Emerging Illustrative Layout

An Outline application is being prepared for up to 160 dwellings. This means that only the principle of development and the access are to be considered at this stage. The exact location, siting and design of the homes would be subject to a subsequent Reserved Matters application. However, as part of the consideration of the proposals, an illustrative layout has been prepared to demonstrate how that scheme could look and feel with up to 160 dwellings.

01 **OPEN SPACE & PLAY**
Dedicated open space incorporating children's play area

02 **PEDESTRIAN & EMERGENCY ACCESS**
Links through to the proposed housing from Downs Road

03 **STREET TREES**
Space for street trees within the new streets

04 **SURFACE WATER DRAINAGE POND**
Attenuation pond included within the open space as landscaped feature

05 **WALKING ROUTES**
Circular walking routes within the open space

06 **EXISTING TREES**
Existing trees incorporated within the proposals

07 **SITE ACCESS**
Vehicle & pedestrian access onto Downs Road

08 **ON PLOT PARKING**
Majority of parking provided on plot

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Technical Considerations

As we prepare our scheme, we are considering a number of technical matters and understanding baseline conditions and what the impact of the development might be.

Highways

We have assessed the suitability of the access location and impact of additional traffic on the road network. We need to ensure the access is safe, with sufficient visibility splays and that the impact of traffic is not severe.

The access is proposed from No.64 Downs Road, which is to be demolished to allow for a sufficient access. In addition, an emergency access will provided alongside Pedestrian and Cycle links at other existing points of access. Pedestrian connectivity is being explored to connect to Longwalk and make the open space, created as part of this development, accessible to existing residents.

The speed limit and use of the road dictates the length of visibility splay required. In this location Downs Road is subject to a 30mph speed limit, with a speed survey undertaken determining that vehicles currently travel an average 34.6mph northbound and 31.9mph southbound. This requires visibility splays of 52.7m northbound and 46.8m southbound, which can be easily achieved along the site frontage. Accordingly the access is considered to be safe.

In terms of traffic impact, the number of dwellings are inputted into a nationally recognised TRICS Model. This is industry standard and generates the expected number of trips likely generated from the development. It concluded this scheme will generate 70 vehicle movements in the weekday morning peak hour and 76 in the weekday evening peak hour. Istead Rise is directly connected to the A227, a main distributor road linking the A2/M20 but also serving the villages located along its length as well as Gravesend and further afield (Wrotham/Kings Hill/Maidstone). Broad Ditch Road also leads to New Barn Road which in turn leads to the A2 or surrounding villages such as Longfield and Southfleet.

As part of the development, the public transport services will be assessed to understand any improvements required.

The proposals are subject to ongoing engagement with Kent County Council and National Highways.

Drainage

Both high level Foul and Surface Water strategies are being explored. Investigations indicate that we would likely connect to the main foul drainage system that currently runs along Downs Road.

Surface Water will be captured on site and stored in Sustainable Urban Drainage Systems. This includes ponds, swales and if required underground storage crates. Calculations will establish what the current run off rate is from the site and the system will be designed to ensure that this rate is not increased and will not therefore result in an increase in flooding risk elsewhere.

Heritage

The nearest Listed Buildings are located at Downs Hall (42 and 44 Downs Road) between the site and Downs Road. This is a Grade II Listed Building and the emerging layout will ensure that there is limited impact on this heritage asset.

CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

Local Infrastructure

School Provision

In discussion with KCC Education Team, we have sought to understand the impact of any future development on the local primary and secondary schools. On this basis, the development of up to 160 dwellings would result in the requirement for an additional 45 primary school places and 32 secondary school places.

An assessment of the current capacity of the local primary schools within the Gravesham Rural South Planning Group (which includes Istead Rise Primary School, Cobham Primary School, Culverstone Green Primary School, Meopham Community Academy, and Vigo Village School) has been undertaken by KCC Education. The table below sets out the current primary capacity across the Gravesham Rural South Planning Group, the expected pupil yield from this development, and the subsequent capacity.

Detail	2023/24 (A)	2024/25 (A)	2025/26 (F)	2026/27 (F)	2027/28 (F)	2028/29 (F)	2029/30 (F)	2030/31 (F)	2031/32 (F)	2032/33 (F)	2033/34 (F)
Current Capacity (no development)	55	67	13	-7	-26	-43	-54	-75	-61	-51	-20
Expected Pupil Yield from development	45	45	45	45	45	45	45	45	45	45	45
Expected capacity	10	22	-32	-52	-71	-88	-99	-120	-106	-96	-65

Table 1: Primary School Capacity

At present, there is capacity within the primary school provision. However, is expected to be operating over-capacity within the next two years based on forecasted population growth. This position continues to worsen across the next 5 years even without the development coming forward.

If this proposal was to be granted planning permission, there would be a requirement for a contribution to KCC Education to ensure that the demand generated as part of this development can be accommodated within the local education provision.

Istead Rise Primary School was previously a 1.5 Form-Entry primary school, however reduced to a 1 Form-Entry around 10 years ago. Istead Rise Primary School has the ability to become a 1.5 FE school again with investment from local developments. This will not only benefit residents of the future development, but existing residents within Istead Rise. A potential to expand back up to a 1.5FE or a 2FE as preferred by KCC Education. Section 106 contributions from this development could help deliver that.

When considering secondary school provision, as assessment has been undertaken to assess schools within the Gravesham and Longfield non-selective and selective Planning Groups. These Planning Groups include: Longfield Academy, Gravesham Grammar School, Mayfield Grammar School, Meopham School, Northfleet School for Girls, Northfleet Technology College, St George's CofE School, St John's Catholic Comprehensive School, and Thamesview School. The table below sets out the current secondary capacity across the Gravesham and Longfield non-selective and selective Planning Groups, the expected yield from this development, and the subsequent capacity.

Detail	2023/24 (A)	2024/25 (A)	2025/26 (F)	2026/27 (F)	2027/28 (F)	2028/29 (F)	2029/30 (F)	2030/31 (F)	2031/32 (F)	2032/33 (F)	2033/34 (F)
Current Capacity (no development)	-159	-70	-403	-531	-748	-897	-1039	-1100	-1181	-1187	-1197
Expected Pupil Yield from development	32	32	32	32	32	32	32	32	32	32	32
Expected capacity	-191	-102	-435	-563	-780	-929	-1071	-1132	-1213	-1219	-1229

Table 2: Secondary School Capacity

The data indicates that there is currently a shortfall in capacity across the secondary school provision by a substantial amount and far greater than this development. This reflects a wider strategic matter and a position that KCC Education is required to address for both the shorter and longer term.

As set out previously, if the development were to be approved, there would be a requirement for a financial contribution to be made to KCC Education to ensure that the demand generated as part of this development can be accommodated within the local educat

This funding (circa £1.8 velopments within the same Planning Grou .

CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

Local Infrastructure

GP Provision

To understand the current capacity of GP practices within the local area, that could serve future residents of this development, an assessment of the NHS GP database has been undertaken. This database provides information on GP Practices, the number of GPs working at each practice and the number of patients on roll. The database is released quarterly, and this assessment is based on data from February 2025.

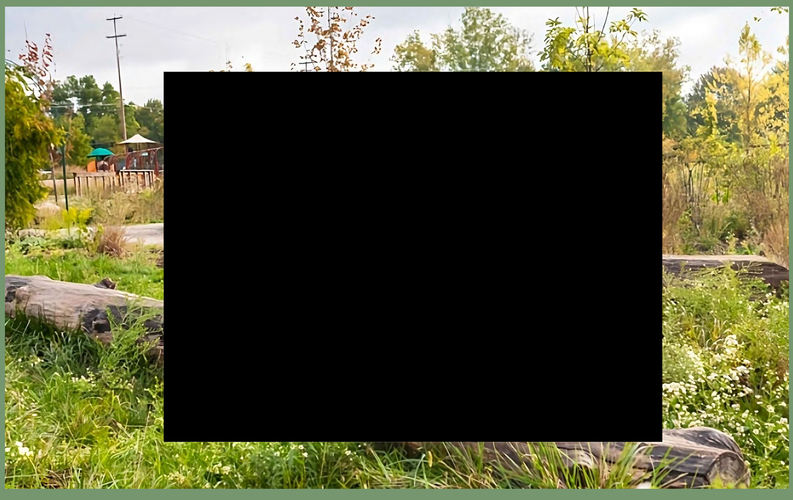
Using the Healthy Urban Development Unit (HUDU) standards, which is the nationwide approach to assessing capacity within a GP practice, a standard of 1,800 patients to 1 full-time GP is applied.

A table below sets out the local GP Practices and their current capacities based on the HUDU standard.

Practice	Postcode	FTE GPs	Patients	Ratio	Capacity
Downs Way Medical Practice	DA139LB	13.3	16,116	1:1,216	7,740
Meopham Medical Practice	DA130AH	8.9	10,227	1:1,148	5,810

Presently, there is suggested capacity within both the Downs Way Medical Practice, and Meopham Medical Practice to accommodate additional patients.

Based on the development of 160 dwellings with an average household size of 2.4 people. This would generate a need for 384 patient places. Therefore, there is capacity within the existing provision to accommodate the demand arising from the development.



CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

Landscape & Ecology

Landscape and Visual Appraisal

A Landscape and Visual Appraisal of the Site has been undertaken. The appraisal identifies the site is of low landscape value given:

- It generally is not of noteworthy scenic beauty, insofar that it largely comprises fields with ruderal vegetation, bounded by woodland and tree vegetation, features considered commonplace within the surrounding landscape.
- Due to its proximity to the existing built development and highway network of Istead Rise, which exude a suburban influence on the site, there is a limited sense of tranquillity and remoteness.
- The site does not form part of a historic landscape setting, and where boundary vegetation is present it is not remnant of the historic field structure.
- Recreational opportunities for the public are currently not afforded, with no public access.
- The site does not benefit from any landscape designations or notable landscape features.

A Landscape Constraints and Opportunities plan has been prepared to demonstrate how residential development can appropriately come forward on the site. As shown on the plan development will need to ensure boundary vegetation is retained and enhanced, and the easternmost field is kept free of built form.

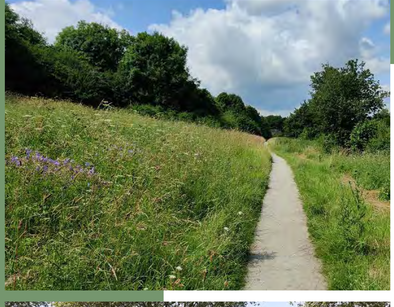
In terms of the wider landscape impact, due to the well established boundary vegetation, the site is very well enclosed meaning that any landscape impact is only limited to very short distance views.

Ecology

The scheme aims to 'Protect, Restore and Create' habitats and other features of ecological importance. For example, the scheme protects the on-site woodland and historic east-west central field boundary habitat. In doing so it provides opportunities to restore these through wildlife friendly habitat management to improve their ecological quality for woodland invertebrates, birds and bats. Other boundary habitat, such as hedgerows and scrub, together with retained grassland habitats will be restored and created to establish flower-rich spaces for bees, butterflies and people. Corners of informal open space will be left to become scrubby for scrub-loving birds and mammals, such as Hedgehog.

Opportunities to plant scattered, old Kentish fruit trees within the public open space, alongside new ponds, will be explored. Ponds are important because as the UK experiences hotter drier summers through climate change, it will be important permanent water is available for wildlife. There is also the opportunity to create new homes for birds and other animals together with integrated swift bricks, bee bricks and earth bunds to create bee banks.

Through good design and following both the ecological and biodiversity net gain hierarchy where possible, opportunities to secure Biodiversity Net Gain (BNG) will be realised. If after the completion of the statutory BNG metric there is a shortfall of BNG units below the required 10% gain, then off-site units will be purchased with local Kent-based providers. The exact ecology strategy is still being considered as more ecological information is collated.



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The Way Forward

We hope this exhibition has been useful to help explain the emerging proposals and to discuss any matters that you have. We would like to understand if our proposals could be further enhanced and welcome you to write to us either by completing a form here today or visit our website where you can submit comments online, or send directly to us at:

isteadrise@esquiredevelopments.com

We are likely to be submitting the application in the next few months where the Council will consider the submitted material and obtain views from statutory consultees on the suitability of the proposals. It is unknown when the application may be determined. If however it is determined towards the end of the summer and approved, then a Reserved Matters application would be drawn up towards the end of the year. This is a further application and likely to be determined in Summer 2026. A start on site may occur in Winter 2026 and may take approximately 3-3.5yrs to complete.

Thank you for taking the time to come and see us.

CLAGUE ARCHITECTS

ESQUIRE DEVELOPMENTS

APPENDIX E

Public Exhibition Feedback Form

ESQUIRE
DEVELOPMENTS

CONSULTATION FEEDBACK FORM
LAND SOUTH OF DOWNS ROAD, ISTEAD RISE
JUNE 2025

We would welcome your feedback on the emerging development. All comments will be reviewed and where possible, incorporated into the emerging proposals.

Q1. What are your general views on the emerging development?

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Q2. Do you support the general design approach to the homes? If not, please expand.

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Q3 What do you consider to be the most important consideration of any development (i.e. provision of family homes, downsizers, biodiversity, parking, design etc)

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Q4. Do you consider the emerging development has considered all the opportunities and constraints? If not, why not?

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Q5. Do you have any other comments / views?

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Name: ……

Address/Postcode:……

Thank you for taking the time to complete this form. Please return it to the comments box or email to isteadrise@esquiredevelopments.com or visit www.consult-esquire.com to submit comments on line.

Esquire Developments Ltd. are committed to protecting your privacy and will not pass on your details to anyone outside the company. We may hold personal information about you which we may use for marketing and research purposes and also help us to develop our website, products and services. We will not keep personal information for longer than is necessary. Our privacy policy can be found at www.esquiredevelopments.com

APPENDIX F

Land off Chapel Lane

ESQUIRE
DEVELOPMENTS

Planning Inspectorate

Appeal Decision

Inquiry Held on 5 November 2024

Site visit made on 20 November 2024

by SRG Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2025

Appeal Ref: APP/V4630/W/24/3347424
Land off Chapel Lane, Great Barr, Walsall

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Anesco Limited against Walsall Metropolitan Borough Council.
- The application Ref 23/1286 is dated 4 October 2023.
- The development proposed is the construction of a temporary 49.35MW battery energy storage facility, with security fencing, access and associated works.

Decision

1. The appeal is allowed, and planning permission is granted for a temporary 49.35MW battery energy storage facility, with security fencing, access and associated works on land off Chapel Lane, Great Barr, Walsall in accordance with the terms of the application, Ref 23/1286 dated 4 October 2023, and the plans submitted with it, subject to the Schedule of Conditions set out in Annex A.

Preliminary Matters

2. The above description, taken from the application form, adequately describes the proposal.

3. Had the local planning authority (lpa) been in a position to decide the application, it would have been refused for 9 reasons (Annex C). The putative reasons for refusal (RfRs) refer to inappropriate development in and loss of openness to the Green Belt (GB), landscape and visual impact, heritage, highways, drainage/ecology, best and most versatile agricultural land (B&MV), noise and proximity to power lines.

4. Before the inquiry opened, the applicant requested that the application be decided based on amended plans. The amendments included, relocating the site access and changes to the internal access track, revised visibility splays, replacing the CCTV system and communications tower with beam security, the inclusion of a swale and fire water pond to align with the proposed drainage layout, rationalisation of the fencing, removing the existing stable blocks and changes to the Landscape Strategy Plan.

5. The applicant consulted those residents originally contacted, and the lpa consulted stakeholders on the proposed amendments. Having regard to the nature of the amendments and the extent of the consultations undertaken, I

concluded[1] that no party would be prejudiced by deciding the application on the basis of the amended plans. Whilst I indicated that I was minded to decide the application on that basis, I noted that to ensure consistency, minor changes may be required to other plans.

6. Subsequently, the applicant included, with the Revised Plans Bundle, an additional plan (C0002457-14 REV A - Indicative Site Section). The lpa reconsulted relevant stakeholders on this plan. This plan was not before me when I concluded on the acceptability of the amended plans. However, it would have been clear, given the site falls from the north-eastern boundary to the south-west, that to ensure a level platform some groundworks would be required. At the inquiry, the lpa, whilst noting that it would have been appropriate for this plan to have been submitted earlier, it was content to proceed on the basis of the additional plan. I confirmed that the application would proceed on the basis of the amended plans.

7. With the acceptance of amended plans, the submission of further information, consultation responses and reflecting on the appropriateness of RfR 7, the lpa did not pursue the putative RfRs relating to highways (RfR 4), drainage/ecology (RfR 6), and proximity to overhead power lines (RfR 7). Neither the applicant nor the lpa called witnesses on these matters.

8. Some of the RfRs contain reference to conflict with Unitary Development Plan (UDP) Policy ENV38 − Telecommunications Equipment. With the removal of the communications tower, this policy is no longer relevant. RfR 1 relating to the GB refers to Policy ENV7 of the Black Country Core Strategy (BCCS). This policy relates to the development of renewable energy sources. This application is for a freestanding battery energy storage system (BESS). Its purpose is to store electricity and release it when needed to match supply with demand. In this context, BCCS Policy ENV7 is not relevant.

9. During the inquiry it became clear that some plans continued to contain contradictory detail. For example, the amended site layout plan showed the battery storage compound being enclosed on all sides by acoustic fencing. However, the evidence, and the basis on which the proposal was considered, was that acoustic fencing was to be provided on 3 sides with standard fencing on the fourth side. These contradictions were corrected during the inquiry. No one would be prejudiced by accepting these corrections.

10. Drawing the above together, no party would be prejudiced by deciding the application on the basis of the amended/corrected plans. Accordingly, this appeal has been decided based on the following plans, Location & Block Plan, Drawing No. C0002457_03 Rev. C, ESS Containers Plans and Elevations, Drawing No. C0002457_04C, Customer Substation Plans and Elevations, Drawing No.C0002457_08 Rev. B, Site Layout, Drawing No. C0002457_02 Rev P, Visibility Splay, Drawing No. 2108013-06 Rev B, Substation Plan & Elevation, Drawing No. C0002457_06 Rev D, and Tree Protection Plan, Drawing No. 404.064032.00001 Rev 04.

11. The site and other substantial tracts of land in the wider area are used for the grazing of horses. Albeit references were made to the land being used for horsiculture, grazing falls within the definition of agriculture. In deciding this application, it is not my role to determine what the lawful use of the site is. If

[1] 7 October 2024.

the applicant or the landowner wishes to seek such a determination, an application should be made to the lpa under S192 and S193 of the above Act. For the purposes of concluding on this issue, I have proceeded based on the agreed position in the Statement of Common Ground that the land is in agricultural use.

12. On the 8 October 2024, exercising the powers conferred by Regulations 14(1) and 7(5) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017), the Secretary of State determined that this development is not an Environmental Impact Assessment development. I have no reason to disagree with that conclusion.

13. On the final day of the inquiry, the representative of the Rule 6 party, the Staffordshire Gardens and Parks Trust (SG&PT), was unable to attend the inquiry. Closing submissions for the SG&PT were submitted in writing.

14. Applications for costs were made by, (1) Anesco Limited against Walsall Metropolitan Borough Council (WMBC) and (2) WMBC against Anesco Limited. These applications are the subject of separate decisions.

15. Following the completion of the parties' cases, the inquiry was adjourned to allow for the submission of suggested conditions. The inquiry was closed in writing on Tuesday 26 November 2024.

16. At the Case Management Conference held on the 29 August 2024, the parties agreed that, having regard to the contents of National Planning Policy Framework[2] paragraph 154 (Framework) extant at that time, the proposal comprised inappropriate development in the GB. As such, the Main Issues addressed at the inquiry did not include consideration as to whether the proposal represented inappropriate development in the GB. In December 2024, revisions to the Framework were published. Changes relevant to the determination of this case relate to Framework paragraph 155, which, introduced a further category of development regarded as not inappropriate in the GB. This change required the issue of whether the development is inappropriate development to be addressed. The parties were offered an opportunity to comment, and their responses have been considered.

Main Issues

17. These are,

    1. whether the proposal would be inappropriate development in the GB having regard to the Framework and any relevant development plan policies,

    2. the effect on openness,

    3. the effect on the character and appearance of the area,

    4. the effect on heritage assets,

    5. the effect on the living conditions of residents with particular reference to noise,

    6. the effect on the supply of agricultural land, and

[2] National Planning Policy Framework December 2023.

7. whether the harm by reason of inappropriateness, and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

18. The development plan includes, saved policies of the Walsall Unitary Development Plan (UDP) 2005, the Black Country Core Strategy (BCCS) 2011 and the Walsall Site Allocation Document (WSAD) 2019. Statements of Common Ground (SoCG) on Planning, Landscape and Heritage list the relevant development plan policies.

Issue 1 - Inappropriate Development

19. WSAD Policy GB1 refers to development in the GB being managed in accordance with policies in the Framework. Framework paragraph 155 indicates that,

The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:

a. the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining GB across the area of the plan,

b. there is a demonstrable unmet need for the type of development proposed,

c. the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework, and

d. where applicable the development proposed meets the "Golden Rules" requirements set out in Framework paragraphs 156 and 157.

20. Criterion b and c above are subject to Footnotes 56 and 57 which do not apply to this development. The Glossary to the Framework defines Grey Belt as,

"...Grey Belt is defined as land in the GB comprising previously developed land (PDL) and/or[3] any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in Framework paragraph 143. Grey Belt excludes land where the application of the policies relating to the areas or assets in Footnote 7 (other than GB) would provide a strong reason for refusing or restricting development.

21. Footnote 7 refers to Framework policies, rather than those in development plans, relating to: habitats sites, and those sites listed in paragraph 194[4], and/or designated as Sites of Special Scientific Interest; land designated as GB, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets and other heritage assets of archaeological interest referred to in Footnote 75; and areas at risk of flooding or coastal change.

[3] My emphasis.
[4] There appears to be a typographical error in this Footnote. In the December 2023 edition of the Framework, Footnote 7 to paragraph 11 d (I) refers to, "...those sites listed in paragraph 187". Paragraph 187 refers to types of sites that should be given the same protection as habitat sites. In the December 2024 Framework, Footnote 7 refers to paragraph 189. However, Paragraph 189 refers to National Parks etc. The equivalent to the December 2023 paragraph 187 in the December 2024 Framework is paragraph 194.

22. As to whether the land is Grey Belt, the applicant accepts that the site is not PDL, and it is agreed that Purpose d - to preserve the setting and special character of historic towns, is not relevant. To determine whether the site falls to be considered as Grey Belt, the site has to pass the test of whether the land, does not strongly contribute to Purpose a - to check the unrestricted sprawl of large built-up areas and Purpose b - to prevent neighbouring towns merging into one another listed in Framework paragraph 143.

Purpose a - Sprawl

23. The evidence base for the BCCS review, included a GB study, which assessed how land within the GB contributes to the purposes of the GB. The site is located within Parcel B93, an area that covers some 1,768ha between Walsall, Sutton Coldfield and Birmingham. The study concluded that Parcel B93 made a strong contribution to Purposes a, b and c. The study assessed the harm of releasing a sub-parcel of B93, B93A, which covers an area of some 487ha, south of Sutton Road, west of Beacon Road down to Great Barr as being "Very High". Given that Parcel B93 fills the entire gap, between the settlements of Walsall, Sutton Coldfield and Birmingham and Parcel B93A is a substantial area, these conclusions are unsurprising and do not assist in assessing the effect of the development on GB purposes.

24. The Framework does not contain a definition of what might constitute sprawl. Concluding on whether the development would conflict with Purpose a, depends on the relationship of the site with the large built-up area. Here, although the site is located towards the southern tip of the GB, it is not immediately adjacent to the large built-up area. Rather it is separated from it by open fields, recreational land and the Great Barr Registered Park and Garden (RPG). As such, the development would be physically and visually discrete from the large built-up area. In this context, the site does not strongly contribute to Purpose a.

Purpose b - Merging

25. The proposal would result in physical development in the gap formed by Parcel B93. Therefore, in the strict sense of this purpose, the proposal would not in itself lead to the merging of neighbouring towns. However, the countryside and open land between towns is always under pressure from development and it is rarely the case that a single development, on its own, would cause neighbouring towns to merge. However, such areas could be lost incrementally and, over time, lead to the merging of neighbouring towns.

26. Here, albeit temporarily, there would be a loss of GB land between the towns of Walsall, Birmingham and Sutton Coldfield. This would result in a minor, temporary reduction, in the gap between these towns. Therefore, the proposal would contribute to the possibility of these towns merging. That said significant open land would remain between the site and these towns. There is very limited visibility of the site, and the BESS would have no material impact on the perception of the gap. In this context and given the proposal would be temporary and would not lead directly to the merging of neighbouring towns, the site does not strongly contribute to Purpose b.

Conclusion on Grey Belt Status

27. Based on these conclusions, the site falls to be considered as Grey Belt. However, for the proposal to be considered as not inappropriate development it must satisfy all of the criterion, a to d, listed in Framework paragraph 155.

Criterion A

28. This criterion requires that the development would not fundamentally undermine, the purposes, when taken together, of the remaining Green Belt across the area of the plan. I take this to mean an assessment of the proposal against all 5 of the purposes of the GB.

29. The impact on Purposes (a) and (b) is been considered above, concluding there would be no conflict. As to Purpose (c), encroachment, it is common ground that the BESS would result in harm to this purpose. Given the relative scale of the site and Parcel B93, the harm resulting from encroachment would be negligible. On Purpose (d), it is agreed that the site does not contribute to this purpose.

30. Regarding Purpose (e), this was assessed in Appendix 3 of the GB study. Here, a substantial number of individual parcels of land, excluding the site, were assessed. The study came to a global conclusion that all parcels make an equal and strong contribution to this purpose. The manner in which this part of the Study was undertaken does not assist in assessing the effect of this development on Purpose (e).

31. What is more useful, is the Alternative Sites Assessment (ASA) prepared by the applicant in September 2023 and updated for the appeal in October 2024. The development of a BESS has one key locational requirement. That is the availability of and proximity to a grid connection. Access to the local grid is the biggest constraint facing the alternative energy supply and associated infrastructure industries. Sites need to be located close to a point of connection (POC) to the grid, so as to minimise the loss of energy during transmission and the grid must have capacity to absorb the electricity discharged at times of peak demand. The intended point of connection to the grid is some 550m from the site and then by existing underground cable to the Bustleholme sub-station.

32. The ASA considered a search area of some 2km from the POC. In my experience, this is generally the maximum distance for a connection before its viability, both in terms of electricity transmission and cost, becomes questionable. Undertaking what I consider a robust assessment, the ASA concludes that there are no alternative sites suitable for this scheme. I have no reason to dispute that conclusion, and no one presented the inquiry with an alternative location for consideration. In the absence of an alternative site, there would be no conflict with Purpose e to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

33. Drawing all of the above together, I conclude that the development would not fundamentally undermine, the purposes when taken together of the remaining GB in the plan area. Criterion A of Framework paragraph 155 is met.

Criterion B

34. Here, a demonstrable unmet need for the development proposed is required. Although all forms of electricity storage[5] were removed[6] from the definition of nationally significant energy generating stations under the Planning Act 2008, National Policy Statement (NPS) EN-1[7] refers to the role of electricity storage. Whilst NPSs are national policy for energy projects that are defined as Nationally Significant Infrastructure Projects (NSIP) identified by the 2008 Act, NPS EN-1 indicates that it may be a material consideration in decision making on applications that fall under the Town and Country Planning Act (1990 (as amended). Thus, whilst a BESS is not an NSIP and the specific provisions that NPSs make for them, they do provide a context to assist in the determination of a planning application.

35. NPS EN-1 indicates[8] that energy storage has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon power, heat and transport can be integrated. Storage is needed to reduce the costs of the electricity system and to increase reliability by storing surplus electricity in times of low demand to provide electricity when demand is higher. Storage can provide various benefits, locally and nationally. These include maximising the usable output from intermittent low carbon generation (e.g. solar and wind), reducing the total amount of generation capacity needed on the system; providing a range of balancing services to the National Electricity Transmission System Operator (NESO) and Distribution Network Operators (DNO) to help operate the system, reduce constraints on the networks and help to defer or avoid the need for costly network upgrades as demand increases.

36. NESO is a publicly owned energy body responsible for energy planning in Great Britain. When NPS EN-1 was published in November 2023 it noted that there was around 4GW of operational electricity storage in Great Britain, of which some 1GW is battery storage. NESO recently published Clean Power 2030 Advice on achieving clean power by 2030. The "clean power pathway", sees a 4-to-fivefold increase in demand flexibility with, amongst other things, an increase in grid connected battery storage from 5GW to over 22GW. NESO predicts that unprecedented volumes of clean energy infrastructure projects are needed to meet the Government's energy ambitions. Whilst the NESO report is not government policy or has the same status as the Framework, it does provide supporting context for decision making.

37. Framework paragraph 161 indicates that the planning system should support the transition to a low carbon future and support, amongst other things renewable and low carbon energy and associated infrastructure. Given the context provided by NPS EN-1 and the NESO research, it is not a huge leap to conclude that a BESS project represents much needed associated infrastructure.

38. One of the constraints to the early development of renewable and low carbon energy and associated infrastructure is the ability to access the local grid. In some places, notwithstanding the appetite to develop projects, grid

[5] Other than pumped hydroelectric storage.
[6] The Infrastructure Planning (Electricity Storage Facilities) Order 2020.
[7] Overarching National Policy Statement for Energy.
[8] Paragraphs 3.3.25 to 3.3.27.

connections are not available until the mid to late 2030s. This project has a grid connection offer of 2028. Thus, given the imperative of mitigating climate change and achieving net-zero, this project has the ability to make an early and material contribution to the clean power pathway required to achieve net zero. Whilst the appellant has not provided *"…quantifiable evidence…"* of an unmet need, the above context provides reason to show that the requirement of criterion B of Framework paragraph 155 is met.

Criterion C

39. Criterion C requires that the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework. Framework paragraph 110 indicates that significant development should be focussed on locations that are or can be made sustainable, through limiting the need to travel. This paragraph goes on the say that opportunities to maximise transport solutions will vary between urban and rural areas, and this should be taken in to account in both plan-making and decision-making. Framework paragraph 115 seeks to ensure amongst other things, that sustainable transport modes are prioritised taking account of the type of development and its location, safe access can be achieved and any significant impacts on the capacity of the highway network or highway safety can be acceptably mitigated.

40. The thrust of Framework paragraph 110 appears to relate to development that would generate significant level of vehicle movements, particularly by car. With this development there would be 2 phases, the construction phase and the operational phase. During the 40-week construction phase the development would lead to an increase in traffic on the road network of, on average, three, 2-way vehicle movements per day. During the operational phase, there would one van accessing the site on 2 occasions per month. This level of traffic movement is not significant, nor would it have an unacceptable effect of highway capacity or safety. The Highway Authority has no objection on access or traffic generation grounds. Moreover, given the nature of the development, whether it was located in a rural or urban area, the scale of traffic generation could not be limited or changed to alternative transport modes. The requirement of criterion C of Framework paragraph 155 is met.

Criterion D

41. Criterion D, the "Golden Rules" does not apply here.

Conclusion on Issue 1

42. The relevant criteria contained in Framework paragraph 155 are met and this development does not fall to be considered as inappropriate development in the GB. As such there would no conflict with WSAD Policy GB1.

43. The Courts have found that where a development is found not to be inappropriate development it should not be regarded as harmful either to the openness of the GB or to the purposes of including land in the GB. Notwithstanding my conclusion on Issue 1, for completeness the issue of GB openness is addressed below.

Issue 2 - Green Belt Openness

44. Framework paragraph 142 says that one of the essential characteristics of GBs is, openness and permanence. Planning Practice Guidance[9] (PPG) indicates that openness is capable of having both spatial and visual impacts. PPG lists the factors involved when considering the effect on openness. These include, visual impact, volume, duration, the degree of activity generated and remediability i.e. any provisions to return land to its original, equivalent or improved state of openness.

45. The lpa acknowledge that the visual envelope of the site is limited[10]. This area is contained by The Duckery, Chapel Lane, Pinfold Lane, a short stretch of Old Hall Lane and the western edge of the farmstead at Old Hall Farm. Within this tight visual envelope, public views are limited. Views obtained by walkers and drivers travelling north on Chapel Lane start immediately past The Duckery and end at the stables, with further glimpsed views at the access to the stables. Views for walkers and drivers travelling south on Chapel Lane are similarly limited. Existing planting on the road frontage is limited with 2 substantial lengths where open views across the field are available. Views from Pinfold Lane and Old Hall Lane are limited to one or 2 locations.

46. A public footpath runs north-east diagonally from the existing site entrance on Chapel Lane to Pinfold Lane. Given the absence of any planting along the north-eastern boundary of the site, views across the site to The Duckery are available. However, access to and from this path is blocked and it appears to have been blocked for some time. Spatially, the proposal would introduce a significant volume of development into a largely open field. The footprint of the whole compound and associated access tracks would occupy around 50% of the field and much of its length.

47. The proposal provides for, the removal of the stables and associated detritus, strengthening of the gappy hedgerow on Chapel Lane and a new hedgerow on the north-eastern boundary. Ensuring a level platform for the various components, particularly the DNO Substation, requires a cut and fill exercise. The soil would be retained and used for bunding along the north-eastern and north-western edges of the compound. These features and the acoustic fencing would limit views to the upper parts of the battery containers, the customer substation and the DNO substation[11].

48. As the boundary planting matures, the visual and spatial impact of the proposal would be progressively mitigated. Post construction, the BESS would generate a limited amount of activity for maintenance purposes. Albeit 40 years is a long time, the BESS would be a temporary feature, after which, the site would be restored, and the mature boundary planting would be retained. In this context, it could not be said that the land would be completely restored to its original, equivalent or an improved state of openness. That said, it is an overarching landscape/biodiversity objective that existing hedgerows are retained, and new hedgerows planted. Moreover, there is nothing to prevent the landowner/occupier undertaking similar boundary planting.

[9] Green Belt Paragraph: 001 Reference ID: 64-001-20190722.
[10] Appendix G Plan 2 lpa Landscape & Visual Matters.
[11] Addendum Landscape of Common Ground.

49. Drawing this part of the assessment of Issue 2 together, given the utilitarian nature of the proposal it would have a harmful effect on the openness of the GB on a temporary, but long-term basis. With landscape mitigation, the harm would be localised, and the harm to openness would be Minor Adverse.

Issue 3 - Character and Appearance

50. UDP, BCCS and WSAD policies generally refer to the protection and, where appropriate, enhancement of landscape and countryside character. These policies also crossover into the other main issues relating to, agricultural land, the GB, historic character and local distinctiveness. Relevant landscape character documents include the Barr Beacon Countryside Area Profile (BBCAP), the Black Country Historic Landscape Characterisation (BCHLC) 2009 updated in 2019, the Black Country Landscape Sensitivity Assessment (BCLSA) 2019 and the Draft Great Barr Conservation Area Appraisal and Management Plan (CAAMP).

51. The aims of the BBCAP include, protecting and enhancing the appearance and quality of the landscape and encouraging the creation of landscape resources through, amongst other things, the enhancement of hedgerows. The BCHLC includes the site within the WL09 Barr Beacon and Aldridge Fields Character Area and is described as the most rural area in Walsall.

52. The BCLSA locates the site within the south-east corner of Landscape Area BL28, which appears to be contiguous with GB Parcel B93A. The appraisal of landscape sensitivity refers to, (1) the medium to small scale fields crossed by rural lanes enclosed by hedgerows that add to the small-scale character of the area and (2) the visually prominent pylon route and the presence of paddocks both of which has an urbanising effect on the landscape. Area BL28 is given a moderate to high sensitivity rating with the pylons and paddocks identified as, "anomalies" to the sensitivity rating.

53. The CAAMP locates the site within Character Area A – Historic Core of the Great Barr Estate and Sub-Area A6 - Chapel and Pinfold Lanes. Here, landscape sensitivity is identified as High and visual sensitivity as High/Medium. This sub-area is identified as having a high sensitivity to all types of energy development that would affect rural character.

54. For the purposes of Framework paragraph 187a, it is agreed that the landscape is not a valued landscape. In achieving the overarching objective of enhancing the natural environment, Framework paragraph 187b indicates that decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including amongst other things trees and woodland.

55. The lpa and applicant agree that the landscape and visual effects of the BESS would, be restricted to limited areas[12]. Similarly, there is significant agreement on the predicted effects on landscape and visual receptors[13]. Where there are differences of professional opinion these are minor. There is agreement, that during and immediately post-construction (Year 1) the effect depending on the nature of the receptor would be *Minor, Minor-Moderate or Moderate Adverse*. The same conclusions apply to visual receptors except for walkers using Chapel Lane, which forms part of the Beacon Way long distance

[12] Lpa Landscape Evidence Appendix G.
[13] Landscape Statement of Common Ground & Addendum Landscape Statement of Common Ground.

footpath where the applicant assesses the Year 1 effect as *Moderate Adverse* and the lpa as *Major/Moderate Adverse*. Adverse effects in Year 1 are to be expected. The key test as to the effect, is in later years when mitigation starts to take effect and the duration of the effect, Year 15.

56. In terms of the effect on the landscape character of the site and its immediate vicinity, the applicant's Year 15 assessment is *Temporary Minor Adverse* and the lpa's is *Permanent Moderate Adverse*. For the BCLSA Landscape Area BL28, the respective assessments are *Temporary Negligible and Permanent Moderate/Minor Adverse*. For the BCHLC Barr Beacon and Aldridge Fields Character Area WL09, the respective assessments are *Temporary Negligible* and Permanent *Moderate/Minor Adverse*.

57. For drivers travelling either way on Chapel Lane, the applicant assesses the Year 15 visual effect as *Temporary Negligible Adverse* and the lpa as *Permanent Moderate Adverse*. For walkers passing on Chapel Lane (Beacon Way) the respective assessments are *Temporary Minor* and *Permanent Moderate Adverse*. For walkers on Old Hall Lane, the respective assessments are *Negligible Temporary Adverse* and *Minor Permanent Adverse*.

58. The lpa's assessment of landscape and visual effects is predicated on the basis that 40 years equates to a permanent effect. Whilst 40 years is a long time, it would be wrong, consider the development as permanent. An allowance has to be made for the fact that any beneficial effects, the new hedgerows, would be retained and any adverse effects from the introduction of a utilitarian structure, would be removed. On that basis, I consider the assessment of landscape and visual effects must be prefaced with the descriptor of temporary, with a recognition that mitigation that includes hedgerow and tree planting would, from Year 1 mature and continue to mature increasingly mitigating the Year 15 effects.

59. In terms of landscape effects, in relation to the site and its immediate vicinity, I consider the Year 1 effects would be *Temporary Moderate Adverse* and at Year 15 would be *Temporary Minor Adverse*. Given the scale of the BCLSA Landscape Area BL28 and the acknowledged limited landscape context envelope, the Year 1 effects would be *Temporary Minor Adverse* and by Year 15 *Temporary Negligible Adverse*. For the BCHLC Barr Beacon and Aldridge Fields Character Area WL09, for similar reasons the Year 1 effects would be *Temporary Negligible Adverse* and by Year 15, there would be no discernible landscape effect.

60. Chapel Lane, although it has the appearance of a country lane, is a well-used route for drivers from Birmingham and the M6 accessing Streetly and Sutton Coldfield avoiding the Walsall ring road and vice versa. The significant use of the road is evidenced by the introduction of traffic calming measures next to St Margaret's Church and The Duckery. In this context, whilst passengers would be able to take in the scene, drivers need to concentrate on the road and oncoming traffic rather than the surrounds. At Year 1, the visual effects would be *Temporary Moderate Adverse* and by Year 15 *Temporary Negligible Adverse*, when for both drivers and passengers' views would be limited to the briefest of glimpses through the maturing hedgerows and glimpses at the site access and the access to the stables where views of the substation, acoustic fencing and battery stores would be limited by bunding.

