All Saints, Central, South and part of Thorley.

Planning permission is sought for the erection of a dwellinghouse and creation of a new vehicle access.

Planning permission for a new dwelling within the application site has previously been sought (LPA refs. 3/02/2114/OP and 3/94/1094/OP) and subsequently refused. Application ref. 3/02/2114/OP was refused for the following reasons:

1. The application site lies within the Metropolitan Green Belt as defined in the East Hertfordshire Local Plan wherein permission will not be given except in very special circumstances for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. No such special circumstances are apparent in this case, and the proposal would therefore be contrary to policy RA2 of the Local Plan.

2. The proposed development would be visually intrusive, out of keeping with the natural character of the wood and the appearance of the area generally.

3. The proposal would result in the loss of a number of attractive trees, which are the subject of a Tree Preservation Order, to the detriment of the character and appearance of the area, and contrary to policies RA9 and BE8 of the East Hertfordshire Local Plan.

Planning application 3/94/1094/OP was refused for the following reasons:

1. The application site lies within the Metropolitan Green Belt as defined in the East Hertfordshire Local Plan Adopted First Review March 1993 wherein permission will not be given except in very special circumstances for development for purposes other than that required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. No such special circumstances are apparent in this case.

2. The proposed development would be likely to lead to both the immediate loss of some trees, and the general decline and instability of others due to root damage and a reduction in the rooting area. The erection of a dwelling and the resulting loss of trees would unacceptably affect the pleasant rural character of the woodland.

3. The proposed development would undesirably consolidate the existing sporadic development and would be detrimental to the pleasant rural character that this part of Thorley Lane exhibits.

In each case an appeal was made against the decision of the Council to refuse planning permission (PINS refs. APP/J1915/A/03/1109070 and APP/J1915/A/94/244804), in both cases the appeals were unsuccessful and were dismissed.

It is noted that the northernmost section of the woodland was outlined in blue on the location plan. It has become apparent that the applicant does not own this land, accordingly the blue line has been removed from the location plan.

Considerations

The main issues relevant to the proposal are:

- o Principle of Development
- o Design and layout
- o Living Conditions for Future Occupiers
- o Neighbour impact
- o Highways/Parking
- o Landscape and Biodiversity
- o Climate Change and Water Usage
- o Representations
- o Other Considerations

Principle of Development

Development Strategy

The housing target for the District is outlined at District Plan Policy DPS1. This policy notes that the Council will provide 18,458 new homes in the District up to 2033. District Plan Policy DPS2 sets out the development strategy for the District, which seeks to direct residential development to sustainable locations, in accordance with a hierarchy that refers to sustainable brownfield sites, sites within the main settlements, and finally some limited development within the villages.

With regards to the development strategy and whether the proposal would represent a sustainable form of development, it is acknowledged that the proposal would provide a single dwelling and as such there are some temporary and permanent economic and social benefits that that would flow from the proposed development. However, the weight assigned to the provision of one new dwelling in economic and social terms is limited.

With regards to the environmental aspect of sustainable development, the site is located in a sustainable location with regards to the accessibility of key day to day services and facilities and the potential for occupiers to use public transportation, walk or cycle to the access these services. However, the site comprises established mature deciduous lowland woodland and is identified as a priority habitat. The impact of the proposed development on the woodland, trees, and biodiversity is discussed in greater detail later this report, however, the quality of the supporting information is not sufficient to establish if any environmental harm would occur through the harm or loss of a valuable area of ecology and biodiversity. Without an adequate assessment of the existing biodiversity and ecological value of the site, it is unknown whether a truly sustainable form of development could be achieved.

Local Green Space

Paragraph 105 of the NPPF advises that the designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Paragraph 107 of the NPPF advises that policies for managing development within a Local Green Space should be consistent with those for Green Belts.

Policy CFLR2 states that Development will be permitted only if it is consistent with the function, character and use of the Local Green Space to which it relates.