61. For walkers on Chapel Lane, Beacon Way, again because of the nature of the road they have to concentrate on the traffic. That said, I acknowledge that in Year 1 given their high sensitivity, the effect would be *Temporary Moderate/Major Adverse* and by Year 15 *Temporary Minor Adverse*. Notwithstanding this conclusion, I am aware that on the northern side of Chapel Lane running north-eastwards from just before the start of the site at The Duckery and finishing in the area where the boundary hedge on the site is at its thickest is a public footpath running between 2 dense mature hedges. Although signposted at its north-eastern end, the path is overgrown and currently unusable. Proper maintenance of this path would allow walkers safe passage along this part of Chapel Lane and as such any views would be completely obscured. For walkers on Old Hall Lane, the effects at Year 1 would be *Temporary Minor Adverse* and by Year 15 *Negligible*.

62. During the inquiry, a further view was identified by the SG&PT from steeply rising land in the north-east corner of the RPG. This a substantially overgrown area where access is limited to one or 2 narrow paths through the scrub. It is not in a location where casual walkers would seek to visit. From here views of the BESS would be limited to a relatively small area at the north-eastern corner of the battery compound. Given the view would be downwards to that part of the compound and would remain unscreened, the Year 1 and Year 15 effects would be *Temporary Moderate Adverse*.

63. Drawing the above together, on Issue 3 the BESS would, overall, result in *Moderate/Minor Adverse* landscape and visual effects contrary to the objectives of development plan policy. These effects would be temporary and with mitigation would, in the short term, be materially reduced. In the long term once the site had been restored, the mitigation planting would have beneficial landscape and visual effects.

Issue 4 - Heritage

64. The site is located within the Great Barr Conservation Area (CA), within which sits the Grade 2 listed Great Barr Hall RPG and other heritage assets (HA). The site sits outside and adjoins the RPG on its north-eastern boundary. Within the RPG are, the Grade 2 listed remains of Great Barr Hall and the Grade 2 listed St Margaret's Church. North-east of the site is the Grade 2 listed Old Hall Farmhouse and Grade 2 listed Old Hall Barn. It is accepted that the site lies with the settings of the RPG and listed buildings (LB).

65. The Heritage SoCG records agreement that there would be no harm to the significance of Great Barr Hall. As to the remaining HAs, the applicant and lpa agree that there would be less than substantial harm to the CA, albeit there is disagreement of the scale of that harm. The lpa finds less than substantial harm to the remaining HAs, whilst the applicant finds no harm. The SG&PT submit that the BESS would result in substantial harm to the significance of the RPG and the CA. The High Court has set out guidance on what is meant by substantial harm. Essentially, substantial harm is considered a high test, where a scheme would impact seriously on a key element of a HA's architectural or historic significance. Serious impact on the significance of an asset is such that it was destroyed altogether or very much reduced. The degree of harm is something I will return to late.

66. UDP Policies ENV27, ENV30, ENV32, BCCS Policies CSP3 and EN5 and WSAD Policy EN7 seek to protect CAs, LBs and the RPG from the adverse effects of

development. Framework paragraph 202 indicates that HAs are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

67. Where a scheme affects the setting of a LB, S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving its setting or any features of special architectural or historic interest it possesses. S72 (1) of the same Act, requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a CA.

Conservation Area

68. The CA was first designated in 1976 covering the RPG and the area encompassed by Chapel Lane, Pinfold Lane and Old Hall Lane. In 1996, the CA was extended to include a substantial area of countryside to the north, east and west. The extent of the CA is currently under review and a draft CAAMP has been published. The CAAMP divides the CA up into 4 distinct areas and for the purposes of this assessment the relevant sub-area is Character Area A, the historic core of the Great Barr Hall Estate. This area coincides with the boundaries of the 1976 CA and the CAAMP recommends that the CA boundary be revised to encompass only this area. Thus, even if the boundary of the CA is reduced, the CA would still include the site within it.

69. Historic interest stems from association with the Scott family who occupied the area from the 14th to 20th century and through associations with Humphry Repton, John Nash and George Gilbert Scott, all of whom worked on various phases of the development of the Great Barr Hall and Estate. Architectural interest relates to the various listed buildings largely located within the historic core and the design and layout of the RPG.

70. The lpa acknowledge that the BESS would not impact on the architectural or archaeological significance of the CA. The concern is whether the development would affect the ability to appreciate or understand the historic significance of the site within the historic core of the CA. The site lies outside the former landscaped parkland of Great Barr Hall and formed part of the agricultural land associated with the estate. Considerable debate took place as to whether the site formed part of a "borrowed landscape" for the parkland. This was on the basis that (a) the use of "borrowed landscapes" was a technique employed by landscape designers associated with the development of Great Barr Hall and (b) the boundary between the park and the site consists of a mound with the remnants of a wall below it, formed a "ha-ha". This feature would allow users of the parkland to look out over the agricultural land whilst preventing animals from entering the designed landscape of the hall. Whilst the design of a ha-ha can take many forms, there is no real evidence, other than conjecture that it was designed as such or that the site formed part of that view. Even if there was the intention of a designed view, little remnant of that long view exists today. The landscape beyond the park is cut off by mature dense woodland that extends The Duckery to the north-east. Views out from the park are extremely limited and are only obtained from largely inaccessible areas. I consider that in relation to these aspects the site does not contribute to the significance of the CA.

71. Notwithstanding the above, the applicant agrees with the lpa, that the site does contribute to the significance of the CA through views obtained from Chapel Lane to The Duckery and the more recent addition. To this, I would add views from Chapel Lane north-eastwards across the site to the farmstead at Old Hall Farm and views back from Old Hall Lane across the open land to The Duckery and views, albeit they are limited, along Chapel Lane to the spire of St Margarets Church, where the site is on the periphery. The CAAMP notes that the open spaces in this part of Character Area A includes the important agricultural land north of The Duckery and bounded by Chapel Lane, Pinfold Lane and Old Hall Lane, which is associated with Old Hall Farm. Albeit the character and appearance this area is heavily influenced by the prominent, twin row of pylons and overhead lines, here, the BESS would introduce a utilitarian and industrial structure reducing the open and agricultural form of this part of the area.

72. Both the applicant and the lpa agree that the BESS would result in less than substantial harm to the CA and given the conclusions above and the threshold for substantial harm, I agree. Where the applicant and lpa disagree is where, on the spectrum of less than substantial harm, the effect of the BESS would sit. The applicant places the degree of harm at the lower end and the lpa judges it to be low to medium. Given the heavy influence of the pylons/overhead lines, notwithstanding the importance the CAAMP attaches to the contribution of this area the CA, I conclude that the BESS would result in *low level of less than substantial harm* to the significance of the CA.

Old Hall Farmhouse and Barn

73. The historic significance of these HAs is founded in their medieval origins and association with the Scott family who occupied the farmstead prior to purchasing the manor of Great Barr and constructing Great Barr Hall. Subsequently, the farm was tenanted and the agricultural fields, particularly those to the west, including the site, have a historical agricultural association with the Great Barr Estate. The architectural significance of these buildings is founded in their architectural detail. Old Hall Farmhouses dates from the early 17th century and the barn from around the mid-19th century. The architectural detailing and construction methods are indicative of the local vernacular. The setting of these buildings includes the agricultural land to the west recognised by the CAAMP as important.

74. These HAs are located some 300m to the north-east of the site with twin rows of pylon and overhead lines in the foreground. Whilst there are open views across the site to the farmstead, dense and what appears to be evergreen planting around the farmstead means, that only a small part of the tiled roof of the barn is visible. I agree with the applicant that the site makes no contribution to the appreciation of the architectural significance of these HAs. Rather, the ability to appreciate their architectural significance is largely confined the courtyard, garden and yard. As to appreciating the historic significance of the site, there is no longer a functional relationship between the farmstead and the Scott family. Whilst that remains a matter of historical record, there is nothing on the ground that allows that association to be appreciated. Albeit the view across the site to the HAs is limited, the barn is recognisable as an agricultural building, it can be identified as an agricultural building and there is, in my view, a recognisable association between the agricultural use of the land and this HA. The BESS would introduce a

utilitarian and industrial structure reducing the open and agricultural form of this part of the area. In this context, the BESS would result in less than substantial harm at the lowest end of that spectrum.

St Margarets Church

75. The historic interest of the church is founded in ties to the history of Great Barr, the growth of agriculture and a religious presence on this site from early medieval times. The architectural significance of the church relates to its structure dating from the 17th century and the ability to recognise various phases of its construction and reconstruction. The extensive graveyard adds to the church's heritage interest. The site is set some 360m to the north-east of the church separated from it by the wooded graveyard and the dense woodland of The Duckery. There are no views of the church from site or vice versa. The heritage significance of the church is largely experienced from that part of Chapel Lane fronting the church and the graveyard. The church is set on high ground and its spire would have acted as a focal point for the agricultural population of the wider area. Approaching the church from the north along Chapel Lane there is a limited view of the upper part of the spire, where the historic link to the agricultural base of the area can be appreciated, albeit tenuously. The site falls within the periphery of that view, and the introduction of the BESS would result in some *less than substantial harm at the very lowest level* on that spectrum.

Registered Park and Garden

76. The significance of this HA is largely historic and architectural. The RPG represents the focus of a manorial estate of medieval origins with associations to the Scott family who occupied it from the 14th to the 20th century, the work of several renowned landscape designers namely William Shenstone in the mid-18th century, Humphry Repton and John Nash in the late 18th century and George Gilbert Scott during the mid-19th century. In the 18th century the Lunar Society, whose ideas are thought to have contributed to the advent of the Industrial Revolution, met at Great Barr Hall. In terms of architectural significance, the RPG retains examples of listed and vernacular buildings associated with the development of the estate, some of which like Great Barr Hall are derelict. Of architectural interest are the lakes and planting and woodland blocks designed to attract certain views or to deflect others. Whilst these features contribute to the RPG's significance, it has to be recognised that neglect has compromised many aspects of the park reducing its legibility as an 18th/19th-century designed landscape.

77. The CAAMP notes that historically the RPG's setting was dominated by farmland and has an agricultural character. The assessment goes on to note that Old Hall Farm sits to the north of the RPG and that the associated farmland makes a positive contribution to the rural character and their historic associations with the estate. The value of the site to the significance of the RPG largely depends on whether it is accepted that the site formed part of a designed "borrowed view" redolent of the landscape designers associated with the development of this once great estate. Unfortunately, none of the plans produced by these designers are available, and the OS Maps do not specifically notate the boundary between the RPG and the site as a ha-ha.

78. Importantly, the listing description, which has been updated several times contains no mention of a ha-ha. Given the association of famous landscape

designers with the development of the estate, had the presence of a ha-ha and the importance of the "borrowed view" been seen as a feature contributing the significance of the RPG, one would expect it would have been featured. Given the reputation of the various designers associated with Great Barr Hall, the absence of a reference to this as a feature does not fall under the headings of an oversight or that not every feature is covered in the listing. As indicated earlier, whilst the design of a ha-ha can take many forms, there is no real evidence, other than conjecture, that it was designed as such or that the site formed part of that "borrowed" view.

79. The applicant accepted that an area in the northern part of the RPG would be subject to increased noise levels. However, the envelope where noise would be experienced would be relatively small and largely comprise woodland that is, for the most part inaccessible to all but the most determined walker. Moreover, the threshold referred to, 50 to 55dB, which the WHO guidance equates to moderate annoyance relates to external garden areas where individuals would be concentrated and linger. In this part of the RPG, people would be walking through, rather than lingering to take in any particular landscape feature. Moreover, there is already a level of noise experienced from the nearby A34 and M6. The lpa in determining harm to the significance of the RPG, link noise to the ability of walkers in this area appreciating the potential significance of the "borrowed view". Given the conclusions above, the limited impact of noise on the RPG from the BESS would not add to the potential for harm to the significance of the asset. In this context, none of the elements set out above that go to the architectural or historic significance of the park would be harmed by the development of the BESS. As such there would be *no harm* to the RPG.

80. Drawing all of the above together, on Issue 4 there would be less than substantial harm to the CA at the low of that scale. There would less than substantial harm at the lowest end of that scale to Old Hall Farm House, Old Hall Barn and St Margarets Church and no harm to the RPG.

Issue 5 – Noise

81. UDP Policies GP2 -Environmental Protection and ENV 10 – Pollution, seek to prevent unacceptable adverse effects from, amongst other things, noise. Framework paragraph 198 indicates that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life. Reference is made to the Noise Policy Statement for England (NPSE) - Explanatory Note[14]. The Note recognises that noise exposure can cause annoyance and sleep disturbance both of which impact on quality of life and can give rise to adverse health effects.

82. The NPSE identifies 3 concepts, the first 2 of which are also applied by the World Health Organisation (WHO). These are:

NOEL – No Observed Effect Level, below which there is no detectable effect on health and quality of life due to the noise.

LOAEL – Lowest Observed Adverse Effect Level, above which there would be adverse effects on health and quality of life detected.

[14] Department for Environment, Food & Rural Affairs, 2010.

SOAEL – Significant Observed Adverse Effect Level, above which there would be significant adverse effects on health and quality of life.

83. Through the effective management and control of noise within the context of Government policy on sustainable development, the NPSE has 3 aims. These are, (1) to avoid significant adverse impacts on health and quality of life, (2) to mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise. This refers to the situation where the impact lies somewhere between LOAEL and SOAEL requiring that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life. This does not mean that such adverse effects cannot occur. The third aim is to where possible, contribute to the improvement of health and quality of life. This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise, recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. Achievement of these aims is sought within the context of Government policy on sustainable development.

84. PPG provides guidance on how planning decisions can manage potential noise impacts. The guidance includes a Noise Exposure Hierarchy Table (NEHT), which fleshes out the nature of the NOEL, LOAEL and SOAEL categories.

85. The NEHT describes the LOAEL as present and intrusive, where noise can be heard and causes small changes in behaviour, attitude or other physiological responses. In this category, there is potential for some reported sleep disturbance. Noise affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life. The action response is to mitigate and reduce to a minimum.

86. The SOAEL is described as present and disruptive, where noise causes a material change in behaviour, attitude or other physiological response. In this category, there is potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life is diminished due to change in the acoustic character of the area. The action response is to avoid.

87. I consider, after reviewing all the evidence, that the background noise levels set out in the August 2023 Noise Impact Assessment Report for the 3 nearest residential properties, Noise Sensitive Receptors (NSR) are a reasonable starting point. There are no issues between the parties regarding day-time noise, the concern relates to night time noise levels. The key concerns relate to, the predicted night-time sound levels after mitigation[15] based on, the absence of Acoustic Feature Corrections (AFC), and the application of a 15dB attenuation for a partially open window. The AFCs relate to intermittency and low frequency noise (LFN).

88. Paragraph BS 8233:2014[16] indicates that for steady external noise sources, the desirable indoor ambient noise levels for sleeping between 2300 to 0700 hours should not exceed 30 dB $L_{Aeq.8hours}$ (Table 4). Table 4 relates to noise without character. Paragraph 7.7.1 notes that noise has a specific character if it contains features such as a distinguishable discrete and continuous tone, is

[15] The provision of an acoustic barrier on 3 sides of the BESS compound.
[16] Guidance on Sound Insulation and Noise Reduction for Buildings, BSI Standards Publication

irregular enough to attract attention, or has strong low-frequency content in which case lower noise limits might be appropriate. Annex G, G.1 indicates that if partially open windows are relied upon for background ventilation, the insulation factor would be reduced to approximately 15 dB. This reference is subject to a footnote indicating that the level difference through a window partially open for ventilation can vary significantly depending on the window type and the frequency content of the external noise. If the specific details of the window and external noise are known, the value for insulation may be adjusted; either up or down. The World Health Organisation (WHO) Guidelines for Community Noise notes[17] that if negative effects on sleep are to be avoided the equivalent sound pressure level should not exceed 30 dBA indoors for continuous noise.

89. IT is recognised that LFN can disturb rest and sleep and a large proportion of low frequency components in noise may increase the adverse effects on health. Whilst I fully recognise the lpa's concerns regarding LFN, the manufacturer's test evidence on the operation of BESS units does not appear to indicate the presence of a prominent or large proportion of LFN such that here it requires specific consideration or the use of a dB (C) weighting. I acknowledge, that the WHO guidelines recognises that the use of the C–weighting for the sound level of noise with low frequency components would give a better assessment of potential health effects. That said, WHO guidelines also indicate that the difference between dB (C) and dB(A) only gives crude information, and the evidence suggests that the use of an NR curve would be more appropriate. Moreover, as I understand it, NR curves defines limits at different frequencies that allows the character of the noise to be defined or controlled. Thus, I consider it is unnecessary to include an AFC to account for tonality. Moreover, to construct a planning condition containing A-weighted, C-weighted and NR curve limits would result in unnecessary duplication.

90. As to intermittency, in the applicant's noise assessment, an allowance of 3 dB (A) was included in the BS4142 assessment of day time and night time sound levels. However, after mitigation, comprising a 2.8m high acoustic barrier, the AFC was considered unnecessary. Given that the BS 8233 guidance is based on steady external noise sources, it appears to me that including an AFC of 3dB (A) with mitigation is a sensible approach. On this basis, the resultant external noise levels at NSR 1, NSR 2 and NSR 3 would be 8, 6 and 4 dB above background respectively. Using BS 4142, +8dB would fall almost midway between an adverse and significant adverse impact and +4 and +6 dB would be classed as an adverse impact. Unlike BS4142, the NEHT in PPG does not attach particular sound levels to the LOAEL and SOAEL categories. Rather as outlined above, it provided examples of outcomes. Thus, the BS 4142 descriptors cannot be read directly across to the NEHT. Looking at each of these descriptors, it is my judgement that these noise levels would fall within the LOAEL category where the guidance is to mitigate and reduce to a minimum.

91. I am conscious of the advice in BS8233 regarding the 15 dB ascribed to the attenuation achieved by a partially open window and the note relating to the potential variations relating to window type. I acknowledge that the applicant has not provided any detail regarding the nature of the windows at the NSRs; but neither has the lpa. The 15 dB allowance is used universally in Noise

[17] Page 28.

Assessments, and I have yet to come across an assessment that included adjustments for window type. Indeed, it would be almost impossible for an applicant or indeed a lpa to undertake that type of detailed assessment given, as here, the affected properties would mostly be private dwellings. As such, I consider that it is reasonable to use 15 dB as a benchmark for determining the potential impact on bedrooms.

92. On the above basis, only one dwelling, NSR 1, would potentially be subject to an internal noise level above the BS8233 guideline value of 30 dB $L_{Aeq.8hours}$. Here, the calculated level would be 31 dB $L_{Aeq.8hours}$. However, a 1 dB difference is generally regarded as imperceptible, and as such any adverse impact would be marginal resulting in limited harm to residential amenity. Such an approach would be consistent with the NSPE, whose policy vision is to enable decisions to be made regarding what is an acceptable noise burden to place on society. Moreover, a condition is suggested that would provide for final approval of the proposed acoustic fence before development could commence, which would allow for the potential for disturbance to be further mitigated. On this basis there would be limited conflict with UDP Policies GP2 and ENV 10.

Issue 6 - Agricultural Land

93. The site is B&MV[18] agricultural land which UDP Policies ENV6 and GP2 seek to prevent the loss of. Framework Paragraph 180b says that decisions should, amongst other things, recognise the economic and other benefits of B&MV land. The lpa refers to Framework paragraph 181 and Footnote 62. The footnote indicates that where significant development of agriculture is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The footnote goes on to say that the availability of agricultural land used for food production should be considered alongside other policies in the Framework, when deciding what sites are the most appropriate for development. Natural England, the government's statutory advisor, does not have to be consulted on proposals on agricultural land of less than 20ha. That is one indication of what might be regarded as significant.

94. Part of the site would be occupied by the BESS with the balance used to provide for Biodiversity Net Gain (BNG) and not grazing or arable use. The manner in which land is farmed is not subject to planning control. Thus, even if planning permission is refused, there is nothing that prevents the landowner from using the site for grazing or leaving it unused. Indeed, resting that part of the site used for grazing would have the benefit of improving the soil's health/structure for when the land would revert to agriculture at the end of the 40-year life of the BESS.

95. Framework paragraph 181 and Footnote 62 is directed at plan making and not decision making, and it is a moot point whether these references are relevant to a development application. That said, for completeness, the lpa's concerns regarding significant loss and harm to food security are addressed. What constitutes "significant development" for the purpose of considering the effect on B&MV land is not defined in either the development plan or the Framework and is a planning judgement.

[18] Land in Grades 1,2 and 3a of the Agricultural Land Classification. Framework Annex 2 – Glossary.

96. The site is located at the southern end of an extensive wedge of land, stretching from Brownhills in the north to Great Barr in the south and Walsall in the west to Streetly in the east. This area extends to some 2,300ha and whilst not all is in agricultural use, the Agricultural Land Classification map shows it as mostly Grade 3. This is a substantial area and whilst 40 years is a long time, in the grand-scale of land-use change, the temporary loss of some 3.19ha from potential agricultural use cannot reasonably be regarded as "significant" either in terms of size or current use. Given this conclusion it is unnecessary to consider further whether it should have necessary to show that areas of poorer quality were considered.

97. World events and the adverse effects of climate change have brought food security into sharper focus. That said, at the end of 2022, DEFRA[19] identified that the UK's food supply chain remains highly resilient with the nation's high degree of food security being built on supplies from diverse sources. There is nothing to indicate that that conclusion has changed. The site is not used for food production and from comments made about former uses, it has not been used for food production for some considerable time. Whilst there is the potential for food production, with the BESS, that potential would not be permanently lost. Planning conditions relating to soil storage and restoration would ensure that the site would be potentially available for food production once the use ceased, and the site restored. In these circumstances, the temporary use of this site for non-agricultural purposes would not materially or adversely affect the nation's food security.

98. Drawing the above together, the proposal would result in the temporary loss of the potential to use a small area of B&MV land for food production. The site does not currently contribute to the nation's ability to maintain a secure food supply, and in light of the DEFRA conclusions above there is nothing to suggest that the temporary loss of the potential to use the site for food production would be material. The proposal would not conflict with Framework policy. On its face, UDP Policy ENV6 criterion (a) does not appear to allow for the loss or temporary loss of the land from agriculture to be balanced against other material considerations. In that context, the proposal would conflict with UDP Policy ENV 6 and by association UDP Policy GP 2.

Other Matters

99. The applicant lists under the heading of benefits several factors. These are contributing to energy security and mitigating climate change, a confirmed grid connection, BNG, hedgerow planting, an absence of alternative sites and economic benefits. These are, a mixture of measurable benefits and material considerations. Of those listed above, I consider contributing to climate change/energy security, BNG, hedgerows and economic matters would fall to be considered as public benefits of the development. The remainder are material considerations to be weighed in the heritage and GB balance.

100. In paragraphs 34 to 38 matters relating to climate change/energy security and at paragraphs 31 and 32 matters relating to alternative sites have been covered and are not repeated here. However, I consider the weight that to be attached to these matters. The imperative of mitigating climate change, achieving net-zero, and the ability of this project to make an early

[19] Department for Environment, Food and Rural Affairs.

contribution to the clean power pathway are significant public benefits and attracts great weight.

101. There is no requirement either in Framework policy or the development plan for a developer to undertake an alternative or sequential site assessment. The Courts have held, that the task of a decision maker is to consider the planning merits any particular planning application and as such planning law does not require the decision maker to consider whether the proposed development would be more appropriately located at an alternative site. That said, the Courts have held that there may be exceptional circumstances such that a potential alternative is a material consideration which the decision maker either must have regard to, or may have regard to, in the exercise of planning judgment. Although the site is within GB, a CA and within the settings of 4 listed HAs, this location is not, on its own or cumulatively, a bar to development. However, whilst the location of the site does not represent an exceptional circumstance, an ASA has been submitted and it is a material consideration that attracts significant weight.

102. Given the hedgerow/tree planting elements are included to screen the proposal and to mitigate the landscape and visual impact of the BESS, I have considered it together with BNG. This is not an application where the statutory 10% BNG is required. The predicted BNG gains[20] are a 42% increase in habitat units and a 638% gain in hedgerow units. Whilst the BESS is a temporary feature, the habitat gains particular the hedgerow gains and the contribution they would make in terms of providing new and enhanced wildlife corridors is a benefit that attracts significant weight. It is agreed that there would be some economic benefits that would flow from employment during construction, operation and decommissioning of the BESS that attract limited weight. Given the benefits are unquantified, I have no reason to conclude otherwise.

103. Concern was expressed that during the construction and decommissioning phase, additional traffic on Chapel Lane would have an adverse impact on the condition of the road and nearby HAs through ground−borne vibration (GBV). The impact of additional construction on the state of the highway is a matter than could be dealt with by way of conditions that require the developer to undertake pre and post construction surveys of road conditions, and, where necessary, implement an agreed programme of reinstatement.

104. Referring to a BS standard code of practice[21] and a research study on traffic induced vibrations[22], the applicant provided a written statement on the potential effects of GBV. This report notes that minor or major damage might only occur at very high values of GBV, and a building of historical value should not, unless it is structurally unsound, be assumed to be more sensitive. TRRL 246 notes that case studies of heritage buildings of varying age and type of construction exposed to relatively high levels of traffic vibration showed no evidence that traffic vibration had caused the observed damage. Moreover, wider search did not show evidence of damage caused by exposure to traffic vibration. Accordingly, there is no evidence to support the assertion that here traffic vibration could result in significant damage to buildings.

[20] Percentages are rounded up or down to the nearest whole number.
[21] BS 5228-2:2009+A1:2014: Code of Practice for Noise and Vibration Control on Construction and Open Sites − Part 2: Vibration.
[22] Traffic Induced Vibrations in Buildings, Transport & Road Research Laboratory Research Report 246 (TRRL 246).

105. Construction traffic would use the A34 Birmingham Road/Chapel Lane junction to access the site. Vehicles approaching from Junction 7 of the M6 use a dedicated right-turn lane into Chapel Lane. For traffic approaching from the Walsall direction, the carriageway is 3 lanes wide, 2 for general traffic going forward and turning left and an inner lane solely for bus use. The junction is traffic light controlled to avoid conflict between vehicles turning right or left into Chapel Lane. All traffic leaving Chapel Lane has to turn left. In the absence of an objection from the Highway Authority, I have no reason to conclude that use of the A34/Chapel Lane junction by construction traffic would have unacceptable effect on highway safety.

106. Following a fire at a BESS site in Liverpool in September 2020[23], concern was expressed that the BESS would represent an unacceptable safety risk. The application was accompanied by a Fire Safety Strategy and the West Midlands Fire and Rescue Authority has no objection. To address these concerns, the applicant submitted a Battery Safety Technical Note relating to fire mitigation, emergency response and clean-up measures.

107. At the Liverpool BESS, the type of battery used was nickel manganese cobalt, a type prone to "thermal runaway" where internal overheating leads to a fire or explosion. The note highlights that battery technology has moved on and the key difference here is that the BESS would use lithium iron phosphate batteries. This type of battery is more stable at high temperatures and far less prone or susceptible to thermal runaway and have a longer cycle life. In formulating its response, the Fire Service would have been aware of the Liverpool incident and taken it into account. The inquiry was provided with details of Health and Safety Guidance for Grid Scale Electrical Energy Storage Systems March 2024 prepared by the Department for Energy and Net Zero. The provision of an updated Fire Safety Strategy is a matter that could be dealt with by condition. There is nothing in the submissions that leads me to conclude that the development and operation of the BESS would be unsafe.

108. I have noted the concerns expressed regarding the effect of the proposal on local wildlife and horses kept within the wider area. The application was accompanied by an Ecological Impact Assessment. There is nothing before me to suggest that the proposal would have a material adverse impact of local fauna and the lpa have no objection to the BESS on ecology or biodiversity grounds. Mitigation would include, fauna enhancement measures, and enhanced monitoring. Appropriate mitigation works could be the subject to conditions requiring the submission of details relating to construction, environmental, landscape and ecological management plans. There is nothing before me to suggest that the BESS would have an unacceptable effect on local fauna. Indeed, the replanting of the balance of the site as grassland would provide an enhanced habitat for local wildlife.

109. The keeping and exercising of horses in the area is already subject to existing and traffic and road noise. In terms of noise, the nothing before me to support the assertion that potential noise from the BESS would have a material effect on the welfare of the local horse population. Whilst there would be an increase in traffic using Chapel Lane during the construction and decommissioning phases, this would largely use the lane between the site and

[23] The only reported BESS major fire in the UK.

the A34. I saw that for the most part the areas used for the grazing of horses were mainly to the north.

Heritage Balance

110. On heritage matters, the nature of the Framework requires that before carrying out a Planning Balance or the Green Belt Balance[24] a Heritage Balancing exercise is to be undertaken. Framework paragraph 212 advises that when considering the impact of a development on the significance of a designated HA, great weight should be given to its conservation and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 215 indicates that where a development proposal would lead to less than substantial harm to the significance of a HA, this harm should be weighed against the public benefits of the proposal.

111. Great weight is accorded to the potential harm to the 4 HAs, the CA, the listed buildings at Old Hall Farm and St Margaret's Church. Balanced against this, the early contribution the BESS would make to the acknowledged need for battery storage to assist in mitigating the effects of climate change and maintaining energy security attracts great weight. The absence of alternative sites and BNG attract significant weight and the economic benefits attract limited weight. Given their scale and nature, these public benefits outweigh the low level of less than substantial harm to HAs. The less that substantial harm to the HAs does not provide a clear reason for refusing the BESS.

CONCLUSIONS

Conclusion in a scenario where the development accords with Framework paragraph 155.

112. This proposal would utilise Grey Belt land and having regard to the provisions of Framework paragraph 155, the development would not comprise inappropriate development in the GB.

113. The great weight attached to the contribution to mitigating climate change and to energy security, albeit temporary, the significant weight to the absence of alternative sites and the potential for permanent BNG and the limited weight the temporary economic benefits generated by the proposal outweighs the temporary Moderate/Minor adverse landscape and visual effects, the less than substantial harm to HAs and the limited harm to residential amenity through noise. Subject to the imposition of conditions, the proposal would not conflict with the development plan when read as a whole or the Framework.

114. For the above reasons and taking all other matters into account, the appeal is allowed, and planning permission granted.

Conclusion in the scenario where the development would be inappropriate development in the Green Belt – Issue 7.

115. Framework paragraph 153 requires the decision maker to give substantial weight is given to any harm to the GB, including harm to its openness. Inappropriate development is, by definition, harmful to the GB and should not

[24] A conclusion as to whether Very Special Circumstances exist.

be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

116. The great weight attached to the contribution to mitigating climate change and to energy security, albeit temporary, the significant weight attached to the absence of alternative sites and to the potential for permanent BNG and the limited weight the temporary economic benefits generated by the proposal clearly outweighs the temporary Moderate/Minor adverse landscape and visual effects, the less than substantial harm to HAs and the limited harm to residential amenity through noise. Accordingly, taking the case as a whole, very special circumstances exist which justify the development.

117. I conclude that the benefits of this proposal, clearly outweigh the harm to the Green Belt and the other harms identified such that very special circumstances exist to justify this proposal. Subject to the imposition of conditions, the proposal would not conflict with the development plan when read as a whole or the Framework.

118. For the above reasons and taking all other matters into account, the appeal is allowed, and planning permission granted.

Conditions

119. The lpa has provided a list of suggested conditions that have been assessed in light of PPG advice and comments submitted by the applicant. The suggested conditions contain several pre-commencement conditions, which that applicant has confirmed in writing are acceptable.

120. In the interests of certainty, a condition listing the approved plans is imposed (2). In the interests of clarity, a condition relating to site security (28) is necessary.

121. The BESS is required for a period of 40 years. Conditions are necessary to confirm the extent of the temporary period, to provide for removal of the BESS when the permission expires or if it ceases to operate (3 ,4 & 5).

122. In the interests of highway safety, conditions relating to the access (7), visibility (8) and the condition and reinstatement of the carriageway (9, 10 & 11) are reasonable and necessary.

123. In the interests of the appearance of the area, conditions relating to, site levels (6), the finish of the storage containers (25), details of tree and hedgerow planting (15), boundary treatments (22), implementation of landscape mitigation (23), and external lighting (27) are reasonable and necessary.

124. In the interests of protecting living conditions, conditions relating to construction management (11), noise (13 & 14) Fire Safety (24), and lighting (27) are reasonable and necessary. On noise, I consider it unnecessary to include within the condition a dB (c) criterion. As discussed above, its inclusion would duplicate the effect of imposing a NR Curve element. Similarly, I consider the lps's suggestion of a 40 dB limit and a NR curve of 35 to be unreasonable. In the interests of flood prevention, conditions relating to drainage are reasonable and necessary (17 & 18). In the interests of ecology,

conditions relating to landscape and ecological management (18, 19 & 20) and construction environment management (21) are reasonable and necessary.

George Baird

Inspector

ANNEX A - SCHEDULE OF CONDITIONS

Implementation

1. The development hereby permitted shall be begun not later than the expiration of 3 years from the date of this permission.

Plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location & Block Plan, drawing no. C0002457_03 Rev. C, ESS Containers Plans and Elevations, drawing no. C0002457_04C, Customer Substation Plans and Elevations, drawing no.C0002457_08 Rev. B, Site Layout, drawing no. C0002457_02 Rev P, Visibility Splay, drawing no. 2108013-06 Rev B, Substation Plan & Elevation, drawing no. C0002457_06 Rev D, and Tree Protection Plan, drawing no. 404.064032.00001 Rev 04.

Temporary period

3. Planning permission is granted for a temporary period only and shall cease to have effect 40 years following the date of receipt of the Final Operational Notification (FON) from the District Network Operator (DNO) (or equivalent organisation). The FON shall be submitted to the local planning authority within 14 working days of the date of its receipt from the DNO.

4. In the event the development ceases to export electricity to the grid for a continuous period of 12 months, a scheme of restoration for the removal of the Battery Energy Storage Facility and any associated equipment, shall be submitted to and approved in writing by the local planning authority within 3 months from the end of the 12-month period. The restoration scheme shall include details of the retention of any approved boundary treatment(s) and planting. The approved scheme of restoration shall then be fully implemented within 6 months of written approval being given.

Decommissioning

5. Eighteen months before the end of the 40-year period taken from the FON date submitted under condition 3, a scheme of restoration shall be submitted to and approved in writing by the local planning authority including:

    1. details of the retention of any approved boundary treatment(s) and planting, a restoration scheme to be used at the end of the operational lifespan of the development.
    2. a written scheme of restoration for returning the site to a pasture field on cessation of energy storage at the site.

    The approved scheme of restoration shall be implemented and completed within 12 months of the end of the 40-year period taken from the date submitted under condition 3.

Site Levels

6. No development shall take place, until a plan showing existing and finished site levels in general conformity with Indicative Site Section Plan No. C0002457_14 Rev B, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Access & Visibility Splay

8. No development shall take place until details for the construction and design of the access entrance and internal access road, including land profiles, associated signage and cross sections and construction materials has been submitted to and approved in writing by the local planning authority. The access shall be provided in accordance with the approved plans prior to the commencement of any other works and thereafter retained. Surface water from the access entrance and access road path shall not run on to the public highway or into any highway drain at any time.

9. The visibility splays as shown on Plan No. 2108013-06 Rev B shall be kept free of all structures and vegetation between 600mm and 1050mm above carriageway level at all times. The visibility splays shall be implemented before the first use of the access hereby approved and thereafter retained in the approved form.

Highways Condition Survey

9. No development shall take place and no construction traffic shall enter the site until a Highways Method Statement setting out the details for pre-development and post-construction highway dilapidation surveys, along the section of Chapel Lane from the Borough boundary at the Coronation Road junction to the proposed site access has been submitted to and approved in writing by the local planning authority.

10. No development shall take place and no construction traffic shall enter the site until a pre-development highway dilapidation survey undertaken in accordance with the approved Highways Method Statement has been submitted to and approved in writing by the local planning authority.

11. Within one month of the FON referred to in condition 3, a post-construction highway dilapidation survey shall be undertaken in accordance with the approved Highways Method Statement and a scheme of mitigation works including a timetable for their implementation shall be submitted to and approved in writing by the local planning authority. The scheme of mitigation works shall be carried out in accordance with the approved timetable for implementation.

Construction Environmental Management Statement

12. No development shall take place, until a Construction Environmental Management Statement (CEMS) has been submitted to and approved in writing by the local planning authority. The CEMS shall include details of:

    1. construction working hours,
    2. parking and turning facilities for vehicles of site operatives and visitors,
    3. loading and unloading of materials,
    4. storage of plant and materials used in constructing the development,
    5. a scheme for recycling/disposing of waste resulting from construction works,
    6. temporary portacabins and welfare facilities for site operatives,
    7. site security arrangements,
    8. wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway,
    9. measures to prevent flying debris,

10. dust mitigation measures,
11. measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper),
12. noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures.

The approved CEMS shall be adhered to throughout the construction period.

Noise

13. No development shall take place until a detailed specification of acoustic boundary treatment in general conformity with Typical Acoustic Fence Details Plan No. C0002457-09 Rev A has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.

14. The development shall meet the following external acoustic criteria at any occupied premises used for residential purposes, determined by measurements, calculations and/or procedures agreed in writing by the local planning authority.

    Between the hours 23.00 and 07.00 at a position 1 metre from any façade, excluding corrections for facade reflection effects -

    - $L_{Aeq,15\ minutes}$ 45 dB
    - Noise Rating NR 40 over any 15-minute period

    Within 4 months of the development being brought into operational use, compliance with the stated criteria shall be verified to the local planning authority in writing and compliance shall be maintained thereafter.

Tree Protection Measures

15. No development shall take place until the tree protection measures as set out in the Arboricultural Report (SLR 23 November 2023) 404.P64032.00001, and as shown on Tree Protection Plan 404.064032.00001 Rev 04, shall be implemented. The tree protection fencing shall be erected in accordance with BS 5837: 2012 and retained throughout the construction phase until completion of the development.

Drainage

16. No development shall take place until a Construction Surface Water Management Plan (CSWMP) has been submitted to and approved in writing by the local planning authority. The CSWMP shall show how flood risks will be managed prior to the completion of an approved drainage strategy. The approved measures for the control of surface water shall be implemented as part of any temporary works associated with the permanent development to ensure that flood risk is not increased.

17. No development shall take place, including any site clearance, preparatory, groundworks or any breaking ground, until a detailed surface water drainage design in general conformity with Preliminary Surface Water Drainage Layout

Plan no. 402.065384.00001_PDL_01-P06 has been submitted to and approved in writing by the local planning authority. The design shall include:

i. Drainage Method - A detailed drainage plan including infiltration testing results where necessary in accordance with BRE Digest 365, cover levels, invert levels and proposed SuDS. Existing and proposed discharge rate calculations shall be submitted with the discharge rate restricted to greenfield run off rates as mentioned in S2 & S3 of the technical standards for SuDS.

ii. Hydraulic Calculations - Full background calculations (Micro Drainage or similar) to demonstrate the performance of the surface water drainage system for a range of return periods and storm durations. To include as a minimum the 1:1, 1:2, 1:30, 1:100 and 1:100+40%CC return periods.

iii. Water Quality - Supporting information to demonstrate that sufficient water quality measures have been incorporated into the design for all sources of runoff in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria.

iv. Management & Maintenance - A Management and Maintenance Plan for surface water drainage to demonstrate that surface water drainage systems will be maintained and managed for the lifetime of the development. This shall include a schedule of activities including the frequencies of each activity to be undertaken. Provide the name, contact details and address of the party/parties responsible for the maintenance.

v. Exceedance - Exceedance plans illustrating flooded areas and flow paths of all hardstanding and soft landscaping in the event of exceedance of the drainage system including drainage levels.

Landscape and Ecological Management Plan

18. No development shall take place until, a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by, the local planning authority. The content of the LEMP shall be in general conformity with the Draft Ecological Impact Assessment and Biodiversity Net Gain metric (SLR 21 October 2024) 424.064816.00001 V2 and shall include the following.

    1. description and evaluation of features to be managed,
    2. ecological trends and constraints on site that might influence management,
    3. aims and objectives of management,
    4. appropriate management options for achieving aims and objectives,
    5. prescriptions for management actions,
    6. preparation of a work schedule,
    7. details of the body or organisation responsible for implementation of the plan,
    8. ongoing monitoring and remedial measures,
    9. the locations and installation of 3 bat boxes, 3 pole-mounted bird boxes and one pole-mounted barn owl box,

10. details of an invasive species strategy to remove Himalayan Balsam.

The LEMP shall include details by which the long-term implementation of the plan will be secured for the operational life span of the development by the developer with the details of management body(ies) responsible for its delivery. The development shall be carried out in accordance with the approved details.

19. Biannual monitoring inspections shall be undertaken by a suitably qualified ecologist for the lifetime of the development following the date of the FON specified in condition 3 and shall correspond with the Ecological Impact Assessment and Biodiversity Net Gain metric (SLR 21 October 2024) 424.064816.00001 V2. Inspections shall include the following:

    1. inspection and, where required, cleaning of the pole mounted bat and bird boxes.
    2. inspection of hedgerow survival, establishment and management.
    3. assessment of the establishment and management of areas of grassland.

20. A monitoring report shall be submitted to and agreed in writing by the local planning authority in years 1, 2, 5, 10, 15, 20, 25, 30, 35 and 40 and shall include details of ongoing management protocols to meet targets.

Construction Environment Management Plan (CEMP)

21. No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:

    1. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts to ecology during construction (may be provided as a set of method statements),
    2. precautionary working practices in respect to badgers, bats, great crested newts, nesting birds and white-clawed crayfish,
    3. details of any planned vegetation removal outside bird nesting season (Sept to Feb),
    4. sensitive construction lighting scheme to avoid light spill to protect bats, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018,
    5. responsible persons and line of communication,
    6. protective measures to create a buffer zone from the Duckery Site of Importance for Nature Conservation (SINC),
    7. the times during construction when specialist ecologists need to be present onsite to oversee works,
    8. the role and responsibilities onsite of an ecological clerk of works (ECoW) or similarly competent person; and
    9. use of protective fences, exclusion barriers and warning signs.

    The development shall be carried out in accordance with the approved CEMP and the approved CEMP shall be adhered to and implemented throughout the construction period.

Boundary treatments

22. No development shall take place until details of all internal site treatments and site boundary treatments, including heights, positions and extent, materials and finishes of all walls, fences, gates or other means of enclosure

including hedgerows in general conformity with the details shown on Site Layout plan no. C0002457_02 Rev P have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the site boundary treatments shall thereafter be retained. All gates shall be designed and installed so they cannot open outwards onto a highway.

Landscape and Planting Plan

23. No development shall take place until, a Landscape Maintenance and Management Plan LM&MP) including details of both hard and soft landscape works and earthworks which follows the principles of the approved Landscape Strategy Plan no. 35146 LN-LP-06 Rev G has been submitted to and approved in writing by the local planning authority. The LM&MP shall include:

    a) a plant schedule to comprise species, plant sizes, proposed numbers and density,
    b) planting specification,
    c) details of tree pits,
    d) hedge restoration details and formation methods,
    e) Tree and hedgerow protection measures to prevent damage from domestic and wild animals.

    The soft landscape proposals shall be implemented in the first planting season after construction. If within a period of 10 years from the date of the planting of any tree, shrub or plant, that tree, shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and/or becomes seriously damaged or diseased in that period, another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place in accordance with the agreed LM&MP.

Updated Fire Safety Report

24. No development shall take place until a revised Fire Safety report has been submitted to and agreed in writing by the local planning authority. Before the FON date set by condition 3, the measures contained within the updated Fire Safety Report shall be implemented and thereafter retained for the lifetime of the development.

Soil Management

25. No development shall take place until a Soil Management Plan, which demonstrates how soils will be protected and where necessary, stored and managed on the site during construction, and during the life of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Details of battery unit finish and colour

26. Before the installation of the battery storage units and associated equipment, details of the RAL colour of the exterior finish proposed shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.

External lighting and security

27. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

28. Before the installation of the low-level beam security system, details of the low-level beam security measures, as shown on Site Layout drawing no. C0002457_02 Rev P, shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out other in accordance with the approved details and thereafter retained for the lifetime of the development.

Annex B - APPEARANCES

FOR THE APPLICANT

Stephanie Hall, Counsel instructed by Stantec.

She called.

Nick Pleasant BA (Hons), Dip TP, MRTPI
Planning Director, Stantec.

David Webster CMLI, MA, MSc, BSc.
Landscape Planning Associate Director, Stantec

Chris Morley BA MPhil, MCIfA.
Head of Cultural Heritage, ERM.

Mike Barrett BSc (Hons), PGDipIOA, MIOA.
Associate Director, Acoustics.

FOR THE LOCAL PLANNING AUTHORITY

Dr Ashley Bowes, Counsel instructed by Alison Sargent, Legal & Democratic Services, Walsall Metropolitan Borough Council.

He Called.

Stuart Ryder BA (Hons), Dip LA (Dist), CMLI.
Director, Ryder Landscape Consultants Limited.

John Grant CEng, CSci, MSc, MIOA, FRSPH, MIEnvSC.
Environmental Protection Manager, Walsall Metropolitan Borough Council.

Devinder Matharu MA, Dip TP, BA (Hons).
Conservation Officer, Walsall Metropolitan Borough Council.

Mike Brereton AdDip, MA, ILM.
Head of Planning and Building Control, Walsall Metropolitan Borough Council

FOR THE STAFFORDSHIRE GARDENS & PARKS TRUST

Alan Taylor MA, Dip TP, IHBC (Ret).
Chair of the Staffordshire Gardens and Parks Trust.

Interested Persons

D Coxon
P Simon
M Smith
Y Chohan
D Randal
M Shepherd
J MacNamara for Wendy Morton MP for Aldridge Brownhills
R Winkle Chair Beacon Action Group
C Hatfield
H Salter
J Hume
S Lambert

J McArthy
J Bench Director, Matrix Academy Trust
Dame M Brennan Matrix Academy Trust

ANNEX C - PUTATIVE REASONS FOR REFUSAL

1. The proposal is inappropriate development in the Green Belt for which no very special circumstances are advanced which outweigh the harm to the Green Belt and any other harm. The proposal is therefore contrary to NPPF paragraphs 152, 153 and 156, BCCS policy CSP2 and ENV7, SAD policy GB1 and UDP saved policies GP2, ENV6 and ENV7.

2. The proposed development, by virtue of its loss of a sensitive area of open land would result in significant harm to the character and appearance of this valuable rural area and would fail to respect the intrinsic qualities or beauty of this area of countryside. The proposal is therefore contrary to NPPF paragraph 180(b), BCCS policies CSP3 and ENV2, SAD policies GB1 and EN5 and saved UDP policies GP2, ENV6, ENV7 and ENV30 and Designing Walsall SPD.

3. The replacement of an open agricultural field with this development and associated infrastructure (including but not limited to the multitude of fencing types and other paraphernalia such as the 15 m high telecom mast, substation, control kiosks and CCTV cameras on 4 metres high posts) would significantly reduce the contribution the site makes to the character and appearance of the Conservation Area. Moreover, the development would reduce the contribution the site makes to the significance of the Great Barr Hall Registered Park and Garden listed buildings contrary to BCCS policies CSP3 and ENV2, SAD policies GB1 and EN5 and saved UDP policies GP2, ENV6, ENV7 and ENV30 policy and s.66 and 72 Planning (LB & CA) Act 1990.

4. The planning application fails to demonstrate that the visibility splays are shown to the kerb line and that the existing hedgerow obstruction has been addressed on the submitted plans to ensure adequate visibility at the proposed new site access. The proposal would be contrary to BCCS policy TRAN2 and SAD policy T4.

5. The proposed development would result in the loss potential use of agricultural land classified as Best and Most Versatile agricultural land for a period of 40 years which could potentially support future food security. Furthermore, historic mapping illustrates this land was originally utilised for agricultural purposes. This proposal is considered unacceptable and would be contrary to NPPF paragraph 180(b) and saved UDP policies GP2 (xi) and ENV6.

6. The proposal fails assess risks to groundwater and the water environment, and ensure robust mitigation is in place for containment of fire-fighting water in the event of a fire nor includes details of multiple 'layers of protection' to prevent the source-pathway-receptor pollution route occurring. Contaminated surface water run-off and ground water could have a potentially significant detrimental impact on the Duckery SINC, Holbrook stream (formerly known as Hall Brook) and protected species White Clawed Crayfish during a fire incident. In addition, to the fire incident itself causing the breakup of equipment which could introduce loose particles of heavy metals to the ground and bare surface, which during rainfall could be leeched into the soil and ground water resulting in significant harm to the natural environment. The application fails to demonstrate engagement with local Fire Rescue Service to develop a comprehensive risk management process leading to the creation of robust Emergency Response Plans to consider water supply and drainage in emergency situations. The

proposal fails to accord with the aims and objectives of BCCS policy ENV1, SAD policy EN1, saved UDP policies GP2, ENV10 and ENV23, Conserving Walsall's Natural Environment SPD and the Management and Enhancement and Wildlife and Countryside Act 1981.

7. Saved UDP policy ENV13 states that development for uses other than industry or warehousing will not normally be permitted in close proximity to high voltage electricity transmission lines, substations or transformers. As the proposed use is not for industry or warehousing this proposal fails to meet the requirements of this policy, which also requires the appropriate operational safe clearances to be met. The policy justification text sets out a required zone of separation of at least 50 metres from pylons and overhead cables. The Site is within the 50m zone of separation as the power lines run through the middle of it and the compounds for the battery storage units and substation are directly adjacent to the power lines and the proposal is contrary to saved UDP policy ENV13.

8. The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would be harmful to the significance of Great Barr Hall Registered Park and Garden, Old Hall Farmhouse, and the Barn approximately 20 metres north of Old Hall Farmhouse and the Church of St Margaret. It would introduce incongruous modern alien industrial dominant features into their setting, that are utilitarian in appearance, into the rural agricultural and historical landscape, that would be visually dominant and detrimental, and which would alter the rural character of the site effecting the way in which we experience and appreciate these heritage assets thereby causing less than substantial harm. Furthermore, the development would tower above existing boundary treatments and would be seen as modern alien industrial dominant features from views from within the conservation area, failing to enhance and preserve the character and appearance of Great Barr Conservation Area, thereby causing less than substantial harm. The proposal is contrary to the National Planning Policy Framework, paragraphs 206 and 208, Saved UDP Policies GP2, ENV27, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and EN7 of the SAD, and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9. The Noise Impact Assessment is inadequate for determining the suitability of the planning proposal and does not sufficiently evaluate the significance of likely impacts and does not support safeguarding of amenity for neighbouring noise sensitive development. The proposal would be contrary to saved UDP policies GP2 and ENV10

APPENDIX G

Land at Former Court Nurseries, Hadlow

ESQUIRE
DEVELOPMENTS

Planning Inspectorate

Appeal Decision

Inquiry held on 21-23 January 2025

Site visit made on 22 January 2025

by A Dawe BSc (Hons), MSc, MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2025

Appeal Ref: APP/H2265/W/24/3346228
Land at former Court Lane Nurseries, Court Lane, Hadlow

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr David Maher of Dandara South East Ltd against the decision of Tonbridge and Malling Borough Council.
- The application Ref is TM/22/01474/FL.
- The development proposed is described as: Full planning application for the erection of 57 residential dwellings (Use Class C3) including affordable housing provision, a new children's day nursery and pre-school (Use Class E) alongside hard and soft landscaping including access, car parking, public open space, SuDS, and associated infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 57 residential dwellings (Use Class C3) including affordable housing provision, a new children's day nursery and pre-school (Use Class E) alongside hard and soft landscaping including access, car parking, public open space, SuDS, and associated infrastructure at Land at former Court Lane Nurseries, Court Lane, Hadlow in accordance with the terms of the application, Ref TM/22/01474/FL, subject to the conditions in the attached Annex A.

Preliminary Matters

2. Since the appeal was submitted, a new National Planning Policy Framework was published on 12 December 2024 (the Framework). In relation to Green Belt land, this includes the introduction of an additional category of development that should not be regarded as inappropriate development in the Green Belt. I have therefore had regard to this change in my decision. Furthermore, the Council and Appellant had adequate opportunity to take this into consideration prior to the Inquiry, and indeed has resulted in the Appellant increasing the intended provision of affordable housing from 40% of the total number of dwellings proposed to 50%. An amended Tenure Plan Ref. DE476-13I has been submitted in relation to this. As this does not materially change the nature of the proposed development, relating only to some changes to the tenure of the dwellings concerned, no-one would be prejudiced by that change to the proposals being considered under this appeal. I have therefore determined the appeal on that basis.

3. Since the Inquiry, the Framework was amended on 7 February 2025 to correct cross-references from footnotes 7 and 8, and amend the end of the first sentence of paragraph 155 to make its intent clear. For the avoidance of doubt the amendment to paragraph 155 is not intended to constitute a change to the policy

set out in the Framework as published on 12 December 2024. Furthermore, this is the approach taken by the parties in their evidence and at the Inquiry, such that they would not be prejudiced by these amendments.

Main Issues

4. As a result of the publication of the new Framework referred to above, the Council has reviewed its position. It is therefore now common ground between the Council and Appellant that in terms of the effect on the Green Belt, the appeal scheme would not be inappropriate development in the Green Belt. I have nevertheless considered this issue for myself in determining the appeal, as set out below.

5. Furthermore, since the Council's determination of the planning application, the Appellant has undertaken further work in relation to local biodiversity, and has submitted with the appeal an Ecological Appeal Statement and Ecological Impact Assessment dated August 2024. The Council's fourth reason for refusal (RfR) related to insufficient information having been submitted at that time. With the submission of the further information, the Council considers this to have addressed that RfR. In light of that, I have not included this as a main issue, albeit I have considered ecology under other matters.

6. Following an amended housing requirement resulting from the revised Framework, the Council and Appellant are in agreement that the supply of deliverable housing sites in the Borough is currently at a level of 2.89 years, and I have no substantive basis to consider differently. This again is therefore not included as a main issue.

7. In the above circumstances, and following the submission of planning obligations secured in an agreement under section 106 of the Act (s106 Agreement), the Council no longer contests the reasons for refusal in its decision notice and did not present formal evidence to the Inquiry in the form of Proofs of Evidence. That is not to say that such matters do not remain for my consideration. The Council's changed position does not remove the harm it identifies in relation to its second and third reasons for refusal, relating to the character and appearance of the surrounding area and loss of Best and Most Versatile Agricultural Land (BMVAL).

8. The main issues for consideration are therefore:

   i) the effect of the proposed development on the Green Belt;

   ii) the effect of the proposed development on the character and appearance of the surrounding area;

   iii) the effect of the proposed development on BMVAL;

   iv) whether or not acceptable provision would be made for various infrastructure and affordable housing through planning obligations;

   v) whether any harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Green Belt

9. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy, 25 September 2007 (the Core Strategy), sets out, amongst other things, that National Green Belt policy will be applied generally to that area of the Borough comprising the Metropolitan Green Belt. The appeal site is within the Green Belt. The Framework, in paragraph 153, states that substantial weight is to be given to any harm to the Green Belt, including harm to its openness, but in footnote 55 clarifies that this is other than in the case of development on previously developed land (pdl) or grey belt land, where development is not inappropriate.

10. Paragraph 154 of the Framework sets out various exceptions to development being considered inappropriate, none of which apply in this case. However, paragraph 155 introduces the additional category referred to previously. This states that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where: (a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157. I shall consider each criterion in turn.

Criterion (a)

11. Grey Belt is defined as land in the Green Belt comprising pdl and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143 of the Framework. It excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusal. In this case the only relevant consideration in this respect relates to designated heritage assets (HAs) which I shall therefore consider first.

12. The proposed development would be close to the Hadlow Conservation Area (the CA) and listed buildings (LBs) within Hadlow to the west of the site. Amongst those LBs is the Grade I listed Hadlow Tower and associated Grade II* listed ranges around the stable yard and the gateway to the former castle. The Grade II* listed St Marys Church and associated churchyard Grade II listed buildings, including headstones and tombs, are also close to the site. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated HA, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 213 goes on to state, amongst other things, that any harm to, or loss of, the significance of a designated HA should require clear and convincing justification.

13. With regard to the CA, there would remain a degree of separation from the proposed development with intervening existing relatively modern housing relating to The Forstal, trees on the site boundary and, at the point of closest proximity to the south-west part of the site, garden land and associated screen fencing. There

would also be the proposed open space along the western edge of the site that would provide a green buffer between that site boundary and the intended housing. Furthermore, open countryside views outwards from the CA would remain dominated by the those to the south, where not screened by mature trees. For those reasons, the proposed development would preserve the integrity of the CA.

14. Having regard to the setting of the LBs, the proposed development would be clearly separated from them, including by the housing relating to The Forstal and intervening trees. Other than Hadlow Tower, the likely extent of intervisibility between those LBs and the proposed development would therefore also be limited.

15. Hadlow Tower is a prominent feature within the townscape, visible from vantage points within and beyond the existing settlement. It is also clearly visible from the site, as would be the proposed development from the upper parts of the Tower. However, again that is in the context of its intervening setting which includes The Forstal housing. Furthermore, views of the Tower from the site would likely be retained from the areas of the proposed development relating to those streets that would be roughly east-west oriented. As such, the setting of Hadlow Tower would not be so affected by the proposed development as to amount to harm. The setting and integrity of that HA would therefore be preserved.

16. For the above reasons, the application of the policies relating to designated HAs does not provide a strong reason for refusal.

17. A relatively small part of the site, in the north-east corner, comprises an existing hard surfaced car parking area, and associated access relating to the Saplings nursery which also serves houses fronting onto it; and a disused single storey former classroom building. The remainder of the site remains undeveloped land comprising rough grass and redundant orchards associated with the former nurseries to the east of the site, bordered to varying extents by trees. The Council and Appellant agree that only that north-eastern part of the site is therefore pdl. Based on the submitted evidence, the nature of those respective parts of the site referred to above, and my observations, I have no substantive basis to disagree. As such, due to the presence of that non-pdl land, having regard to whether the site represents grey belt land therefore requires consideration of the site's contribution to those three Green Belt purposes referred to above.

18. Purpose (a) is to check the unrestricted sprawl of large built-up areas. In this respect, it is disputed by the Council and Appellant as to whether Hadlow should be considered a large built-up area. Nevertheless, even if it were considered as such, the extent of any sprawl is important.

19. The majority of the site, comprising the open non-pdl land, currently provides separation between the main built-up settlement and the former nurseries buildings to the east. In that respect, this part of the Green Belt provides a degree of containment of the main settlement, restricting outward sprawl, albeit there are existing dwellings and the Saplings nursery which extend the settlement eastwards to the north of the site. The site's role in this respect is however weakened by the degree to which it is already contained on three of its sides by development and land associated with that development.

20. Purpose (b) is to prevent neighbouring towns merging into one another. In this respect, there are no other settlements nearby. Furthermore, there is that existing presence of built form to the north and east which partly contains this relatively

small site in the context of the wider Green Belt. As such, the site does not play a significant part in preventing such merging.

21. Purpose (d) is to preserve the setting and special character of historic towns. In this respect, the site is located mainly on undeveloped land to the east of the main settlement of Hadlow. Whilst relating to a countryside setting on the edge of the settlement, as referred to above, the site is enclosed to varying degrees by development on three sides to the west, north and east. Furthermore, the particularly historic elements of Hadlow comprising the CA and the various listed buildings referred to previously are separated from the site by other relatively modern development or garden land, notably relating to The Forstal. Notwithstanding that Hadlow Tower is clearly visible from the site, for these reasons, the site itself plays a relatively modest part in preserving Hadlow's setting and special character.

22. For these reasons, the site does not contribute strongly to any of the Green Belt purposes (a), (b) or (d). I therefore agree with the Council and Appellant that the proposed development would utilise grey belt land for the purposes of paragraph 155 of the Framework.

23. The purposes of the Green Belt set out in paragraph 143 of the Framework also include purpose (c) to assist in safeguarding the countryside from encroachment and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. Taking account of my findings above relating to the site's contribution to purposes (a), (b) and (d), and whilst there would be encroachment into the countryside, the location, site area, scale and nature of the proposed development would ensure that it would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. As such, the criterion comprising paragraph 155(a) of the Framework would be met in this case.

Criterion (b) - need for the type of development proposed

24. As referred to previously, the supply of deliverable housing sites in the Borough is currently at a level of 2.89 years. This clearly shows there to be a lack of a five year supply (5 year HLS) of such sites. Furthermore, there is a poor record of recent delivery identified through the Housing Delivery Test (HDT). That indicates that, for the most recent 2023 HDT, the delivery of housing was substantially below (being at a level of 60%) the housing requirement over the previous three years. These factors therefore identify a demonstrable unmet need for housing.

25. In respect of the proposed Nursery, this would replace that existing adjacent to the site. Although the submissions do not include a detailed needs assessment, I understand from the evidence presented that there remains a clear demand for this facility locally, highlighted by the need to operate a waiting list. This is in the context of my understanding that Saplings Nursery is currently constrained by uncertainty in the long-term due to the rolling one-year leasing agreement. Based on the submitted evidence and the provision in the planning obligations, there is clear intention to replace the existing facility with that proposed and to secure its long-term operation in a new modern building with improved space. As such, I am satisfied that there is also a demonstrable unmet need for the proposed Nursery.

Criterion (c) - sustainability of location

26. The proposed development would be located immediately on the edge of Hadlow, which is designated as a Rural Service Centre in the Core Strategy, being a rural settlement where a reasonable range of services exist or are easily accessible. Such centres are recognised as being the most sustainable locations for further housing and employment development within the rural area. In this respect, Hadlow itself contains services and facilities including schools, a small number of convenience stores, doctors surgery, dentist, library, hairdressers and pharmacy. This is also in the context whereby opportunities to maximise sustainable transport solutions will vary between urban and rural areas as recognised in the Framework.

27. Those services and facilities are within walking distance of the site, albeit that some would involve crossing the A26. In this respect, there is a controlled crossing point for pedestrians in the centre of Hadlow, albeit not in direct alignment with those pedestrian routes to and from the site. Likewise, the proposed Nursery, as for that intended to be replaced, would be within walking distance of existing dwellings in Hadlow.

28. For pedestrians, the development itself would provide appropriate footways or shared surface areas. This would be connected to external routes to the centre of Hadlow either via the existing Court Lane footway or via links to The Forstal and its associated footways. I acknowledge that the existing footway along Court Lane is narrow in places and I note the comment that cars are known to park partly on the footway. However, the proposed pedestrian links to The Forstal would provide alternative and direct pedestrian access to the centre of Hadlow. Whilst the section of that route alongside St Marys Church is unlit, pedestrians would still have the option of walking via The Forstal and Court Lane during the hours of darkness.

29. I have no substantive evidence that pedestrian access to and from the centre of Hadlow would be unsafe, including in respect of highway use generally; that there would not be adequate options for all users; or that the design of The Forstal's footway would be unsuitable for additional use. I also note that the Council's Highways section has raised no objections in respect of pedestrian access. Furthermore, I have no substantive basis to consider that any additional use of the footway in The Forstal resulting from the proposed development would be likely to attract anti-social behaviour, especially with the presence of existing lighting and the degree of natural surveillance from dwellings on that road.

30. The proposals also make provision for adequate cycle parking, thereby encouraging that alternative mode of transport to the car. It is likely that cycle trips to other settlements would be limited due to the strategic and heavily trafficked nature of the A26. Furthermore, access to a reliable train service would require a multi-modal journey which would be likely to discourage train use by prospective residents. Nevertheless, there is a bus route running through the centre of Hadlow, enabling access by public transport to locations, facilities and services further afield.

31. I note comments about buses being full during school times and often do not stop or are cancelled. However, I have no substantive evidence or basis to consider the bus services to be limited to the extent that they would not offer a reasonable alternative choice of transport to other destinations. Also to encourage the use of

alternative modes of transport to the car and a reduction in car journeys, the submission and implementation of a Travel Plan could be secured by a condition.

32. For these reasons, the proposed development would be in a sustainable location for the purposes of the paragraph 155(c) of the Framework.

Criterion (d) – Golden Rules

33. The 'Golden Rules' relate to contributions that should be made where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review, or on sites in the Green Belt subject to a planning application. The latter is relevant in the case of this appeal.

34. In respect of the first of those contributions, the proposed provision for 50% of the housing on the site to be affordable would address this. The second relating to contributions for necessary improvements to local or national infrastructure, is addressed through the obligations set out in the submitted s106 Agreement, which I will deal with in more detail later in my decision.

35. The third contribution relates to the provision of new, or improvements to existing, green spaces that are accessible to the public. It goes on to say in the Framework that new residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces. In this respect, the proposal includes adequate provision for open space and children's play within the site that would be accessible to both prospective residents and those currently living locally. For the latter, this would be via both the Court Lane access and the proposed pedestrian access directly to The Forstal on the western side of the site. Those planning obligations referred to above would also include provision for management of the on-site open space, and appropriate contributions to existing local off-site open space to mitigate the potential additional usage by prospective residents. As well as the on-site provision, that off-site space relating to Williams Field would be within walking distance of the proposed development, albeit on the northern edge of Hadlow to the west of the A26.

36. For the above reasons, the proposal would not be inappropriate development in the Green Belt having regard to the Framework. This is also the agreed position of the Council and Appellant. Furthermore, in complying with the Golden Rules, having regard to paragraph 158 of the Framework, significant weight should be given to the proposed development in favour of the grant of permission. I shall return to this in the planning balance. As such, in terms of the effect on the Green Belt, it is unnecessary to consider any other considerations and whether very special circumstances exist, relating to the fifth main issue.

Character and appearance

37. The site is located on the edge of Hadlow on mainly agricultural land. As such the proposed development would cause inevitable urbanisation of existing countryside with the introduction of a significant amount of built form and the associated infrastructure, movements, and lighting. However, the proposal would be closely related to the adjacent existing settlement, on a site confined to varying degrees by development to the west, north and east as referred to previously. This would limit the extent of that urbanisation and loss of landscape character associated with the countryside beyond the existing settlement.

38. The density and layout of development would also be generally comparable with that existing housing of The Forstal. Furthermore, the majority of the proposed houses would be 2-storey height with pitched roofs, and of a design that would complement the existing varying house designs locally, subject to detailed consideration of external building materials that could secured by a condition. Furthermore, the submissions indicate an appropriate balance between hard surfacing, including parking provision, and soft landscaping, again subject to details that could be secured by a condition.

39. The proposed Nursery building with apartments above would be likely to draw greater attention in that existing local context, due to the massing created by its combined 3-storey and flat roof design, and the upper floor north-facing slit window design. However, despite its massing effect, the flat roof design would limit the extent to which it would rise higher than the nearby 2-sroery buildings with pitched roofs. Furthermore, it would be well back from Court Lane such that, together with the likely softening effect of intervening vegetation, and the use of appropriate materials, it is unlikely that it would be a dominant feature in that streetscene.

40. The proposed 2.5 storey apartment block in the north-west part of the site, despite its greater height than the proposed houses, would include a pitched roof design to complement similar roof designs in that close vicinity. Again, the appropriate use of materials, in the context of the development as a whole could be secured by condition. Both this and the Nursery/apartments block would also be seen in the context provided by the existing variety of building designs and types in the locality. That would be combined with their proposed positioning close to existing buildings at the northern end of the site, which would limit the extent to which they would impinge on the wider rural landscape character beyond the existing settlement.

41. The proposals would inevitably be clearly visible from the footpath running to the west of the site southwards and from neighbouring properties, noticeably extending the urban edge of Hadlow onto mainly open land. However, the proposals include provision for open space on the western and southern sides of the site. Together with existing and proposed tree planting, these features would be likely to soften the appearance of the proposed development as viewed from those vantage points, albeit to varying degrees depending on whether or not the trees are in leaf. Although clearly not to the same degree as would be the case with the proposed development, such visual effects would also be in the context, to varying extents, of existing sight of built form in the close vicinity of the site from those vantage points.

42. I saw that the adjacent footpath to the site's western boundary was in a well-maintained condition. As previously referred to, the proposals would provide access to that footpath for pedestrians. However, there is no substantive evidence to indicate that the proposal would harmfully change the nature of that footpath, both in terms of the extent of its use and degree of additional noise.

43. The existing access to the site would be widened, encompassing existing verge, to enable a safe new access for the proposed development, including provision for emergency vehicles. Whilst such provision does not reflect the existing access points from Court Lane into The Forstal and Appletons, in this case there is not the same degree of physical restriction on the eastern side. Furthermore, the visual effect would be softened to a degree by new planting on a landscaped strip along that eastern side of the access.

44. There would be some loss of hedgerow from the site boundary to enable the proposed pedestrian access points to The Forstal and footpath on the western side of the site. However, the extent of loss to enable such openings would be limited in the context of the amount of remaining hedgerow, and the proposed new planting within the site would also provide some degree of mitigation.

45. For the above reasons, I conclude on this issue that the proposed development would cause some harm to the character and appearance of the surrounding area. As such, it would be in conflict with policy CP24 of the Core Strategy and policy SQ1 of the Tonbridge and Malling Development Plan Document: Managing Development and the Environment, adopted April 2010 (the MDEDPD) which together, amongst other things, require development, through its scale, density, layout, siting and character and appearance to respect the site and its surroundings; wherever possible to make a positive contribution towards the enhancement of the appearance of the area; and to protect, conserve and, where possible, enhance the character and local distinctiveness of the area, and the distinctive setting of, and relationship between, the pattern of settlement, roads and landscape, urban form and important views. However, also for the above reasons, the extent of that harm would be to a moderate degree, which I shall consider further in the planning balance.

BMVAL

46. Paragraph 187 of the Framework sets out that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land.

47. The site area is confined to approximately 2.3 hectares, albeit with part of the northern end comprising a car park and former classroom building. The majority of the site is however Grade 2 agricultural land, and as such represents BMVAL. However, it is not currently serving any agricultural purpose and I understand that situation is unlikely to change. Notwithstanding those circumstances, the extent of loss of BMVAL resulting from the proposed development, due to the relatively small area of land concerned, would not be significant.

48. For those reasons, whilst there would be harm caused by the loss of BMVAL, that harm would be limited. I shall consider this further in the planning balance.

Planning obligations

49. I shall consider all of the planning obligations submitted in the s106 Agreement later in my decision. However, one of those obligations, despite its inclusion in the s106 Agreement, remains contested by the Appellant, relating to a financial contribution towards special education needs and disabilities (SEND) provision. I shall therefore consider that obligation here.

50. The contribution concerned would be towards the provision of additional SEND places at the Nexus Foundation Special School in Tonbridge. I have had regard to the submissions from the Appellant claiming this not to meet the tests set out in paragraph 58 of the Framework and in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

51. Firstly, I acknowledge the intention for the inclusion of SEND provision in the proposed on-site Nursery, albeit with no formal mechanism having been put forward to secure this. Nevertheless, in any case, SEND provision is also required for other age groups and in specialist schools. Following the discussion at the Inquiry on this issue, I am also satisfied that there would not be any overlap between what would be covered by the secondary education contribution and that relating to SEND.

52. Prior to the Inquiry, there were also no specific projects identified by Kent County Council (KCC) to which the contribution would be made. However, it was clarified at the Inquiry by KCC officers that the contribution would be towards the provision of additional SEND places at the Nexus Foundation Special School, which has now been incorporated into the s106 Agreement.

53. On that basis, and for the above reasons, I consider the financial contribution concerned would be necessary to mitigate the additional demand on SEND services arising from the proposed development and to provide appropriate access to such education provision for prospective residents. As such, it would meet the tests referred to above and would accord with policy CP25 of the Core Strategy relating to the mitigation of development impacts.

Other Matters

Highways

54. I acknowledge concerns raised in respect of highway capacity and safety matters, relating to the traffic likely to be generated by the proposed development, the safety of the access, and in relation to Court Lane and the local highway network generally. In considering these aspects, I have also taken account of the submitted Transport Assessment, Transport Assessment Addendum (TAA) and further Transport Technical Note, and the comments from the Highways Authority.

55. I note concern about the timing of the traffic surveys conducted, having regard to differences between movements during and immediately after Covid restrictions and those now. However, I have no substantive basis to find that the evidence submitted inadequately assesses comparative traffic movements and trip rates. In this respect, the evidence indicates that despite the inevitable increase in vehicle trips locally, resulting from the proposed development, these would not be to an unacceptable level for the local road network. Furthermore, in terms of the TAA highlighting that significantly higher traffic volumes would historically have been expected when the Hadlow College site was fully operational, I acknowledge that there can be no guarantee as to future use of that site. However, that is not the situation currently and I have no substantive evidence to indicate its likely return to that same level of use.

56. It is apparent that the proposals would provide for a sufficient number of on-site parking spaces in terms of adopted standards, both for the proposed Nursery and the individual dwellings, albeit with many of the latter being in a less convenient tandem formation.

57. Visibility splays at the proposed site access would meet the required standards and could be secured and maintained through a condition. Furthermore, traffic calming measures comprising road build-outs and the repositioning of the 30mph speed restriction sign, would also be secured as part of the proposals in the interests of

road safety at the point of access onto Court Lane. I note concerns about the amount of existing traffic on Court Lane and in relation to the narrowing effect caused by cars parked on one side. However, I have no substantive evidence or basis to find that the proposals would harmfully exacerbate any existing problems on Court Lane, including any pressure on the Court Lane/A26 junction; would compromise safety in respect of The Forstal and Appletons, including by causing increased on-street parking; or that any existing highways problems are at a level whereby it would be inappropriate to introduce any additional traffic onto Court Lane or the wider road network.

58. I also have no substantive evidence or basis to find that the proposed traffic calming measures would cause undue additional vehicle noise, having regard to the living conditions of neighbouring residents.

59. The proposed access would also include a wide footway on its eastern side to enable provision for emergency vehicles, recognising that in this case that there would be no secondary access. Based on the submissions, I am satisfied that, for the scale of development proposed in this case, such emergency access provision would be sufficient. Furthermore, no concerns about a lack of a secondary access have been raised by the Highway Authority.

60. I note that Court Lane is sign posted as being unsuitable for heavy vehicles. However, in respect of the construction phase, associated vehicle movements could be controlled through a Construction Management Plan secured through a condition. I also have no substantive evidence to indicate that service and emergency vehicles cannot or would not be able to access Court Lane.

61. Additionally, I note a concern about the proposal not taking account of any detrimental impact to the junction of Court Lane and the A26 resulting from a proposed new dwelling at that junction. I do not have full details of that proposal to enable proper consideration of any safety concerns associated with it, and have no substantive basis to consider this to be a prohibitive factor relating to the appeal proposals.

62. For these reasons, in highways terms, the proposed development would be acceptable subject to various necessary conditions. I also note that the Highway Authority raise no concerns with the submissions, again subject to conditions.

Local facilities and services

63. I have had regard to concerns over the existing local infrastructure, such as schools and health facilities, as well as water supply, not being able to accommodate the additional demand resulting from the proposed development. In this respect, where there is substantive evidence of a need for mitigation of additional demand resulting from the proposed development, as I will also refer to later in my decision, provision would be made through appropriate planning obligations. I am therefore satisfied that in these respects there would be sufficient provision to avoid unacceptable impacts from the proposed development.

64. Whilst I note concern about existing problems with the supply of water to homes locally, I have no substantive evidence or basis to find that the proposed development would harmfully exacerbate that situation.

Drainage and flood risk

65. As identified in the submitted Flood Risk Assessment (FRA), the site is located in flood zone 1 and therefore has a low probability of flooding from tidal and fluvial sources. The majority of the site is also at a very low risk of surface water flooding, albeit there are some areas just outside of the site with the risk of such flooding ranging from low to high. The risk of flooding on the site from groundwater or artificial sources is also at a low level.

66. To mitigate the risk of flooding in relation to the proposed development, surface water runoff would be discharged through infiltration to the ground via the combination of an infiltration blanket with basin above in the open space at the southern end of the site, and permeable paving in parking spaces and private/minor road areas. It is also proposed to incorporate appropriate treatment into the drainage system to ensure acceptable quality of discharged water. The drainage features are also proposed to be appropriately managed and the implementation and maintenance of the system could be secured through an appropriate condition. As such, I also have no substantive basis to consider it a likely health and safety hazard or a magnet for rubbish and dumping. I also note that the Lead Local Flood Authority raises no objections subject to appropriate conditions.

67. Furthermore, I note that foul flows would be via connections to the local main sewers and that Southern Water raise no objections to this in principle. To this end a foul sewage drainage strategy could be secured by condition.

Ecology

68. As referred to previously, to address the Council's reason for refusal relating to ecology, the Appellant has submitted an Ecological Appeal Statement and Ecological Impact Assessment to address the Council's concerns and those of the Kent County Council Ecological Advice Service (the EAS).

69. The main considerations relate to Great Crested Newts (GCNs), biodiversity net gain (BNG), Japanese Knotweed, reptiles and bats. In respect of GCNs, the Appellant has submitted a GCN District Level Licensing Impact Assessment and Conservation Payment Certificate. As such, it is likely that favourable conservation status could be maintained for the local population of GCNs, subject to mitigation measures secured through appropriate conditions.

70. The submissions indicate that there would be an on-site BNG of 11.95% in area habitats and 32.21% in hedgerow habitats. This is based on a biodiversity baseline that pre-dates habitat clearance that has taken place on the site since initial ecological surveys were conducted, and takes account of the submitted Landscape Masterplan. It is acknowledged that the overall loss of broadleaved woodland from the proposals would not be mitigated for on the site and that the trading rules of the metric have not been met. As such, it is proposed to seek off-site compensation of a minimum of 0.76 medium distinctiveness woodland units. The EAS comments that it is not clear if the additionality principle has been considered as part of the BNG calculations, but that it is nevertheless likely that a BNG would be achievable for the proposed development.

71. Provision to address the presence of Japanese Knotweed on the site could be secured as part of the submission and implementation of a Construction Ecological Management Plan (CEMP) that could be secured by condition.

72. The site contains suitable habitat for reptiles and a low population of common lizard and grass snake have been recorded. Although I understand that habitats have been made less suitable for reptiles since 2018, a precautionary approach to site clearance could be secured by condition. Furthermore, the proposals would include the provision of suitable reptile habitat.

73. The site has been found to be unsuitable for roosting bats. Foraging and commuting bats have been recorded on the site albeit with general activity levels being low. Noting that habitat has previously been removed from the site, of that remaining, the proposals would result in some loss of existing foraging and commuting habitat for bats. However, mitigation measures are proposed, including new planting in combination with the significant amount of intended retained boundary vegetation. A bat sensitive lighting strategy is also proposed.

74. Given the likely presence of Hedgehog on and around the site, it is proposed to integrate measures to provide habitat for that species. In other respects, I note that no evidence of badgers has been found on the site and that hazel dormice are also likely not to be present.

75. Measures to mitigate for any impacts to breeding birds and other protected and priority species during the construction of the proposed development could be secured via the CEMP previously referred to.