Policy SI1 sets out the site independent policies and designated locations within the Bishop's Stortford Neighbourhood Plan for All saints, Central, South and part of Thorley (First Revision). Identified in the supporting table for this Policy is "Established mature woodland between Thorley Lane East and Broadleaf Avenue" (ref. GIP2 (C) (8)). Section 6.5.8 contains a map of the designated area of woodland; a description of the site is provided on in Part 1 - Page 81 of the Neighbourhood Plan.

Policy GIP2 of the Bishop's Stortford Neighbourhood Plan for All saints, Central, South and part of Thorley identifies the application site as an area of local green space. Policy GIP2 (a) states that:

"The Designated Locations listed in Policy SI1 in the 'Neighbourhood Plan for All Saints, Central, South and part of Thorley - Part 1 Introduction and Site Specific Policies' are designated as 'Local Green Spaces' in accordance with the NPPF. Policies for managing development within a Local Green Space should be consistent with those for Green Belts".

Policies GIP2 of the Neighbourhood Plan and CFLR2 of the East Herts District Plan are considered to be consistent with the NPPF and require that development within Local Green Space should only be allowed in very special circumstances.

Green Belt

The site is within the Metropolitan Green Belt, wherein there is a presumption against inappropriate development. Paragraph 142 of the NPPF advises that one of the fundamental aims of the Green Belt is to prevent urban sprawl by keeping land permanently open. Paragraph 143 goes on to state the five purposes of the Green Belt which include the prevention of unrestricted sprawl of urban areas and to assist in safeguarding the countryside from encroachment.

District Plan Policy GBR1 outlines that planning applications in the Green Belt should be considered in line with the requirements of the NPPF. Paragraph 154 of the NPPF sets out that Local Planning Authorities should regard the construction of new buildings as inappropriate in the Green Belt. However, paragraphs 154 and 155 do outline some exceptions to this. Of relevance to the proposed development are the following exceptions:

- Paragraph 154(e) limited infilling in villages;
- Paragraph 154(g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

With regards to the exception stated in paragraph 154(e), it must be determined whether the proposal would constitute limit infilling within a village.

The term 'infilling' is not defined in either the District Plan, the BSNP or the NPPF. However, "infilling" it is generally understood to mean built development that would fill a gap between existing buildings, often along street frontages. The application site comprises a large area of undeveloped deciduous woodland. It is noted that there is a pair of semi-detached properties approximately 24 metres to the south east of the proposed dwelling; a further dwelling is located approximately 55 metres to the west. Given the separation distances between the proposed dwelling and the closest existing built form and the intervening dense woodland, it is considered that the proposed development would not constitute infill development. Accordingly the development would not benefit from the exception set out in paragraph 154 (e) of the NPPF.

Having regard to exception 154 (g); there are two strands to this exception, first it must be determined whether the proposed development would constitute infilling or the partial or complete redevelopment of previously developed land and second, whether the proposed development would have a greater impact on the openness of the Green Belt.

As detailed above the proposed development would not constitute infilling.

The NPPF defines previously developed land (PDL) as:

"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'

The application site is comprised of undeveloped deciduous woodland and contains no permanent structures or any identifiable associated fixed surface infrastructure. Accordingly the site is not considered to be previously developed land as defined in the NPPF.

Openness

With regard to openness, paragraph 142 of the NPPF states that one of the essential characteristics of Green Belts is their openness. Openness can be defined by the absence of built form, and assessment of the impact on openness requires a spatial and visual

judgement. Furthermore, preserving openness relies on avoiding the unrestricted sprawl of built-up areas and the encroachment of development and urbanisation of countryside areas, where possible.

It is proposed to construct a new dwelling and associated hardstanding and access within an existing woodland. The construction of a new dwelling would by definition reduce openness in spatial terms by introducing development and built form into an area that is currently open. Furthermore, the proposal would inevitably result in the provision of parked vehicles, bins, play equipment, garden furniture and domestic fencing across the application site; while it may be possible to restrict some of this through the use of a condition, some of this domestic paraphernalia could be impractical to restrict or control.

It is acknowledged that the proposed dwelling has been designed to incorporate a green roof and walls as a means of reducing the visual impact of the building in relation to its surrounding and from public vantage points from outside the woodland; it is also acknowledged that the surrounding woodland would provide some degree of screening. However, any screening afforded would be diminished during the winter months when the trees are not in leaf and the proposed access would open up greater views into the site. Furthermore, internal and external illumination of the dwelling would be readily apparent at night and even more so during the shorter daylight hours of winter.

In view of the above, it is considered that the proposed development would have a greater impact on the visual and spatial aspects of openness than currently exists and would therefore not preserve the openness of the Green Belt. It would also conflict with the purposes of including land within the Green Belt, including to assist in safeguarding the countryside from encroachment.

It is therefore considered that the proposed development would not benefit from the exceptions set out in paragraph 154 (e) and 154 (g) of the NPPF. Accordingly, the development is considered to be inappropriate development in the Green Belt and would fail to accord with Policy GBR1 of the East Herts District Plan 2018, Policy GIP2 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Revision) and the NPPF.

It is noted that two applications for a new dwelling on the site have been refused on the grounds that they would be harmful to the Green Belt (LPA refs. 3/02/2114/OP and 3/94/1094/OP), these were subsequently dismissed at appeal (PINS refs. APP/J1915/A/03/1109070 and APP/J1915/A/94/244804). These appeal decisions are acknowledged. It is noted that these appeal decisions pre-date the NPPF and the adopted District Plan. Notwithstanding these Policy changes these appeal decisions are material planning considerations, however, the weight assigned to these is limited. However, as detailed above harm to the Green Belt by reason of inappropriateness has been demonstrated.

Design and layout

The proposed development would comprise of the erection of a single storey, four bedroom dwellinghouse and integral double garage. A new vehicle access from the northern side of Thorley Lane and associated driveway and turning areas are also proposed.

The application site is comprised of an area of mature deciduous woodland; the proposed dwelling is to be located within an area of the woodland which contains a partial clearing which is interspersed with immature trees and fallen trees.

Thorley Lane East is a narrow country lane which is lined with mature trees and interspersed with mostly detached residential properties with landscaped frontages. The land to the south of the application site is comprised of open countryside and parkland. Despite the proximity of the application site to the built-up area of Bishop's Stortford to the north and west, the application site and the surrounding area is open and rural in character, particularly the area along Thorley Lane East.

The proposed dwelling would have a maximum width of 31 metres and a depth of 18.1 metres. The plan form of the building would comprise of a rectangular main section with a pair of rear projections and a double garage attached to the eastern flank wall. The structure is single storey in scale and is made up of a combination of varying flat, mono-pitched and dual pitched roof forms. The exterior walls and roof of the dwelling are to be clad in a green wall system with smaller areas of timber cladding and detailing. The design of the dwelling, fenestration, and materials palette give the proposed building a modern appearance.

Access to the proposed dwelling would be via a newly created access located on the northern side of Thorley Lane. The new access would extend into the site with areas of hardstanding being laid down to create a pathway to the entrance door, and a turning head and vehicle manoeuvring area in front of the garage.

The proposed development would introduce an overtly urbanising form of development into an area of woodland which is currently devoid of development and rural in character. While an attempt has been made to design a building which would blend in with the surrounding woodland through the use of green walls and roofs, the overall development would introduce built form, ancillary hard landscape features and associated domestic paraphernalia to the site. The proposal would fail to respect or improve upon the existing sylvan and rural setting and character of the site, which would be eroded, to the detriment of the site and the wider street scene.

The screening afforded by the existing woodland is acknowledged, however, views into the site from the public highway would be possible; such views are likely to be greater during the winter months. At night, the illumination of the dwelling is likely to result in a greater attention being drawn to the development; any impact would be exaggerated due to the woodland location of the site, the rural character of the surrounding area and lack of street lighting along Thorley Lane.

The proposed development would appear out of keeping and conspicuous within the site and when viewed from public vantage points. The proposed development would not be sympathetic to the site and would fail to reflect the character and appearance of the locality. The proposed development would fail to accord with Policy DES4 of the East Herts District Plan and Policies HDP1, HDP2, and HDP3 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley.