76. For the above reasons, subject to the implementation of mitigation measures and a biodiversity gain plan, which could be secured by appropriate conditions, the proposed development would be acceptable in terms of its ecological effects.

Living conditions of existing residents

77. In terms of neighbouring properties in The Forstal, they would either directly face or be side on or angled to those proposed dwellings facing that boundary. However, whether it be the degree of separation of those directly facing properties from the proposed dwellings, or the side-on/angled juxtaposition of others, still with a good degree of separation, these factors would be likely to prevent a harmful loss of privacy, outlook and sunlight and daylight. To varying degrees, intervening existing and proposed vegetation and trees would also be likely to further reduce the extent of overlooking, more so in the summer months with trees in leaf. Whilst the proposed pedestrian access from the site via The Forstal would inevitably increase footfall along that cul-de-sac, I have no substantive evidence to indicate that this would be to such an extent as to cause unacceptable noise levels or loss of privacy to existing residents in that road.

78. In respect of the existing Court Lane properties that back onto the site, those proposed dwellings closest to that northern boundary would be separated from it by their rear gardens. Together with the long rear gardens of the Court Lane properties and the varying extents of intervening vegetation, it is again unlikely that the proposals would cause harmful loss of privacy, outlook or sunlight/daylight. The proposed dwelling at plot 50 would be close to the side of the nearest property in The Forstal. However, the juxtaposition would be such as to again prevent a likelihood of harmful loss of those amenities referred to above.

79. The westernmost of the existing Nursery Cottages would have a dwelling to one side and another in front. That at plot 55 to the side would partially project beyond the rear of that existing house. However, there would be no direct overlooking of

that property from habitable rooms at first floor level and the degree of separation would be likely to avoid harmful loss of outlook and sunlight/daylight at the rear. The proposed house to the front of that property would be angled slightly away from that existing, which combined with the degree of separation, would again be likely to maintain an acceptable level of privacy, outlook and sunlight/daylight. The existing high hedge between the two would also provide a high degree of screening whilst retained as such.

80. In respect of the proposed apartments above the Nursery, habitable room windows would not directly face those existing residential properties to the north-west of that block. Together with the degrees to which the proposed apartments would be separated from those existing properties, it is likely that these factors would prevent a harmful loss of privacy to those existing residents. Furthermore, again given that degree of separation, it would also be unlikely that any light emitted from the Nursery/apartment block would be harmfully intrusive in relation to those existing properties.

81. In terms of any additional noise and disturbance and air pollution generated by the proposed development, notwithstanding the presence of an existing access and car park at the northern end of the site alongside and in front of existing dwellings, there will inevitably be more movements and activity on the site as a whole than existing. In this respect, I have also had regard to the proximity of existing houses to the proposed access road. However, there is no substantive evidence to indicate that the levels of noise or pollution generated would be such as to cause harmful additional disturbance or at levels beyond what would be reasonable for a residential area, albeit acknowledging that the site is currently largely undeveloped countryside. Based on the proposed layout, there is also no substantive basis to consider there to be a likelihood of unacceptable disturbance caused by car headlights shining towards existing properties. Furthermore, noise and disturbance during the construction phase could be controlled by a condition securing the submission and adherence to a construction management plan.

82. Having regard to concerns about increased anti-social behaviour as a result of the proposed development, a Crime Prevention Statement (CPS) has been prepared to support the proposals. Furthermore, I note that the Kent Police Designing Out Crime Officer acknowledges that steps have been taken to incorporate several crime prevention measures into the proposals; that the CPS has extensively addressed Crime Prevention Through Environmental Design and Secured by Design principles; and that the proposed nursery car park would have alternative crime prevention measures and local management. I have no substantive basis to find differently.

Other matters relating to proposed Nursery/apartments

83. I have had regard to concerns raised about safety and safeguarding issues associated with the provision of dwellings above the proposed Nursery. In this respect, I note that the proposed habitable room windows and balconies associated with the apartments would all be on the southern side of the building and therefore not facing onto the Nursery's outdoor play areas, which would be on the northern side. Those windows on the northern elevation would be at a high level, thereby restricting outlook. The apartments would also be accessed from a distinctly separate part of the building to the Nursery entrance. Furthermore, I have no substantive evidence to indicate that there would be any other aspects of the

proposals relating to that development block that would be a likely safety and safeguarding risk. Additionally, compliance with Building Regulations would be considered separately under different legislation from that relating to this appeal.

Energy efficiency/sustainable construction

84. The submissions include an Energy Strategy Statement which sets out how the proposal would be developed in terms of reducing energy consumption and CO2 emissions. Together with Building Regulations requirements, a number of measures would be incorporated into the design of the buildings. This would include provision for electric vehicle charging, with the submissions setting out that there would be one charging point for every plot and two for the nursery parking area.

Unexploded ordnance

85. I note a concern about the need for a more detailed risk assessment to be conducted on the site relating to any risk from unexploded ordnance. I heard at the Inquiry that this would be addressed in relation to proposed contamination investigation work on the site.

Conditions and planning obligations

86. The Council has provided a schedule of suggested conditions in the event of the appeal being allowed which I have considered in the light of advice in the National Planning Practice Guidance. The Appellant has commented upon that schedule and the two parties have reached agreement on its content following further discussion and some suggested amendments during the course of the Inquiry. The schedule includes a number of pre-commencement conditions which the Appellant has confirmed in writing to be acceptable. I have referred to the condition numbers, cross referenced to the attached annex, in brackets for clarity purposes.

87. The standard condition (1) would be necessary to set the timescale for commencement of development. For certainty, a condition requiring the development to be carried out in accordance with the approved plans would also be necessary (2).

88. In the interests of the character and appearance of the site and surrounding area, conditions would be necessary to secure details of materials that would be used externally on the development (3); tree protection measures relating to existing trees intended to be retained (13); the submission and implementation of a hard and soft landscaping scheme (14), the latter two also being in the interests of local ecology; and details of the proposed boundary treatment, also in the interests of privacy (26). Furthermore, so as to ensure the adequate provision for children's outdoor play, a condition would be necessary to ensure the submission and implementation of a specification for intended play equipment (25).

89. In order to provide acceptable drainage for the proposed development, conditions would be necessary to secure the submission and implementation of a detailed sustainable surface water drainage scheme together with the submission of a verification report (4 & 5); and a foul sewage drainage strategy (20).

90. So as to provide acceptable living conditions for prospective residents of the proposed apartments above the Nursery, with particular regard to noise

transmission, a condition would be necessary to secure a suitable sound insulation assessment, and the implementation of any associated works (6).

91. The following conditions would be necessary in the interests of highway safety, requiring: the submission and implementation of a Construction Management Plan (7); provision of the proposed vehicle parking spaces, also in the interests of providing and maintaining adequate parking (8); the implementation of the proposed site access and associated visibility splays, and securing the construction of the first 5 metres of the access with the use of a bound surface (10).

92. In the interests of environmental sustainability, encouraging the use of alternative modes of transport to the car and reducing car journeys, conditions would be necessary to provide and maintain the proposed cycle parking (9); and to secure the submission and implementation of a Travel Plan (23).

93. In the interests of protecting the local environment and human health, conditions would be necessary to secure site investigations and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment, any necessary remediation, and arrangements for responding to any discovery of unforeseen contamination; and the submission of an associated verification report (11 & 12).

94. To ensure that any features on the site of archaeological interest are properly examined and recorded, a condition to secure the implementation of a watching brief would be necessary (15).

95. In order to protect local ecological interests, the following conditions would be necessary, requiring the submission and implementation of: a lighting design plan for biodiversity (16); an Ecological Design Strategy (17); a construction ecological management plan (18); and a biodiversity gain plan (19).

96. To enable the Local Planning Authority (LPA) to retain control over future development on the site, specifically concerning the proposed Nursery element, and given its close proximity to the proposed residential dwellings, a condition would be reasonable and necessary to prevent a change of use without the prior written consent of the LPA (21).

97. The Council has suggested a condition (22) to remove permitted development rights for the enlargement the proposed dwellings consisting of additions or alterations to their roofs, relating to Class B of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO). The Council explained at the Inquiry that this was to prevent prominent additions relating to rooms in the roofs of the proposed dwellings, contrary to the general design of the development. I consider that to be sufficiently clear justification in this case.

98. The Council, in its original suggested conditions schedule, had also included in relation to the above, the removal of such rights relating to Class A, the enlargement, improvement or other alteration of a dwellinghouse, and Class D, the erection or construction of a porch outside any external door of a dwellinghouse. However, having regard to paragraph 55 of the Framework, the Council agreed at the Inquiry that there would not be clear justification to do so in those respects due to adequate control through the GPDO. I have no substantive basis to consider differently.

99. A condition would be necessary to secure future-proof digital infrastructure in the development through the submission and implementation of details for the installation of fixed telecommunication infrastructure and gigabit-capable connections to multi-point destinations and all buildings on the site (24).

100. As referred to previously, planning obligations have been submitted under s106 of the Act. Taking account of my findings relating to the SEND contribution, those obligations make provision for the following:

- 50% of the proposed dwellings to be affordable housing, with a mix comprising 14 social rented, 9 intermediate housing and 6 first homes. That mix is agreed by the Council and Appellant to be appropriate in the circumstances of this case, as clarified in the Inquiry, and I have no substantive evidence to indicate otherwise. The provision would therefore accord with policy CP17 of the Core Strategy concerning the provision of affordable housing, and paragraphs 66, 67, 156 and 157 of the Framework.

- Provision for the proposed nursery school and associated car parking, including management of that car parking.

- Provision and management of appropriate on-site open space. This would be in accordance with policy OS3 of the MDEDPD relating to provision of open space, and would be necessary in the interests of the amenities of prospective residents, and the visual and ecological quality of the site. There is also provision for appropriate financial contributions towards off-site Open Space at William Field recreation ground and Haysden Country Park, again in accordance with policy OS3 of the MDEDPD and necessary to mitigate for their likely increased use arising from the proposed development. These provisions in relation to open space would also be necessary in the interests of the health and well-being of prospective residents.

- Provision of highway works, including two road narrowings on Court Lane and relocation of the speed sign, in accordance with policy SQ8 of the MDEDPD relating to, amongst other things, road safety. These works would be necessary as highway safety measures relating to the proposed site access design.

- Appropriate financial contributions, all of which would be necessary to mitigate for the likely increased use of the respective services arising from the proposed development, towards:

    - Secondary education relating to the expansion of schools in the West Kent Selective and Tonbridge and Tunbridge Wells Non-Selective Planning Groups including Mascalls Secondary Acadamy, and SEND provision, so as to provide appropriate access to education for prospective residents;

    - Local health services comprising the refurbishment, reconfiguration and/or extension of Hadlow Medical Centre and/or Woodlands Health Centre and/or towards new general practice premises development in the area serving the proposed development, in the interests of providing appropriate access to healthcare for prospective residents;

- Additional resources, equipment and stock at Hadlow Library, in the interests of maintaining a comprehensive and efficient library service;
- Additional equipment and resources for Adult Education Centres and outreach provision, to help prospective residents overcome social isolation and to encourage community cohesion, as well as improving skills in a wide range of areas;
- Additional resources for Integrated Children's Services to enable expansion of capacity within hubs and provision of outreach work in the vicinity of the proposed development. This is in order to secure sufficient educational leisure-time activities for the improvement of young persons well-being, and sufficient facilities for such activities for people aged 13 to 19 and certain people aged 20 to 25 who have additional needs;
- Provision for adult social care relating to priority areas of assistive technology, adapting community facilities, sensory facilities and Changing Places; serving adults with a physical or learning disability, or physical or mental illness; also safeguarding those at risk of harm and abuse, and supporting unpaid carers;
- Works at household waste transfer station facilities serving the proposed development, in order to maintain a sustainable waste management service in the interests of the amenities of prospective residents.

All of these financial contributions and would be in accordance with Core Strategy policy CP25.

Planning balance

101. I have found that the proposed development not be inappropriate development in the Green Belt. Furthermore, in complying with the Golden Rules, having regard to paragraph 158 of the Framework, the proposed development should be given significant weight in favour of the grant of permission. Additionally, I have found there would be no harm caused to heritage assets comprising the nearby CA and LBs. I have found that some harm would be caused to the character and appearance of the surrounding area. However, for the reasons set out, the extent of that harm would be moderate. Furthermore, I have found that some harm would be caused due to the loss of BMVAL, but it would be to a limited extent.

102. As previously identified, the Council is not able to demonstrate a 5 year HLS, with the current figure standing at 2.89 years' worth of supply. Furthermore, as also identified through the HDT, there is a poor recent record of housing delivery, which was substantially below the housing requirement over the previous three years. As such, having regard to paragraph 11(d) of the Framework, whereby there are no areas or assets of particular importance that provide a strong reason for refusing the development proposed, the most important policies for determining the appeal are out-of-date and the paragraph 11(d)(ii) balance is engaged.

103. Having regard to the Government's objective of significantly boosting the supply of homes, the proposed development would have the benefit of contributing 57 dwellings towards the Borough's supply. I acknowledge the comment that there

would be no single storey houses, albeit that the proposed apartment block would contain ground floor units. However, I am satisfied, based on the submissions, that there would be an appropriate mix of housing types and sizes, with adequate provision of outdoor space.

104. Furthermore, the proposed housing provision would include the added benefit of 29 affordable dwellings, which would be of an appropriate mix of tenures distributed in varying sized clusters around the development. That would represent a significant addition to local supply against a backdrop of much need for such housing in the Borough.

105. Added to this is the significant shortfall in HLS with no clear indication as to how that will be addressed, and the recent delivery having been significantly less than the 75% level set out in footnote 56 relating to paragraph 155(b) of the Framework. As such, those benefits relating to additional housing generally and the affordable dwellings would be substantial.

106. The proposed development would also be likely to generate significant economic benefits including direct and indirect jobs during the construction phase, albeit for the short-term duration of that phase; and then once operational, in terms of the local economic output of new residents, additional residential expenditure, indirect and induced jobs, local economic employment output, and retained Nursery jobs.

107. In respect of the Saplings Nursery, I have previously referred to the clear demand for this facility, albeit in the absence of a detailed needs assessment, and I also understand that a significant number of the attending children live in or adjacent to Hadlow. I have also previously highlighted my understanding that Saplings Nursery is currently constrained by uncertainty in the long-term due to the leasing situation, and the clear intention for re-providing the Nursery as part of the proposed development with a modern more spacious facility. I have also found that the development as a whole, including the proposed Nursery, would not be inappropriate development in the Green Belt, which is not disputed by the Council and Appellant. In those circumstances, the new provision on the site would be likely to represent a significant benefit. Furthermore, particularly in relation to the proposed pedestrian access between the development and The Forstal on the west side of the site, this would have the benefit of improved provision for walking to and from the Nursery when compared with the access to the existing facility.

108. The proposed on-site open space and play provision, whilst required for the proposed development, would also be likely to benefit existing local people to a moderate degree, especially with the accessibility via the intended direct pedestrian accesses to the adjacent footpath and The Forstal on the west side of the site, as well as via the main site access. However, in respect of the financial contributions towards off-site open space, I have no substantive basis to consider that this mitigation would include aspects likely to provide a net benefit to existing users.

109. As referred to previously, the proposed development is intended to provide BNG. It does not fall under the statutory requirement for the provision of 10% BNG. Furthermore, there are no development plan policies that refer directly to BNG or any specific required level of provision. However, policy CP1 of the Core Strategy refers, amongst other things, to balancing the need for development against the need to protect and enhance the natural environment and that the quality of the natural environment will be preserved and, wherever possible, enhanced.

Additionally, policies NE2 and NE3 of the MDEDPD together, amongst other things state that biodiversity will be protected, conserved and enhanced and that opportunities to improve ecological conservation value will be sought. The Framework also sets out that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, providing net gains for biodiversity. In these circumstances, I attach moderate weight to the proposed BNG.

110. The proposed highway improvements to Court Lane, that would aim to reduce traffic speeds would, as a result, be to the significant benefit of all road users, not just prospective residents of the proposed development.

111. Provision of financial contributions towards education provision and health services in the local area would mitigate for the likely additional demand as a result of the proposed development. Notwithstanding that these provisions have been considered in relation to the Golden Rules, with the significant weight in favour of the grant of permission given to the development in complying with them, there is no substantive evidence to indicate that they would also have a net benefit for existing users of those services.

112. In respect of additional income to the Council from Council Tax and the New Homes Bonus, I have received insufficient evidence to indicate the extent to which this would represent a benefit as opposed to mitigation and so afford this little weight.

113. Notwithstanding my findings in relation to the second and third main issues, I have found there to be no other matters that would cause unacceptable harm, subject to appropriate conditions and planning obligations where applicable.

114. Taking all of the above into account, in applying paragraph 11(d)(ii) of the Framework, the extent to which there would be adverse impacts of granting permission relating to the second and third main issues would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Conclusion

115. For the reasons given above I conclude that the appeal should be allowed.

A Dawe

INSPECTOR

ANNEX A – CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

    - Site Location Plan Drawing No. DE476-09A
    - Proposed Site Plan Drawing No. DE476-10H
    - Parking and Cycle Storage Plan Drawing No. DE476-11F
    - Storey Heights Plan Drawing No. DE476-12F
    - Tenure Plan Drawing No. DE476-13I
    - Boundary Treatment Plan Drawing No. DE476-14F
    - Refuge Storage and Collection Plan Drawing No. DE476-15F
    - Illustrative Masterplan Drawing No. DE476-16G
    - Materials Plan Drawing No. DE476-17E
    - House Size Plan Drawing No. DE476-18E
    - Landscape Masterplan Drawing No. DE476-020G
    - Hertford House type (Plot 7) Drawing No. DE476-30E
    - Maidstone House type (Plots 9, 10 & 11) Drawing No. DE476-31E
    - Vyne v1 House type (Plots 14,15,28,29,& 54) Drawing No. DE476-32E
    - Vyne v2 House type (Plots 25,26,27) Drawing No. DE476-33E
    - Vyne v3 House type (Plot 55) Drawing No. DE476-34E
    - Frogmore v1 House type (Plots 17,23,33,37,38,39) Drawing No. DE476-36E
    - Gosford v1 House type (Plots 31 & 34) Drawing No. DE476-37E
    - Gosford v3 House type (Plots 18,24,32,40 43) Drawing No. DE476-39E
    - Penshurst v1 House type (Plot 36) Drawing No. DE476-40F
    - Penshurst v3 House type (Plots 30 & 56) Drawing No. DE476-42E
    - Bletchley House type (Plots 12 & 13) Drawing No. DE476-43E
    - Windsor v1 House type (Plots 19, 20 & 21) Drawing No. DE476-44E
    - Chartwell (Plots 35 &57) Drawing No. DE476-46E
    - Blenheim v1 House type (Plots 16 & 22) Drawing No. DE476-47E
    - Blenheim v1 House type (Floor Plans) Drawing No. DE476-48E
    - Apartment House type Drawing No. DE476-51E
    - Nursery Elevations (p1) Drawing No. DE476-52B
    - Nursery Elevations (p2) Drawing No. DE476-53B
    - Garages, Carports and Storage Drawing No. DE476-54D
    - Taunton House type (Plots 52 and 53) Drawing No. DE476-57
    - Bedford v1 House type (Plot 51) Drawing No. DE476-58A
    - Bedford v2 House type (Plot 50) Drawing No. DE476-59A
    - Street Scenes A-AA, B-BB, C-CC Drawing No. DE476-60A
    - Street Scenes D-DD, E-EE Drawing No. DE476-61D
    - Street Scenes F-FF, G-GG Drawing No. DE476-62A
    - Street Scenes H-HH, I-II Drawing No. DE476-63D
    - Bedford Plus House type (Plots 41 & 42) Drawing No DE476-64
    - Hertford M4(2) Compliant House type (Plot 8) Drawing No DE476-65

3. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall take place until

details of materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

4. Development shall not begin other than the demolition of any buildings, removal of hardstanding, ground investigations or site surveys, until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Drainage Strategy prepared by Fairhurst dated 20th January 2023 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

   The drainage scheme shall also demonstrate (with reference to published guidance):

   - Provisions for measure to prevent the discharge of surface water onto the highway;
   - that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters;
   - appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

   The drainage scheme shall be implemented in accordance with the approved details.

5. No building of the development hereby permitted shall be occupied other than in accordance with an agreed implementation schedule until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority in writing. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

6. Prior to commencement of any work above ground of the nursery and flatted building, the applicant shall supply to the Local Planning Authority a suitable sound insulation assessment providing suitable details of the substantially enhanced sound insulation performance of sound reduction achieved by the floor/ceiling boundary between the commercial nursery/residential use with the purpose of resisting the transmission of airborne sound such that the weighted standardised difference (DnT, W + Ctr) shall not be less than 53 decibels (i.e. an enhancement of the minimum levels stated in the Building Regulations of

10dB). Any works as approved by the Local Planning Authority shall be put into place prior to first residential occupation.

7. No development hereby permitted shall commence unless and until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following:

   (a) Routing of construction and delivery vehicles to / from site;
   (b) Parking and turning areas for construction and delivery vehicles and site personnel;
   (c) Timing of deliveries;
   (d) Provision of wheel washing facilities;
   (e) Arrangements for environmental management control of all demolition and construction works;
   (f) Temporary traffic management / signage.

   The Construction Management Plan shall thereafter be implemented in accordance with the approved details throughout the course of construction.

8. The areas shown as vehicle parking spaces on the Parking and Cycle Storage Plan Drawing No. DE476-11F shall be provided, surfaced and drained prior to the first occupation of the buildings they serve. Thereafter the spaces (including the garages) shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

9. The secure cycle storage for each dwelling as shown on the Parking and Cycle Storage Plan Drawing No. DE476-11F shall be provided prior to the first occupation of the dwelling it serves and shall thereafter be maintained and retained in accordance with the approved details.

10. Prior to either the occupation of the first dwelling or the nursery coming into use, whichever is the first, the access as shown on submitted plans (drawing number: 05806-TR-005-P10 titled Preliminary Site Access Design) shall be constructed, in accordance with the approved details together with the associated visibility splays which shall have no obstructions over 0.6 metres above carriageway level within the splays. At least the first 5 metres of the access from the edge of the highway shall also be constructed with the use of a bound surface and thereafter retained and maintained.

11. No development shall take place other than as required as part of any relevant approved site investigation works until the following have been submitted to and approved in writing by the Local Planning Authority:

    a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk

assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

b) prior to the commencement of the development the relevant approved remediation scheme shall be carried out as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

12. Following completion of the approved remediation method statement, and prior to the occupation of the relevant phase, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

13. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees to be retained as approved under Condition 14, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread;

(b) No fires shall be lit within the spread of the branches of the trees;

(c) No materials or equipment shall be stored within the spread of the branches of the trees;

(d) Any damage to trees shall be made good with a coating of fungicidal sealant;

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees;

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level.

14. a) Before the development hereby permitted is commenced, other than the demolition of any buildings, removal of hardstanding, ground investigations or site surveys, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- A timetable for the implementation of the hard landscaping;

- The details of existing trees to be retained;

- Size, species/cultivar, planting heights, densities and location of new habitats and positions of any soft landscaping.

b) All work comprised in the approved scheme of soft landscaping shall be carried out before the end of the first planting and seeding season, following occupation of any part of the buildings or completion of the development, whichever is sooner, or in accordance with an agreed timetable.

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

15. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority. The works undertaken thereafter shall be in strict accordance with the details approved.

16. Prior to the installation of any external lighting, a lighting design plan for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following:

- The identification of areas/features on-site where disturbance could occur to bat (or any other sensitive ecological receptor as determined by a suitably qualified ecologist) roosting/nesting sites and/or foraging/commuting routes;

- The provision of an appropriate plan(s) to show how and where external lighting will be installed;

- The provision of technical specifications for the external lighting;

- The provision of lighting contour plans to show expected lux levels on both the horizontal (and vertical planes as required), so that it can be clearly demonstrated that areas to be lit will not disturb wildlife activity.

The external lighting shall be installed and maintained in accordance with the approved lighting design plan for biodiversity.

17. No development, including any site clearance and below ground works, shall take place until an Ecological Design Strategy (EDS) has been submitted to and approved in writing by, the Local Planning Authority. The content of the Strategy shall include the mitigation, compensation and enhancement measures in the FPCR (21st August 2024) Ecological Appeal Statement (K:\8700\8719\ECO\Hearing), FPCR (21st August 2024) Ecological Impact Assessment (K:\8700\8719\ECO\EcIA) section 6 and the Define (16th October 2023) Landscape Masterplan. The EDS shall include the following:

- Purpose and conservation objectives for the proposed works and habitat management;

- Review of site potential and constraints (including a description and evaluation of features to be managed and including updated species/habitat surveys as recommended by suitably qualified ecologist (e.g., preliminary ecological appraisal, bats, badgers, breeding birds, including turtle dove, great crested newts, reptiles, and any others as required));

- Detailed design(s) and/or working method(s) to achieve stated objectives, including the extent and location/area of proposed works on appropriate scale maps and plans. This shall include:

  - Full details of the proposed ecological features. For habitat boxes this shall include numbers, make and model, locations to include height, aspect and mounting location shown on scaled landscaping plans suitable for construction. For hibernacula, this shall include numbers, size (including length, width and height), locations, and materials shown on scaled landscaping plans suitable for construction;

  - Full details of on-site mitigation and compensation measures for reptiles, bats, breeding birds, great crested newts and hedgehogs and any other protected and/or priority species as determined by a suitably qualified ecologist.

- Reference to any necessary mitigation licences or other relevant documents;

- Timetable for implementation demonstrating that works are aligned with the proposed timetable of development;

- Persons responsible for implementing the works and details of the body or organisation(s) responsible for implementation of a long-term management plan;

- Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery;

- Details of initial aftercare and preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);

- Appropriate management prescriptions for achieving aims and objectives for the lifetime of the development (including sensitive management for amphibians, reptiles, bats, breeding birds, hedgehogs, hedgerows and any other habitats/species as determined as necessary by a suitably qualified ecologist);

- Details of ongoing monitoring and remedial measures.

The EDS shall be implemented and managed in accordance with the submitted and approved details thereafter.

18. No development shall be undertaken (including any site/vegetation clearance) before a construction ecological management plan (CEMP - biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP - biodiversity shall include the mitigation and compensation measures in the FPCR (21st August 2024) Ecological Appeal Statement (K:\8700\8719\ECO\Hearing), FPCR (21st August 2024) Ecological Impact Assessment (K:\8700\8719\ECO\EcIA) section 6. The Plan shall include the following:

- Purpose and objectives for the proposed works:

- Risk assessment of potentially damaging construction activities. This shall include reference to the results of updated species/habitat surveys as advised by a suitably qualified ecologist;

- The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;

- Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats;

- Detailed design(s) and/or detailed working method(s) necessary to achieve stated objectives (including the location and timing);

- Reference to any relevant and necessary protected species licences (e.g., great crested newt) and any relevant mitigation measures required;

- Reference to a detailed arboricultural method statement to protect retained trees/hedgerows;

- Reference to or inclusion of a minimum 10-year Japanese knotweed management and removals plan;

- Persons responsible for implementing and monitoring the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;

- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and

- Details of the disposal of any wastes required to implement works.

The approved CEMP - biodiversity shall be adhered to and implemented throughout the construction period in accordance with the approved details.

19. No development shall be undertaken (including any site/vegetation clearance) before a biodiversity gain plan has been submitted to and approved in writing by the Local Planning Authority. The Biodiversity Gain Plan shall be prepared in accordance with FPCR (21st August 2024) Ecological Impact Assessment (K:\8700\8719\ECO\EcIA) section 6, as well as sections 6 and 7 of FPCR (13th August 2024) Biodiversity Net Gain Report (K:\8700\8719\ECO\EcIA\Appendices\Appendix I – BNG Report\8719 BNG Report.docx). The biodiversity gain plan shall include:

    - Information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;

    - The pre-development biodiversity value of the onsite habitat;

    - The post-development biodiversity value of the onsite habitat;

    - Any offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;

    - Timetable for the implementation of the measures; and

    - Any biodiversity credits purchased for the development.

    The biodiversity plan shall thereafter be implemented in accordance with the approved details.

20. No development, other than the demolition of any buildings, removal of hardstanding, ground investigations or site survey works, shall take place until a drainage strategy setting out the method in which foul sewage resulting from this development proposal is to be managed in accordance with the hierarchy of drainage options as set out in the National Planning Practice Guidance: Flood risk and coastal change has been submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied unless and until the foul drainage method detailed in the drainage strategy has been implemented in accordance with the approved details which shall thereafter be retained and maintained.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended or any Order revoking

or re-enacting that Order with or without modification), the nursery shall not be used for any other use falling within Class E of Part A of Schedule 2, Article 3 of the Town and Country Planning (Use Classes) Order 1987 without the prior written consent of the Local Planning Authority.

22 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no development falling within Class B of Part 1 of Schedule 2, Article 3 of the said Order shall be carried out without the prior consent in writing of the Local Planning Authority.

23. Prior to the first occupation of the development a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of:

(a) A comprehensive survey to be issued to all users of the development;

(b) How new residents will be involved in the implementation of the Travel Plan;

(c) Targets set in the Plan to reduce car journeys to the site;

(d) How the Travel Plan will be regularly monitored and amended shall be submitted, and all relevant reports designed to monitor the effectiveness of the Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.

The Travel Plan shall thereafter be implemented in accordance with the approved details.

24. Prior to the installation of broadband services, details shall be submitted for the installation of fixed telecommunication infrastructure and gigabit-capable (minimal internal peed of 1000mbps) connections to multi-point destinations and all buildings including residential, commercial and community. The infrastructure shall be installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details. The development should comply with any statutory or non-statutory guidance extant at the time a decision on the application for planning permission is made.

25. Prior to commencement of works above slab level, a specification for the play equipment as shown on Landscape Masterplan Drawing No. DE476-020G and a timetable for its provision, shall be submitted to and approved in writing by the Local Planning Authority. It shall then be implemented in accordance with the approved specification and timetable and thereafter retained as such.

26. Prior to commencement of works above slab level, a timetable for the installation of boundary details as shown on Boundary Treatment Plan Drawing No. DE476-14F, shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall then be implemented in accordance with the approved timetable.

ANNEX B - APPEARANCES

FOR THE APPELLANT:

Hashi Mohamed, of Counsel	Instructed by David Maher BA, MA PLAN, MRTPI, on behalf of Dandara South East Ltd

He called:

Andrew Williams BA (Hons) DipLA DipUD CMLI	Director, Define
Richard Dennis BA (Hons)	Senior Design Manager, Dandara South East Ltd
Lucy Wilford BA (Hons) DipTP MRTPI	Director, DHA Planning
Annie Gingell BSc (Hons) MSc MRTPI	Associate Director, Turley
David Maher BA, MA PLAN, MRTPI (for contributions during consideration of planning issues and the planning obligations/ conditions round table discussion (RTD))	Head of Planning, Dandara South East Ltd
J Warwick and C Parker	Saplings Bursery

FOR THE LOCAL PLANNING AUTHORITY:

Asitha Ranatunga, of Counsel	Instructed by Joy Ukadike, Head of Legal Services, Tonbridge & Malling Borough Council

He called (to participate albeit not presenting formal evidence):

Susan Field BSc MA MRTPI	Senior Planning Officer, Tonbridge & Malling Borough Council
Jon Etchells MA BPhil CMLI	Director, Jon Etchells Consulting Limited

FOR KENT COUNTY COUNCIL (KCC):

Nick Abrahams (for planning obligations RTD)	Assistant Director of Education at KCC
Richard Kidd (for planning obligations RTD)	Development Investment Team at KCC
Sarah Bonser (for planning obligations RTD)	Solicitor at KCC

INTERESTED PARTIES:

Steve Crisp	Borough Councillor for Hadlow
Sarah Hudson	Borough Councillor and County Councillor representing Hadlow
James Lark	Borough Councillor for Hadlow
Mrs P Cox	Local resident

ANNEX C - INQUIRY DOCUMENTS (IDs)

1. Tenure Plan Ref DE476-13I.
2. Appellant's list of appearances.
3. Appellant's opening statement.
4. Council's opening statement.
5. Statement made by Steve Crisp
6. Agreed Draft Conditions, January 2025 v6 (agreed by the Appellant and Council in the event of the appeal being allowed).
7. Pre-commencement conditions statement - v2.
8. Appellant's closing statement.
9. Council's closing statement.
10. Statement made by Mrs P Cox.

APPENDIX H

Little Chalfont

ESQUIRE
DEVELOPMENTS

The Planning Inspectorate

Appeal Decision

Inquiry held on 8-9 and 12-16 and 20 December 2022
Site visit made on 15 December 2022

by Stephen Wilkinson BA BPl DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2023

Appeal Ref: APP/X0415/W/22/3303868
Land between Lodge Lane and Burtons Lane, Little Chalfont, Amersham, HP4 4AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr D Cox against the decision of Buckinghamshire Council.
- The application Ref PL/21/4632/OA, dated 30 November 2021, was refused by a notice dated 25 April 2022.
- The development proposed is demolition of all existing buildings and the erection of residential dwellings including affordable housing, custom build (Use Class C3), retirement homes and care home (Use Class C2), new vehicular access point off Burton Lane, improvements to existing Lodge Lane access including works to Lodge Lane and Church Grove, new pedestrian and cycle bridge and associated highway works, a local centre including a community building (Use Classes E(a)(b)(e), F2(b), land safeguarded for educational use (Use Classes E(f) and F1(a), public open space and associated infrastructure (matters to be considered at this stage: Burtons Lane and Lodge Lane access).

Decision

1. The appeal is allowed and outline planning permission is granted for demolition of all existing buildings and the erection of residential dwellings, including affordable housing, custom build (Use Class C3), retirement homes and care home (Use Class C2), new vehicular access point off Burton Lane, improvements to existing Lodge Lane access including works to Lodge Lane and Church Grove, new pedestrian and cycle bridge and associated highway works, a local centre including a community building (Use Classes E(a)(b)(e), F2(b), land safeguarded for educational use (Use Classes E(f) and F1(a), public open space and associated infrastructure (matters to be considered at this stage: Burtons Lane and Lodge Lane access), on land between Lodge Lane and Burtons Lane, Little Chalfont, Amersham HP4 4AJ, in accordance with the terms of the application, Ref PL/21/4632/OA, dated 30 November 2021, subject to the conditions included in the schedule to this decision.

Procedural Matters

2. The Development Plan includes the Saved Policies of the Chiltern District Local Plan (1997) including Adopted Alterations 2001 (the LP) and the Core Strategy for Chiltern District (2011) (the CS).

3. A joint draft Chiltern and South Bucks Local Plan was withdrawn following concerns from the Examining Inspector with regard to the duty to cooperate

with neighbouring authorities. Its policies carry no weight in this decision although the main parties consider that its background evidence is a material consideration. In my view, any weight is limited as it has not been formally tested.

4. The appeal was accompanied by a schedule of planning obligations under the provisions of Section 106 (S106) of the Town and Country Planning Act 1990 (as amended). This is provided in the form of a deed of agreement between the appellant and the Council and its provisions were discussed at the Inquiry. With the agreement of the parties, an engrossed version, dated 30 December 2020 was submitted shortly after the Inquiry closed.

5. The appeal is in outline, with only means of access to be determined at this stage. All other matters are reserved for future consideration. The application was accompanied by Parameter Plans, dealing with Land Use and Green Infrastructure, Building Heights, Access and Movement and Demolition. These plans were amended in advance of the Inquiry. Following discussion with the parties during the Inquiry, I am satisfied that the revisions do not prejudice the interest of any parties.

6. Given the scale of the proposed development, the appeal was accompanied by an Environmental Statement as required by Regulation 5(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. I am satisfied that the revised plans do not prejudice the EIA.

Main Issues

7. The Council's Decision Notice sets out eleven reasons for refusal. Following the close of the Inquiry, having heard all the evidence, I am content that affordable housing provision is no longer a main issue. I have also refined the wording of the main issues relating to landscape, character and appearance.

8. The appeal site lies within the Green Belt. There was no dispute in this regard that the appeal scheme constitutes inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework). It also lies adjacent to, but outside the Chilterns Area of Outstanding Natural Beauty. With all that in mind, and having heard all the evidence to the Inquiry, I consider that the main issues in this case are:

    1. the effect of the proposal on openness and purposes of including land within the Green Belt;

    2. the effect of the scheme on the character and appearance of the area, including the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty and the Burtons Lane to Doggett's Wood Lane Area of Special Character;

    3. the effect of the proposal on highway safety;

    4. whether or not the proposal would lead to an unacceptable loss of protected species and protected habitats;

    5. whether or not the scheme includes the infrastructure necessary, directly required and related in scale and kind to the proposed development;

6. the effect of the development proposed on the Chilterns Beechwoods Special Area of Conservation and Ashridge Commons and Woods Site of Special Scientific Interest;

7. whether or not the proposal would lead to an unacceptable loss of best and most versatile agricultural land;

8. whether the appeal scheme would increase the risk of surface water flooding; and

9. whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to provide the very special circumstances required to justify development in the Green Belt.

9. In advance of the Inquiry, Statements of Common Ground (SoCGs) on planning, ecology, highways and housing land supply were agreed between the main parties, with technical notes agreed on flood risk and air quality. Accordingly, the parties through the SoCGs have indicated that the reasons for refusal relating to each of these matters have been addressed. The main parties also agreed that the issue of best and most versatile agricultural land is a matter for the planning balance. The S106 addresses other matters as well, including the amount of affordable housing.

10. However, these matters remain as main issues and I made it clear in my Inspector Note sent out before the start of the Inquiry that I was content to receive further comments on them during the Inquiry, particularly from interested parties. Accordingly, these issues are addressed in this decision although its primary focus is on the Green Belt, Landscape and Design (Issues 1, 2 and 9).

Reasons for the Decision

11. The appeal site extends to some 29.7 hectares (ha), with its eastern half formerly occupied by Little Chalfont Golf Club which was closed several years ago. The club house and parking area, accessed from Lodge Lane, are still in place, with its fairways identified by incidental bands of landscaping and occasional tees. The western half of the site comprises open pasture. Based on the Agricultural Land Classification system, this is classified as Grade 3 agricultural land. Homestead Farm, a private dwelling, is set within a generous garden and located on the north western edge of the site. It is understood that the fields have not been used for many years for agricultural purposes. There are bands of Ancient Woodland at Stonydean Wood in the centre of the site, and Netherdown Spring Wood which runs along the southern edge of the site.

12. The appellant states that the design of the proposed scheme has been landscape led, involving a 'Re-imaging of Metroland'. Two residential development parcels would be located on the northern slope of the dry valley located north, east and west of Stonydean Wood. A primary school, retirement and care accommodation would be located towards the northern edge, with a centrally located community hub. A proposed pedestrian link at the northern end of the site would extend over the rail line, allowing direct access to the centre of Little Chalfont. Overall, around 12.5ha of the site would be developed.

13. The scheme would retain the belts of Ancient Woodland with landscape 'buffers', enhance biodiversity, introduce a Suitable Alternative Natural Greenspace (SANG) and would include play space and allotments/community orchard.

14. The Parameter plans identify that the residential areas would be of 2.5/3-storeys in height, with densities varying from 35-65 dwelling per hectare (dph). The mixed use central hub would be up to 3-storeys (16 metres) in height and the primary school 2-storeys. Access points from Burtons Lane and Lodge Lane would serve the development, although there would be no connection between the two. Instead, movement across the site would be reserved for pedestrians/cyclists.

Green Belt

15. Although there is no definition of 'openness' within the National Planning Policy Framework (the Framework), the Government Planning Practice Guidance (PPG) refers to assessments of openness as being informed through consideration of spatial and volumetric aspects, the duration of the development and the degree of activity likely to be generated.[1]

16. The scale of development proposed would have spatial and visual impacts on the site when compared to the extent of the existing development, which comprises a club house, car park and a collection of buildings around Homestead Farm.