Living Conditions for Future Occupiers

District Plan Policy DES4(f), requires the rooms within new residential properties to be of appropriate size and dimension for their intended purpose. In addition, new dwellings are expected to align with the Technical Housing Standards - Nationally Described Space Standard (2015) (THS). The plans submitted show the internal layouts for the proposed dwelling; based on the information provided the internal living accommodation would be adequate and accords with the Nationally Described Space Standards (NDSS).

The proposed dwelling would be provided with a modest private garden area; it is considered that proposed dwelling would be provided with a private garden which would be of a satisfactory size for its intended use. However, the proximity of the garden areas to the

surrounding woodland would likely result in these private amenity spaces being overshadowed and gloomy.

The habitable rooms would appear to have window openings of an acceptable sizes that would in theory provide a satisfactory level of natural light and ventilation. It is noted that the main window openings are located on the northern elevation of the building with additional high level openings provided below the eaves at the front of the building. The proximity of the dwelling to the surrounding woodland and the height of the adjacent trees would likely result in significant overshadowing of the property; the northerly aspect of the rear elevation, which contains the largest expanse of glazing, would likely be in permanent shadow and could significantly detract from the living conditions of the future occupiers. Without a suitable daylight/sunlight assessment it is not possible to adequately assess the quality of the accommodation provided.

The development would fail to accord with Policy DES4 (f) of the District Plan.

Neighbour Impact

The size, scale and siting of the proposed development and the separation distances that would be retained to closest neighbouring properties would prevent an unacceptable loss of amenity to the adjoining residential occupiers. In this regard the proposed development would accord with Policy DES4(c) of the East Herts District Plan 2018.

Highways/Parking

The proposed development is to be accessed via a newly formed access point located on the northern side of Thorley Lane. The proposed access arrangements are supported by a Transport and Access Statement (The Planning Consultancy Ltd - dated October 2023). The Highway Authority at Hertfordshire County Council have been consulted and have raised no objections to the proposed access arrangements. They have advised that the access would be located where appropriate visibility splays can be provided and that parking and turning areas within the site would be satisfactory; traffic generation resulting from the proposed development is not considered to be significant.

The Highway Authority has advised that they do not wish to restrict the grant of permission, however, they have recommended several conditions which relate to the provision of appropriate visibility splays, parking areas and hardstanding. A condition has also been recommended that restricts the width of the proposed access. These recommended conditions are acknowledged and are considered necessary and reasonable.

The Council's Parking Standards in New Developments SPD advises that a four bedroom dwellinghouse should make provision for a maximum of three off street parking spaces. The proposed development would provide two parking spaces within the proposed garage, with additional parking possible on the proposed driveway. It is considered that the proposed parking arrangements would accord with the Council's Parking Standards and accordingly the development would comply with Policy TRA3 of the District Plan and Policy TP8 of the Neighbourhood Plan.

Landscape and Biodiversity

Trees

The application site is comprised of an area of mature lowland deciduous woodland and is designated as priority habitat. The woodland is subject to a woodland tree preservation order (TPO ref. 73-W3).

The application is not supported by an arboricultural impact assessment or an arboricultural method statement, however, an Ecology Statement (A.R.Arbon MBE - Consultant Ecologist and NPTC Qualified Tree Surgeon) and a Health and Safety Statement for Rooks Wood (The Planning Consultancy Ltd ref. Version 1 - dated 7th November 2023) have been provided. The submitted documents provide little useful information in relation to the impact of the proposed development on the woodland.

The proposed development and new access would likely require the removal of numerous trees within the site including those on the southern boundary. It is noted that the submitted documents do not identify any of the trees within the application site or the quality of the specimens. No details have been provided with regards to any trees that would need to be removed or pruned in order to facilitate the proposed development or its construction. Furthermore, no detail has been provided which indicates the root protection areas of any of the trees.

The Design and Access Statement advises that a no dig system comprising of screw piles would be utilised in order to prevent harm to the root systems of the surrounding trees. As no arboricultural impact assessment has been provided it is not possible to determine whether such a construction system could be utilised effectively and that harm to the surrounding woodland prevented.

The application lacks a suitable arboricultural method statement and provides no detail regarding the protection of trees during the construction of the proposed development. The use of heavy construction vehicles, plant and machinery has the potential to directly damage trees and also result in the compaction of earth within the RPA of nearby trees, potentially resulting in harm or death of nearby specimens.

Notwithstanding the above, there are concerns that the height of the canopy in relation to the proposed dwelling, the area which it covers, and the proximity of the proposed dwelling to adjacent trees would result in overshadowing of the dwelling and its gardens. It was observed during a visit to the site that the woodland is dense and when in leaf the surrounding trees would severely restrict light to the property and affect the quality of life experienced by the occupiers. Overshadowing and the likely dark and gloomy environs provided to occupiers, leaf litter and bird droppings on parked vehicles are likely to result in resentment of the surrounding trees and pressure to lower their height and crown or remove them entirely, in order to let more light into the property and gardens.

Given the lack of detail submitted in support of the proposed development it cannot be determined whether the proposed development would have a detrimental impact on the trees within the application site. The trees within the application site contribute positively to the woodland unit as a whole and its character, appearance and ecological and biodiversity value, as well as the character and appearance of the wider area. Any loss or harm to the trees would detrimentally impact the woodland and the locality.

It is noted that the Council's Landscape Officer has commented on the proposed development and has stated their strong objection to the proposal on arboricultural and landscape grounds.

In light of the above it is considered that the proposed development would fail to accord with Policies DES2, DES3, NE2 and NE3 of the East Herts District Plan and Policies GIP5 of the Neighbourhood Plan.

The comment received from the Forestry Commission are also noted, including the comments advising that details relating to Biodiversity Net Gain and an arboricultural assessment should be provided.

Ecology

The application site is comprised of an area of deciduous woodland which is identified as a priority habitat. The application is supported by several documents which cover matters relating to ecology and biodiversity. The following documents have been submitted:

- Ecology Statement (A.R.Arbon MBE - Consultant Ecologist and NPTC Qualified Tree Surgeon);
- Health and Safety Statement for Rooks Wood (The Planning Consultancy Ltd ref. Version 1 - dated 7th November 2023)
- Biodiversity Habitats - ref. 421x05
- Supporting Sustainability Statement (Atspace - ref. 375 - dated October 2023)
- Planning Statement (The Planning Consultancy Ltd - December 2023)
- Planning Statement (The Planning Consultancy Ltd - Undated)

It is noted that due to the submission date of the application the proposed development is not subject to the statutory Biodiversity Net Gain requirements of the Environment Act 2021. Notwithstanding this, the proposed development is still required to comply with the Policy requirements of the Paragraph 185(b) of the NPPF, Policies NE2 and NE3 of the East Herts District Plan 2018 and Policy GIP5 of the BSNP and a measurable biodiversity net gain should be demonstrated.

Hertfordshire Ecology have been consulted on the proposed development and have had an opportunity to assess the supporting documentation. Ecology have advised that the Hertfordshire Environmental Records Centre (HERC) has no records of notable ecological interest from this site. However, this does not necessarily mean that it does not support ecological value despite the overall picture painted by the Ecology report; it has the potential to represent a Habitat of Principal Importance under the NERC Act 2006 although, at present this cannot be determined.

Ecology have noted the use of historical evidence, however, they have advised that the ecological statement does not meet the standards set by established best practice guidance and accordingly is not considered fit for purpose. The report lacks an impact assessment based on standard criteria, clear reference to the mitigation hierarchy and clear avoidance, mitigation or compensation proposals. The same is true of the 'Bio Diversity' plan which is neither authored nor dated leaving it unclear what its purpose is. No attempt to quantify habitat losses and gains or to set out a suitable management strategy appears to have been made.

Given the quality of the supporting documentation provided, Ecology have therefore advised none of the ecological evidence submitted can either be relied upon nor is it considered fit for purpose. It is advised that new documents are required that meet the standards set out by established best practice guidance including Guidelines for Ecological Report Writing and Guidelines for Ecological Impact Assessment. Further, a new biodiversity net gain assessment is required, supported by a contemporary metric.

In light of the above it cannot be demonstrated that ecology and biodiversity would be protected and enhanced in accordance with Policies NE2 and NE3 of the East Herts District Plan, Policy GIP5 of the Bishop's Stortford Neighbourhood Plan, and paragraph 185 of the NPPF.