17. The site's context is determined by its relationship with surrounding development. The site is separated from Little Chalfont by the Metropolitan railway line, which broadly defines the settlement boundary. Although there is development to the south, including Honours Yard, a vehicle depot, and housing on Long Walk, these are included in the Green Belt. To the east, beyond Lodge Lane, the site is open to the Chilterns Area of Outstanding Natural Beauty (AONB) and to the west, along Burtons Lane, there is low density residential development which forms part of the Area of Special Character (ASC).

18. The site's allocation (SP BP6), within the withdrawn joint local plan carries no weight. However, I recognise that the Green Belt assessments which informed the allocation do carry significant weight. These assessments included the appeal site as part of larger sites.

19. Scores were recorded for Purposes a)-d) of the Green Belt, as defined by Paragraph 138 of the Framework. In turn these purposes are; a) checking the unrestricted sprawl of large built up areas, b) prevention of neighbouring towns merging into one another, c) assisting in safeguarding of the countryside from encroachment, d) preserving the setting and special character of historic towns and e) assisting in urban regeneration. Purpose e) was not assessed.

20. There is a consistent thread throughout each of the assessments that identifies that the northern part, within which the appeal site lies, contributes less to each of these Purposes when compared to the southern part. Low and moderate scores were recorded for Purposes b) and c) respectively. These are matters confirmed by my site visit.

[1] Reference ID: 64-001-020190722

21. I find that large parts of the site have a semi urban context defined by its proximity to the busy rail line and surrounding residential areas, which extend along Burtons Lane, the inclusion of the existing golf clubhouse and car park and proximity of the Honours Yard depot. The eastern part of the site, which was the former golf course, reflects its recent use and cannot be regarded as 'countryside' as such.

22. Although the appeal scheme would result in development extending south towards Chorley Wood, its impacts would be limited as acknowledged by the Council[2]. One assessment identified that release of the parcel would not undermine the performance of the wider Green Belt[3]. This is consistent with my findings given the site's context. Extensive areas of Green Belt would still be retained between Little Chalfont and Chorley Wood.

23. Whilst the scheme partly involves development on agricultural land, the site's containment by existing housing along Burtons Lane on its west side, Lodge Lane to the east and the proposed SANG to the south beyond which is Long Walk would prevent encroachment into surrounding countryside.

24. Paragraph 148 of the Framework confirms that when considering planning applications, substantial weight should be given to any harm to the Green Belt. Although I regard the site's contribution to the Green Belt Purposes, as limited, it remains largely undeveloped and open. The appeal scheme would result in a loss of openness in both spatial and visual terms but this harm would be limited due to the site's existing context and strong boundaries.

25. For these reasons, I conclude that the appeal scheme conflicts with Policies GB2 of the LP, Policy CS1 of the CS and Paragraphs 137, 138, 147, 148, 149 and paragraph 150 of the Framework, which together and among other things seek to protect the Green Belt from development through concentrating development within existing settlements.

Character and appearance

Landscape effects

26. The site lies in Landscape Character Area (LCA) 18.3 Little Chalfont Rolling Farmland. This is characterised by rolling topography resulting from its varied geology and comprises arable farmland enclosed by boundary hedges with belts of Ancient Woodland with a scatted settlement pattern. Significantly, this description does not refer to dry valleys, although this is identified as a characteristic of the adjacent AONB.

27. The appeal site includes features consistent with LCA18.3. These include a rolling topography, with a 'plateau' at around 120m AOD[4] within its north section. This drops to the west towards Stonydean Wood, housing in Village Way and Loudhams Wood Lane, and to the east towards Lodge Lane. To the south, it drops to a shallow, dry chalk valley which extends along the southern edge of the appeal site. From the bottom of the dry valley, the site rises to include an area of former pasture that is almost entirely surrounded by woodland and hedgerow belts.

[2] Mr Fannon XX
[3] CD8.5
[4] Above Ordnance Datum

28. The appeal site includes some features which distinguish it from the LCA, with areas of pasture rather than arable farmland, the 'landscaped' features of the former golf course, views of surrounding residential development and Honours Yard and the domestic curtilage of Homestead Farm. These features are consistent with the Council's landscape assessment which informed the now withdrawn plan and which identifies that the suburban edge of Little Chalfont filters into the site[5].

29. Both the main parties agree that the site is not a valued landscape within the meaning of Paragraph 174a) of the Framework and the Guidelines for Landscape and Visual Assessment (GLVIA). Although this view is not shared by an interested party[6], the concept of a valued landscape is not defined in the Framework. The leading court case[7] on what constitutes a valued landscape is the Stroud judgement, which deals with whether the countryside in question has demonstrable physical attributes (rather than just popularity) which would take the site beyond mere countryside. In other words, whether the attributes take the landscape beyond the 'ordinary' or 'everyday'. Whilst the main parties differ on the degree to which the appeal site includes features typical or representative of the Little Chalfont Rolling Farmland landscape, they do not raise the area to the level of a valued landscape in Framework terms. I have no reason to disagree.

30. For sites not identified as 'valued', landscape guidance[8] advises that their value may be derived from an assessment of characteristics which include natural and cultural heritage, landscape condition, distinctiveness, recreational and functional value.

31. The site does not represent a rare landscape for this part of the LCA, despite the presence of Ancient Woodland. It has no recreational value since the closure of the private golf course, and no footpaths traverse it. The site does have natural heritage features derived from its topography, including the dry valley and the belts of Ancient Woodland. The site does not include features of any cultural interest.

32. The presence of these natural features has to be balanced against the absence of other features to which the Guidance refers and those features which are uncharacteristic of the LCA18.3 which I have referred to above. For these reasons, I find that that the site has a medium landscape value.

Character of the site

33. The Landscape and Visual Impact Assessment submitted with the application (LVIA) identifies that the proposed development would alter the field pattern within the site and, through the creation of the development platforms, would alter the profile of its natural topography, leading to the loss of natural grassland. The new and widened access points on Burtons Lane and Lodge Lane would also alter the character of the site's boundaries.

34. The form of development proposed across the northern part of the site would represent an extension of Little Chalfont in an area largely free of development.

[5] CD8.7 Landscape Assessment for GB options
[6] Michelle Bolger Landscape Architects
[7] Stroud District Council v SSCLG and Gladman Developments Ltd
[8] CD5.6 TGN 02/21 - the Landscape Institute 2021

These changes would be permanent and irreversible and would have a major adverse impact but would be restricted to just the northern part of the site.

35. However, these changes have to be balanced against other aspects of the appeal scheme. These include the protection and enhancement of the Ancient Woodland, the retention of the southern field, the creation of the SANG, recognised by Natural England, additional planting and Biodiversity Net Gain (BNG), calculated at around 20%. For these reasons, I conclude therefore that overall, the effects would be moderate adverse.

Trees and Hedgerows

36. The scheme would involve the loss of trees and hedgerows. The Council contends that the appellant's LVIA underplays the extent of this loss.

37. Across the site as a whole, there would be a loss of one Category A tree, 15 Category B and 53 Category C trees. Although a significant proportion of trees outside the belts of Ancient Woodland would be lost, these are primarily Category C and many are less than 10 metres in height making only a limited contribution to the character of the area at the present time. For these reasons, I find that their loss would not undermine the site's overall character. The landscape impact in this regard would be minor adverse.

38. Hedgerows form structural features both on the site's boundaries and within the site. Of the 13 hedgerows surveyed[9], five would be completely removed whilst three would be partially removed. However, several of these make only a limited contribution to the site's landscape character, representing golf course features delineating fairways, its boundaries and the boundary of Homestead Farm.

39. Others though are structurally important including H8 and H13[10]. Although my attention was drawn to the age of Hedgerow H8, the plans originally identified that a significant length would be removed but this has been altered by the revised Parameter plan, resulting in a net hedgerow loss of around 20 metres required to enable the through pedestrian and cycle route. H13 would only be partially removed to enable the road access into the site from Burtons Lane.

40. The proposed scheme would involve significant areas of hedgerow planting and enhancement of existing features as part of the SANG. I am satisfied that the amount of retained and additional hedgerow planting would retain hedgerows as an important feature of this site.

41. The Council objects to the proposed replacement planting on the basis that even after 15 years it would not reach comparable levels of scale, species complexity or visual enclosure when compared to that existing. However, I find that these matters could be satisfactorily addressed through an appropriate species mix and spacing addressed by a planning condition. For these reasons, the landscape impact in this regard would result in only a minor adverse change.

[9] CD1.18.5 Appx 12.7. I have used references from this study
[10] CD18.5 Vol1 Chapter 13

Dry Valley

42. A defining principle adopted by the appellant for the scheme design is the retention of the dry valley[11]. All the parties at the Inquiry agreed that this is a sensitive receptor. I have no reason to disagree. It extends from just west of Burtons Lane, through the southern part of the site, and turns north east into the AONB, above which is the embanked rail line.

43. The LVIA does not define the extent of the dry valley required to be free of development to ensure that it remains a legible feature within the scheme. The valley does not have a consistent profile through the site, with the steepest part being the northern slope lying immediately east of Stonydean Wood. Beyond this point the contours broaden, most markedly to the east abutting Lodge Lane. However, the southern slope is more consistent in profile, allowing for clearer definition of the valley profile which would be retained free from development.

44. The Masterplan identifies that the western development parcel would not extend below the 115 metre contour, with only a finger of housing proposed below this height, located just west of Stonydean Wood. The eastern development parcel extends down to around the 107 metre contour. Due to the gentler gradient of land in this area of the site, the extent of land free from development lying above the contour increases in area This would maintain the definition of the dry valley in the site when viewed from Lodge Lane.

45. Inquiry time was spent on comparing the extent of land free from development in the appeal scheme with that included in the site capacity study[12] for the housing allocation in the now withdrawn plan. However, comparison is unwarranted given that the draft allocation was for a completely different scheme from that before me, which included development on the southern slope on Honour's Yard and on what is now proposed to be the SANG. This would have potentially resulted in a different form of enclosure around the dry valley. That is not the situation in this scheme, where development is confined to just the northern slope.

46. The dry valley would remain as a legible natural feature through the site. Although the extent of land free from development would narrow by Stonydean Wood, the buffer areas retained free from development around the Ancient Woodland belts would allow views from both the proposed access points through the valley.

47. The valley's most sensitive point lies at its interface with the AONB, by the Lodge Lane access. Here, however, the extent of the dry valley retained free from development allows for an area of transition from the site to the AONB. The landscape impacts of the appeal scheme on this feature would be minor adverse.

Lodge Lane and the setting of the AONB

48. Lodge Lane follows the profile of the dry valley, extending down from Long Walk before rising from beneath the rail bridge to the junction with Church Grove. It is of insufficient width for two- way traffic and does not include pedestrian footways and lighting. It lies between the site boundary and the

[11] CD 1.11 Design and Access Statement
[12] CD7.3A

AONB, falling within its setting. Notwithstanding the presence of the rail bridge, the lane is a single entity, characterised by wooded embankments which increase in height and steepness north of the bridge. The lane's landscape character is defined by the extent of tree coverage and the tapestry of its understorey; these are characteristics recognised by the Conservation Board[13].

49. The Conservation Board objects to the carriageway widening which it maintains, would have an urbanising effect leading to an adverse impact on the setting of the AONB.

50. The widened access point would involve the removal of trees and hedgerows. These include two B grade trees, with the remainder either C category or 'U' value, which do not make a significant contribution to the landscape character or qualities of the AONB. In any event, the tree cover that would be retained to both sides of the proposed access on this frontage means that there would be only minor effects on the setting of the AONB at this point.

51. More extensive works of around 240 metres in length are proposed for the lane north of the proposed access, involving widening of the carriageway by around 0.7 metres. This would necessitate the removal of about 1 metre width of embankment, including the removal of trees within Group W13, and their understorey, and the erection of a retaining wall of around 140 metres length[14].

52. During the Inquiry I was presented with additional information on the anticipated loss of trees along this part of Lodge Lane[15] which identified that seven and not fourteen trees would be removed from Group W13. I understand the concerns of both the Council and the Conservation Board, but this is a well treed bank which benefits from mature trees located across its full extent. The loss of seven trees along the lowest levels of the bank would have a negligible adverse impact on the setting of the AONB at this point, given the number of trees on the western edge of the lane.

53. I recognise that the proposed retaining wall would initially have an urbanising effect but this would not prevent a newly planted understorey from growing over time.

54. There would be minor effects with no material harm to the setting of the AONB by Year 15 (Y15), arising from the proposed works to both the widened access and carriageway.

Conclusions on landscape effects

55. Overall, I find that the site has a medium landscape value, given that it includes features uncharacteristic of its LCA. It has a medium susceptibility to the appeal scheme, given that over 50% of the site would remain free from built development and its most distinctive landscape features, including belts of Ancient Woodland and boundary hedgerows, would be enhanced and protected. The proposed development would broadly respect the form of the dry valley.

[13] Conservation Board letter 23 August 2022
[14] CD 1.22A
[15] CD7.22 Waterman Tree Note

56. In my view, by Y15, the proposed mitigation planting and retained landscape features would allow the integration of the proposed development leading to an overall moderate adverse impact.

57. Overall, the proposed works to Lodge Lane would not result in material harm to the distinctive profile of this lane and the setting of the AONB.

Visual effects

58. The Zone of Theoretical Visibility (ZTV) is drawn tightly around the perimeter of the site, reflecting its self-containment which results from its topography and extent of existing tree belts. This is confirmed by the LVIA, which identifies that beyond its immediate context, views of the appeal scheme would have a negligible effect.

59. I address the viewpoints and those receptors most affected, based on the accompanied site visit completed during the Inquiry. As a general point I acknowledge that the most significant effects would be experienced during construction, but I restrict my comments to its Y15 effects.

Lodge Lane

60. By Y15, the proposed works for the western edge of Lodge Lane would have had sufficient time to mature. The approach from either direction would be largely masked by both existing trees and mitigation planting. Accordingly, views would be limited for pedestrians with both cyclists and motorists having only glimpses of the eastern parcel.

61. To the south of the rail bridge, the signage, lighting and road markings associated with the new access would be visible, but only directly at the access point. At this point, clear views of the road and the eastern development parcel would be possible.

62. Although the Council assesses the impact on these views as being moderate to major adverse, I find that the effects on pedestrians, the most sensitive receptor would by Y15, be limited.

AONB

63. Walkers along foothpath PROW LCF/11/1 through New Hanging Wood within the AONB, are sensitive receptors. From within the wood, the impact of the new access its road signage and lighting and the eastern parcel, would be largely masked by the depth and density of surrounding woodland. At this point, any impact on views would be negligible.

Loudhams Wood Lane

64. Receptors would be the occupiers of properties with rear windows facing towards the site. These properties are separated from the appeal site by a thick belt of mature vegetation.

65. The Parameter plans identify that new development along the western development parcel would be up to 2.5 storeys in height. The proposed height, together with the separation between the receptors and the development parcel, would be sufficient to minimise views, with any impact being minor adverse.

Burtons Lane

66. Presently, there is an existing footway along the east side of Burtons Lane, adjacent to the western edge of the appeal site. The scheme would involve the removal of a significant tree and a length of boundary hedgerow to create the road access but development would be set behind a thick landscape belt on this boundary. These changes would afford northbound footway users direct views of the western development parcel, but only on the approach to the proposed access. Further south the retained hedgerows would restrict views into the site.

67. Walking south, whilst intermittent views of the development may be possible through the boundary hedge, the dominant view would be towards the retained dry valley and Loudhams Wood.

68. For these reasons, despite the sensitivity of pedestrians, the impact on views would be limited.

Village Way

69. Receptors would be the occupiers of several properties at the end of the road, with rear windows facing towards the site. A thick tree belt extends across the boundary between their rear gardens and the appeal site. The appeal scheme includes residential development of around 2.5-3 storeys immediately to the rear, on rising land.

70. Despite the change in level between existing properties and the appeal site, and the height of the proposed dwellings, views would be limited due to the depth of existing screening. Furthermore, even were the proposed MUGA[16] to include floodlights, these would only be glimpsed. I conclude that the impact on views from the existing residential properties would be limited.

Dark Skies

71. South of the existing urban edge of Little Chalfont, the appeal site represents an area of dark skies. The Conservation Board has raised an objection to the potential loss of dark skies and its impact on wildlife corridors.

72. I am satisfied, however, that the degree of natural enclosure around the site, together with the use of conditions controlling matters such as light spillage and intrusion, could sufficiently mitigate any wider harm in this regard.

Conclusions on visual effects

73. The visual effects of the appeal scheme are largely contained within a ZTV of limited extent. The most sensitive receptors would be residents of surrounding properties with views of the scheme which, largely through a combination of topography and existing planting, would be limited. Footpath/footway users within the AONB would experience only limited adverse effects.

Burtons Lane Area of Special Character (ASC)

74. The western part of the site lies adjacent to the Burtons Lane ASC identified in the South Bucks Townscape Study. This includes Green Suburban Roads or Woodland Roads. Common to each of these typologies are large detached

[16] Multi Use Games Area

residential properties set in spacious plots along broad avenues of mature trees. These areas have densities of around 5 dph.

75. The Council's objection is twofold in respect of the scheme's impacts on the ASC. Firstly, notwithstanding the scheme's density, the objection relates to the proposed disposition[17] of development within the site. In particular, that the western parcel's set back from the frontage to Burtons Lane is excessive and that the separation distance between the western parcel and the rear of properties on Loudhams Wood Lane would undermine a strong perimeter block structure.

76. Secondly, the Council identifies the ASC as having a 'high landscape sensitivity', resulting in the appeal scheme having a moderate adverse impact on this area[18].

77. In my view, the nature of development suggested by the Parameter plans allows for a break between the surrounding urban form and the character of what is proposed. Separation of the scheme from the frontage to Burtons Lane and from the rear of properties in Loudhams Wood Lane with additional landscaping, allows the scheme to sit as a new form of development without comparison to the ASC. In this way, its physical impact on the character of the ASC would be significantly reduced.

78. For these reasons whilst I recognise that the ASC has a degree of sensitivity, the disposition of the western parcel would respect this. I consider that the scheme would not adversely impact on the character or appearance of the ASC.

Overall conclusions on character and appearance

79. The Council states that the appeal scheme's character and appearance would conflict with several policies.

80. Policy CS22 seeks to protect the setting of, and views to and from the AONB. Although the Council refers to LP Policy LSQ1, this refers solely to development within the AONB and has only limited application to the proposed scheme which lies outside its boundaries. The proposed access works and the widening of Lodge Lane are limited in extent and would have only a limited effect on the setting of the AONB and would not undermine its landscape and scenic beauty.

81. Local Plan Policy GB30 seeks to protect the rural landscape and Policies GC4 and TW6 require the protection of hedgerows and that there should be no loss of trees. The Council identifies that the scheme would conflict with the site's natural features including hedgerows, trees and woodland. However, the areas of Ancient Woodland would be protected and, although there would be a loss of trees and hedgerows across the site, this would principally affect Category C or unclassified trees and could be off-set by mitigation planting. I acknowledge however, that the development would erode the site's natural landscape features in conflict with Policy GB30 of the LP, but this would be largely contained to just one area of the site.

82. That said, there would be no conflict with Policy CS32, as it would open the site up to public access, include a SANG and connect to the footpath network within

[17] Mr Fannon PoE
[18] Ms Huijer PoE para 4.4.9.13

the local area. The scheme would therefore contribute to the area's green infrastructure.

83. To conclude, whilst I find that there would be no conflict with Policy LSQ1 and H4 and only limited conflict with Policies TW6, GC1, GC4 and GB30 of the LP and Policies CS22 and CS32 of the Core Strategy, the degree of impact on the site's overall character and appearance would be limited in extent.

Highway Safety

84. The Council's original objection concerned the appellant's traffic modelling for junctions in the local area. Following receipt of new evidence, the main parties completed a Statement of Common Ground which identified that there were no outstanding areas of disagreement. However, a number of interested parties maintain objections which I address below.

Lodge Lane

85. During my site visits, the lane was only occasionally used by pedestrians, cyclists and vehicles, although I appreciate that these only provide a snapshot in time.

86. I recognise that its widening could lead to an increase in traffic which could travel at higher speeds than at present despite the retention of the existing 40mph speed limit. However, despite these changes the risks of greater conflict with pedestrians would be limited due to inclusion within the scheme of pedestrian/cycle access routes which lead to the centre of Little Chalfont and the rail station.

87. Whilst interested parties suggest that the design of the widening scheme may not fully adhere to the advice included in Manual for Streets, the County Council, as the Highway Authority with responsibility for highway safety, is satisfied with the proposed layout and does not object. I am satisfied that these matters were fully addressed by the Stage 1 RSA[19] and that there would be no material harm in this regard.

Traffic Impact Analysis

88. Other concerns relate to an apparent 'downward adjustment' in trip numbers for the morning peak, with the modelling assuming that large numbers of vehicles 'bypass' the centre of Little Chalfont. Furthermore, other assumptions appear to 'double discount' the number of 'local' trips to the proposed community hub within the site.

89. I recognise that the traffic modelling underwent successive iterations on the traffic movements around the Church Grove/Amersham Road/Stoney Lane junction. This resulted in traffic figures being revised and substituted with historic manual counts and then tested using various adjustments based on other modelling evidence. I am satisfied that the 'lost' figures have now been appropriately accounted for.

90. In respect of the size of the proposed store, the 1,000 square metres floorspace included in the appeal scheme include a range of uses from Ea), Eb) Ef) and F2b), covering retail, café/restaurant, medical services and meeting hall, and not just retail space as the interested party suggests. As a result, I

[19] Road Safety Audit

am satisfied that concerns over a material increase in traffic coming to the site from outside the area to shop in the proposed store, are unlikely to arise.

Capacity of Roughwood Lane

91. I accept that there would be an increase in traffic arising from the appeal scheme on local roads. However, I do not accept that this could lead to an unacceptable increase on the volume of traffic using Roughwood Lane as a consequence of 'rat-running' to the A413 when the A404 is blocked. Traffic counts[20] identify that this lane has sufficient capacity to accommodate the additional traffic arising in such circumstances. I find that there would be no material harm in this regard, during times of stress on the strategic road network.

Cycle route along the east side of Burtons Lane

92. The Parish Council expressed concerns over whether there would be sufficient space along the east side of the Burtons Lane for the proposed pedestrian/cycle path.

93. The works required would extend for around 500 metres along the east side of Burtons Lane and would be contained within highway land, lie outside the boundary of the appeal site and do not require planning permission. The accompanied site visit identified that five trees would need to be removed, but that space of around 3 metres width could be developed, which would be sufficient for the shared path. The shallow drain along this side of the lane could be culverted to ensure sufficient space was created.

94. Although there would still be pinch points along the route, it could accommodate both pedestrians and cyclists safely. The route would provide direct access from the site to the centre of Little Chalfont. I am satisfied that these arrangements could deliver the shared space as suggested by the appellant. These matters would form part of a separate agreement negotiated under the Highway Act 1980.

95. In consideration of all these matters, I conclude that the appeal scheme does not conflict with Policies CS25 and CS26 and the Council's Highways Development Management Guidance,[21] which together and among other things seek ensure that the development of transport infrastructure keeps pace with growth.

Whether or not the proposal would lead to an unacceptable loss of protected species and protected habitats Habitats

96. In advance of the Inquiry, the main parties agreed a SoCG relating to this matter. In light of that, the Council did not pursue during the Inquiry the related reason for refusal included in its decision. The SoCG identifies that protected species including Bats, Badgers, Reptiles including Slow Worms and Grass Snakes, common amphibians, breeding birds and a common assemblage of invertebrates are found across the site. These species are found in a range of common habitats including grassland, scrub, ruderal vegetation, woodland, native hedgerows and garden.

[20] IDX5
[21] Buckinghamshire County Council Highways Development Management Guidance: Managing the transport and travel impact of new developments (July 2018)

97. Notwithstanding the outstanding concerns of one of the objectors, I am satisfied that the completed surveys included with the appeal for both protected species and habitats are sufficient to allow for an informed view on the likely impacts of the proposed development. I acknowledge concerns regarding the potential for bat roosts in trees on Lodge Lane. However, it is unknown at this stage whether a particular tree would be affected by the proposed widening scheme. Further surveys would be required in line with the Bat Conservation Trust's guidelines which could identify rarer bats if the appeal was to succeed. That could be secured by condition.

98. In respect of Great Crested Newts (GCN), whilst surveys were required for all water bodies within 500 metres of the site boundary, it would seem not all of these were surveyed. The interested party's report[22] acknowledges that these ponds would be 'below average' in terms of their potential as habitats for GCN and each lies at some distance from the site. Migration of GCN across a road, through residential properties and the rail line to the site, would therefore be unlikely.

99. The BNG calculation is derived from the extent of semi natural habitats to be retained along with those habitats of the highest ecological interest. This amounts to uplifts of around 29.68% in relation to habitat units and 42.13% for hedgerow units. Although the interested party took issue with the calculations adopted by the appellant, it was acknowledged that only a marginally different score results.

100. Although enabling legislation was enacted in November 2021, there is no legal requirement to secure BNG until the Government issues guidance for a 10% biodiversity net gain. Nevertheless, the S106 includes the proposed mitigation measures as a benefit of the scheme.

101. For these reasons, I conclude that the appeal scheme does not conflict with CS Policy CS24 which seeks to conserve and enhance biodiversity.

Infrastructure

102. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 57 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.

103. The completed S106 requires that 40% of the dwellings proposed are secured as affordable housing units, with an appropriate mix in line with the Council's local housing needs. Provision would be phased, linked to occupation of the market housing and that first lets would be through the Bucks Home Choice Scheme. Other provisions include mortgage protection for First Homes. These arrangements are supported by Policies CS8 and CS10 of the CS.

104. Other covenants secure provision of the SANG and its management by a dedicated management company responsible for open space, the sustainable drainage scheme (SuDS) and communal areas, pursuant to CS Policies CS31 and CS32.

[22] BIOSCAN

105. The S106 also includes financial contributions towards transport measures for housing and the retirement home, the car club (at £250.00 per dwelling and £1,000 for the retirement home) and a travel plan and monitoring fee of £5,000. These measures are supported by Policies CS24, CS25 of the CS and Saved Policies TR2 and TR5 of the LP, which seek the provision of a genuine choice of transport modes.

106. Arrangements for the procurement of a registered care home operator are secured by the Agreement, as are provisions to restrict occupation of the home to those who are aged 55years and over, with financial contributions for a basic care package. These provisions are in line with Policy CS12 of the CS.

107. Other covenants require the provision of a LEAP, LAP and NEAP[23] within the site, and that the SANG should be at least 10ha in area. These provisions are appropriate given the scale of development proposed and are supported by Policy CS31 of the CS.

108. The Agreement includes the provision of land within the scheme for up to 15 self- and/or custom-build dwellings. Although there is no local policy support for such, it is supported by legislation[24] and Paragraph 62 of the Framework.

109. The scheme includes the safeguarding of land for a new primary school, the delivery of which would be tied to trigger points based on housing delivery. There is some doubt, as to whether this would proceed, or whether an existing local school would be extended to accommodate the identified need. Covenants included in the S106 include financial contributions towards education provision based on a formula for each dwelling, depending on their size. This is supported by CS Policies CS29 and CS31.

110. The S106 also includes the provision of land for a community building within the site, in accordance with CS Policy CS29. The Parish Council requested that instead, the money could be directed towards the refurbishment of the existing community hall in Little Chalfont[25]. Whatever the merits of that possibility, I can only consider the arrangement that is proposed as part of the appeal scheme.

111. The agreement includes a financial contribution of £3,000 towards signage/wayfinding to encourage access to the AONB, in line with Policy CS32 of the CS, as well as contributions towards the Chiltern Beechwoods SAC SAMM26, which I address later in this decision.

112. Other obligations secure employment opportunities for local people during the construction period. Although there is no locally adopted policy to support this, it is consistent with Paragraph 81 of the Framework which seeks, among other things, to support economic growth and activity.

113. The S106 includes the provision of infrastructure which is necessary, directly required and fairly and reasonably related in scale to this development. I am satisfied that each of these covenants fall within the provisions of Regulation 122 of the CIL Regulations and Paragraph 57 of the Framework.

[23] Locally Equipped Area for Play, Local Area for Play, Neighbourhood Equipped Area for Play
[24] The Self Build and Custom Build Act 2017
[25] IDX 26
[26] Strategic Access Management and Monitoring Strategy for the Chiltern Beechwoods SAC

Chilterns Beechwoods Special Area of Conservation (SAC) and Ashridge Commons and Woods Site of Special Scientific Interest (SSSI)

114. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) as competent authority I am required to undertake an Appropriate Assessment of the development on the basis of its Likely Significant Effects on the Chiltern Beechwoods SAC as a European Site. The mitigation proposed to address these effects are the provision of SANG and Strategic Access Management and Monitoring.

115. Having regard to the submissions of Natural England and relevant planning policy, including the Council's Chiltern Beechwoods Special Protection Area Avoidance Strategy Supplementary Planning Document, I consider that the proposed measures would adequately mitigate the recreational effects of the proposed scheme, either alone or in combination with other plans and projects, so that there would be no adverse effect upon the integrity of the SAC and its SSSI. The mitigation would be secured and managed via the s106 Agreement.

116. These covenants are supported by Saved Policy NC1 of the LP. The provision of the SANG within the site, and its management plan, as included within the Agreement, are supported by CS Policy CS24.

117. I am satisfied that each of these covenants fall within the provisions of Regulation 122 of the CIL Regulations and Paragraph 57 of the Framework.

118. The Council's objection related to the accuracy of trip modelling for the appeal scheme and its implications for air quality. This has been resolved[27].

119. Results from the updated traffic modelling identifies that at each of the receptor points results are predicted to be below the nitrogen dioxide (NOx) annual mean objective in 2026 and the same for particulate matter (related to the size of particles in the atmosphere). Both main parties agreed a Technical Note[28] on this matter and the Council did not pursue its original objection during the Inquiry.

120. Natural England was consulted as part of the appeal and confirmed that its only concern related to impacts on the pathway derived from recreational activities arising from the scheme on the SAC. Air quality has been discounted[29]. No substantiated evidence is before me to counter this view.

121. I am content, therefore that there would be no adverse impact on human health or biodiversity including on the Chiltern Beechwoods SAC.

122. In the absence of other evidence to the contrary, I am satisfied that the revised modelling fully addresses the Council's original objection. For this reason, I conclude that that the appeal scheme would not conflict with CS Policies CS25, CS26 and Saved Policy GC9 of the LP.

Flood Risk

123. The appeal site lies within Flood Zone 1 with a low risk of fluvial flooding, although it includes two flow routes. The route which follows a west-east direction through the site results in some ponding on its eastern edge. The

[27] SoCG on Transport Matters
[28] CD1.43
[29] Environmental Statement

appeal scheme includes an infiltration based system, with run-off attenuated within basins located across the site. The critical issue is whether the appeal scheme would lead to an increase in flood risk beyond the site.

124. A Technical Note[30] submitted with the appeal addresses the substance of the Council's original objection, including updated modelling, infiltration rate testing, the location of the SUDS basins and surface water drainage calculations. In light of that Technical Note, the Council did not pursue its objections in this regard.

125. In the absence of any evidence to the contrary, I am content that the development would not lead to an increase in flooding off-site and find no conflict with Policy CS4 of the CS and its related guidance[31].

Best and Most Versatile (BMV) Land

126. The appeal site comprises Grade 3 agricultural land, although no evidence has been presented on whether this falls predominantly within Grade 3a or 3b: Grade 3a land is classed as BMV agricultural land, whilst grade 3b is not.

127. I was advised, that across the local area, there are considerable tracts of Grade 3 land[32]. In the scheme of things therefore, the loss of around 14ha as a consequence of the development proposed would not, even were the whole site classed as BMV agricultural land, materially prejudice the supply of such land in the local area, which could adversely impact on the economics of food supply. That said, that the appeal scheme has the potential to result in the loss of BMV land, albeit limited in extent, falls to be considered as a disbenefit the scheme, and would be contrary to Policy CS4 of the CS and Paragraph 174b) of the Framework, which together and among other things seek to protect agricultural land from development.

Other Considerations

Provision of market and affordable housing

128. The parties agree that the Council[33] only has 2.5 years supply of housing land for the period 2021-2026. However, this is declining, and from the current year stands at 1.81 years supply (2022-27). This represents a chronic position.

129. In these circumstances, both the main parties afford the proposed provision of 215 units of market housing and 152 affordable housing, very substantial weight[34].

130. The undersupply of housing has persisted for over a decade, resulting in an overall housing need in the Chilterns Area of 2,068 homes for the period 2016-2036, or around 104 dwellings each year.

131. For the last 15 years, the median and lower quartile levels of affordability within the District have been considerably higher in Buckinghamshire than the wider south-east. In respect of median house prices and lower quartile prices, the Little Chalfont ward has been significantly higher than for the rest of

[30] Hydrock Technical Design Note 3 November 2022
[31] Sustainable Construction and Renewable Energy SPD 2015
[32] CD 1.18 EIA Main chapter
[33] The SoCG on housing land identifies that this is appropriately measured across the administrative area of the former Chiltern District
[34] Mr Fannon PoE

Buckinghamshire. A similar pattern is found for median private rents, which are higher across Buckinghamshire than the rest of the south-east.

132. During this same period, only 13% of housing completions within the Little Chalfont ward were defined as 'affordable', despite the policy requirement of 40% provision during most of this period. Within the last five years, there has been a 79% shortfall in the provision of affordable housing, compared to the HEDNA[35] 2016.

133. To address the extent of historical undersupply, the appellant estimates that around 180 new affordable dwellings are required each year. This compares to just 120 affordable dwellings included in extant permissions. These figures were not contested by the Council during the Inquiry.

134. The appeal scheme is policy compliant in terms of affordable housing provision and would make a significant contribution to addressing both market and affordable housing need. The suggested mix of units is in accordance with the Council's housing needs.

135. I acknowledge the Council's position that the most appropriate way to address these shortfalls would be through a plan-led approach. However, following the withdrawal of the joint plan, it is unclear when a new plan will be adopted, with officers indicating that this could be 2026. After this date, an application would still have to be determined. In contrast, the appellant anticipates that in the event of this appeal being allowed development could proceed in 2024[36], with around 80% of the whole scheme being built out by 2029.

136. The Council has cast doubt on the scheme's 'deliverability', as defined by the Framework, due to the lack of information before the Inquiry on the Agreement in respect of the footbridge over the rail lines[37]. However, the Inquiry was informed that heads of terms have been agreed with London Transport,[38] and for this reason I am satisfied that it could be delivered in advance of the completion of the new local plan.

137. Finally, the Council has not advanced an argument to demonstrate that this level of housing need could be met through the recycling of derelict or urban land in line with Paragraph 138e) of the Framework.

Custom and Self Build Housing

138. Provision for this form of housing is included in statute[39], which requires that Councils publish local registers of custom house builders who wish to acquire suitable land on which to build their own home. It requires that Authorities must give suitable permissions to allow a supply of serviced plots to meet demand. These requirements have been given greater impetus by the recommendations of the Bacon Report[40] and the Framework.

139. The parties differ on the degree of weight they each ascribe to the provision of the 15 units proposed, with the Council affording medium weight and the appellant substantial weight.

[35] Housing and Economic Development Needs Assessment 2016
[36] Mr Kindred XX
[37] Mr Kindred EiC
[38] As advised by Mr Kindred for the appellant during the Inquiry
[39] Self Build and Custom Housebuilding Act 2015
[40] CD E41

140. The Council has no adopted or interim policy for this form of housing, despite the imperative accorded to its delivery by statute. I understand the Council's reservations on the use of the 'Build Store plot' web site, but it accepts that there is an unmet need of 347 units for the period 2016-2021 and it is agreed between the parties that the local connection test cannot be applied retrospectively.

141. Evidence[41] demonstrates that cumulatively across the Base Periods, the Council has continually failed to meet the demand for self-build homes identified in the Register. These figures were not contested by the Council. In these circumstances, the provision of 15 units would be a significant benefit, given the Government's commitment to this sector and the continued shortfall across the Council's area.

142. My attention was drawn to an appeal decision where an Inspector faced with a similar situation gave substantial weight to this matter[42]. I too afford this matter substantial weight in this appeal. Fifteen units would meet local demand and widen housing choice.

Accommodation for the elderly and retired

143. The appeal scheme includes a 100 bed retirement scheme and a 60 bed care home. Whilst the Council does not dispute that there is a need for this type of accommodation, its main concern relates to the excessive amount of accommodation proposed compared to local need, affordability and the likely care regime.

144. The appellant's evidence[43] identifies the scale of social care needs for the period 2020-2035 across the former Chiltern District. This identifies that the population aged over 65 years is projected to increase by around 18%, with a marked increase for the cohorts aged 85-89 years and 90+ years of around 45% and 60% respectively. Within this increase, the number of people who cannot perform at least one domestic task and one self-care task, thereby requiring some degree of support would increase significantly as well. This points to the level of need within the former Chiltern District area, which reflects the priority that this form of accommodation is accorded by national policy[44].

145. In the context of these figures, the application of different modelling systems to identify demand for accommodation vary. However, a consistent picture emerges of the likely level of demand, based on the demographic modelling applied by the appellant. For the period 2020-2035, a projected need for 186 extra care housing units to rent, and 223 units for leasehold, is identified within the former Chiltern District area.

146. Both parties accept that up to 2025, around 276 units of accommodation are required[45], although the Council indicates that its modelling for the new Authority area amounts to just 30 additional residential home and 228 nursing home beds by the year 2037.

[41] Mr Moger PoE
[42] CD6.5
[43] Iain Warner PoE
[44] PPG Ref ID:63-001-20190626 identifies the need for this form of specialist accommodation as critical
[45] Mr Kindred PoE

147. Whilst I understand the Council's concerns regarding the lack of detail relating to the levels of care and its affordability, I am satisfied that the appeal scheme could make a considerable impact on addressing the under-supply of units based on the anticipated increase in population alone.

148. I am also mindful, given the chronic undersupply of housing land, that the provision of additional units of accommodation could release under occupied housing across the Council area.

149. Even though the appellant has not clarified the 'care regime' and the mix between rent and leasehold, there is an established need for both care and retirement accommodation in the local area. I afford this aspect of the proposal substantial weight.

Economic benefits

150. The appellant identifies direct and indirect economic benefits[46] which could be delivered by the appeal scheme. These include 470 construction jobs, resulting in around £46 million Gross Value Added (GVA) for each year during the construction period. A further £12 million could be derived from the additional spend arising from the new residents of the proposed scheme in local shops and services.

151. Whilst these measures would be related to the construction period, sustained economic advantages include 118 full time equivalent jobs from employment in the community hub, the retirement and care homes, and £5.2 million generated in GVA.

152. I recognise that these benefits are derived from the application of simple metrics, but I am in no doubt that significant economic advantages would arise from the delivery of the scheme.

153. Other benefits may arise from the provision of housing, particularly affordable housing, supporting the local economy by broadening the pool of local labour who could afford to work locally. This could address employers' concerns currently unable to attract local labour because of rising house prices.

154. Whilst the main economic benefits of this scheme would be considerable, they would be largely temporary, being derived from the construction period and would not meet the Council's local employment strategy which seeks high skilled and high value employment. However, in the context of the recent downturn in the national economy[47], when considered together with the longer term employment provision on the site and the contribution that future residents would make to the economy through local expenditure, I afford the economic benefits moderate weight.

Biodiversity Net Gain

155. The scheme includes a significant BNG of around 20%.

Open Space and Community benefits

[46] Ms Collins PoE
[47] Ms Collins PoE

156. The appellant identifies that Little Chalfont includes an under provision of community facilities and open space[48]. The appeal scheme includes an over-provision of open space and community benefits, reflecting both quantitative and qualitative improvements which could help address these shortfalls. In addition, the provision of pedestrian routes through the site would allow public access from the station and town centre to the AONB.

157. Whilst I acknowledge the importance of these measures, given the wealth of accessible countryside around the town, these advantages can only be accorded limited weight.

Planning Balance and Overall Conclusion

158. The appeal scheme constitutes inappropriate development which is, by definition, harmful to the Green Belt. To this must be added further harm as a consequence of the appeal scheme through loss of openness of the Green Belt and harm to its Purposes included in Paragraph 138b) and c) of the Framework, limited harm to the setting of the AONB, some, albeit limited harm in terms of the character and appearance of the area generally, and limited harm through the loss of BMV land. Paragraph 148 of the Framework confirms that any harm to the Green Belt is to be given substantial weight.

159. Inappropriate development in the Green Belt should not be approved other than in very special circumstances, which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. As set out above, there are substantial benefits arising from the scheme. These include the provision of a choice of housing which includes market, affordable, retirement and care and custom/self-build homes at a time when there is pressing need, not least as a consequence of the Council's chronic five year housing land supply. These meet the social objectives of the Framework. The extent of housing need is so large that it could not be addressed through the reuse of urban land.

160. The economic objectives of the Framework would be achieved by the scheme. Although much of the economic benefit would be temporary, arising during the construction period, there would be sustained employment in the services and facilities on the site, together with increased spend in local shops and services. In accordance with Paragraph 81 of the Framework, these benefits attract significant weight.

161. The environmental benefits of the Framework would be achieved through the large contribution of BNG and, to some extent, through the provision of the SANG. The extent of the BNG attracts substantial weight. Although provided as mitigation, the SANG would be available for use by existing local residents and a limited benefit may accrue in this regard. I also consider that the provision of other benefits related to open space and community space above the policy requirements, and footpaths and cycle routes through the site, attract limited weight.

162. Taken together, these other considerations are considerable and clearly outweigh the identified harm to the Green Belt and other harm, such as to amount to the very special circumstances needed to justify the development.

[48] Mr Kindred PoE table 9.3

163. In the absence of a five year supply of housing land, the most important policies for determining this appeal are out of date and the so-called tilted balance, as set out in Framework paragraph 11d)ii), is engaged. In other words, permission should be granted unless the presumption in favour of sustainable development can be displaced. That is not to say, however, that any conflict with relevant policies should be disregarded. That will depend on their consistency, or otherwise, with the policies in the Framework.

164. The fact that policies are deemed out-of-date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 219 which, amongst other things, states that the closer that local policies are to those in the Framework, the greater the weight that may be given to them. As such it is perfectly possible for policies which are deemed out-of-date for reason of an inadequate land supply to still carry significant weight.

165. The most important policies relate to the outstanding matters of Green Belt and landscape impacts. I share the parties' views that LP Policy H4 is not applicable in this instance, given the site's location beyond the boundaries of the ASC.

166. Policy CS1 sets out a settlement strategy focussing new development within existing settlements. That accords with the broad principles of sustainable development which underpins the Framework. However, this strategy is predicated on a housing allocation dating from 1997 which is no longer relevant. Given this context, I accord the appeal scheme's conflict with the policy only moderate weight.

167. Policy GB2, which reiterates the presumption against inappropriate development in the Green Belt, was drafted before the adoption of the current Framework. It is central to the main issue in this appeal. However, it does not refer to the 'very special circumstances' which could allow inappropriate development in the Green Belt. For this reason, I accord the appeal scheme's conflict with the policy only limited weight.

168. I regard LP Policy LSQ1 and Policy CS22 as broadly consistent with Paragraph 176 of the Framework. I find that Policy LSQ1 is, however not directly related to the issues before me.

169. I find no conflict between the appeal scheme and Policy CS32 as it would make a significant contribution to GI in this part of the Borough. Policy GC4 is more restrictive than Paragraph 131 of the Framework on the protection of trees. Accordingly, it is not entirely consistent with the Framework. As such, I place only moderate weight on the scheme's conflict with this policy.

170. Policy GB30 requires development to adhere to the scenic beauty of its wider context. This is a Green Belt policy but seeks to introduce landscape considerations. This fudges the issue between a well-established national policy and landscape considerations. Accordingly, I accord the conflict of the appeal scheme and this policy limited weight. Policy TW6 seeks to resists the loss of woodland. It goes beyond Paragraph 131 of the Framework and I accord the conflict between the appeal scheme and the policy moderate weight.

171. LP Policy GC1 sets out detailed parameters required to achieve good design and is similar in intent to Policy CS20. I regard these as broadly consistent with

Paragraph 130 of the Framework and accord the appeal scheme's conflict with these policies significant weight.

172. In summary, I find no conflict between the scheme and Policies LSQ1, CS32 and H4. I accord only limited weight to the conflict with Policies GB2 and GB30 and CS22 with moderate weight accorded to conflicts with Policies CS1, CS20, GC1, GC4, and TW6.

Planning Balance

173. The determining issue in this appeal is the conflict between the Green Belt and housing development. Whilst I accord substantial weight to any harm to the Green Belt, the site does not strongly meet the Green Belt purposes. Although there would be spatial harm to openness from the scheme, its visual effects would be largely contained. The conflict with Policies GB2 and CS1 would be limited given their inconsistencies with the Framework.

174. The site has a medium landscape value and although there would be a high magnitude of change on part of the site, this can be balanced against the retention of its natural character on the remainder including the protection and enhancement of the belts of Ancient Woodland. The legibility of the dry valley would not be unduly compromised. Although there is conflict with landscape policies GC4, CS20, TW6 and GB30 the landscape harm arising from the scheme would be of a minor/moderate adverse scale.

175. The loss of around 15ha of Grade 3 agricultural land can be balanced against the prevalence of agricultural land in the local area which would not be affected by these proposals.

176. Whilst I accord significant weight to the design policies GC1 and CS20, the degree of harm on the ASC would be limited.

177. Whilst the scheme would conflict with Policy CS22, the harm arising from the proposed works to Lodge Lane and the widened access into the site lie outside the AONB and would be limited in extent and localised. These works would not undermine its setting and scenic beauty.

178. Set against these limited harms to both the Green Belt and landscape, the scheme would deliver a choice of housing addressing a chronic and deteriorating undersupply. These are substantial benefits which in themselves clearly outweigh the substantial harm arising from its location in the Green Belt.

179. The Council advances a case against the scheme that the permanence of the Green Belt should be protected from death by a 'thousand cuts'. This argument requires balance against the absence of any Green Belt review, despite the Council's commitment included in its adopted local plan. This matter has been compounded by the withdrawn joint local plan[49]. Whilst the emerging plan is a new opportunity to address this matter its adoption is several years away in contrast to the delivery timescale of this scheme.

Conclusions

180. The appeal scheme would make a substantial contribution to addressing the Authority's chronic under supply of housing land in a location which allows

[49] IDX17

access to services by walking and cycling. Other considerations, for example, its economic and environmental benefits are important matters in support of the scheme.

181. When considered overall, whilst I accord substantial weight to the harm arising to the Green Belt through inappropriateness and other harm, this is clearly outweighed by the very special circumstances of this scheme.

182. Overall, I conclude that the benefits of the appeal scheme would significantly and demonstrably outweigh the harm identified when assessed against the policies of the Development Plan, when taken as a whole. As such the proposed development benefits from the Framework's presumption in favour of sustainable development.

183. Accordingly, the appeal is allowed and planning permission is granted.

184. I recognise that this outcome will be disappointing to those opposing the development. However, the views of local people, very important though they are, must be balanced against other considerations, including national and local planning policy. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan, the National Planning Policy Framework and other material considerations. On balance though, the evidence in this case leads me to the view that the appeal should succeed.

Conditions

185. I have considered the suggested conditions in light of the related discussion at the Inquiry and the advice in both the Framework and the Government's Planning Practice Guidance. The conditions and wording set out in the schedule at Annex D below reflect that discussion, although I have amended a number to make them more concise, precise and enforceable. In a number of instances, I have not included the suggested list of overly prescriptive bullets on the basis that it would be a matter for the local planning authority, in the first instance, to come to a view as whether the submitted details were sufficient to achieve the stated reason for the condition. The numbers referred to below relate to the corresponding condition in the schedule.

186. In addition to the standard conditions relating to outline schemes (1-3), it is necessary, in order to provide certainty, to identify the plans to which the decision relates, but only insofar as they relate to the matter of access. (4). The application was accompanied by an Environmental Statement, based on certain parameters. The Environmental Statement, and those parameters, informed the evidence to the Inquiry. In order to ensure that the development would not give rise to environmental or other impacts any greater than those already assessed within the Environmental Statement and other evidence, conditions are necessary to secure compliance with those parameters/quantum of development. (5-9).

187. Conditions 10-32 are necessarily worded as either pre-reserved matters, or pre-commencement/reserved matters stage conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measures which could be used to protect legitimate interests.

188. The scale of the development scheme requires the submission of a phasing plan to ensure that key aspects of the scheme are carried out in a logical and timely manner in order to secure delivery of planned outputs and to minimise adverse effects on local residents and infrastructure. (10) Similarly a Masterplan and Design Code is required with the aim of securing high quality development, pursuant to Local Plan Policy GC1 and Core Strategy Policies CS4 and CS20. (11) A strategic landscaping plan is also required in order to ensure a strategic and comprehensive approach to the landscaping of the site, in accordance with Local Plan Policies GC1, GC4 and NC1 and Core Strategy Policies CS4, CS20, CS24 and CS32. (12)

189. Given the potential archaeological interest of the site, as identified in the appellant's Historic Environment Assessment, further on-site evaluation is required, pursuant to Local Plan Policy AS2 and Core Strategy Policy CS4. (13)

190. The following conditions are necessary in the interest of highway safety, pursuant to Local Plan Policies TR2 and TR3 and Core Strategy Policies CS4, CS25 and CS26: (14, 16, 35, 36, 37, 38)

191. In line with policy objectives to promote more sustainable modes of travel (Local Plan Policies TR2 and TR3 and Core Strategy Policies CS4, CS25 and CS26) and in the interest of pedestrian and cyclist safety, it is necessary to secure the intended footway and cycleway links. (15)

192. Details of refuse storage and recycling facilities are necessary in the interest of residential amenity, in accordance with Core Strategy Policies CS4, CS25 and CS26. (17)

193. Pursuant to Core Strategy Policies CS4, CS5, CS26 and CS31, a detailed Energy and Sustainability Strategy for the development is required in order to reduce domestic energy consumption and CO2 emissions. (18) The same policies justify a condition relating to specified water efficiency measures. (19)

194. It is necessary to ensure the provision of a range of housing that meets different accessibility needs in accordance with the requirements of Core Strategy Policy CS20. (20)

195. A Construction Environment Management Plan (CEMP) is necessary in order to minimise the impacts of construction on local residents, local businesses and those travelling through the area, and to protect the environment, pursuant to Local Plan Policy GC7 and Core Strategy Policy CS4. I have incorporated suggested conditions relating to the management of construction traffic, construction accesses and construction waste into the CEMP requirements. Given the dark sky location of the site, I have added a requirement for site lighting details during construction. (21)

196. A Construction Ecological Management Plan is necessary to minimise environmental impacts during the construction period, in accordance with Core Strategy Policies CS4 and CS24. (22)

197. Conditions are required to safeguard ecological and arboricultural interests, increase biodiversity and in the interests of visual amenity, pursuant to Local Plan Policies GC4, NC1 and TW6 and Core Strategy Policies CS4, CS20, CS24 and CS32. (23, 25, 28, 29, 31, 32, 40, 43)

198. Given the proximity of the eastern part of the site to the rail line, surveys are required in relation to both noise and vibration in order to assess any mitigation requirements that might be necessary to provide acceptable living conditions for future occupiers. (24)

199. In accordance with Local Plan Policy GC9, conditions are necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly and that any risks from contamination are properly dealt with to protect the health of future occupiers and to prevent pollution of the environment. (26, 33, 34)

200. In accordance with Local Plan Policy CS4, details of a sustainable surface water drainage scheme are required, together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended, in order to avoid pollution and to prevent increased risk from flooding. (27)

201. The scheme includes an area of land to be safeguarded for playing pitches. It is necessary to ensure that the land is properly drained so that it is suitable for the intended purpose. (30)

202. In order to ensure necessary connectivity with Little Chalfont in the interest of accessibility and sustainability, it is necessary to prevent occupation of development within the eastern part of the site until the proposed pedestrian/cycle bridge over the railway line has been completed and made available for use. (39). I have combined and simplified the two suggested conditions in this regard.

203. The identified benefits of the scheme include the provision of retirement homes and a care home to meet an identified local need. That consideration contributed to the very special circumstances in this case, which justify development in the Green Belt. In order to ensure that the identified need is met, it is necessary to ensure that the accommodation is not used for other purposes. (41)

204. It is also necessary to ensure that the local centre is only used for purposes falling within specific use classes in the interests of both highway safety and in terms of creating a sustainable community. (42)

205. In the interest of highway safety, it is necessary to ensure that, once provided, the visibility splays at the junction of the site accesses with the existing highway network are kept clear of obstruction. (44)

206. I have not imposed the suggested condition requiring the submission of a landscaping scheme, since landscaping is one the reserved matters and any scheme would, by virtue of one of the other conditions, need to comply with a strategic landscape plan to be submitted. Neither have I imposed the condition requiring electric vehicle parking spaces, since it would duplicate the provisions of Section S of the Building Regulations.

Stephen Wilkinson

INSPECTOR

APPENDIX I

Land off Bullens Green Lane, Colney Heath

ESQUIRE
DEVELOPMENTS

Annex A

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr S. Bird, King's Counsel for the Authority	Instructed by Ms Katherine Stubbs, Solicitor to Buckinghamshire Council
He called	
Ms N. Huijer BA, Dip LA, CMLI	Landscape Architect
Mr J. Fannon MRUP, MSc, MRTPI	Planning Consultant
Ms K. Stubbs	Solicitor to the Council
Mr C Duncan	Highways

FOR THE APPELLANT:

Mr S. White, King's Counsel for the appellant, and Mr M Fraser, Counsel for the appellant	Instructed by Ms Alison Tero of CBRE
He called	
Mr A Kindred MSc BA (Hons)MRTPI	Director CBRE
Ms R Taylor BA (Hons) MSc, Dip Arch, RIBA	Partner, JTP
Mr M D Chard BA(Hons), Dip (Hons), MAUD, CMLI	Landscape Director, Barton Wilmore now Stantec
James Stacey BA (Hons), DipTP, MRTPI	Managing Director, Tetlow King
Iain Warner BSc (Hons) DipTP	Director, Tetlow King
Andy Moger BA(Hons) MA MRPTI	Director, Tetlow King
Ms M Collins BA (Hons)	Director, Hatch Regeneris
Ms S Herbert	Senior Associate, Town Legal

Ms A Tero BA(Hons) MA	Executive Director, CBRE – Planning
Mr P Bell BEng (Hons) MCIT, MILT, MCIHT	Managing Director, Motion – Highways
Jacob Hepworth Bell BSc (Hons), MIEnvSc, MCIEEM	Director Ecology Solutions

INTERESTED PERSONS:

Mr C Ingram Parish Councillor	Speaking for Little Chalfont Parish Council and the Community Association
Mr B Gallagher Parish Councillor	Speaking for Little Chalfont Parish Council and the Community Association
Mr M Parker	Resident
Mr K Haedjer	Resident

Annex B

Documents handed up during the Inquiry

Document Reference	Document Title
IDX – Inquiry Documents	
IDX1	Opening Statement (Appellant)
IDX2	Opening Statement (Council)
IDX3	Parish Council and Resident Association Verbal Presentation – Interested Party
IDX4	Mr Haider Verbal Presentation – Interested Parties
IDX4.1	Mr Haider Verbal Presentation – Interested Parties (Appeal Decision Land East of Bredon Road, Mitton).
IDX5	Mr Bell Written Response to Mr Haider (Interested Party)
IDX6	Minor Parameter Plan Changes (Annotated Version)
IDX7	Billericay Appeal Decision (9 December 2022)
IDX8	Ms Huijer (Council) Response to Waterman Tree Note (CD7.22)
IDX9	Barton Willmore (Appellant) Response to Ms Huijer Note
IDX10	Mr Harris (Appellant) Response to Ms Huijer
IDX11	Mr Haider Response to Mr Bell (12.12.2022)
IDX12	Roundtable on Needs Agenda
IDX13	Additional note from Little Chalfont Parish Council and Community Association on highway matters, dated 12 December
IDX14	Contour Overlay Plan
IDX15	Ms Taylor PowerPoint Presentation dated 14 December
IDX16	Inspector's Site Visit Route and Itinerary

IDX17	Letter on the Examination of the Chiltern and South Bucks Local Plan dated 7 May 2020
IDX18	Mr Parker (Interested Party) email on Highways dated 11 December
IDX19	Mr Parker (Interested Party) email on withdrawn site allocation SP BP6 dated 13 December
IDX20	GLVIA Extract
IDX21	Mr Bell response to Mr Haider dated 14 December
IDX22	Mr Bell response to Little Chalfont Parish Council and Community Association on Highways Matters dated 15 December
IDX23	Figure LT1C Overlay Plan dated 16 December
IDX24	Agreed technical note on the Indicative Phasing Plan and Environmental Impact Assessment dated 15 December (Waterman) (Appellant)
IDX25	Agreed Green Belt note dated 19 December
IDX26	S106 proposal from Parish Council and LCCA dated 15 December
IDX27	GLVIA extract pages 30 – 40
IDX28	Mr Bell response to LC PC and LCCA Roughwood Lane note dated 20 December
IDX29	Roughwood Lane Note by LC PC and LCCA dated 19 December
IDX30	Beaconsfield Appeal decision dated 20 December
IDX31	Cllr Ingham email on Church Grove dated 18 December
IDX32	Mr Bell response to Cllr Ingham email on Church Grove dated 19 December
IDX33	Mr Chard note dated 20 December
IDX34	Brown v Ealing LBC dated 23 March 2018
IDX35	Peel Investments North Ltd [2021] P.T.S.R. 298
IDX36	Council Closing Statement
IDX37	Appellant Closing Statement

Documents presented after the Inquiry closed

Completed S106 Agreement, dated 30 December 2022

Annex C

Schedule of Conditions

RESERVED MATTERS

1. Details of appearance, landscaping, layout, and scale (hereinafter called the Reserved Matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development hereby permitted shall be carried out in accordance with the approved details.

2. Applications for the approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the Reserved Matters to be approved.

PLANS

4. Unless required otherwise by any of the conditions below, development shall be carried out in accordance with the details shown on the following approved plans, but only insofar as they relate to access:

Burtons Lane Access	Drawing 140207-34 Rev C
Lodge Lane Access	Drawing 140207-40 Rev A
Highways Plan – Lodge Lane	140207-41
Highways Plan – Lodge Lane	140207-42

DEVELOPMENT PARAMETERS/QUANTUM OF DEVELOPMENT

5. Applications for the approval of the Reserved Matters shall accord with the following approved plans:

Parameter Plan: Land Use and Green Infrastructure	Drawing 00973E_PP01 Rev P2
Parameter Plan: Building Heights	Drawing 00973E_PP02 Rev P2
Parameter Plan: Access and Movement	Drawing 00973E_PP03 Rev P2
Parameter Plan: Demolition	Drawing 00973E_SO3 Rev P1
Development Parcels	Drawing 140207-61

6. The number of Use Class C3 dwellings to be constructed on the site shall not exceed 380.

7. The number of retirement homes (Use Class C2) hereby permitted shall not exceed 100 units of accommodation.

8. The care home (Use Class C2) hereby permitted shall not exceed 60 bed spaces.

9. The local centre hereby permitted shall not permitted shall not exceed a gross external floorspace of 1,000sqm and shall include no more than 250sqm (gross external area) of retail floorspace as defined by Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking or re-enacting that Order).

PRE-RESERVED MATTERS

Phasing

10. Prior to the submission of any Reserved Matters application, and notwithstanding the details shown on Drawing Number 00973E_SO3 Rev P2), an updated phasing plan shall be submitted to the local planning authority identifying the phasing for the construction of the development across the whole site. No development shall commence until the local planning authority has approved in writing the phasing plan and the

development shall thereafter be constructed in accordance with the approved phasing plan. The phasing plan may be updated or amended through time to time with the approval in writing of the local planning authority.

Masterplan and Design Code

11. Prior to the submission of any Reserved Matters application, and notwithstanding the submitted details, a detailed masterplan and design code covering the whole of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, any Reserved Matters application pursuant to Condition 1 for any phase of development shall comply with the principles established by the approved masterplan and design code.

Strategic Landscaping

12. Prior to the submission of any Reserved Matters application, a Strategic Landscaping Plan covering the whole of the site shall be submitted to and approved in writing by the Local Planning Authority. The Strategic Landscaping Plan shall be in accordance with the submitted SANG and Biodiversity Management Plan (reference 10667M.SBMP.vf October 2022) and Biodiversity Net Gain report (reference10677M.BNGReport.vf October 2022) demonstrating that a minimum of 20% Biodiversity Net Gain can be achieved across the site. Thereafter, any Reserved Matters application for any phase of development shall comply with the principles established by the approved Strategic Landscaping Plan.

Archaeological Evaluation

13. Prior to the submission of any Reserved Matters application, an archaeological evaluation of the site shall have been undertaken in the form of trial trenching in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority. Where significant archaeological remains are confirmed, no Reserved Matters applications shall be submitted until an appropriate methodology for their preservation in situ has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

RESERVED MATTERS STAGE

Estate Roads

14. The details to be submitted pursuant to Condition 1 for each phase, shall demonstrate the development being served by means of adoptable estate roads. No dwelling or unit hereby permitted shall be occupied until the estate roads which provide access to it from the existing highway have been laid out and constructed in accordance with details have been submitted to and approved in writing by the local planning authority.

Walking/Cycling Route Phasing

15. The details to be submitted pursuant to Condition 1 shall include an internal walking/cycling route phasing scheme. Development shall be carried out in accordance with the approved scheme, which shall include:

    a) links from the proposed pedestrian and cycle access from Oakington Avenue via the pedestrian and cycle bridge;

    b) new pedestrian and cycle access onto Burtons Lane; and

    c) a public right of way connection at the eastern side of the site onto Lodge Lane.

Parking/Garaging etc

16. The details to be submitted pursuant to Condition 1 for each phase shall include a scheme for vehicle parking, garaging, and manoeuvring; cycle parking; and, where appropriate, space for loading/unloading and servicing for the local centre, in accordance with Buckinghamshire Council's Buckinghamshire Countywide Parking Guidance policy document. Development shall be carried out in accordance with the approved details and made available for use prior to occupation of the development that it would serve. Once provided, those areas / facilities shall not thereafter be used for any other purpose.

Refuse Storage

17. The details to be submitted pursuant to Condition 1 for each phase shall include a scheme for refuse storage and recycling facilities. Development shall be carried out in accordance with the approved details and made available for use prior to occupation or first use of the development that it would serve. Once provided, the facilities shall be retained thereafter.

Energy and Sustainability

18. The details to be submitted pursuant to Condition 1 for each phase shall be accompanied by a detailed Energy and Sustainability Strategy for the relevant phase of the development. The Strategy shall include measures to reduce carbon emissions through the use of low-carbon and/or renewable technologies; other measures to ensure the implementation of sustainable design and construction principles; and details to demonstrate that adequately sized grid connections can be provided to meet the energy demand of the development. Development shall be carried out fully in accordance with the approved details for the relevant phase and the low-carbon/renewable technology shall be retained thereafter.

19. The dwellings hereby permitted shall be designed and constructed to meet a water efficiency standard of no more than 100 litres per person per day in accordance with Table 5.1 of the Sustainability and Energy Statement (16 November 2021).

Accessible/Adaptable Accommodation

20. A minimum of 10% of the market residential units in any phase shall be designed to provide accessible and adaptable accommodation that meets the requirements of M4(2) of Part M of Schedule 1 of the Building Regulations 2010 (including any statutory replacement or amendment) and 1% of the market residential units in any phase shall be designed to meet the requirements of M4(3) of Part M of the same Schedule. Once provided, these units shall be retained as such thereafter.

PRE-COMMENCEMENT

Construction Management

21. No development shall commence on any phase until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved CEMP at all times. The CEMP shall include, but is not limited to:

a) site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles, including use of a banksman; and provision for the loading/unloading of plant and materials within the site;

b)site specific measures to control and monitor impacts arising in relation to noise and vibration (including working hours and details of all piling and power floating activities as appropriate), and dust and fumes;

b) arrangements by which the developer shall maintain communication with local stakeholders in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP;

c) a construction waste management plan that identifies the main waste materials expected to be generated by the development during demolition and construction, including vegetation, together with measures for dealing with such materials so as to minimise waste and to maximise re-use and recycling;

d) location of access/exit points on the site for construction traffic;

e) construction and delivery hours;

f) arrangements for any site lighting, including security lighting, its location and hours of operation.

22. No development shall commence on any phase until a Construction Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved Construction Ecological Management Plan. The Construction Ecological Management Plan shall include, but is not restricted to:

a) risk assessment of potentially damaging construction activities;

b) identification of "biodiversity protection zones" including off-site receptors;

c) practical measures (both physical measures and sensitive working practices) to avoid or reduce ecological impacts during construction (may be provided as a set of method statements);

d) the location and timing of sensitive works to avoid harm to biodiversity features;

e) the times during construction when specialist ecologists need to be present on site to oversee works;

f) responsible persons and lines of communication;

g) the role and responsibilities on site of an Ecological Clerk of Works, or similarly competent person;

h) use of protective fences, exclusion barriers and warning signs; and

i) measures for removal of invasive species within the site.

Levels

23. Prior to commencement of development in any phase, details of existing and proposed ground levels and finished floor levels, and cross-sections within the site, including any retaining walls, taken up to the site boundaries, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Noise and vibration

24. No development shall commence within the Eastern Parcel (as defined on drawing number 140207-61) until details of an assessment of the effects of noise and vibration on the proposed residential accommodation within that Parcel arising from the adjacent railway line and employment uses, together with any identified measures necessary to ensure, among other things, that indoor ambient noise levels meet the recommendations in Table 4 of BS 8233:2014, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Tree Protection

25. No development within any phase shall commence until a full Arboricultural Method Statement and Tree Protection Plan for that phase has been submitted to and approved in writing by the Local Planning Authority, which shall detail all work within the root protection areas of the retained trees within and around the site in relation to that phase. This statement shall also include details of protection measures for the trees during the development, and information about any excavation work, any changes in existing ground levels and any changes in surface treatments within the root protection areas of the trees, including plans and cross-sections where

necessary. Development shall be carried out in accordance with the approved details.

Contamination

26. No development shall commence within any phase until a scheme to deal with the risks associated with contamination of that part of the site has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme, which shall include:

    i) a site investigation, based on the Preliminary Risk Assessment prepared by Waterman Infrastructure & Environment Ltd (Report ref. WIE15569-110-1-2-2-PRA) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

    ii) the results of the site investigation and the detailed risk assessment referred to in i) and, based on these, an options appraisal and Remediation Strategy, giving full details of the remediation measures required and how they are to be undertaken; and

    iii)a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in ii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority.

Sustainable Drainage

27. No development shall commence until a surface water drainage scheme for the site, based on the approved Flood Risk Assessment and Drainage Strategy (LCF-HYD-XX-XX-RP-D-5001 Issue P05, 26th November 2021, Hydrock) and Technical Design Note (08877-HYD-XX-XX-DR-D-7000, 3rd November 2022, Hydrock), and including a Surface Water Drainage Phasing Plan, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and no accommodation in a surface water drainage phase shall be occupied until all the Sustainable Drainage Systems (SuDS) and drainage components that would serve it have been implemented in full. The surface water drainage scheme shall include:

    A. details of basins to be located outside of areas of surface water flood risk as shown on drawing 08877-HYD-XX-XX-DR-FR-0007 P05 (Post-Development Maximum Surface Water Flood Depths – 1 in 100 year event plus + 40% Climate Change (03/11/2022, Hydrock));

    B. infiltration rate testing in accordance with BRE365, in the location of basins 2, 3 and 4 to the proposed effective depth of the infiltration feature;

C. SuDS components as shown in LCF-HYD-XX-XX-DR-D-2200 P08 Drainage Strategy for Illustrative Masterplan Overview Plan (03/11/2022, Hydrock); and

D. full construction details of all SuDS and drainage components in form of cross-sectional drawings and including:

i) cover and invert levels of components;

ii) water levels for the 50% annual exceedance probability (AEP), 3.3% AEP and 1% AEP events, plus climate change events;

iii) details of lining materials where relevant;

iv) detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components;

v) calculations to demonstrate that the proposed drainage system can contain up to the 3.3% AEP storm event without flooding. Any onsite flooding between the 3.3% AEP and the 1% AEP event plus climate change should be safely contained on site.;

vi) water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components; and

vii) details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.

E) a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker or management company and any other arrangements to secure the operation of the scheme throughout its lifetime.

Ecology and Biodiversity

28. Notwithstanding details already submitted, no development shall commence within the Eastern Parcel (as defined on Drawing 140207-61) until the results of an updated report on bat activity at Lodge Lane, following a survey undertaken in accordance with the Bat Conservation Trust (BCT) publication *Bat Surveys for Professional Ecologists: Good Practice Guidelines*, together with details of any necessary mitigation measures, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with any necessary mitigation measures.

29. No development within any phase shall commence until a long-term Landscape and Ecological Management Plan (LEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority.

The LEMPs shall be in accordance with the submitted SANG and Biodiversity Management Plan (reference 10667M.SBMP.vf October 2022), the Biodiversity Net Gain report (reference10677M.BNGReport.vf October 2022) and the Strategic Landscaping Plan referred to in Condition 12.

Safeguarded land

30. No development shall commence until a detailed assessment of the ground conditions (including drainage and topography) of the safeguarded land for educational use (playing pitches) as shown on the approved Land Use and Green Infrastructure and Parameter Plan (drawing number 00973E_PP01 Rev P2), together with a scheme to address any related constraints and a timetable for implementation of such a scheme, has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.

Biodiversity Net Gain

31. No development shall take place within any phase (including demolition, ground works and vegetation clearance) until a Biodiversity Net Gain Plan (BNG Plan) demonstrating how BNG will be achieved for that phase has been submitted to and approved in writing by the local planning authority. The BNG Plan shall accord with the requirements of Condition 12 and shall include, but is not limited to, the following:
    a) information about the steps taken, or to be taken, to minimise the adverse effect of the development on the biodiversity of the on-site habitat;
    b) the post-development biodiversity value of the on-site habitat; and
    c) any biodiversity credits purchased for the development.

32. No development shall take place (including demolition, ground works and vegetation clearance) until a Biodiversity Monitoring Strategy has been submitted to, and approved in writing by, the local planning authority, the purpose of which shall be to ensure that the proposed ecological avoidance, mitigation, compensation and enhancement measures for the site are successfully delivered and managed. The Strategy, which shall be implemented in accordance with the approved details, shall include:

    a) the aims and objectives of monitoring to match the stated purpose;

    b) identification of adequate baseline conditions prior to the start of development;

    c) appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged;

    d) methods for data gathering and analysis;

    e) locations for monitoring;

    f) timing and duration of monitoring;

    g) responsible persons and lines of communication; and

h) arrangements for review, and where appropriate, publication of results and outcomes.

Reports describing the results of the monitoring pursuant to Condition 31, shall be submitted to the local planning authority at intervals identified in the Biodiversity Monitoring Strategy. The reports shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented. The monitoring strategy will be implemented in accordance with the approved details.

PRE-OCCUPANCY CONDITIONS

Contamination

33. No part of the development hereby permitted shall be occupied or brought into use until a Verification Report that demonstrates completion of the works set out in the Remediation Strategy pursuant to Condition 26, and the effectiveness of any remediation carried out, together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils, has been submitted to and approved in writing by the Local Planning Authority. The approved monitoring and maintenance programme shall be implemented in accordance with the approved details.

34. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, where remediation is necessary, a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Highways

35. No development within the Western Parcel (as defined on drawing number 140207-61) shall be occupied until:

a) the new vehicular access to Burtons Lane has been sited and laid out in accordance with the approved drawings (140207-34 Rev C) and the Buckinghamshire Council Guidance note "Commercial Vehicular Access within the Public Highway";

b) the visibility splays shown on the approved drawings (140207-34 Rev C) have been provided on both sides of the vehicle access on Burtons Lane; and

c) the pedestrian and cycleway improvements on Burtons Lane to the junction with the A404 including realignment works (as shown in

drawings 140207-57 Rev B, and 140207-58 Rev B) have been laid out and constructed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

36. No development within the Eastern Parcel of the site defined on drawing number 140207-61 shall be occupied until:

a) the altered vehicular access to Lodge Lane has been sited and laid out in accordance with the approved drawings (140207-40 Rev A) and the Buckinghamshire Council Guidance note "Commercial Vehicular Access within the Public Highway"; and

b) visibility splays shown on the approved drawings (140207-40 Rev A) have been provided on both sides of the vehicle access on Lodge Lane.

37. No development within the Eastern Parcel of the site as defined on drawing number 140207-61 shall be occupied until the following highway improvements to Oakington Avenue/A404 (as shown on Drawing 140207-37 Rev F) have been laid out and constructed in accordance with details which shall been submitted to and approved in writing by the Local Planning Authority showing:

a) realignment of the Oakington Avenue/A404 junction including pedestrian footway improvements between the proposed pedestrian and cycle bridge over the railway and Chalfont and Latimer railway station;

b) upgrade of existing zebra crossing to a Toucan crossing; and

c) two new bus stops on the A404.

38. No development on any part of the site shall be occupied until the Cokes Lane A404 highway improvement scheme has been delivered in general accordance with drawing 140207-30 Rev B.

39. No part of the development within the Eastern Parcel of the site (as shown on drawing number 140207-61) shall be occupied until the pedestrian and cycle bridge over the railway line has been provided and made available for use by pedestrians and cyclists for the lifetime of the development hereby permitted, together with the associated pedestrian and cycle connections and access onto Oakington Avenue (as shown on 140207-49).

Lighting

40. No part of any phase shall be brought into use until a lighting design strategy for any buildings, features and areas to be lit within the relevant phase, has been submitted to, and approved in writing by the Local Planning Authority. No external lighting shall be installed other than in accordance with the approved strategy. The strategy shall:

a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places, or along important routes used to access key areas of their territory, including foraging;

b) show how, when and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications); and

c) ensure that lighting in ecologically sensitive locations has a colour temperature of no more than 2700 Kelvin.

POST- OCCUPANCY/ONGOING CONDITIONS

Future Use

41. The retirement homes and care home hereby permitted shall be used for C2 purposes only and for no other purpose, including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

42. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any subsequent re-enactment thereof) the local centre hereby permitted shall only be used for purposes falling within the following Classes of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose:

- Classes E(a) Display or retail sale of goods, other than hot food;
- E(b) Food and drink which is mostly consumed on the premises;
- E(e) Medical services not attached to the residence of the practitioner; and
- F2(b) Halls or meeting places for the principal use of the local community.

Trees

43. With the exception of any pruning, tree surgery or felling specifically shown in the approved tree report (November 2021, Document Ref - WIE15569-107-R-2-2-1-AIA and November 2022, WIE15569-107.BN.1.1.2), or as shown on any landscaping scheme or Landscape and Ecology Management Plan, no tree, shrub or hedge shall be pruned, felled or removed without the prior written approval of the Local Planning Authority. If during construction of the development, or within a period of five years of its completion, any tree, shrub, hedge dies or becomes damaged, destroyed, diseased or dangerous, it shall be replaced during the following planting season by another healthy, tree, shrub or hedge as the case may be of a similar size and species, unless otherwise approved in writing by the Local Planning Authority. Thereafter any such replacement planting shall be maintained or further replaced as necessary for five years after replacement, unless otherwise approved in writing by the Local Planning Authority.

Visibility Splays

44. Once provided pursuant to Conditions 35 and 36, the area contained within the visibility splays at the junction of the site accesses with the highway network shall thereafter be kept free of any obstruction exceeding 0.6m in height above the nearside channel level of the carriageway.