The supporting documentation provides some potential biodiversity improvements across the site and the woodland as a whole. It is also noted that the Planning Statement advises that the construction of the proposed dwelling would provide funds to improve the application site and the area of woodland to the north and encourage its use by the public, local schools

and community groups. However, without a suitable metric and appropriate surveys of the site it is not possible to determine whether the suggested improvements would actually provide a biodiversity net gain. It is also noted that the area of woodland to the north falls outside the red line boundary and is also not in the ownership of the applicant; it is therefore unclear how the suggested improvements and public access could be secured.

It is noted that no detailed preliminary bat roost assessment or emergence studies have been completed. Given the site is comprised of mature woodland and is in a rural location, there is potential for protected species, such as bats, to be present in the area. It is reasonable to assume that bat roosts could also be present in trees within the woodland. Without a suitable preliminary bat roost assessment, it is not possible to determine whether bats or their roosts are present and as such the proposal would fail to accord with Policy NE3 of the District Plan.

Representations have been received which indicate that red-listed species, such as hedgehogs, may be present within the application site and wider woodland. The presence of an established rookery within the application site has also been highlighted. These comments are noted. The lack of a suitable ecological survey or detailed inventory of flora and fauna within the site has been highlighted by Hertfordshire Ecology.

The application lacks sufficient information to determine the existing ecological and biodiversity status of the woodland and whether protected species are present. While the proposed biodiversity improvements and suggested public benefits of the development are noted, without an appropriate baseline metric, impact assessment, mitigation strategy and a suitable management strategy, the ecological and biodiversity impacts of the proposal cannot be properly assessed. Furthermore, it is unclear how the suggested public benefits and community access could be achieved and secured, given much of the woodland is outside of the application site. The proposed development would therefore fail to accord with the requirements of Policies NE2 and NE3 of the East Herts District Plan, Policy GIP5 of the Bishop's Stortford Neighbourhood Plan, and paragraph 185 of the NPPF.

Climate Change and Water Usage

Regard should be had to climate change adaptation and mitigation and the building design requirements to include renewable and low carbon energy which are set out in Policies CC1 and CC2 of the District Plan. Policies CC1 and CC2 set out that all new development should demonstrate how the design, materials, construction, and operation of the development would minimise overheating in summer and reduce the need for heating in winter and demonstrate how carbon dioxide emissions will be minimised across the development site. The Council adopted its Sustainability SPD on 2nd March 2021, which is a material consideration when determining this application. It is noted that the Council's Sustainability questionnaire has not been completed, however, a Supporting Sustainability Statement (Atspace - ref. 375 - dated October 2023) has been provided.

The submitted document is rather broad and lacks specific details relating to the proposed development; however, the overall approach is considered acceptable. While the information provided is somewhat limited, the proposed measures are considered to be acceptable and would accord with the aims of Policies CC1 and CC2 of the District Plan, however, further details shall be secured by way of a condition should planning permission be granted.

Furthermore, regard should be had to the efficient use of water resources to help support improvements in water usage as outlined in Policy WAT4. It is advised that the development has been designed to ensure that water usage per person per day would be below 110l, in order to comply with the building regulations optional standard and Policy WAT4. This shall be secured by condition should planning permission be granted.

Crime

It is advised that the woodland, whilst private land, is currently open to access by the public. As a result the woodland is abused and is subject to trespassing, anti-social behaviour, and littering. Several representations have been received advising that the level of anti-social behaviour has been overstated.

While the potential impact of crime, and antisocial behaviour within the woodland is acknowledged, it is unclear how the proposed development would prevent such activities, especially given the size and density of the woodland. In any case other potential preventative measures such as fencing (although this may require planning permission), CCTV surveillance and proper signage could be utilised.

Drainage and Flood Risk

The application site is located in Flood Zone 1 and as such is at low risk of flooding. The site and surrounding land are also at low risk of surface water flooding.