----------End of Schedule----------

Annex D

Core Document List
Those identified in bold were revised following the Council's decision

CD.1.1	Site Location Plan	00973E S01
CD1.2	Indicative Density Plan	00973E S02
CD1.2R	Indicative Density Plan	00973E S02 P2
CD1.3	Indicative Phasing Plan	00973E S03
CD1.3R	Indicative Phasing Plan	00973E S03 P2
CD1.4	Block Plan	00973E S04
CD1.5	Land Use and Green Infrastructure Parameter Plan	00973E PP01
CD1.5R	Land Use and Green Infrastructure Parameter Plan	00973E PP01 P2
CD1.6	Heights Parameter Plan	00973E PP02
CD1.6R	Building Heights Parameter Plan	00973E PP02 P2

CD1.7	Access and Movement Parameter Plan	00973E PP03
CD1.7R	Access and Movement Parameter Plan	00973E PP03 P2
206.1 CD1.8	206.2 Demolition Parameter Plan	00973E PP04
CD1.9	Illustrative Masterplan	00973E MP01
CD1.9R	Illustrative Masterplan	00973E MP01 P2
CD1.10	Ecology and Trees Checklist	
CD1.11	206.3 Design and Access Statement	
CD1.12	Statement of Community Involvement	
CD1.13	Affordable Housing Form	
CD1.14	Affordable Housing Need Assessment	
CD1.15	Flood Risk Assessment + SUDS Strategy	
CD1.16	Hydraulic Model Assessment	
CD1.17	Utilities Assessment	
CD1.18	EIA	
CD1.18.1	Non-Technical Summary	
CD1.18.2	Environment Statement Addendum (ES Addendum)	WIE15569-111-R.1.1.1.ES Addendum
CD1.18.3	Preliminary Risk Assessment (ES Addendum)	WIE15569-110-1-3-1-PRA
CD1.18.4	ES Volume 2 Figures	
CD1.18.5	206.4 ES Volume 3 Appendices	

CD1.19	Built Heritage Statement	WIE15569-102-R-1-2-4-HEDBA
CD1.20	Land Contamination Assessment	206.5 WIE15569-110-1-2-2-PRA
CD1.21	Economic Benefits Statement	206.6
CD1.22	Tree Survey and Arboriculture Impact Assessment	WIE15569-107-R-2-2-1-AIA
CD1.22.A	Tree Survey and Arboriculture Impact Assessment (ES Addendum)	WIE15569-107-R-2-3-1-AIA
CD1.23	Transport Assessment and Drawings	
CD1.24	Travel Plan	
CD1.24R	Travel Plan	October 2022
CD1.25	Draft Construction Management Plan	
CD1.26	206.7 Planning Statement	
CD1.27	Energy and Sustainability Statement	
CD1.28	Waste and Recycling Strategy	
CD1.29	Geophysical Survey	
CD1.30	Lodge Lane Landscape Strategy	
CD1.31	Co-Ordinated Drainage Drawing	
CD1.32	Covering Letter	
CD1.33	Exceedance Flow Rates	
CD1.34	Illustrative Cut and Fill	
CD1.35	Illustrative Drainage Strategy	

CD1.36	SANG Management Plan	October 2022
CD1.37	Lodge Lane Access	(140207-40A)
CD1.38	Burton Lane Access	(140207-34C)
CD1.39	Oakington Avenue	(14207-37F)
CD1.40	Burtons Lane Cycleway	(140207-57B)
CD1.41	Burtons Lane Cycleway	(140207-58B)
CD1.42	Ecology Solutions – Information for Habitats Regulation Assessment	November 2022, 10677M.HRA.vf
CD1.43	Air Quality Technical Note	December 2022 WIE15569-108-TN-1-1-3-AQ
CD1.44	Supplementary Local Junction Modelling Work	18th November 2022
CD1.45	Flood Risk Technical Design Note	3rd November 2022
CD1.46	EIA Statement of Conformity	
CD1.47	Off-Site Highways Plans	
CD1.48	Development Parcels	2nd November 2022

CD2.1	Decision Notice (25 April 2022)
CD2.2	Officer Report to Planning Committee 21 April 2022
CD2.3	Update to officer Report (dated 20 April 2022)
CD2.4	Officer Report Appendix A – Consultation responses and Representations
CD2.5	Officer Report Appendix A Part 2 – Statutory Responses
CD2.6	Officer Report Appendix B – Site Location Plan
CD2.7	Officer Report Appendix C – HRA Appropriate Assessment
CD2.8	Officer Report Appendix D – Submitted Drawings.
CD2.9	CBRE Response to Officer Report

CD3.1	Appellant Statement of Case
CD3.2	Draft Statement of Common Ground
CD3.3	Council's Statement of Case
CD3.4	Third Party Representations
CD3.4.1	Third Party Rep – Buckinghamshire NHS ICB
CD3.4.2	Third Party Rep – Little Chalfont Parish Council and Community Association
CD3.4.3	Third Party Rep – GM Wood
CD3.4.4	Third Party Rep – Kamran Haider
CD3.4.5	Third Party Rep – Kirsty Buhler
CD3.4.6	Third Party Rep – Kris Murali
CD3.4.7	Third Party Rep – BPA
CD3.4.8	Third Party Rep - M Buhler
CD3.4.9	Third Party Rep - Natural England
CD3.4.10	Third Party Rep – G Nolan
CD3.4.11	Third Party Rep – R Murphy
CD3.4.12	Third Party Rep - S Yershov

CD3.4.13	Third Party Rep - Chiltern Conservation Board
CD3.4.14	Third Party Rep – V Raman

CD4.1	Chiltern District Local Plan
CD4.2	Core Strategy for Chiltern District
CD4.3	Buckinghamshire Minerals and Waste Local Plan
CD4.4	Chiltern and South Bucks 5YHLS Update Statement 2022
CD4.5	Buckinghamshire Authority Monitoring Report 2020 - 2021
CD4.6	Buckinghamshire Housing and Economic Development Needs Assessment Update (2016)
CD4.7	Joint Chiltern & South Bucks Area 2019/20 Annual Monitoring Report
CD4.8	Chiltern Affordable Housing SPD (2012)
CD4.9	First Homes Interim Position Statement (2022)
CD4.10	Buckinghamshire Homelessness and Rough Sleeping Strategy 2022 to 2025
CD4.11	Buckinghamshire Council Corporate Plan 2020 to 2025, refreshed February 2022
CD4.12	Bucks Home Choice Allocation Policy, May 2014
CD4.13	Biodiversity Net Gain SPD (2022)
CD4.14	Buckinghamshire Self-Build and Custom Build End of Year Report 2020-2021
CD4.15	Local Transport Plan 4 2016 - 2036
CD4.16	Chiltern District Landscape Character Assessment (Land Use Consultants) October 2011

CD5.1	National Planning Policy Framework 2021
CD5.2	National Planning Practice Guidance 2021
CD5.3	National Design Guide 2021
CD5.4	Guidance Notes for Design Codes
CD5.5	Building for Healthy Life – Homes England 2020
CD5.6	Landscape Institute Technical Advice Note (TGN 02-21) 'Assessing Landscape Value Outside National Designations'
CD5.7	Institute of Lighting Professionals, Guidance Note (02/21) 'The Reduction of Obtrusive Light'
CD5.8	Department for Levelling Up Housing and Communities Right to Build Registers Monitoring Data for Chiltern
CD5.9	
CD5.10	BVTLEP Local Industrial Strategy
CD5.11	Buckinghamshire Thames Valley LEP (BTVLEP) Strategic Economic Plan 2016-2031
CD5.12	WPI Strategy for Homes for Later Living (February 2021)
CD5.13	Homes and Communities Agency (2015), 'Calculating Cost Per Job – Best Practice Note. Third Edition'
CD5.14	CAG Consultants (CAG) London Employment Sites Database
CD5.15	Bat Conservation Trust Best Practice Guidelines (2016)
CD5.16	HGBI Reptile Best Practice
CD5.17	Natural England Guidance Note on Badgers and Disturbance

CD5.18	English Nature Bat Mitigation Guidelines (2004)
CD5.19	DEFRA Metric User Guidance and Technical Supplement
CD5.20	DEFRA Policy Paper – ancient and native woodland and trees policy in England (2022)
CD5.21	"Bleak Houses: Tackling the Crisis of Family Homelessness in England"; Children's Commissioner, August 2019
CD5.22	"Unlocking Social Housing: How to fix the rules that are holding back building"; Shelter, April 2022
CD5.23	"Denied the Right to a Safe Home – Exposing the Housing Emergency"; Shelter, May 2021
CD5.24	Buckinghamshire Thames Valley LEP Economic Recovery Plan
CD5.25	National Model Design Code (NMDC)
CD5.26	Cycle Infrastructure Design (LTN 1/20)
CD5.27	Landscape Institute Technical Guidance Note 06/19: Visual Representation of Development Proposals.
CD5.28	Guides for Landscape and Visual Impact Assessment (GLVIA) 3rd Edition, 2013 (HARD COPY)

CD6.1	APP/X0415/A09/2107212/NWF – Little Chalfont Golf Course
CD6.2	[blank]
CD6.3	APP/X0415/W/20/3265964 – Land off High View, Chalfont St Giles
CD6.4	APP/X1925/W/21/3273701 – Land South of Heath Lane, Codicote
CD6.5	APP/B1930/W/20/3265925/ APP/C1950/W/20/3265926 – Roundhouse Farm, Land off Bullens Green Lane, Colney Heath
CD6.6	APP/W4705/V/18/3208020 – Land at Sun Lane and Ilkey Road, Burley-in-Wharfdale

CD6.7	APP/X0415/W/18/3202026 – Land to the rear of the Old Red Lion, High Street, Great Missenden
CD6.8	APP/X0415/W/19/3228107 – Little Chalfont Village Hall, Cokes Lane, Little Chalfont
CD6.9	APP/G5180/W/18/3206569 – Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham
CD6.10	APP/D2320/W/20/3247136 – Land at Pear Tree Lane, Euxton, Chorley
CD6.11	APP/P0119/W/17/3191477 – Land east of Park Lane, Coalpit Heath, South Gloucestershire
CD6.12	APP/G2435/W/18/3214451, APP/G2435/Q/18/3214498 – Land off Hepworth Road, Woodville
CD6.13	APP/A0665/W/14/2212671 (SoS Decision) – Land off Darnhall School Lane Winsford Cheshire
CD6.14	APP/H1840/W/19/3241879 – Corner Mead, Newland Lane, Droitwich Spa
CD6.15	APP/H1840/W/20/3255350 – Land at Church Lane, Whittington
CD6.16	APP/F2415/W/22/3296353, APP/F2415/W/22/3300240 – Land adjacent to Walton Hall, Chapel Lane, Walton
CD6.17	APP/C1570/W/22/3296426 – Land South of (East of Griffin Place) Radwinter Road, Sewards End, Saffron Walden
CD6.18	APP/D3125/W/21/3274197 – Land to the rear of Brock Cottage, Brize Norton
CD6.19	APP/W0530/W/21/3282234 – Land at St Peters Street, Cambridgeshire
CD6.20	APP/V3120/W/20/3265465 – Land behind 31-33 The Causeway, Steventon
CD6.21	APP/N4205/W/22/3299644 – Land at and adjacent Hulton Park, Bolton
CD6.22	APP/N1730/W/20/3261194 – Fleet Police Station, Fleet
CD6.23	Inspector's Report into the Eastleigh Local Plan, February 2015
CD6.24	206.8 APP/K2420/A/13/2208318 – Sketchley House, Burbage
CD6.25	APP/B3410/W/20/3245077 – Aviation Lane, Burton-upon-Trent

CD6.26	APP/Q3115/W/19/3230827 – Oxford Brookes University, South Oxfordshire
CD6.27	APP/H1840/A/13/2199085 – Pulley Lane, Droitwich Spa
CD6.28	APP/M2270/W/21/3282908 – Highgate Hill and Copthall Avenue, Hawkhurst
CD6.29	APP/A2280/W/20/3259868 – Pump Lane, Rainham
CD6.30	APP/Y3940/W/21/3278256 – Jenner Lane, Malmesbury
CD6.31	Prideaux High Court Judgment [2013] EWHC 1054 (Admin)
CD6.32	APP/W2275/V/11/2158341 – Hermitage Quarry Appeal Decision
CD6.33	APP/K3605/W/20/3263347 – Homebase site, Walton on Thames
CD6.34	APP/P3610/W/21/3272074 - Epsom General Hospital Dorking Road
CD6.35	APP/Q3115/W/20/3265861 – Little Sparrows, Sonning Common
CD6.36	APP/H2265/W/18/3202040 – Land rear of 237-259 London Road, West Malling
CD6.37	APP/Q3115/W/19/3220425 – Land east of Reading Road, Lower Shiplake
CD6.38	APP/B1930/W/19/3235642 - Land rear of Burston Garden Centre, Chiswell Green
CD6.39	APP/V0510/W/21/3282241 – Bottisham Appeal Decision
CD6.40	APP/A0665/W/18/3203413 – Beechmoor Garden Centre, Great Boughton
CD6.41	APP/F0114/W/21/3268794 – Homebase site, Bath
CD6.42	APP/K3605/W/20/3257109 – Royal Cambrige Home, East Molesey
CD6.43	APP/G2245/W/21/3271595 – Kent & Surrey Golf Club, Edenbridge
CD6.44	APP/W0530/W/21/3280395 – Land between Haverhill Road and Hinton Way, Stapleford
CD6.45	[blank]
CD6.46	APP/V0510/W/21/3282241- 163-187 High Street,Bottisham

CD6.47	APP/P0240/W/21/3289401 – Land south of Arlesey Road, Stotfold
CD6.48	APP/L3815/W/16/3165228 - Oving Road, Chichester
CD6.49	Supreme Court in R (Samuel Smith Old Brewery (Tadcaster) and others) V North Yorkshire County Council [2020]
CD6.50	APP/R3650/W/21/3280136 - Land off Scotland Lane, Haslemere

CD7.1	Email on PPA
CD7.2	JTP Urban Design Response
CD7.3	Natural England Objection 05/04/22
CD7.4	Housing Officer's Response
CD7.5	Education Response
CD7.6	Environmental Health Officer Response
CD7.7	Chilterns Area AONB Management Plan (2019 – 2024)
CD7.8	Urban Design Officer Letter (March 2022)
CD7.9	Urban Design Officer Design Principle Comments (December 2019)
CD7.10	Planning Inspector Response to the Delivery Sites DPD
CD7.11	Planning Inspector Letter to Chiltern and South Bucks
CD7.12	Agenda Report Pack for Withdrawal
CD7.13	Meeting of the Growth, Infrastructure and Housing Select Committee
CD7.14	Little Chalfont Bat Briefing Note 2022 (Ecology Solutions)
CD7.15	Reptile Note 2022 (Ecology Solutions)
CD7.16	Great Crested Newt Note 2022 (Ecology Solutions)
CD7.17	Badger Note 2022 (Ecology Solutions)
CD7.18	Biodiversity Net Gain Report (Ecology Solutions)
CD7.19	Statement of Clarification – Ecology & Climate Change
CD7.20	Natural England Response (November 2022)
CD7.21	Highways Development Management Response (1 March 2022)
CD7.22	Waterman Tree Note
CD7.23	Technical Note (TN12) Response to Buckinghamshire Highways

CD8.1	Withdrawn CSB Local Plan
CD8.2	ARUP Green Belt Study – Parcel 35 Assessment (2016)
CD8.2a	Full Buckinghamshire/ Arup Green Belt Study (2016)
CD8.3	Green Belt Development Options Appraisal (2016)
CD8.4	Green Belt Development Options Appraisal - Post Preferred Green Belt Options Consultation (November 2017)
CD8.5	Green Belt Assessment Part II (April 2019)
CD8.6	Exceptional Circumstances Document (2019)
CD8.7	Landscape Capacity Document – Terra Firma (2017)
CD8.7a	206.9 Landscape Capacity Document – Terra Firma (2017) – Proforma for Site SPBP6.
CD8.8	[blank]
CD8.9	Chiltern and South Bucks Economic Development Strategy (2017)
CD8.10	Chiltern and South Bucks Joint Open Space Study (2018)
CD8.11	Chiltern and South Bucks District Local Plan – Transport Topic Paper (2019)
CD8.12	Initial Masterplan Modelling Report, April 2018
CD8.13	Initial Masterplan Modelling Report, November 2018
CD8.14	Masterplan Option Modelling' Report, July 2019
CD8.15	Chiltern and South Buckinghamshire Affordable Housing Topic Paper (2019)
CD8.16	Chiltern and South Bucks Townscape Character Study
CD8.17	Chiltern and South Bucks Housing and Economic Needs Assessment 2019

ID1	206.10 Planning Proof of Evidence – Appellant – Mr A Kindred
ID2	206.11 Planning & Design Proof of Evidence – Council – J Fannon
ID3	206.12 Little Chalfont Economic Benefits Assessment of Margaret Collins BA (Hons)
ID4	206.13 Older Persons Needs Assessment of Iain Warner BSc (Hons) DipTP MRTPI
ID5	Proof of Evidence in respect of Ecology and Nature Conservation – Jacob Hepworth Bell BSc (Hons), MIEnvSc, MCIEEM (w/Appendices Part 1-4)
ID6	Lisa Toyne Landscape PoE – Appellant
ID6.1	Lisa Toyne PoE (Summary) – Appellant
ID7	JTP Design PoE – Appellant
ID8	Phill Bell Highways PoE – Appellant
ID9	Highways PoE – Council
ID10	Landscape PoE - Council
ID11	James Stacey – Affordable Housing Report – Appellant
ID12	Andy Moger – Custom and Self Build Need – Appellant
ID13	[BLANK]
ID14	Final Statement of Common Ground (Ecology)
ID15	Final Statement of Common Ground (Housing Need)
ID16	Statement of Common Ground (Highways)
ID17	Matthew Chard Landscape Rebuttal (Appellant)
ID18	John Fannon Rebuttal (Council) (Green Belt, Design, Planning)
ID19	Niki Huijer Rebuttal (Council) (Landscape)

The Planning Inspectorate

Appeal Decisions

Inquiry held between 26 April – 6 May 2021

Site visits made on 1 April 2021 and 4 May 2021

by C Masters MA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2021

Appeal A: APP/B1930/W/20/3265925
Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Canton Ltd against St Albans City & District Council.
- The application Ref 5/2020/1992/LSM was dated 28 August 2020.
- The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.

Appeal B: APP/C1950/W/20/3265926
Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Canton Ltd against the decision of Welwyn Hatfield Borough Council.
- The application Ref 6/2020/2248/OUTLINE, dated 28 August 2020, was refused by notice dated 2 December 2020.
- The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.

Decision

1. The appeals are allowed and planning permission is granted for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath, in accordance with the terms of the applications: 5/2020/1992 /LSM dated 28 August 2020 and 6/2020/2248/OUTLINE dated 28 August 2020, subject to the conditions set out on the attached schedule.

Preliminary Matters

2. The boundary between St Albans City & District Council (SADC) and Welwyn Hatfield Borough Council (WHBC) transects the appeal site with the proposed access falling within WHBC off Bullens Green Lane and the western part of the site abutting Roestock Park and the Pumping Station falling within SADC. The planning applications, subject to these appeals, were essentially the same and were submitted to each of the planning authorities and considered collectively at the same public inquiry. For this reason, I have considered the proposed scheme in its entirety rather than as two separate and divisible schemes. I have thus determined the appeals on that basis.

3. In the context of appeal APP/B1930/W/20/3265925, this scheme was presented to planning committee on 18 January 2021 to request that members confirm how they would have determined the application had it not been subject to an appeal against non determination. At this committee meeting, it was resolved that the Council would have refused planning permission.

4. The reasons for refusal given by WHBC and putative reasons by SADC were similar, in respect to objections related to the suitability of the location, character and appearance, highways, ecology, archaeology, impacts on local infrastructure and services, Green Belt and heritage matters.

5. It was common ground that the Councils could not demonstrate a 5 year supply of housing sites. However, the parties disagreed on the extent of this shortfall. It was agreed that the variation between the two parties was not a matter which was material to the decision on these appeals. I will return to this matter below.

6. Since the appeals were submitted, the appellant has submitted an updated Ecological Impact Assessment. An agreed statement of common ground (SoCG) was submitted prior to the start of the inquiry which set out, amongst other things, principal matters of agreement and disagreement. This confirmed that objections relating to archaeology, ecology and impacts on local infrastructure and services could be addressed by suitably worded conditions/the completion of a Section 106 Agreement. Where necessary, I return to these matters within my report. In addition, appendix A to the SoCG included an agreed facilities plan illustrating the location and average distances to a number of services and facilities within Colney Heath and beyond. I return to this matter below.

7. At the start of the inquiry, a further SoCG was submitted in relation to highways matters. The Councils, Hertfordshire County Council (HCC) as highways authority and the appellant agreed that the appeals would have an acceptable impact on highways safety and therefore reason for refusal (RfR) number 3 on the WHBC decision and putative RfR number 4 of SADC were therefore withdrawn. Notwithstanding this position and in light of third party representations in relation to this issue, this topic was still subject to a round table discussion as part of the inquiry.

8. A replacement access drawing was submitted prior to the inquiry. It was subject to a separate consultation. Neither WHBC or SADC objected to the plan being substituted and all parties had an opportunity to comment on the drawing. Accordingly, I do not consider anybody would be prejudice by my taking this drawing into account and have considered the appeals on this basis.

9. The appellants submitted an unsigned Section 106 (S106) to the inquiry. This was discussed at a round table session and I allowed a short amount of time after the inquiry for the document to be signed. The signed version was received on 24 May 2021. The agreement made included a number of obligations and provision for payments to be made to WHBC, SADC and HCC. I return to this matter below.

Main Issues

10. The appeal site is located within an area of Green Belt. It was agreed between the appellant and the Councils that in the context of the Framework, the

proposals would present inappropriate development within the Green Belt, a matter that must attract substantial weight against the proposals. I concur with this view. As a result and against the background I have set out above, the main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- the effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane;
- whether the site is in an accessible location with regards to local services and facilities;
- whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Effect on Character and Appearance

11. The appeal site comprises a parcel of land of approximately 5 hectares on the eastern edge of Colney Heath. It is bounded by residential development to the northern boundary. There is a short terrace of cottages to the eastern corner along Bullens Green Lane before the boundary opens out into open countryside and beyond. To the south, the site is contained by Fellowes Lane where again residential dwellings are present on the south western corner. The western boundary comprises Roestock Park and the Pumping Station.

12. The parties agree that the site is not a valued landscape under the Framework paragraph 170 definition and that no other landscape designations are applicable to the appeal site. The Hertfordshire Landscape Strategy, 2005 notes the site is located within the Mimmshall Valley, where the landscape character is described, amongst other things, as being strongly influenced by the major transport routes and the surrounding settlement which give it an urban-edge rather than rural character.

13. The A1 and railway line do not have any visual impact on the appeal site. From what I saw on the site visits, the character of the area is a mix of edge of settlement and countryside. Walking along the footpaths which traverse the site, the experience is one of being on the edge of a settlement rather than a wholly rural context. Whilst the open countryside to the south and east is clearly visible, the surrounding residential properties either facing the site or their rear gardens and associated boundary treatment is also clearly visible. These range in scale and form from bungalows fronting Fellowes Lane, glimpsed views of the 3 storey dwellings within Admiral Close and Hall Gardens and the rear elevations and gardens of properties along Roestock Gardens. Bullens Green Lane and Fellowes Lane serve to enclose the appeal site and provide a degree of containment from the wider countryside and beyond. My judgement leads me to conclude that the site strongly resonates with this urban edge definition provided by the 2005 Landscape Strategy.

14. Turning to consider the area beyond the appeal site itself, the sense of countryside prevails via the public footpath network and road network. These public footpaths continue within Bullens Green Wood and further beyond the appeal site at Tollgate Farm. Contrary to the views expressed by the Council, my experience of the views to the appeal site within Bullens Green Wood are of glimpse views of the appeal site. From the south and in the wider landscape context, the appeal site appears against the backdrop of the existing dwellings as a relatively self contained parcel of land on the edge of the settlement. These longer distance views of the appeal site reinforce the urban edge definition.

15. The Councils contend that the appeal site provides a positive element of the countryside that frames Colney Heath. I do not agree. The very clear sense of countryside is only evident when you travel beyond the appeal site south along Tollgate Road. Here the landscape character changes from mixed residential and open field to predominantly open fields with dotted farm buildings and isolated residential dwellings set within this open landscape. This is entirely different to my experience of the appeal site which I have outlined above.

16. The Councils raised specific concerns regarding alleged harm which would arise as a result of the new vehicular access off Bullens Green Lane and also the new pedestrian footpath and access point along Fellowes Lane. The new access road would be located towards the northern end of Bullens Green Lane, where the character of the existing area is already influenced by cars parked on the public highway, and the visibility of the residential properties beyond, all contributing to the edge of settlement character. Along Fellowes Lane, a new pedestrian access to the site would be introduced along with a public footpath. These characteristics are entirely compatible with the urban edge environment which currently exists.

17. The changes brought about by the built development and changes to the surrounding roads would result in visual changes to the area, which in my view would be localised in impact. Landscaping of the site which would be the subject of any reserved matters submission would mean that in the context of the existing immediate locality, the impacts of the development would be significantly reduced over time. Nevertheless, the proposed development would introduce built development here where currently no development exists which would cause some harm to the character and appearance of the area.

18. Taking into account all of the above factors, I conclude that the proposals would cause limited harm to the character and appearance of the area. I attach moderate weight to this factor. There would be conflict with policy D2 of the Welwyn Hatfield District Plan, 2005. Policy D2 requires all new development to respect and relate to the character and context of the areas. Proposals should as a minimum maintain and where possible should enhance or improve the character of the existing area.

19. The Council have also referred to policies D1, RA10 and RA11 in their reasons for refusal. Policy D1 requires a high standard of design in all new developments. Policy RA10 relates specifically to the Landscape Character Assessment outlined above, requiring proposals to contribute, where appropriate to the maintenance and enhancement of the local landscape character. Policy RA11 refers to the location of the site within the Watling Chase Community Forest boundary. The policy requires, amongst other things,

that proposals seek to include planting, leisure and landscape improvements, where this accords with Green Belt policies. I shall return to the matter of Green Belt below. However, in broad terms I see no reason why these policy objectives could not be readily achieved at reserved matters stage through an appropriately designed scheme and landscape strategy for the site.

20. For the same reasons, the proposals would conflict with policy 2 of the St Albans Local Plan, 1994. Policy 2 of the St Albans Local Plan 1994 identifies, amongst other things, Colney Heath as a Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement.

21. The Council have also referred me to policies 69, 70 and 74 of the St Albans Local Plan, 1994. There would be some conflict with policy 69. In relation to the requirements regarding scale and character in terms of plot ratios, height, size and scale, as well as the requirements in relation to materials, I can see no reason why these matters could not be satisfactorily addressed at the reserved matters stage. However the policy also cross references to the requirements of policy 2 outlined above which I have already identified a conflict with. Policy 70 goes onto set out a number of design criteria and layout criteria including but not limited to the dwelling mix, privacy between dwellings, parking and materials. Policy 74 relates specifically to landscaping and tree preservation. Again noting this is an outline scheme, and subject to the reserved matters submission, I can see no reason why the matters raised by policies 70 and 74 could not be appropriately addressed at the reserved matters stage.

Purposes of including land within the Green Belt

22. The Framework and in particular paragraph 133 makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics. It was common ground between the parties that the proposals represent inappropriate development as identified by the Framework. In terms of the five purposes of the Green Belt identified at paragraph 134 of the Framework, it was also common ground that the key tests in the context of these appeals are the effect on openness, encroachment and urban regeneration. I deal with each of these matters in turn.

Openness of the Green Belt

23. The appeal site comprises an open agricultural field with a number of public footpaths which traverse the site. It is entirely free from built development. The appeal proposals would introduce built development to the site in the form of 100 dwellings with associated access roads and pavements, residential gardens, open space and driveways. The precise layout and form of the development would be determined at reserved matters stage. Even taking into account the potential for boundary treatment and landscaping which could include open green space and play space and could be integral to the layout of the residential development proposed, this would have the effect of a considerable reduction in the openness of the site. The proposals would lead to conflict with policy 1 of the St Albans District Council Local Plan, 1994. This policy identifies the extent of Green Belt within the Borough, and outlines the developments which would be permitted which broadly align with the

development identified by the Framework. This, harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals.

Safeguarding the countryside from encroachment

24. It was generally agreed that the impact of the appeal proposal would be limited in terms of the impact on the wider integrity of the Green Belt. This is a view that I share. In terms of the impact of the development on the purpose of safeguarding the countryside from encroachment, my attention has been drawn to a number of background evidence documents including Green Belt studies. These include a report prepared by SKM Consultants in 2013 which included an assessment of Green Belt in both WHBC, SADC and Dacorum Borough Council. Here, the appeal site is assessed as part of parcel 34, a 419ha parcel of land. Reflective of the size and scale of the parcel of land, the report sets out a number of key characteristics of the land. With reference to the gap between Hatfield and London Colney, preventing the merger of St Albans and Hatfield, and preserving the setting of London Colney, Sleapshyde and Tyttenhanger Park, the report states that the parcel makes a significant contribution towards safeguarding the countryside and settlement patten and gaps between settlements. These characteristics bear little or no relationship to the appeal site, and given the sheer size and scale of the land identified within the report when compared to the appeal site, I place only very limited correlation between the conclusions drawn here in relation to the function of the land or assessment of its function relative to the purposes of the Green Belt when compared to the appeal site.

25. The most recent Green Belt Assessment which was prepared in relation to the WHBC Local Plan review is noted as a Stage 3 review and was prepared by LUC in March 2019. Only the part of the appeal site which falls within Welwyn Hatfield forms part of the assessment, and is included within the much wider site area known as parcel 54. The report notes that whilst residential development is visible across much of the parcel, the parcel *as a whole* makes a significant contribution to the safeguarding of the countryside from encroachment. The report notes that the impact of the release of the parcel *as a whole* from the Green Belt would be moderate-high, however the impact on the integrity of the wider Green Belt would be limited. Again, I place only limited weight on the findings of this report relative to the appeal site as the assessment and conclusions drawn relate specifically to parcel 54 *as a whole* which includes a much wider area and excludes part of the appeal site in any event.

26. I have already set out in my assessment of character and appearance above that the appeal site has an urban edge/ edge of settlement character. I have made a clear distinction between the appeal site and its separation from the countryside beyond to the south and east of the appeal site. In this way, the appeal site is influenced by the surrounding residential development. As a result of these locational characteristics and influences, the consequences of the development at the appeal site would mean that the proposals would have only a localised effect on the Green Belt. The broad thrust of, function and purpose of the Green Belt in this location would remain and there would be no significant encroachment into the countryside. I therefore conclude that the appeal proposal would not result in harm in term of the encroachment of the Green Belt in this location. This is a neutral factor which weighs neither in favour nor against the appeal proposals.

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

27. The harm alleged here is limited to WHBC where the Council contend that the proposal would not assist in respect of this fifth purpose of the Green Belt. I am aware that the emerging plan proposes a number of urban regeneration sites, some of which already have planning permission. However, I have no substantive evidence to suggest that the development at this site would disincentivise the urban regeneration of sites elsewhere. Given the scale of development proposed to be located within the WHBC boundary I do not consider that the proposals would be likely to adversely impact on the regeneration of urban redevelopment sites elsewhere. There would as a result be no conflict with this purpose. Again, this is a neutral factor which weighs neither in favour nor against the appeal proposals.

The effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. It is therefore necessary to consider the effect of the appeal proposals on the setting of the listed building itself.

29. The heritage asset concerned is a grade II listed residential dwelling. It is located adjacent to the northern boundary of the site. The house which was formerly two cottages, dates from the late C17 and has been subject to a number of modifications and extensions over the years. The dwelling is accessed from Roestock Lane. In this context, it is seen within its garden enclosure set back from the road adjacent to the Pumping Station and within the build fabric of residential development along Roestock Lane extending into Roestock Gardens.

30. From what I saw on my site visits, the significance of the heritage asset is in the main, locked into its built form and fabric. Given the mature vegetation which borders the rear garden, the extent of its setting that contributes to its significance is limited to the rear garden, and the way the front of the house addresses the main road. From Roestock Lane, the aesthetic value of the dwelling is evident through architectural detailing to the front elevation which is clearly visible.

31. The appeal proposals would see residential development introduced to the existing open agricultural field which abuts the rear boundary of the heritage asset. There would be no change to the built form or fabric of the dwelling, or the relationship of the heritage asset with its immediate garden. To my mind, these are the factors which provide the greatest contribution to the significance of the heritage asset.

32. The Councils heritage witness stated that the listed building has an historical association with the surrounding agricultural land and that the appeal site allows the listed building to have uninterrupted longer range views towards the south east. I do not agree. There is no evidence which confirms that the occupiers of the heritage asset were engaged directly with the appeal site. Neither does this serve to demonstrate any functional relationship between the appeal site and the heritage asset concerned. There is no evidence of an

existing or former access that existed between the appeal site and the heritage asset. Whilst the property may well have been at times occupied by agricultural workers, I have no doubt that this would be common to many residential dwellings in the area at that time and would indeed be reflective of the historical associations with farming in years gone past in the immediate area and beyond.

33. Turning to consider the issue of views, I am unable to agree with the Councils contention that uninterrupted longer-range views across the appeal site from the property contribute to the significance of the listed building. The extensive and mature boundary vegetation to the property provides significant screening to the boundary of the property, such that these views would at best be described as limited. In any event, given my conclusions above regarding the linkage between the appeal site and the heritage asset, I am not convinced that longer-range views from the property make any contribution to the historical significance of the dwelling. As I have already set out, the main front of the dwelling addresses Roestock Lane. That situation would not be changed. Neither, given the existing screening, that could be augmented through reserved matters, would the significance the listed building derives from its garden setting be undermined by the proposals.

34. Looking at the issue of views of the dwelling from the appeal site, the appreciation of the architectural interest of the building is limited. The rear elevation has been subject to extensions over time. The property is seen in the context of the other immediate surrounding residential dwellings which lie adjacent to the appeal site, their rear gardens and extensive and mature vegetation to these boundaries, not as an isolated heritage asset with any functional or historical link to the appeal site. The reserved matters submission will afford the Councils the opportunity for enhancements to the landscape setting in the vicinity of the site boundary.

35. It is common ground between the parties that the harm to the significance of the designated heritage asset would be less that substantial. It is also common ground that the public benefits of the scheme outweigh the less than substantial harm. For the reasons I have outlined above, even the appellants assessment at the very lowest end of the broad spectrum of less than substantial harm overstates the schemes likely effect in this context. As I have already set out, the main aspect of the dwelling is from Roestock Lane. In such views, the appeal proposals would have a very limited effect on the current position.

36. I conclude that the proposals would not result in any harm to the setting or significance of the heritage asset concerned. As such, s.66(1) of the planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged, and there would be no conflict with policy 86 of the St Albans District Local Plan (1994) which states, amongst other things, that where proposals effect the setting of a building of historic interest, the Council will have due regard to the desirability of preserving the building, its setting, or any features of architectural or historic interest which it possesses. Policy D1 is also referred to from the Welwyn Hatfield District Plan (2005). However, this policy concerns the provision of high quality design and is not of relevance to the heritage matters before me.

Whether the site is in an accessible location with regards to local services and facilities

37. The Councils contend that the appeal site is in an unsuitable and isolated location and as a result, it would fail to provide satisfactory access to services and facilities by means other than the private motor car. The appeal site is located on the eastern edge of Colney Heath. The parties agreed a facilities plan which clearly demonstrates the location of the appeal site relative to services, facilities and public transport and included walking and cycling distances from the appeal site. I will firstly assess the availability of and access to services and facilities outside of Colney Heath by means other than the private car, before turning to consider the facilities and services available within Colney Heath itself and how accessible these maybe to potential future occupiers at the appeal site.

38. In terms of public transport and travel outside of Colney Heath, there are a number of bus stops available most notably on Roestock Lane, Fellowes Lane and Hall Gardens. These are all within an 800m walking distance of the site, a flat comfortable walk. These stops provide services to both Potters Bar, Welwyn Garden City, St Albans and Hatfield Tesco Extra where more extensive shopping, medical, education, employment and leisure facilities are located. Whilst I accept that the buses serving these stops are limited in number and frequency and could by no means support regular commuting, they nevertheless provide an alternative mode of transport to the private car and could provide an important alternative to those sectors of the community who do not have access to a private car. Although the reliability of the services was questioned, I have no robust evidence to suggest that the service is so severely unreliable that it would lead me to reach a different conclusion on this issue.

39. For travel further afield, the nearest train services are provided at Welham Green, approximately 3.5km away with direct and frequent services to London. Turning to consider cycling, the Council's witness raised a number of concerns in relation to the nature of the roads and suitability for cycling. HCC as highways authority advised that cycling facilities are adequate with safe routes and access to the national cycle route network. These include National Cycle Route 61 approximately 3km from the appeal site providing access to St Albans and cycle route 12 approximately 2km to the south east providing access to both Welham Green and Hatfield. The agreed facilities plan indicates that taking into account average cycling times, a number of services and facilities would be available between 6 and 12 minutes away. I saw evidence on my site visits of both Bullens Green Lane and Fellowes Lane being well used for recreational purposes, including walkers and cyclists. Taking into account the average cycle times and distances to facilities outside of Colney Heath as set out within the facilities plan, I concur with HCC that cycling provides a reasonable alternative in this location to the private car.

40. Turning to consider journeys possible on foot, Colney Heath itself has a number of facilities and services which one would expect in a settlement of this size. These include but are not limited to a public house, primary school which has some albeit limited capacity and pre school, church, takeaway, village hall, hairdressers, scout hut, post office and mini mart. The availability of the public rights of way (PROW) within the site mean that these facilities and services could be accessible through a choice of routes, utilising the connections to

either Roestock Lane or Fellowes Lane and then onwards to the High Street. This choice of routes adds to the quality of the walking experience in this location however I acknowledge the concerns expressed regarding the use of the underpass under the A1 and the quality of the pedestrian environment provided here. In common with other lower order settlements in both SADC and WHBC, residents are expected to travel to larger settlements highlighted above for medical facilities, larger scale supermarkets, employment and secondary education and beyond. To my mind, the facilities and services available within Colney Heath and the accessibility of these facilities both on foot and by cycle mean that a number of day to day needs could be met without reliance on the private car. As a result, the location of the appeal site cannot be described as isolated. These factors weigh in favour of the appeal proposals.

41. Overall and to conclude, taking into account the essence of the Framework test as to whether a genuine choice of transport modes is on offer, the appeal proposals would in my view represent a sustainable location for new residential development.

42. My attention has been drawn to policy 2 of the St Albans Local Plan 1994 which identifies, amongst other things, Colney Heath as Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement. Given the policy wording, there would be a conflict with this policy. In relation to WHDC, I also conclude that the proposals would accord with policies SD1 and H2 of the Welwyn Hatfield District Plan, 2005. Policy SD1 confirms that development will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. Policy H2 applies a criteria based approach to windfall residential development, which includes, amongst other things, the location and accessibility of the site to services and facilities by transport modes other than the car.

43. Policy GBSP2 is also referred to however this is a policy relating to towns and specified settlements where development will be located and the settlement of Colney Heath is not identified by the policy however the supporting text to the policy identifies Bullen's Green and refers to development to support services and facilities. Overall, the proposals would not accord with this policy.

44. Policy R1 requires development to take place on land which has been previously used or development. It goes onto state that development will only be permitted on 'greenfield' land where it can be demonstrated that no suitable opportunities exist on previously used or developed land. The proposals would conflict with this policy.

Whether very special circumstances exist

45. Substantial weight is attached to any harm to the Green Belt by reason of inappropriateness. Very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It is widely acknowledged that the definition of very special circumstances do not in themselves have to be rare or

uncommon[1]. I now turn to consider the factors which I have taken into account in making this assessment.

Provision of Market Housing

46. Paragraph 59 of the Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

47. I am aware of the Written Ministerial Statement of December 2015 which indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, in common with the appeal decision[2] referred to, I note that this provision has not been incorporated within the Framework which has subsequently been updated and similar guidance within the Planning Practice Guidance has been removed. I can therefore see no reason to give this anything other than little weight as a material consideration.

48. It is common ground that neither SADC or WHBC can demonstrate a five year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall, the parties also agreed that this is not a matter upon which the appeals would turn. I agree with this position. Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant.

49. There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.

Provision of Self Build

50. Turning to consider the issue of Self Build, as part of the overall dwelling numbers, the proposal would deliver up to 10 self build or custom build dwellings. The Government attaches great importance to the provision of this element of the supply. Notably, paragraph 61 of the Framework identifies that planning policies should reflect the housing needs of different sectors of the community including, but not limited to people wishing to commission or build their own homes. Footnote 26 gives further explanation with reference to the requirements of the Self Build and Custom Housebuilding Act 2015 (as amended). The Planning Practice Guidance advises that local authorities

[1] Wychavon DC v Secretary of State for Communities and Local Government and Butler [2008] EWCA Civ 692.
[2] APP/C2741/W/19/3227359

should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area. Furthermore, it goes onto note that the registers are likely to be a material consideration in decisions involving proposals for self and custom housebuilding.

51. In the case of these appeals, there are no development plan policies which relate specifically to the provision or delivery of self building housing in either authority. Emerging policy SP7 at WHBC identifies four allocations which would contribute towards self build plot provision although the allocations do not specify how many plots. Furthermore, neither authority has an uptodate assessment of likely future demand for this type of housing in line with the Planning Practice Guidance. The appellant provided detailed evidence in relation to the Custom Build Register, none of which was disputed. Evidence also presented demonstrated that the statutory duty to provide for base period plot provision has also not been met in either authority, in some periods by a significant margin. Taking into account other secondary data sources, these shortfalls may well be on the conservative side.

52. In common with both market housing and affordable housing, the situation in the context of provision of sites and past completions is a particularly poor one. To conclude, I am of the view that the provision of 10 self build service plots at the appeal site will make a positive contribution to the supply of self build plots in both local planning authority areas. I am attaching substantial weight to this element of housing supply.

Provision of affordable housing

53. The uncontested evidence presented by the appellant on affordable housing for both local authorities illustrates some serious shortcomings in terms of past delivery trends. In relation to WHBC, the affordable housing delivery which has taken place since 2015/16 is equivalent to a rate of 23 homes per annum. The appellant calculates that the shortfall stands in the region of 4000 net affordable homes since the 2017 SHMA Update, a 97% shortfall in affordable housing delivery. If the shortfall is to be addressed within the next 5 years, it would required the delivery of 1397 affordable homes per annum. In SADC, the position is equally as serious. Since the period 2012/13, a total of 244 net affordable homes have been delivered at an average of 35 net dwellings per annum. Again, this equates to a shortfall also in the region of 4000 dwellings (94%) which, if to be addressed in the next 5 years, would require the delivery of 1185 affordable dwellings per annum.

54. The persistent under delivery of affordable housing in both local authority areas presents a critical situation. Taking into account the extremely acute affordable housing position in both SADC and WHBC, I attach very substantial weight to the delivery of up to 45 affordable homes in this location in favour of the proposals.

Other Matters

Other Appeal Decisions

55. I have been referred to no fewer than 21 other appeal decisions[3] in addition to 9 Secretary of State decisions[4] as part of the evidence before me in relation to these appeals. Both the appellant and the Councils have sought to draw comparisons and similarities between this extensive array of decisions before me for a variety of reasons. Two historical decisions at the appeal site, as acknowledged by the Councils, were determined under a different planning policy framework and accordingly I attach very limited weight to these. In relation to the appeal decision at the neighbouring site[5], I do not have the full details of the evidence which was before that Inspector, the main issues were different to these appeals and the decision predates the current Framework.

56. Rarely will any other appeal decision provide an exact comparison to another situation. In some of the cases referred to, there are similarities in the size and scale of the proposal, in other cases there are entirely different planning policy positions, housing supply considerations, land use considerations, locational characteristics, main issues and other factors which have been weighed in the balance. Furthermore, it remained common ground that each appeal should be considered on its own merits as is the case here. It is for the decision maker in each case to undertake the planning balancing exercise and as a result, the weight I have attached to these other appeal cases is limited.

Other Matters

57. I have considered the effect of the proposals on the occupiers of the neighbouring dwellings in terms of effect on living conditions, highways impacts, flooding and loss of agricultural land. There are no objections from either SADC , WHBC or HCC in relation to these matters. I acknowledge concerns expressed by local residents in relation to existing flooding which takes place on Bullens Green Lane, however I am satisfied that appropriately worded conditions in relation to surface water and drainage can satisfactorily address any impacts of the appeal proposals in this regard. Similarly, I have no evidence before me which would lead me to reach a different conclusion to the Councils in relation to the effect of the development on the living conditions of neighbouring properties.

58. In terms of highways impacts, I acknowledge that a number of local residents have expressed concerns regarding localised congestion and parking and overall highways impacts. I am also mindful of the concerns expressed by Colney Heath Parish Council in connection with the data used to support the appeal proposals. However, taking into account the likely vehicular traffic to be generated by the development and the conclusions reached by the supporting

[3] Two historical appeal decisions at the appeal site E6/1973/3202 & E6/1954/0860, APP/B1930/W/19/3235642, APP/Y0435/W/20/3251121, APP/C2714/W/19/3227359, APP/D2320/W/20/3247136, APP/P0119/W/17/3191477, APP/P1615/W/18/3213122, APP/G2435/W/18/3214451 & 3214498, APP/W0530/W/19/3230103, APP/C1570/W/19/3234530 & 3234532, APP/X0360/W/19/3238048, APP/H1840/W/20/3255350, APP/P3040/W/17/3185493, APP/L3815/W/16/3165228, APP/D0840/A/13/2209757, APP/G1630/W/14/3001706, APP/G5180/W/16/3144248, APP/G5180/W/18/3206569, APP/E2001/W/20/3250240,
[4] APP/W4705/V/18/3208020, APP/Q3115/W/19/3230827, APP/C4235/W/18/3205559, APP/P1615/A/14/2218921, APP/A0665/W/14/2212671, APP/H1840/A/13/2199085 & 2199426, APP/P4605/W/18/3192918, APP/Q3630/A/05/119826, APP/W1850/W/20/3244410
[5] APP/B1930/W/15/3137409

transport assessments, I concur with the view that this will not have a severe impact on the operation of the wider highways network.

59. The site access would be located off Bullens Green Lane where it is currently subject to the national speed limit. The Highways Authority consider that the introduction of a transitional speed limit restriction may be necessary to the south of the site. As a result, two Grampian conditions are proposed to address this issue. I conclude that the development would not cause harmful levels of congestion or increase risk to highway safety.

60. I note the conclusions the Councils have drawn in relation to the loss of agricultural land and the inconsistencies between the development plan policies and the Framework in this regard and can see no reason to disagree with the conclusions drawn by the Councils in relation to this matter.

61. The Councils argued that the site is not a suitable location for housing as it does not form part of the emerging policy context for either SADC or WHBC. Whilst I acknowledge this to be the case, this in itself is not a reason that the appeals should fail. In neither SADC nor WHBC is there an emerging policy position to which any significant weight can be attached. The SADC Local Plan Review was adopted in 1994, some 27 years ago. The most recent replacement plan was withdrawn. As a result, there is currently no uptodate strategic housing land requirement assessment which has been subject to any rigorous soundness assessment through the local plan examination process.

62. Turning to consider the position at WHBC, the adopted plan dates from 2005, some 16 years ago. The emerging plan was submitted for examination some 4 years ago. As was outlined during the inquiry, Interim Findings issued by the Inspector in October 2020 and subsequent round up notes issued by the Inspector in March 2021 set out that findings in relation to the FOAHN, windfall allowance and green belt boundaries at proposed development sites are yet to be issued. As a result, I am unable to conclude with any certainty when the WHBC Plan will be found sound and as such attach very limited weight to this emerging plan.

Biodiversity

63. Policy R11 of the WHBC Local Plan requires, amongst other things, that all new development should demonstrate how it would contribute positively to the biodiversity of the site by meeting a number of identified criteria. In the case of these appeals, the criteria most relevant are (i) the retention and enhancement of natural features of the site and (ii) the promotion of natural areas and wildlife corridors where appropriate as part of the design. For SADC, my attention has been drawn to policy 106 of the SADC Local Plan 1994 however this policy deals specifically with the effect of planning applications on identified SSSIs, Nature Reserves, other sites of wildlife, geographical or geomorphological importance which is not applicable to the appeal site. This is a position confirmed by the Councils in their proof of evidence.

64. The appeals are supported by an amended Ecological Impact Assessment. Hertfordshire Ecology, as ecological advisors to both WHBC and SADC confirmed that subject to a suitably worded condition and obligations within the Section 106 agreement, both of which I set out later within this report, the appeal proposals adequately address the ecological impacts of the development

at the appeal site. I therefore conclude that the proposals would accord with policy R11 of the WHBC Local Plan in this regard.

Planning Obligation

65. I have taken into account the various obligations identified within the executed Section 106 Agreement with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) as well as the tests identified at paragraph 56 of the Framework. The obligation would secure a number of provisions relating to HCC, SADC and WHBC. I deal with each of these individual matters in turn.

66. A number of clauses in relation to biodiversity measures are proposed. A biodiversity offsetting contribution is included within the obligation, which would contribute towards the creation of new habitats. This would be calculated by using the Biodiversity Net Gain Matrix which provides for a financial contribution based on the formula identified by the matrix which measures and takes into account biodiversity losses and gains resulting from the development. In support of this approach, the Councils have identified that adopting the use of this matrix approach allows for landscaping and open space proposals as well as on site mitigation to be taken into account at reserved matters stage. In addition, the parties have also referred me to an alternative appeal decision[6] to endorse the use of the Biodiversity Net Gain Matrix approach. Once calculated, a scheme would be submitted for approval to both Councils referred to as the biodiversity offsetting scheme. In addition to this offsetting, biodiversity onsite compensation would also be provided through the identification of biodiversity measures to be implemented within the site as part of an identified onsite compensation scheme. In both instances, the Councils would be approving the onsite and offsetting schemes with reference to the biodiversity metric formular approach.

67. A green space contribution, to be calculated based on the precise number of dwellings and mix, will deliver the creation of a wildflower meadow at Angerland public open space off Bishops Rise, South Hatfield. Officers confirmed that this was the closest facility to the appeal site to which improvement requirements have been identified.

68. I note the Councils expressed concerns that the appellant could rely on the green space contribution as part of the biodiversity offsetting scheme and biodiversity offsetting contribution. However the biodiversity offsetting scheme, by definition, requires a scheme to be approved by both Councils to include but not limited the identification of an appropriate receptor site(s). As a result, I consider that this matter is adequately addressed by the obligation and the concerns are unfounded.

69. Taking into account the information and evidence presented, I am content that the obligations in relation to biodiversity, including the offsetting contribution, offsetting scheme and onsite compensation are necessary, directly related to the development and fairly and reasonably related in scale and kind. I draw the same conclusion in relation to the green space contribution. These obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.

[6] APP/Y0435/W/20/3251121

70. In addition to the above, the obligation would secure the provision of affordable housing, apportioned equally between WHBC and SADC. The affordable housing scheme would also secure the mix of units and tenures. In a similar way, the obligation would secure the plots and associated provision for the self build and custom housebuilding plots on the site. A district community facilities contribution is sought, to provide improvements towards the Roestock Park Scout Hut. Obligations relating to the highways works necessary to implement the scheme, waste and recycling, bus stop improvements at Hall Gardens, travel plan, libraries contribution towards improvements to the Creator Space at Hatfield Library, education contribution for both primary and secondary school provision, youth contribution towards increased provision at Hatfield Youth Centre, indoor sports facilities contribution towards the University of Hertfordshire and/or Hatfield Swimming Pools, and medical facilities in the form of community healthcare, general medical services specified at Northdown Road and/or Burvill House Surgery and mental health contribution specified at Queensway Health Centre and Roseanne House are also included. Finally, a monitoring fee, not to exceed £5000 would be payable to WHBC to cover the reasonable and proper administrative costs of monitoring compliance with the obligations.

71. The delivery of up to 100 dwellings in this location will result in an increase in the local population, with subsequent impacts on schools, social infrastructure such as medical facilities, libraries, sports and transport. A number of the other obligations, for example the provision of self or custom build housing as well as the provision for affordable housing weigh in favour of the appeal proposals.

72. I conclude that all of the aspects of the obligations outlined above are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As a result, the obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.

73. The obligation also includes a contribution towards outdoor sports facilities, specifically improving drainage at grass pitches at Welham Green recreation ground and/or towards repairs to the bowls ground in the same location. Welham Green is approximately 3.5km from the appeal site. There is an existing recreational facility next to the appeal site, as well as outdoor sports facilities, albeit within SADC, located locally within Colney Heath. I am not convinced that this contribution would be necessary to make the development acceptable in planning terms or directly related to the development. Accordingly, I do not find this part of the obligation would satisfy the necessary tests.

Conditions

74. A round table session was held at the inquiry to discuss a list of agreed planning conditions. I have considered this list of conditions with reference to the tests as set out at paragraph 55 of the Framework. Where necessary, I have amended the wording of the conditions in the interests of precision and clarity.

75. In the interests of certainty and highways safety, conditions outlining the approved plans, including the access arrangements and their implementation, as well as the visibility splays, are necessary. I have however not included the suggested condition relating to the parameter plan as I do not consider a condition relating to this is necessary or reasonable in this instance. As the proposals are in outline form only, it is however necessary to specify the reserved matters to be submitted for approval and associated time limits for their submission and subsequent implementation. Two highways related conditions are attached. The first relate to submission, approval and implementation of any necessary Traffic Regulations Order (TRO). The second relates to the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane. Both of these conditions are necessary in the interests of highways safety.

76. A condition requiring an archaeological written scheme of investigation is both necessary and reasonable in order to establish the presence or absence of archaeological remains. Conditions requiring the submission of a scheme relating to surface water drainage and also relating to the arrangements for surface water to be disposed of are necessary and reasonable to ensure the satisfactory storage and disposal of surface water from the site. To address any risk of flooding, a further condition is attached requiring the development to be completed in accordance with the Flood Risk Assessment and Drainage Strategy. In addition, to prevent contamination, conditions have been attached which require full details of any substance containers to be submitted and approved in writing and also specific details of works involving excavation. A condition relating to indoor and outdoor noise levels is both necessary and reasonable to protect the living conditions of future residents. Furthermore, a condition relating to accessible housing is justified in order to ensure the needs of accessible or wheelchair housing are met.

77. The submission of a construction management plan is required by condition 11. This is necessary in the interests of highways safety and also the living conditions of nearby residents. In order to promote sustainable transport a condition relating to the provision of electric vehicle charging points has been included. Conditions covering landscaping details, a landscaping and ecological management plan and requiring a tree protection plan and method statement are necessary to ensure that the appearance of the development is satisfactory, biodiversity impacts of the development are suitably addressed and that where necessary, to ensure that retained trees and hedgerows are protected during the course of construction.

Conclusions

78. The proposals would cause harm by reason of inappropriateness and harm to openness. Both of these attract substantial weight. I have also attached moderate weight to harm to the character and appearance of the area. However, these appeals involves two local authority areas, both of which have acute housing delivery shortages and acute affordable housing need. The proposals would make a contribution towards addressing these needs in the form of market, self build and affordable housing in both WHBC and SADC. I have attached very substantial weight to the provision of both market housing and affordable housing. I have attached substantial weight to the provision of self build housing. These factors, when considered collectively demonstrate that very special circumstances do exist.

79. I conclude that in the case of these appeals, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, very special circumstances do exist to justify inappropriate development in the Green Belt. My findings on the other matters before me do not lead me to a different conclusion. As a result, I therefore conclude that the proposals would comply with both the Framework and the development plans taken as a whole. For the reasons given above, and having considered all other matters raised, the appeals are allowed.

C Masters

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITES:

Matthew Fraser of Counsel	Instructed by WHBC and SADC

He called:

Phillip Hughes BA(Hons) MRTPI FRGS Dip Man MCMI	Director of PHD Chartered Town Planners Limited

Other Participants at Round Table Discussions:

David Elmore	Senior Development Management Officer, Welwyn Hatfield Borough Council
Ruth Ambrose MA (Hons) MTP MRTPI	St Albans Borough Council
Martin Hicks	Hertfordshire Ecology
Martin Wells	Hertfordshire County Council Growth and Infrastructure Unit
Chris Martin	Hertfordshire County Council Children's Services (Education)
Lindsay McCauley	Hertfordshire County Council Highways
Rob Walker	Solicitor, Welwyn Hatfield Borough Council

FOR THE APPELLANT:

Zack Simons of Counsel	Instructed by Russell Gray of Woods Hardwick

He called:

Andrew Crutchley BA (Hons) PG Dip (Oxon) MCIfA	Director at the Environmental Dimension Partnership
John Freeman MEng CEng MICE MICHT MIOD	Director of Woods Hardwick Ltd
Gary Holliday B.A (Hons) MPhil CMLI Ltd	Director at FPCR Environment and Design Ltd
Andrew Moger BA (Hons) MA MRTPI	Associate Director at Tetlow King Planning Ltd
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Russell Gray BA (Hons) DIP UP MRTPI	Director of Woods Hardwick Planning Ltd

Other Participants at Round Table Discussion

Paul Arnett	Town Legal

RULE SIX PARTY:

John Clemow – 4ColneyHeath

INTERESTED PERSONS:

Cllr Peter Cook	Colney Heath Parish Council

DOCUMENTS SUBMITTED DURING INQUIRY

CD 10.13	Appeal Decision, land at Church Lane, Wittington
CD 7.07	Extracts from SADC SHLAA 2009

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called, the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. 17981 1002 (Site Location Plan), drawing no. 18770-FELL-5-500 Rev B (Revised Site Access) and drawing no. 18770-FELL-5-501 Rev A (Proposed Footpath Connection).

4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

5. No development of the site shall commence until:
   a) A scheme to reduce speeds (to support the access proposals designed to 30mph) on Bullens Green Lane, Colney Heath, is provided to and approved in writing by the Local Planning Authority. Any scheme is required to be designed in line with the requirements of Hertfordshire County Council's (HCC) Speed Management Strategy (SMS); and
   b) Any necessary Traffic Regulation Order (TRO) is made in respect of part a) to this condition. 'Made' means that the TRO has been approved and can be implemented.
   No occupancy of the site can occur until the Traffic Regulation Order referred to above is implemented and brought into force. Evidence of the implemented scheme, in the form of a Certificate of Completion of the Section 278 of the Highways Act 1980, must be submitted to and approved in writing by the local planning authority.

6. No development of the site shall commence until a scheme for the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane, Colney Heath, in line with drawing number 18770-FELL-5-501 Rev A in principle, is provided and approved in writing by the Local Planning Authority and is designed in line with the requirements as set out in Hertfordshire County Council's Roads in Hertfordshire: Highway Design Guide (3rd edition). No occupation of any part of the development may occur before implementation of the approved scheme referred to in Part 1 of the condition.

7. No works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried until the following has been submitted to and approved in writing by the Local Planning Authority.
   a) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth
   b) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination including turbidity.

c) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. turbidity monitoring, appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants including turbidity or existing contaminants such as hydrocarbons to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.
All works shall be carried out in accordance with approved reports listed above.
The applicant or developer shall notify Affinity Water of excavation works 15 days before commencement in order to implement enhanced monitoring at the public water supply abstraction and to plan for potential interruption of service with regards to water supply.

8. Development must not commence until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance and research questions; and:
a) The programme and methodology of site investigation and recording;
b) The programme and methodology of site investigation and recording as required by the evaluation;
c) The programme for post investigation assessment
d) Provision to be made for analysis of the site investigation and recording;
e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
f) Provision to be made for archive deposition of the analysis and records of the site investigation;
g) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.
The development must not take place other than in accordance with the approved programme of archaeological works set out in the Written Scheme of Investigation.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.
An investigation and risk assessment and, where remediation is necessary, a remediation scheme must then be submitted to and approved in writing by the Local Planning Authority and implemented as approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

The investigation and risk assessment must assess the nature and extent of any contamination on the site, whether or not it originates on the site and must be undertaken by competent persons. A written report of the findings must be produced and the findings must include:
(i) a survey of the extent, scale and nature of contamination;
(ii) (ii) an assessment of the potential risks to:
- human health;
- property (existing or proposed) including buildings;
- crops;
- livestock;
- pets;

- woodland and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

The investigation and risk assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Remediation Scheme

Following completion of measures identified in the approved remediation scheme, a verification report which demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.

9. Development must not commence until the final design of the drainage scheme is completed and sent to the local planning authority for approval. The surface water drainage system should be based on the submitted the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020). The scheme must also include:

a) Detailed, updated post-development calculations/modelling in relation to surface water for all rainfall events up to and including the 1 in 100 year return period, this must also include a +40% allowance for climate change;

b) A detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points. If areas are to be designated for informal flooding these should also be shown on a detailed site plan;

c) Exceedance flow paths for surface water for events greater than the 1 in 100 year including climate change allowance;

d) Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs. This should include details regarding the connection into the existing Thames Water surface water sewer;

e)The drainage scheme shall also confirm use of an oil/water interceptor; and

f) Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

10. Development must not commence until details of all substance containers are submitted to and approved in writing by the local planning authority. These details must include:

a) Confirmation of bunding of 110% capacity; and

b) Confirmation of the presence of a leak detection system and methodology that includes immediate notification to Affinity Water

11. Development must not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development must only be carried out in accordance with the approved Plan. The Construction Management Plan must include details of:
a) Construction vehicle numbers, type, routing;
b)Access arrangements to the site;
c) Traffic management requirements including arrangements for the PROW across the site during construction;
d) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
e) Siting and details of wheel washing facilities;
f) Cleaning of site entrances, site tracks and the adjacent public highway;
g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
h) Provision of sufficient on-site parking prior to commencement of construction activities;
i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

12. No development above ground level shall take place until a scheme to protect the development from noise due to transport sources is submitted to and approved in writing by the local planning authority. The scheme must ensure that:

The indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Relaxed noise levels in BS 8233:2014 will not be accepted in living rooms and bedrooms unless it can be demonstrated that good acoustic design practices have been followed and the implementation of acoustic barriers/bunds to lower façade noise levels as much as reasonably practicable, have been implemented. Internal LAmax levels should not exceed 45dB more than ten times a night in bedrooms;
If opening windows raises the internal noise levels above those within BS8233, the mechanical ventilation will need to be installed, with ventilation rates required to meet those found within The Noise Insulation Regulations 1975. Alternative methods (such as passive systems) and rates can be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that the medium risk category is not exceeded. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the SAP Assessment; and
Outdoor amenity areas must meet the 55dB WHO Community Noise Guideline Level

The approved scheme must be implemented prior to first occupation, unless the Local Planning Authority otherwise agrees in writing.

13. No development above ground level shall take place until a scheme setting out the arrangements for the delivery of accessible housing will be supplied to the council in accordance with the following requirements:
a) A schedule of units, together with appropriate plans and drawings, must be submitted to and be approved by the local planning authority setting out details of the number, layout and location of all units that will comply with Part M4(2) of the Building Regulations 2010. At least 20% of all new dwellings must meet Building Regulations Part M4(2) standards for 'accessible and adaptable dwellings';
b) All units specified as M4(2) in the agreed schedule and plans must be implemented in accordance with that approval and in compliance with the corresponding part of the Building Regulations in that regard;
c) The person carrying out the building work must inform the Building Control body which requirements apply; and
d) Written verification of the completion of all dwellings in accord with part (a) above will be supplied to the local planning authority within 30 days of the practical completion [of the block it forms part of].

14. Prior to the first occupation of the development hereby permitted the vehicular access must be provided and thereafter retained at the position shown on drawing no. 18770-FELL-5-500 Rev B in accordance with the agreed highway specification . Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

15. Prior to the first occupation of the development hereby permitted a visibility splay must be provided in full accordance with the details indicated on drawing no. 18770-FELL-5-500 Rev B. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

16. Prior to first occupation of the development hereby permitted, a minimum provision of 20% of the car parking spaces must be designated for plug-in Electric Vehicles (EV) and served by EV ready [domestic and/or fast] charging points.

17. The development permitted by this planning permission must be carried out in accordance with the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020) and the following mitigation measures:
a) Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 9.3 l/s during the 1 in 100 year event plus 40% of climate change event;
b) Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a total storage volume in two attenuation basins;
c) Discharge of surface water from the private drainage network into the Thames Water surface water sewer system located in Bullens Green Lane.
The mitigation measures shall be fully implemented prior to first occupation of the development hereby approved.

Surface water must not be disposed of via direct infiltration into the ground via a soakaway.

Notwithstanding the submitted 'Updated Arboricultural Assessment – Version 2 (by FPCR Environment and Design Ltd, July 2020), a detailed tree protection plan and method statement should be submitted as part of application(s) for reserved matters approval as required by Condition 1.

18. Full details of both soft and hard landscape works should be submitted as part of application(s) for reserved matters approval as required by Condition 1. The landscaping details to be submitted shall include:

a) existing and proposed finished levels and contours
b) trees and hedgerow to be retained;
c) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing;
d) hard surfacing;
e) means of enclosure and boundary treatments;
f) Details of toddler play area including play equipment; and
g) Any other structures (such as furniture, refuse or other storage units, signs, lighting)

19. A landscape and ecological management plan (LEMP) should be submitted as part of application(s) for reserved matters approval as required by Condition 1 and include:

a) A description of the objectives;
b) Habitat/feature creation measures proposed
c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;
d) Lighting strategy (aim to ensure that illumination of the existing hedgerows does not exceed 0.5 lux); and
e) A monitoring programme and the measures required to adapt the LEMP should objectives fail to be met.
The LEMP should cover all landscape areas within the site, other than small privately owned domestic gardens.

APPENDIX J

Chiswell Green Lane, St Alban's

ESQUIRE
DEVELOPMENTS

Department for Levelling Up,
Housing & Communities

A. John Boyd
Carter Jonas
[redacted]

B. Brian Parker
MRP Planning
[redacted]

By email only

Our refs:
A. APP/B1930/W/22/3313110 &
B. APP/B1930/W/22/3312277
Your refs:
A. 5/22/0927 &
B. 5/21/3194

22 March 2024

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS MADE BY A: ALBAN DEVELOPMENTS LTD AND ALBAN PETER PEARSON, CALA HOMES (CHILTERN) LTD AND REDINGTON CAPITAL LTD and B: HEADLANDS WAY LTD
A. LAND SOUTH OF CHISWELL GREEN LANE, CHISWELL GREEN, ST. ALBANS &
B. LAND NORTH OF CHISWELL GREEN LANE, CHISWELL GREEN, ST. ALBANS
APPLICATION REFS: A. 5/22/0927 and B. 5/21/3194

This decision was made by the Minister for Housing and Homelessness, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Michael Boniface MSc MRTPI, who held a public local inquiry between 17 April and 9 May 2023 into your clients' appeals against the decisions of St Albans City and District Council (the Council) to refuse your clients' applications for planning permission for the following developments:

   A. Outline application for the demolition of existing structures and construction of up to 391 dwellings (Use Class C3); the provision of land for a new school, open space provision and associated landscaping, internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements ('Appeal A') in accordance with application Ref. 5/22/0927, dated 29 April 2022.

   B. Outline application for the demolition of existing buildings and the construction of up to 330 discounted affordable homes for key workers, including military personnel, the creation of open space and the construction of new accesses and highway works including new foot and cycle path and works to junctions '(Appeal B'), in accordance with application Ref. 5/21/3194, dated 12 November 2021.

Department for Levelling Up, Housing & Communities
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF
Email: PCC@levellingup.gov.uk

2. On 1 June 2023, these appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeals be allowed.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeals and grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to this report.

Procedural matters

5. The Secretary of State notes that, as explained in IR5 and IR6 in advance of the Inquiry the appellants for Appeal A sought to remove "2FE primary" from the description of development and annotations on the parameters plan and the appellant for Appeal B identified some minor land ownership discrepancies within the red line site boundary and requested that an alternative location plan be submitted. The result was to remove a small section of land on the eastern boundary, making the site area slightly smaller However, he does not consider that the change to the description of development for Appeal A or site boundary amendments for Appeal B raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

Matters arising since the close of the inquiry

6. Mandatory biodiversity net gain (BNG) has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to mandatory BNG.

7. On 18 January 2024 the Secretary of State wrote to the main parties to afford them an opportunity to comment on:

   - The revised National Planning Policy Framework (the Framework) which was published on 20 December 2023; and

   - The 2022 Housing Delivery Test figures which were published on 19 December 2023.

8. A list of representations received in response to this letter is at Annex A. These representations, and responses to them, were circulated to the main parties. The Council's response noted that as its emerging plan has reached Regulation 18 stage the Council is required to only demonstrate a 4-year housing land supply. The Council has however confirmed that its housing land supply is now 1.7 years (down from 2 years at the time of the inquiry), and that its Housing Delivery Test (HDT) figure is now 55% (down from 69% at the time of the inquiry). The appellants for both sites draw attention to the worsening housing position. The Secretary of State has taken these representations into account when reaching his decision. Conclusions on specific matters are set out below. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.

9. A list of other representations which have been received since the inquiry is also at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

10. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

11. In this case the development plan consists of the Saved Policies of the Council's District Local Plan Review (1994) and the St. Stephen Neighbourhood Plan (2019-2036) (made 2022), the Waste Core Strategy and Development Management Policies DPD (Adopted 2012) and Hertfordshire Minerals Local Plan (Adopted 2007).

12. The Secretary of State considers that relevant development plan policies include those set out at IR19-20. He agrees with the Inspector's assessment that the most important policies for determining the applications are deemed out of date as the Council does not have a five-year housing land supply (IR585). With regards to the Local Plan Policy regarding the Green Belt (Policy 1), the Secretary of State considers that this is not out of date due to its consistency with the Framework (IR529).

13. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), and the materials identified at IR21. A new version of the Framework was issued on 20 December 2023; this is dealt with above.

Emerging plan

14. The previous emerging plan was withdrawn in 2020. The Council is in the early stages of preparing a new Local Plan. It completed Regulation 18 consultation in September 2023 on a Draft Local Plan, Draft Site Allocations, Draft Policies Map and Evidence Base and Supporting Documents. On 19 December 2023, when the revised Framework was published, the Secretary of State wrote to the Council stating that it must update its Local Development Scheme (a plan for the production of the new Local Plan) within 12 weeks. An updated Local Development Scheme was received by the Secretary of State from the Council in February 2024. The Secretary of State does not consider that this raises any additional issues that necessitate any referral back to parties.

15. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State considers that the emerging Local Plan is at an early stage and therefore carries limited weight.

Main issues

16. The Secretary of State agrees that the main issues are those set out by the Inspector at IR525-526.

Green Belt

17. The Secretary of State agrees with the Inspector that both proposals represent inappropriate development in the Green Belt (IR528). For the reasons given in IR530-534, the Secretary of State agrees with the Inspector that the Green Belt Review is a material consideration relevant in considering Green Belt matters in the district, and that the relative suitability of strategic sub-area S8 (which both appeal sites fall within), as defined by the Green Belt Review, is an important consideration.

18. *Appeal A:* For the reasons given at IR534 the Secretary of State agrees that Appeal site A is largely undeveloped and open at present, and that the introduction of 391 dwellings, a school and associated works would introduce a great deal of built volume to the Green Belt. For the reasons given in IR535-542, the Secretary of State agrees with the Inspector that the Appeal A scheme would result in definitional harm to the Green Belt, as well as harm to its openness and purposes (moderate harm to checking unrestricted sprawl, very limited harm to preventing neighbouring towns merging into one another, and moderate harm to safeguarding the countryside from encroachment). Like the Inspector he attaches substantial weight to this harm.

19. *Appeal B:* For the reasons given at IR543 the Secretary of State agrees that Appeal site B is largely open and undeveloped, and that the 330 dwellings sought would have a considerable and permanent impact on openness in both a spatial and visual sense. The Secretary of State agrees with the Inspector for the reasons given in IR544 that the development would result in substantial harm to Green Belt openness. For the reasons given at IR546-548 the Secretary of State agrees with the Inspector that there would be significant harm to the purpose of checking unrestricted sprawl, very limited harm to preventing neighbouring towns merging into one another, and significant harm to safeguarding the countryside from encroachment. Like the Inspector at IR550, the Secretary of State concludes that the development would result in definitional harm to the Green Belt, as well as harm to its openness and purposes, and he attaches substantial weight to this harm.

20. *Both Appeals:* The Secretary of State has gone on to apply national Green Belt policy. Paragraphs 152-153 (formerly 147-148) of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Secretary of State has gone on to consider these matters. His conclusion on whether very special circumstances exist is set out in para 42 below.

Landscape and Visual Impacts

21. *Appeal A:* For the reasons given at IR551-552, the Secretary of State agrees that the character of the site would change significantly as a result of development, and although the scheme would incorporate areas of open space and landscaping that would mature and soften the development over time, the residual effect would remain Minor Adverse (IR552). With regard to the visual effects, he agrees that whilst the effects would be greater in the early years of the development, they would reduce over time as landscaping matured and the development became assimilated into the settlement (IR553). Overall, taking into account that there is scope for a well-designed and sensitive scheme (IR553), he agrees with the Inspector that whilst there would be adverse landscape and visual impacts, this should be afforded limited weight (IR554).

22. *Appeal B:* For the reasons given at IR556, the Secretary of State agrees that there is opportunity to deliver a suitable scheme with no more than Moderate Adverse landscape impacts. However, as explained in IR557-561, there would be a number of significant visual effects arising from the development due to the views towards the site from Footpaths 082, 039, 080, 021 and 012, as well as from long views towards the site from elevated positions. Nevertheless, he agrees that the proposed development would be seen in the context of the distant Chiswell Green and filtered by both existing and proposed landscaping on the site boundaries (IR561). The Secretary of State agrees that the Appeal B development would result in significant landscape and visual impacts (IR563), and that cumulatively these impacts attract significant weight.

23. *Both Appeals:* Overall, the Secretary of State agrees with the Inspector at IR564 that if both schemes were to come forward the harms identified would result cumulatively. The Secretary of State considers that cumulatively the proposals would attract significant weight, given that there would be very limited opportunities to experience the two developments together beyond Chiswell Green Lane.

Loss of agricultural land

24. *Both Appeals:* The Secretary of State notes at IR565 that the Inspector states that the two proposals would result in a loss of 17.9ha of Best and Most Versatile (BMV) agricultural land. However, the Secretary of State of also notes that south site (Appeal A) has not been used for agriculture for a number of years (IR566). For the reasons given at IR567, the Secretary of State agrees that given much of the greenfield land in the district is BMV agricultural land, then it is inevitable that some will be lost if housing needs are to be met. The Secretary of State agrees at IR567 that the proposal does not conflict with LP Policy 102, given the overriding need for housing in the district. The Inspector considers that the loss of BMV land in both appeals carries limited weight, with which the Secretary of State agrees.

25. Footnote 62 of the Framework, concerning the importance of the availability of agricultural land used for food production has been given consideration in relation to this application. The Secretary of State upholds his opinion that the proposed development would be consistent with paragraph 180(b) (formerly 174) of the Framework and finds the updated Footnote 62 to have limited bearing on the application.

Highways and Transportation

26. *Both Appeals:* The Secretary of State has carefully considered concerns raised locally regarding the effects of the proposal upon the highway network. The Secretary of State agrees with the Inspector's conclusion on the matter of the additional pressure to the highway network that would result from the two appeals (IR568-571). He also agrees with the Inspector that there are no highway safety issues that indicate against the proposals (IR574). The Secretary of State agrees with the Inspector and the Local Highway Authority that, subject to detailed design, a scheme to signalise the junction would mitigate the cumulative travel impact caused by the proposals if both schemes were to come forward (IR571) and considers that the cumulative impacts on the road network would therefore not be severe and would therefore accord with paragraph 115 (formerly 111) of the Framework.

Education

27. *Both Appeals:* For the reasons given at IR580—584, the Secretary of State agrees that the proposal would generate need for additional education provision in the locality given

the likelihood that a significant number of future occupants would be children (IR580). The Secretary of State agrees that the contributions to education through planning obligations for both Appeals will be sufficient to mitigate the education impact of the schemes individually, and further agrees that the land to be secured through Appeal A would be a significant benefit.

Other Issues

Housing

28. The Secretary of State agrees with the Inspector that there is a very substantial need for housing in the district which is persistently going unmet, that the Local Plan housing requirement is hopelessly out of date, and that, using the standard method, the Council can demonstrate just a two-year housing land supply at best. He also notes that the latest HDT has been failed by some margin. Therefore, the presumption in favour of sustainable development is triggered, in accordance with footnote 8 to paragraph 11(d) of the Framework.

29. For the reasons given in IR586-591, the Secretary of State agrees with the Inspector that in the context of such a great housing need, very substantial weight should be attached to the proposed housing.

Precedent and Ecology

30. For the reasons given in IR595-596, the Secretary of State agrees with the Inspector that, whatever the decision in these cases, they would not necessarily provide any additional support for future schemes, and that no significant ecological impacts would result and both schemes would deliver a BNG, and he considers that this carries limited weight in favour of the proposals.

Air Quality, Open Space & Recreation, Flooding and Drainage, Climate Change and Infrastructure

31. For reasons given at IR597-604, the Secretary of State agrees with the Inspector that very limited weight be attached to the harm arising in terms of air quality, and that issues of open space and recreation, neighbouring living conditions, flooding and drainage, climate change, and infrastructure are all broadly neutral in the determination of these appeals. He further agrees with the Inspector for the reasons given in IR605 that the significant local economic benefits generated by the appeal proposals are likely to extend beyond Chiswell Green and weigh in favour of the proposals. He attributes moderate weight to these benefits.

Planning conditions

32. The Secretary of State had regard to the Inspector's analysis at IR506-508, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out, at Annex B for Appeal A and Annex C for Appeal B should form part of his decision. Furthermore, for the reasons set out at IR507, the Secretary of State agrees with the Inspector's recommendation that a noise condition is not necessary.

Planning obligations

33. Appeal A: The Secretary of State has had regard to the Inspector's analysis at IR509-519, and the two separate planning obligations dated 19 May 2023, one with the Council and one with the County Council. For the reasons given at IR510 and IR512 with regard to the Council, and IR510 and 513 with regard to the County Council, he agrees with the Inspector's conclusion that the obligations comply with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the tests at paragraph 57 of the Framework. With respect to the Inspector's analysis at IR514-518, the Secretary of State agrees with the Inspector that the agreement with the County Council is satisfactory without invoking the potential alternative clauses at 12.2.1, 12.2.2 and 12.2.3.

34. Appeal B: The Secretary of State has had regard to the Inspector's analysis at IR510 and IR520, the planning obligation dated 18 May 2023, paragraph 57 of the Framework, the Guidance and the CIL Regulations 2010, as amended (including the subsequent handwritten amendments). He agrees with the Inspector's conclusion that the obligations comply with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework. For the reasons given in IR521-523, and for clarity, the Secretary of State agrees with the Inspector that it is appropriate to make a proportionate contribution to the cost of land for a new school should this be required to meet the need for education, in accordance with Clause 13.1. He further agrees for the reasons given in IR524 that Clause 9.13 should apply, as opposed to 9.12.

35. With regard to the Appeal B obligation, following the close of the inquiry, a series of handwritten amendments were made to the Agreement and initialled by representatives of all the parties. It was confirmed that the amendments related to simple administrative errors in the creation of the final version for execution. All parties agreed to the insertion of corrective manuscript amendments, and the approach taken was with the agreement of all parties. All parties confirmed that they considered the amended version to be a valid and binding agreement, and the Secretary of State has considered it as such.

Planning balance and overall conclusion

36. For the reasons given above, and in the light of his findings set out at Paragraphs 17-31 of this letter, the Secretary of State considers that the appeal schemes are in accordance with Policies 1 and 102 of the St Albans District Local Plan, and Policy S1 of the St Stephen Neighbourhood Plan, and in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

37. As the Council is unable to demonstrate a five-year supply of housing land, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

38. Appeal A: Weighing in favour of the proposal is the provision of housing which carries very substantial weight; the provision of land for a primary school which carries significant weight; economic benefits which carry moderate weight; open space/recreation provision which carries limited weight; BNG provision which carries limited weight; and improved bus/cycleway provision which also carries limited weight.

39. Appeal A: Weighing against the proposal is the harm to the Green Belt from inappropriateness, harm to openness, and harm to three of the purposes of the Green

Belt, which carries substantial weight. Landscape and visual harm, and the loss of BMV land each carry limited weight, and the impact on air quality which carries very limited weight.

40. Appeal B: Weighing in favour of Appeal B is the provision of 100% affordable housing which carries very substantial weight; economic benefits which carry moderate weight; open space/recreation provision which carries limited weight; BNG provision which carries limited weight; and improved bus/cycleway provision which also carries limited weight.

41. Appeal B: Weighing against Appeal B is the harm to the Green Belt from inappropriateness, harm to openness, and harm to three of the purposes of the Green Belt, which carries substantial weight. Landscape and visual harm carries significant weight; the loss of BMV land carries limited weight; and the impact on air quality which carries very limited weight.

42. The Secretary of State has considered whether the harm to the Green Belt by reason of inappropriateness, and the other harms he has identified, are clearly outweighed by other considerations. He considers that they are, and therefore very special circumstances exist to justify permitting the development. As such, the proposed development accords with Policy S1 of the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 1 of the St Albans District Local Plan Review 1994, and national planning policy on Green Belt.

43. The Secretary of State considers that there are no protective policies which provide a clear reason for refusing the development proposed. He further considers that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development therefore applies.

44. The Secretary of State therefore concludes that planning permission should be granted for both Appeal A and Appeal B.

Formal decision

45. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your clients' appeals and grants planning permission subject to the conditions set out in Annex B and C of this decision letter for the following developments: Outline application for the demolition of existing structures and construction of up to 391 dwellings (Use Class C3); the provision of land for a new school, open space provision and associated landscaping, internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements in accordance with application Ref. 5/22/0927, dated 29 April 2022 (Appeal A) and Outline application for the demolition of existing structures and the construction of up to 330 discounted affordable homes for key workers, including military personnel, the creation of open space and the construction of new accesses and highway works including new foot and cycle path and works to junctions (Appeal B), in accordance with application Ref. 5/21/3194, dated 12 November 2021.

46. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.