It is noted that the proposed access would need to bridge an existing drainage ditch that extends along the southern boundary of the site. It was observed during a visit to the site that the ditch contained water, as per its drainage function. It is also understood that this land is not in the ownership of the applicant and is highway land. It is noted that the Highway Authority has not objected to the proposed new access, however, it would be necessary for details of the access and any necessary culverting or drainage works to be provided; such details could be secured by condition if permission were granted.

With regards to surface and foul water drainage, it is noted that a comprehensive drainage strategy has not been submitted in support of the application. Full details of a suitable drainage strategy could be secured by condition if permission was granted.

Environmental Health

The consultation responses received from the Council's Environmental Health Department are noted.

Environmental Health have recommended conditions relating to the provision of an EV charging point and the use of low emission boilers. These are noted.

Environmental Health has been consulted with regard to the potential noise and nuisance impacts of the proposed development and the impact of noise on the future occupiers. Environmental Health do not wish to restrict the grant of permission subject to conditions being imposed relating to noise, construction hours, waste disposal and dust, the notification of neighbours of building works.

The condition requiring noise levels within the proposed dwelling to comply with noise standard requirements of BS8233:2014 is noted and could be imposed if permission were granted. The conditions recommended relating to the storage of waste, dust emissions, and the notification of neighbours are noted, however, given the scale and nature of the proposed development, these are not considered to be reasonably necessary or sufficiently precise.

Representations

The representations received from the local Ward Member are noted. The comments received relating to the design, green belt, protected trees, highway concerns, ecology and the designation of the site as local green space are acknowledged.

The comments received from Bishop's Stortford Town Council with regards to designation of the site as green belt land and local green space, the importance of the site in ecology and biodiversity terms, design, access and the number of objections, are noted.

A significant number of representations have been received, the majority of these representations are in objection to the proposed development. Concerns have been raised in relation to the following issues:

- Impact on the Green Belt;
- Loss/harm of protected trees
- Highway safety concerns and impact of traffic on cyclists and pedestrians
- Impact on Wildlife/biodiversity
- Design and impact on character and appearance of area
- Planning permission has already been refused
- Precedent for further building
- Lack of adequate ecology and biodiversity reports
- Inaccuracies and omissions in the submitted information
- No drainage details
- Crime and vandalism
- Site cannot be accessed without crossing highway verge

Matters relating to the green belt, design, highway safety and parking, ecology and biodiversity, protected trees, crime, drainage have been discussed in the relevant section of the report, above.

The previously refused planning applications and subsequently dismissed appeals relating to the construction of a new dwelling within the application site have been acknowledged elsewhere in this report. While these decisions are of some age and predate the adopted District Plan and the NPPF, they are material planning considerations in the determination of this application.

With regards to the access of the site and the need to cross highway land, it is noted that certificate B has been signed and notice has been served on the relevant landowners. Were planning permission to be granted any subsequent right of access would be a civil matter.

The lack of appropriate ecology, biodiversity and arboricultural information has been discussed in the relevant sections of the report above and has also been commented on by the Council's Landscape Officer and Hertfordshire Ecology.

The concerns raised that the proposed development would set a precedent for similar development if approved are noted. However, there is no legal basis for the concept of a precedent; in planning law, there is a principle of consistency and while a previous decision may be a consideration when assessing an application, ultimately all planning application must be assessed on their own merits.

It is also noted that three representations were received which provided support for the proposed development; these are acknowledged.

Other Considerations

The proposed development is considered to be inappropriate development and would therefore be contrary to Policy GBR1 of the District Plan 2018 and paragraph 154 of the NPPF. Paragraph 152 of the NPPF states that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 152 of the NPPF provides that very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The Planning Statement outlines five very special circumstances (VSC) which the applicant contends will outweigh the identified harm to the Green Belt.

The first VSC identified in the planning statement is the geographical location of the site. It is advised that the location of the site in relation to the settlement of Bishop's Stortford and the proximity to services and facilities and potential access to the woodland of local members of the public or groups is of relevance. While noted, these considerations would not constitute a very special circumstance of any significant weight.

The second very special circumstance that has been identified by the applicant is the provision of a community facilities for local schools and community groups. As noted earlier in this report, the proposed development would comprise of the construction of a new dwellinghouse on the southern part of the woodland. The red outline does not extend around the northern part of the woodland, nor is the applicant the owner of the woodland itself. Accordingly, it is not clear what mechanism could be put in place to ensure that woodland improvements and the suggested community facilities could be realised. As such the provision of these facilities cannot be guaranteed and would not represent a very special circumstance.

The third and fourth identified very special circumstances relate to the Green Belt itself. It is advised that the site does not contribute to the openness of the Green Belt and furthermore the site is not vulnerable to encroachment as it is an enclave within an existing residential development. While noted, this assessment of the contribution of the site to the openness of the Green Belt is not a very special circumstance.

Finally, it has been suggested that the Council's lack of a Five Year Housing Land Supply would constitute a very special circumstance. As of 25th March 2024, the Council is able to demonstrate a housing land supply figure of 5.95 years, accordingly the Council is able to demonstrate a five year supply of deliverable housing. It is noted that even if the Council were not able to demonstrate a five year supply of housing the NPPF advises that "the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed". Footnote 7 identifies the Green Belt as one of these protected areas and as such the tilted balance need not apply where the policies within the NPPF provide a clear reason for refusing the development proposed.

The highlighted considerations are acknowledged; however, on balance, these considerations would not individually or cumulatively be sufficient to clearly favour achieving development wherein the harm by reason of inappropriateness and harm to openness is outweighed. It is therefore considered that very special circumstances do not exist that would clearly outweigh the harm to the Green Belt and any additional harm. The proposed development therefore fails to comply with Policy GBR1 and the section 13 of the NPPF.

Conclusion

The proposal is contrary to the relevant Policies contained within the East Herts District Plan 2018, the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First revision) and the National Planning Policy Framework (December 2023). Accordingly, the application is recommended for refusal.

Reason(s) for Refusal:

1 The proposed development constitutes inappropriate development in the Metropolitan Green Belt and other harm is identified in respect of loss of openness and encroachment into the countryside. Other considerations have not been identified that would clearly outweigh the harm by reason of inappropriateness, and the harm to openness and the green belt and the countryside. The proposal would therefore be contrary to Policy GBR1, CFLR2 and DES4 of the East Herts District Plan 2018; the National Planning Policy Framework; and Policies GIP2, HDP2 and HDP3 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Revision).

2 The proposed development, by reason of its siting, layout and design would introduce an urbanising form of development which would encroach into the countryside and erode the rural qualities of the site. The proposed development would be visually intrusive, out of keeping with the natural character of the woodland and the appearance of the area generally. The development would therefore be harmful to the character and appearance of the site and surrounding area. The proposal would thereby be contrary to Policies DES4 of the East Herts District Plan 2018 and Policies HDP2 and HDP3 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Revision).

3 The application lacks sufficient information regarding the issue of the impact of the proposed development on the ecology, biodiversity and protected species on the site to enable the local planning authority to properly consider the planning merits of the application and determine whether a net gain in biodiversity can be achieved. The application also lacks sufficient information with regards to the impact of the proposed development on trees protected by a woodland Tree Preservation Order, furthermore the proposal is likely to result in pressure to remove or prune trees in order to prevent overshadowing and improve living condition for future occupiers. The proposal would therefore be contrary to Policies DES3, NE2 and NE3 of the East Herts District Plan and Policy GIP4 and GIP5 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Revision).

4 The siting of the proposed dwelling in relation to the surrounding trees is likely to result in the future occupiers of the development experiencing unacceptable levels of overshadowing and restricted access to natural light within the dwelling and in the private outside amenity spaces. These restricted levels of natural light and overshadowing would result in poor quality living conditions for the future occupiers. Accordingly the proposed development would fail to accord with Policy DES4 of the East Herts District Plan 2018.

Informatives

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

Plans

Plan Ref	Version	Received
421X03		19th February 2024
421X05		19th February 2024
HW01		19th February 2024
421X01 421X02		26th April 2024
421X04		26th April 2024

Recommending Officer and Date

Nick Reed
29th April 2024

Authorising Officer and date:

Diane Verona
2nd May 2024

Diane Verona